PREVIOUS REPORTS AND MINUTES OF EVIDENCE

The following Reports and Minutes of Evidence have been published by the Liaison Committee since Session 1996-97. They are available from the Stationery Office and are also on the Committee’s website:

http://www.parliament.uk/parliamentary_committees/liason_committee.cfm

Session 2002-03

Minutes of Evidence:
The Prime Minister, 21 January 2003      HC 334-i

Session 2001-02

FIRST REPORT
The Work of Select Committees 2001      HC 590
FIRST SPECIAL REPORT
Evidence from the Prime Minister      HC 984
SECOND REPORT
Select Committees: Modernisation Proposals      HC 692

Minutes of Evidence:
The Prime Minister, 16 July 2002      HC 1095

Session 2000-01

FIRST REPORT
Shifting the Balance: Unfinished Business      HC 321

Session 1999-2000

FIRST REPORT
Shifting the Balance: Select Committees and the Executive      HC 300
SECOND REPORT
Independence or Control?      HC 748
THIRD REPORT
Resource Accounting and Budgeting      HC 841

Session 1996-97

FIRST REPORT
The Work of Select Committees      HC 323
House of Commons
Liaison Committee

ANNUAL REPORT
FOR 2002

First Report of Session 2002–03

Report, together with
Proceedings of the Committee,
and Appendices

Ordered by The House of Commons to be printed 26 March 2003

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LIAISON COMMITTEE

The Liaison Committee is appointed to consider general matters relating to the work of select committees; to advise the House of Commons Commission on select committees; and to choose select committee Reports for debate in the House.

Current Membership
Mr Alan Williams MP (Labour, Swansea West) (Chairman)

The Chairmen for the time being of the Select Committees listed below:

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Administration - Mrs Marion Roe MP (Conservative, Broxbourne)
Broadcasting - Mr David Lepper MP (Labour, Co-op, Brighton Pavilion)
Catering - Mr Dennis Turner MP (Labour, Co-op, Wolverhampton South East)
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Defence - Mr Bruce George MP (Labour, Walsall South)
Education and Skills - Mr Barry Sheerman MP (Labour, Co-op, Huddersfield)
Environmental Audit - Mr John Horam MP (Conservative, Orpington)
Environment, Food and Rural Affairs - Mr David Curry MP (Conservative, Skipton and Ripon)
European Scrutiny - Mr Jimmy Hood MP (Labour, Clydesdale)
Finance and Services - Mr Stuart Bell MP (Labour, Middlesbrough)
Foreign Affairs - Mr Donald Anderson MP (Labour, Swansea East)
Health - Mr David Hinchliffe MP (Labour, Wakefield)
Home Affairs - Mr Chris Mullin MP (Labour, Sunderland South)
Human Rights (Joint) - Jean Corston MP (Labour, Bristol East)
Information - Mr Michael Fabricant MP (Conservative, Lichfield)
International Development - Mr Tony Baldry MP (Conservative, Banbury)
Lord Chancellor’s Department - Mr Alan Beith MP (Liberal Democrat, Berwick-upon-Tweed)
Northern Ireland Affairs - Mr Michael Mates MP (Conservative, East Hampshire)
Office of the Deputy Prime Minister: Housing, Planning, Local Government and the Regions - Mr Andrew Bennett (Labour, Denton and Reddish)
Procedure - Sir Nicholas Winterton MP (Conservative, Macclesfield)
Public Accounts - Mr Edward Leigh MP (Conservative, Gainsborough)
Public Administration - Dr Tony Wright (Labour, Cannock Chase)
Regulatory Reform - Mr Peter Pike MP (Labour, Burnley)
Science and Technology - Dr Ian Gibson MP (Labour, Norwich North)
Scottish Affairs - Irene Adams MP (Labour, Paisley North)
Selection - Mr John McWilliam MP (Labour, Blaydon)
Standards and Privileges - Sir George Young MP (Conservative, North West Hampshire)
Statutory Instruments - Mr David Tredinnick MP (Conservative, Bosworth)
Trade and Industry - Mr Martin O’Neill MP (Labour, Ochil)
Transport - Mrs Gwyneth Dunwoody MP (Labour, Crewe and Nantwich)
Treasury - Mr John McFall MP (Labour, Co-op, Dumbarton)
Welsh Affairs - Mr Martyn Jones MP (Labour, Clwyd South)
Work and Pensions - Sir Archy Kirkwood MP (Liberal Democrat, Roxburgh and Berwickshire)

and Mr Richard Allan MP (Liberal Democrat, Sheffield Hallam)

Powers
The powers of the Committee are set out in House of Commons Standing Order No. 145. These are available on the Internet via www.parliament.uk.
Publications
The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at www.parliament.uk/parliamentary_committees/liaison_committee.cfm. A list of Reports of the Committee since 1997 is on the inside front cover.

Contacts
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FIRST REPORT

The Liaison Committee has agreed to the following Report:

ANNUAL REPORT FOR 2002

SUMMARY

This review of committee work is made at a time of change. Work is going on to improve the working priorities of committees and sharpen the process and impact of their scrutiny. Our main focus is no longer campaigning, but monitoring progress in the agenda of improvement which the House accepted in May 2002, when it approved the Report of the Modernisation Committee.

We consider in particular

- the new twice-yearly evidence from the Prime Minister, which establishes his accountability
- core tasks for select committees, and the start of their impact on programmes of work
- the developing role of the new Scrutiny Unit, providing support to committees in their pre-legislative and financial scrutiny work

Co-operation between committees and departments is reported as good, but there are some problems

- inadequate time to consider and report on draft bills
- late arrival of the Estimates
- delays in providing government replies to Reports
- a declining share of debates in Westminster Hall for committee Reports

Information for the public and the media is being improved by

- better committee websites
- a new layout for Reports
- webcasting of committees, which should be extended and made permanent

Committees are still under-resourced for the level of activity which they are now expected to undertake. The outcome of a review of support staff is shortly to be considered.
Introduction

1. Less than a year after the House debated the Modernisation Committee’s important Report on select committees, we now review committee work in the calendar year 2002, but include some references to events in early 2003.

2. This is a time of change. High profile evidence from Secretaries of State is bringing committees into the headlines and news bulletins more regularly. This has become a way of life for Ministers, who use the sessions for policy announcements on which they can be fully, and instantly, questioned by Members. Less publicly, work is going on to improve the working practices of committees and sharpen the process and impact of their scrutiny. There is a new Scrutiny Unit, and a general review of committee staffing is under way. Much of our earlier agenda for improvement has been accepted. Our main focus is no longer campaigning on the principles, but monitoring progress in their implementation. Meanwhile, the number of public meetings of select committees continues to rise—up a further 9 per cent in the last quarter of 2002 compared to the same period in 2001, which was itself a 31 per cent increase on 2000.2

3. The debate on the Modernisation Committee’s Report provided a key opportunity to reassess committee scrutiny. Although the proposal for a new nomination system was rejected, other decisions are likely to make an impact on the work of committees, as is apparent from the Annual Reports from committees, on which we have drawn for our review. Those for 2002 have been issued separately by each committee, rather than published as appendices to our own Report as last year. In due course, we shall also review the effect on select committees of the changes in sitting hours, which came into force in January 2003 and so do not feature in these Reports.

<table>
<thead>
<tr>
<th>Committee</th>
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<tr>
<td>Education and Skills</td>
<td>First Report, HC 359: The Work of the Committee in 2002</td>
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1 Modernisation Committee, First Report of Session 2001–02, Select Committees, HC 224. For debate, see HC Deb, 14 May 2002, cols 648–730
2 Liaison Committee, First Report of Session 2001–02, The Work of Select Committees 2001, HC 590, para 31. In October–December 2002, 181 public evidence sessions were held by select committees, compared to 164 and 125 in the same period in 2001 and 2000 respectively.
3 Except for the Joint Committee on Human Rights, see table.
<table>
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<tr>
<th>Committee</th>
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<td>Human Rights (Joint)</td>
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<td>Scottish Affairs</td>
<td>First Report, HC 197: <em>The Work of the Scottish Affairs Committee in 2002</em></td>
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<tr>
<td>Trade and Industry</td>
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<td>Treasury</td>
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<tr>
<td>Welsh Affairs</td>
<td>Third Report, HC 263: <em>Work of the Committee in 2002</em></td>
</tr>
<tr>
<td>Work and Pensions</td>
<td>Second Report, HC 297: <em>The Committee’s Work in 2002</em></td>
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*All HC numbers are of the current Session.*

4. A list of the Reports is set out in the Table. Full statistics on the activity of each committee are also published in the Sessional Return, for Session 2001–02, published as HC 1 (2002–03).

5. We begin with some comments on the role of this Committee, which in 2002 took on a higher profile in its new role of establishing, for the first time, direct oversight of the Prime Minister.

**Evidence from the Prime Minister**

6. An approach to us from the Prime Minister in late April 2002 proposed twice-yearly sessions of oral evidence.\(^4\) Scrutiny of the Head of the Government had previously been resisted when put forward by our predecessor Committee in the last Parliament. We were glad to learn of the change of view and to welcome the new arrangement.\(^5\)

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\(^4\) Published by the ODPM and Transport Committees.

\(^5\) Liaison Committee, First Special Report of Session 2001–02, *Evidence from the Prime Minister*, HC 984, paras 1–2

\(^6\) For which Standing Order No. 145 was amended on 14 May 2002 explicitly to permit the Committee to “hear evidence from the Prime Minister on matters of public policy”.
7. On 16 July 2002 and 21 January 2003, Mr Blair answered our questions in public session for a period of two and a half hours. By this means he can be accountable "as Head of the Government, and in respect of the staff and advisers who answer directly to him and for whom no one else can answer".7

8. We are still experimenting with how to organise the sessions. Last July we split the period into various domestic and international themes, relying on one or more members of the Committee to lead on a topic.8 General themes, but not detailed questions, are notified to the Prime Minister a short time in advance. For the January session, because of the topicality of the Iraq issue and concern in the House about a possible war, we devoted the whole session to this one issue.9

9. These two sessions met our aim of achieving a "more productive and informative" event than is possible under the current operation of Prime Minister's Questions in the Chamber. They also demonstrated, to those who were present or who watched them on television, the more serious side of parliamentary exchanges. We are glad that this event has now established itself in the parliamentary calendar. We will review its operation after further experience of the sessions. Accountability of the Prime Minister has been successfully established, but we are uneasy at the six-month gaps between sessions.

Working Methods of the Committee

10. We continue to work mainly through the full Committee, despite its unwieldy size.10 The Sub-Committee has been of great value in assessing the topics for the sessions with the Prime Minister, and earlier provided a forum for preparing our response to the Modernisation Committee.

11. Our main role is to support and develop the parliamentary scrutiny undertaken by select committees. What they need is clear objectives; the commitment of their members; the co-operation of Ministers and officials; and the resources to undertake the task. The results of their work need the impact of parliamentary debate, media coverage and public support.

Core Tasks for Select Committees

12. A year ago, in our response11 to the Modernisation Committee's Report,12 we repeated our aim to improve the focus of committee work. We have long supported "a more methodical and less ad hoc approach to the business of scrutiny".13 We welcomed the ideas on committee objectives and tasks put forward by the Modernisation Committee as an illustrative model.14 These were referred to us in the Resolution approved by the House on 14 May 2002, inviting us to "establish common objectives for select committees", taking the Modernisation Committee's proposals into account.15

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7 HC (2001–02) 984, para 2
8 Minutes of Evidence, Tuesday 16 July 2002, The Prime Minister, HC 1095 (2001–02)
10 The size of the Committee has been increased to 36 with the creation of the Committee on the Lord Chancellor's Department on 28 January 2003 and the election of Rt Hon Alan Bith MP as its Chairman.
12 HC (2001–02) 224
13 HC (2001–02) 692, para 16
14 HC (2001–02) 224, para 34
13. Our eventual guidance on indicative objectives and tasks, which was agreed by the Committee on 20 June and circulated to committees by our Chairman on 26 June, is published as an appendix to this Report.  

| OBJECTIVE A: TO EXAMINE AND COMMENT ON THE POLICY OF THE DEPARTMENT |
|---|---|
| **Task 1** | To examine policy proposals from the UK Government and the European Commission in Green Papers, White Papers, draft Guidance etc, and to inquire further where the Committee considers it appropriate. |
| **Task 2** | To identify and examine areas of emerging policy, or where existing policy is deficient, and make proposals. |
| **Task 3** | To conduct scrutiny of any published draft bill within the Committee’s responsibilities. |
| **Task 4** | To examine specific output from the department expressed in documents or other decisions. |

| OBJECTIVE B: TO EXAMINE THE EXPENDITURE OF THE DEPARTMENT |
|---|---|
| **Task 5** | To examine the expenditure plans and out-turn of the department, its agencies and principal NDPBs. |

| OBJECTIVE C: TO EXAMINE THE ADMINISTRATION OF THE DEPARTMENT |
|---|---|
| **Task 6** | To examine the department’s Public Service Agreements, the associated targets and the statistical measurements employed, and report if appropriate. |
| **Task 7** | To monitor the work of the department’s Executive Agencies, NDPBs, regulators and other associated public bodies. |
| **Task 8** | To scrutinise major appointments made by the department. |
| **Task 9** | To examine the implementation of legislation and major policy initiatives. |

| OBJECTIVE D: TO ASSIST THE HOUSE IN DEBATE AND DECISION |
|---|---|
| **Task 10** | To produce reports which are suitable for debate in the House, including Westminster Hall, or debating committees. |

14. The main purpose of the indicative core tasks is to ensure that all areas of government activity are subject to proper scrutiny by Parliament. Nevertheless, we took care to identify core tasks that covered not only the monitoring of the work of each department and its Ministers, but also those areas where there was a lack of initiative from the Government, or where existing policy was deficient.  

We thought it important that committees should not have to limit themselves to an agenda of the Government’s making.

15. By the end of 2002, the new guidance had barely been in existence for six months. It will take time for committees to develop regular use of the framework—which in any case may not greatly alter the substance of a committee’s work, but more the way in which its agenda is considered, or its work presented. Above all, it will provide an assurance to the House, and to the public, that departments are more fully exposed to the searchlight of scrutiny by committee.

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16 Published in Appendix 1
17 Task 2
16. Committees were asked to prepare the Annual Reports for 2002 using the indicative core tasks as a template for their review of their work. This reflected the Modernisation Committee’s wish that a committee should be able to demonstrate “how it has met each core task in the scrutiny of its department”.18 As a result, this year’s set of Annual Reports from committees follow a more standardised format. As a number of individual Reports point out, however, the introduction of the guidelines mid-year has meant that their effect has been less influential upon the direction of committee activity than might be expected next year, for example.

17. The template of core tasks was, moreover, drawn up principally with departmental select committees in mind. Non-departmental committees make this point in their Reports and draw attention to the necessarily partial nature of their response to the template,19 even if, as with the Environmental Audit Committee, its broad thrust is “entirely in keeping with the working patterns and overall goals” of the committee.20 Some departmental committees, too, such as the Scottish Affairs Committee, Welsh Affairs Committee and International Development Committee, make clear in their Reports that their activity does not fit seamlessly within the guidelines.21 Nonetheless, the value of the template as an organising principle in both planning and reporting on activity is clear even at this early stage.

Review of work covered

Policy

18. A large part of the scrutiny undertaken by committees falls, unsurprisingly perhaps, into the category of policy proposals and implementation. Committees have this year ranged widely over their respective remits in this area, the traditional domain for much of select committee activity.

19. The indicative core tasks relating to policy include the examination of EU Green and White Papers, an important recognition of this area of work, given the comment of the European Scrutiny Committee in its Annual Report that “there remains plenty of scope for making the scrutiny system work better” in respect of European legislative proposals.22 The Environment, Food and Rural Affairs Committee serves as one example of what can be achieved in this area. The Committee made two visits to the European Commission in Brussels and took further evidence from the Commission in the UK as well as from relevant Ministries of other Member states. Two of the Committee’s inquiries, into the Mid-Term Review of the Common Agricultural Policy and Reform of the Common Fisheries Policy, centred on proposals made by the Commission.23 It also reported that its principal activity in examining the implementation of legislation centred on European Regulations and Directives: Hazardous Waste, Disposal of Refrigerators, and The Water Framework Directive.24

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18 HC (2001–02) 224, para 35
22 HC (2002–03) 63–viii, para 24
24 Ibid, para 11
**Major appointments**

20. Core Task No. 8 invites committees “to scrutinise major appointments made by the department”. The Treasury Committee has already established an effective role by scrutinising each appointment made by the Chancellor to the Bank of England’s Monetary Policy Committee. During 2002 there were three such appointments.\(^2^5\) However, several committees have reported some difficulty with establishing how, and when, they can contribute to the process of appointment. The Culture, Media and Sport Committee reports that “discussions are taking place with the Department on the appropriateness of whether, when and how to intervene in the appointment process”.\(^2^6\) The Environment, Food and Rural Affairs Committee recommends in its Report that “the Department put in place structures which would allow [the Committee] to be informed in advance of all major appointments pending and/or made”.\(^2^7\) Both the Education and Skills Committee and the Home Affairs Committee report seeking a more active role in specific appointments: that of HM Chief Inspector of Schools and the Chair of the Independent Police Complaints Commission, respectively. Both committees made recommendations to this effect, which were in both cases rejected by the Government.\(^2^8\)

**Financial scrutiny**

21. The scrutiny of departmental expenditure represents one of the four core objectives which we have drawn up for select committees. In addition to traditional evidence sessions linked to departmental annual Reports, a number of committees have undertaken separate exercises designed to examine particular aspects of departments’ financial policies or proposals. Worthy of mention in this context are:

- the Health Committee’s annual public expenditure analysis, based on a detailed questionnaire to the Department;\(^2^9\)
- the Office of the Deputy Prime Minister: Housing, Planning, Local Government and the Regions [ODPM] Committee’s examination of significant levels of underspending in a number of areas;\(^3^0\) and
- the Transport Committee’s decision to hold an urgent session of oral evidence on a departmental minute relating to a contingent liability, with potentially significant financial implications, arising from the London Underground PPP.\(^3^1\)

22. A number of committees have registered complaints about the way in which financial information is made available by departments. The Environment, Food and Rural Affairs [EFRA] Committee commented that “the vital work of financial oversight [was] undermined by the way in which financial data was set out in the [Department’s Annual] Report, by the fact that some information was missing and by errors in what was provided”.\(^3^2\) The Northern Ireland Affairs Committee also reported a level of error in the Departmental Annual Report which “made a series of financial summaries in the Report largely unintelligible”.\(^3^3\)

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\(^{27}\) HC (2002–03) 269, para 10


\(^{32}\) HC (2002–03) 269, para 13

23. The Estimates are the main vehicle for the authorisation of expenditure and they accordingly offer the most immediate scope for its parliamentary scrutiny. A number of Committees, including Trade and Industry\textsuperscript{34} and Work and Pensions,\textsuperscript{35} have exercised oversight of the Estimates through written questions to their departments, some of which have been followed up in further correspondence.

\textit{Timely presentation of the Estimates}

24. For the formal scrutiny of expenditure in the House, Standing Order No. 55 allocates 3 days each Session for the consideration of Estimates recommended for debate by this Committee. Our recommendation is usually (although this is not a requirement) based on “bids” from individual committees. For this system to work effectively, committees need to have adequate time to examine the Estimates, to seek further information from departments where necessary, and, if appropriate, to report their conclusions to the House. In the case of the 2002 Winter Supplementary Estimates this condition was not met: the interval between the formal presentation of the Estimates to the House and their being put to the House for its approval on 5 December was the bare minimum necessary to comply with the “seven clear days” laid down in the Standing Order. The difficulty faced by committees was compounded by the fact that, contrary to the practice of recent years, a proof copy of the Estimates was not supplied to committee clerks in advance. This compression of the process was even less justified given the fact that the Winter Supplementaries (together with the Vote on Account for the following year) do not have to be “rolled up” (ie voted in the House) until 6 February. Taking the first Estimates day before Christmas appears to be driven by business management considerations rather than the convenience of the House.

25. In its Report on \textit{Parliamentary Accountability of Departments}, published in August 2002, the Treasury Committee had drawn attention to the problem of proof copies (drafts) of Estimates not being available to Committees. It recommended that the practice be restored, and that as much notice as possible be given, in order to ensure proper scrutiny before the Estimates are voted on in the House.\textsuperscript{36} In its response, dated 18 November, the Treasury agreed to reinstate the practice of supplying final printers proofs to departmental select committees.\textsuperscript{37} It is therefore particularly surprising that proofs of the Winter Supplementaries were not made available.

26. When the Chairman of the Transport Committee drew her concerns on this matter to the attention of our Chairman, he wrote to the Chief Secretary to the Treasury to seek his comments. In his reply,\textsuperscript{38} Mr Boateng argued that providing committees with proof copies of the Estimates one month ahead of the relevant debate, as proposed by Mrs Dunwoody, was not practical because of the need to ensure that the published Estimates were as “taut and realistic” as possible. The Chief Secretary proposed instead that committees should be supplied with proof copies as soon as they were approved by the Treasury, rather than, as now, only when they were “signed off for the presses”. He also indicated, without giving any commitment, that it might be possible to bring forward somewhat the start of work on (and therefore, presumably, the presentation of) the Winter Supplementaries.

\textsuperscript{34} Trade and Industry Committee, Fourth Report of Session 2002–03, \textit{The Work of the Committee in 2002}, HC 337, para 16
\textsuperscript{36} Treasury Committee, Seventh Report of Session 2001–02, \textit{Parliamentary Accountability of Departments}, HC 340, para 17
\textsuperscript{38} Published in Appendix 5
27. We welcome as far as it goes the offer of an earlier sight of the Estimates proofs (we assume that this would amount to a few days’ additional notice to committees of forthcoming Estimates). We would, however, reiterate that for the 2002 Winter Supplementary Estimates, committees received no effective advance warning at all. Nor does the Chief Secretary’s reply address the question of the timing of the Estimates days and their current scheduling unnecessarily far ahead of the latest date specified in Standing Order No. 55.

28. Meanwhile, a similarly unsatisfactory position has arisen over the Spring Supplementary Estimates for 2002–03. These were presented on 28 February 2003 and taken in the House on 11 March 2003. This situation is unacceptable. Effective scrutiny is a two-way process, requiring the active co-operation of the Government in ensuring that committees have adequate time to complete their work.

29. We therefore recommend that, whatever the outcome of our Chairman’s correspondence with the Chief Secretary, the Government business managers should consult our Chairman before fixing the dates for Estimates days. Having regard to the timing of the circulation in proof form and subsequent formal presentation of the Estimates, they should accept any reasonable request for a postponement of the Estimates day to a date up to and including the deadline specified in the Standing Order.

Pre-legislative Scrutiny

30. One of the principal recommendations of the Modernisation Committee was for a major expansion of pre-legislative scrutiny by select committees—a priority which we strongly endorse and which builds upon proposals contained in our own earlier Reports. The former Leader of the House expressed his personal commitment to this goal and there are already encouraging signs that one of the preconditions for pre-legislative scrutiny—a steady flow of draft bills—is beginning to be met.39

31. During 2002, the most prominent example of pre-legislative scrutiny was that conducted by the Joint Committee on the draft Communications Bill. By common consent, this was a highly successful exercise, at least defined in terms of the thoroughness and openness of the process and the extent to which the Committee was able to secure the Government’s agreement to significant and wide-ranging changes in the draft bill. But in certain important respects this was not a model to be adopted for the future. The Committee was appointed almost simultaneously with the publication of the draft bill, a long and complex document; a punishing and—even at the time—obviously unrealistic deadline was set for the Committee to report; clauses dealing with key issues in the bill were not ready when the Committee began its work; and the Committee only achieved its timetable for publishing its Report by dint of a programme of meetings of such intensity that unacceptable strain was placed on Committee members and staff.

32. We strongly hope that in these respects the Government’s handling of the draft Communications Bill will prove to have been an exceptional case, and we expressed our concerns accordingly to the Leader of the House.

33. The record in relation to other draft bills in 2002 has been somewhat patchy.

- The Home Affairs Committee, for example, in relation to the draft Extradition Bill, had time both to consider responses to the Government’s own consultation exercise

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39 This work is complemented by the scrutiny of all bills in respect of human rights which has been undertaken systematically by the Joint Committee on Human Rights (JCHR). Its Chairman describes her Committee’s approach in a letter published as Appendix 3.
and to take oral evidence before reporting to the House. The Committee was given a draft text of the Government Reply to the Committee’s Report, which the Chairman was able to discuss with Ministers. The Government then made some helpful changes to their draft, incorporating a significant concession to the Committee.  

- The Welsh Affairs Committee, although describing the timescale for its scrutiny of the draft *NHS (Wales) Bill* as “short”, nevertheless felt that, overall, the exercise had been “valuable” in terms of its influence on the contents of the bill and its input into the relevant debates in the House and the Welsh Grand Committee.  

- By contrast, the co-chairmen of the former Transport, Local Government and the Regions (TLGR) Committee complained that they had been given “far too short a period” to inquire into the draft *Local Government Bill*, a complaint reflected in the Report of the successor ODPM Committee. As a result, the preparation of evidence sessions had to be rushed and potential witnesses had very little time to make written submissions.

34. The Health Committee, which had asked the Department of Health to keep it abreast of developments in respect of the draft Mental Health Bill, concluded that the bill had arrived too late in the Session to enable it to be given detailed consideration. We trust that this was an aberration which the Department will not repeat.

35. Particular problems of timing have arisen for the Northern Ireland Affairs Committee as it attempts to fill the scrutiny gap left by the Northern Ireland Assembly’s suspension. The same Committee drew attention to the inadequate time allowed by the Northern Ireland Office for consultation on the draft Police (Northern Ireland) Bill and the unsatisfactory way in which the draft clauses were published on the Internet without warning and with no proper indication of the timetable envisaged for the bill’s legislative passage.

36. We will continue to monitor the experience of select committees with pre-legislative scrutiny, the volume of which is likely to be significantly greater in 2003. We wish to pay tribute to the personal commitment of the previous Leader of the House, the Rt Hon Robin Cook, to this process, as part of his support for the strengthening of committee scrutiny as a whole. We look to his successor as Leader of the House to ensure that, so far as possible, the timetable for publishing draft bills provides committees with adequate notice to include them within their programmes.

*Other forms of legislative scrutiny*

37. Scrutiny of legislation by select committees has not been limited to the examination of bills in draft. In early 2002, for example, the Culture, Media and Sport Committee conducted an inquiry into communications policy, largely based on the expected contents of the draft Communications Bill, whose publication had been delayed. Other committees have scrutinised bills already presented formally to the House. The Home Affairs Committee produced Reports on the Police Reform and Criminal Justice Bills. In the latter case, the timetable for the Committee’s inquiry was squeezed by the short interval (a

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40 HC (2002–03) 336, para 10
41 HC (2002–03) 263, para 14
42 In a joint memorandum to the ODPM and Transport Committees, Session 2002-03, HC 406, para 19
43 HC (2002–03) 288, para 19
44 HC (2002–03) 261, para 20
45 HC (2002–03) 271, para 12
46 HC (2002–03) 148, para 13
47 HC (2002–03) 336, para 10
week and a half) between the bill’s presentation and the Second Reading debate. The Committee proposes to repeat the exercise with two further substantial bills, not expected to be published in draft, during 2003—the Sexual Offences Bill and the Anti-Social Behaviour Bill. The Work and Pensions Committee examined the provisions of the State Pensions Credit Bill and reported in time for the bill’s Committee stage.  

38. We are encouraged to see select committees showing flexibility in their approach to the scrutiny of legislation. Such work has provided invaluable assistance to the House when considering the bills, and on occasion has been persuasive in altering the Government’s policy. The fact remains, however, that the opportunity to shape legislation and influence Ministers’ thinking is greatest when a bill exists in the form of a draft, before positions have become entrenched. The case for publishing as many bills as possible in draft therefore remains strong. We hope the Government will learn from the problems which several bills have encountered in Parliament, which might have been eased had they allowed proper time for pre-legislative scrutiny.

Scrutiny Unit

39. Following recommendations by both this Committee and the Modernisation Committee, the Scrutiny Unit began work in November 2002. Although the Unit has only been in existence for a few months, it has already established itself as a useful source of support to select committees in their pre-legislative and financial scrutiny roles. It comprises ten staff at present and will expand during 2003 to the 18 approved by the House of Commons Commission. The current staff include one Estimates specialist, two auditors, a statistician, a lawyer and a social policy expert. Two come from the private sector, two from the National Audit Office, one from a government department and one from the House of Commons Library. Steps are being taken at present to recruit an economist and a second lawyer by early May 2003.

40. The Unit has already undertaken some 30 tasks of varying size for 13 select committees. A brief summary of its work to date is set out below.

(i) Supplementary Estimates

- The Unit was asked by six committees to examine the 2002 Winter Supplementary Estimates. In doing so, the Unit concentrated on examining the one or two items which would be most likely to concern Members. As a result a note was sent to the committees concerned, and the clerks wrote to the relevant departments seeking clarification. In several cases the department’s response was unsatisfactory and these replies have been followed up by the committees. For example, the Supplementary Estimate for the Department for Education and Skills included an increase from £3m to £136.6m in a contingent liability for indemnities to Training and Enterprise Councils—an increase of nearly 40 times over the amount contained in the Main Estimate. The Unit drafted a letter from the Committee to send to the Department inquiring about this matter and subsequently advised the Committee on how to respond to the Department’s reply.

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48 Although, as we prepare this Report, we understand that a White Paper may be published in respect of the latter bill, but a mere two weeks ahead of the bill itself.
49 HC (2002–03) 297, paras 21-22
50 HC (2002–03) 359, para 15
(ii) Departmental Annual Reports

- The Work and Pensions Committee was asked by the Department for suggestions about improving its Annual Report. The Unit was asked to advise and identified a number of ways in which the Report could be revised to make it a more effective tool for the Committee and outside bodies to use in evaluating the Department’s performance. The Unit will shortly be starting a review with Health Committee staff of that Committee’s regular annual exercise on Public Expenditure questions.

(iii) Key Policy Issues

- The Health Committee sought advice from the Unit on the funding flows for the new foundation hospitals. The Unit produced briefing on how these will differ from NHS trusts and how the star rating system for hospitals operates.

- Following the announcement of the Government’s plans for student fees, the Unit was asked to produce briefing for the Education and Skills Committee on statistical and social policy aspects of the White Paper.

(iv) Draft Bills

- An unexpected set of draft clauses on policing in Northern Ireland led Northern Ireland Affairs Committee staff to seek assistance from the Unit to prepare briefing for an evidence session with the Minister. This led to a Report on The Police (Northern Ireland) Bill after it had been introduced in the Lords.\(^5\)

- Unit staff are currently supporting the Trade and Industry Committee in its pre-legislative scrutiny of the Electricity (Trading and Transmission) Bill. They will also provide staff for the Joint Committee on the draft Corruption Bill and assist the ODPM Committee with its examination of the draft Housing Bill.\(^5\) A substantial number of further draft bills are expected later in the year and the Unit expects to provide help to the committees which consider them.

(v) Executive Agencies

- The Unit has provided briefing for the EFRA Committee for its single evidence session on the Rural Payments Agency\(^5\) and for the Treasury Committee for its session on National Savings and Investments.

Relations with Departments

41. It is vital that Ministers and their officials co-operate fully with committees to achieve proper scrutiny of their work. We therefore included in each indicative task a reference to the duties falling on Ministers and their Departments. When the Chairman wrote to the Leader of the House enclosing the guidance on core tasks, he pointed out these duties.\(^5\) In due course, we expect to examine how far Ministers and Departments have been able to help committees achieve their objectives, drawing on reports from individual committees.

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\(^{51}\) HC (2002–03) 271, para 12
\(^{52}\) HC (2002–03) 288, para 13
\(^{53}\) HC (2002–03) 269, para 9
\(^{54}\) Published in Appendix 2
42. Overall the relationships between committees and departments are reported as good, with a high level of co-operation and openness. As mentioned above, the implications for departments of the new task-list for committees have not yet been fully explored. Some proactive work on the part of departments will clearly be necessary. The Defence Committee approached the Ministry of Defence about how it intended to fulfil the duties imposed on it by the core tasks, but as the Committee noted in its Annual Report, it has not yet received any reply.\textsuperscript{55} This is clearly disappointing. The Culture, Media and Sport Committee commented in its Report that departments will have to be "much more systematic and proactive about the information supplied to their respective committees as a matter of course".\textsuperscript{56} A procedure to achieve this is being attempted by the Northern Ireland Affairs Committee.\textsuperscript{57} Next year's Annual Reports will provide an opportunity to report on the success of any such systems developed.

Follow-up to Past Recommendations

43. Our predecessor Committee encouraged committees to review their past recommendations, and track consistently the extent to which departments had implemented them. The Annual Report from the EFRA Committee contains a particularly thorough example of such a follow-up review.\textsuperscript{58} This work is not explicitly included in our new indicative core tasks, but we support such an exercise in principle. Lack of continuity of membership, or pressure of other work, may discourage some committees from engaging in this work too fully. Nevertheless a selective review, prepared initially at staff level, would keep the pressure up on departments; and remind them of their continuing responsibility to be accountable to committees.

Government Replies

44. One area in which, not for the first time, committees have registered a more than justifiable complaint, is in the efficiency with which departments provide Government Replies to Reports. The Scottish Affairs Committee reported a six month wait for a Reply to its Report on shipbuilding; the Environmental Audit Committee has received none of its Replies within the two month window and reports an average time of reply as 68 days late.\textsuperscript{59} The Science and Technology Committee reported the gap between Report and Reply as ranging between three months and ten.\textsuperscript{60} As the Environmental Audit Committee commented, pronounced delay "severely undermines the power of the Committee to push for the implementation of its recommendations in a timely manner... in some instances, responses to particular recommendations are received so late that they are no longer relevant".\textsuperscript{61} Although the Treasury Committee compliments its Department on a significant improvement since 2001, clearly some departments still need to address their performance in this area.\textsuperscript{62} In the coming year, we will focus on this neglect by departments of their duties to the House of Commons. We will use parliamentary processes to make the House and the public aware of breaches by individual departments of their obligation to give timely replies to committee Reports. These replies should be a prompt and meaningful response to scrutiny work of the committees.

\textsuperscript{56} HC (2002–03) 148, para 7
\textsuperscript{57} HC (2002–03) 271, para 19
\textsuperscript{58} HC (2002–03) 269, Annex B
\textsuperscript{59} HC (2002–03) 197, para 6; HC (2002–03) 262, para 26
\textsuperscript{61} HC (2002–03) 262, para 26
\textsuperscript{62} HC (2002–03) 491, para 25
New ways of working

45. This year has seen committees taking up the challenges of the modernisation agenda and exploring new ways of conducting their activities. There has been widespread use of seminars as an informal way of gathering information at different stages of an inquiry, and the ODPM Committee has commissioned research as a prelude to taking oral evidence. Various ways to distribute and manage the burden of a committee’s work more effectively have been explored: the Defence Committee has used three informal sub-groups to conduct visits and informal meetings, and the EFRA Committee has experimented with sub-committees and rapporteurs to operate across its extensive remit. The influence of the European Scrutiny Committee’s Report into Democracy and Accountability in the EU and the Role of National Parliaments, intended as a contribution to the Convention on the Future of Europe, was extended by summaries of the Report in French and German as well as in English.

Use of Sub-Committees

46. The use of smaller units to expand the coverage of scrutiny clearly makes sense where there is an adequate resource of Members and staff to support the separate activity. The revision of Standing Orders in July 2001 gave the power to set up a sub-committee to each of the departmental select committees, and to a number of other select committees, including the Environmental Audit Committee, the Public Administration Committee and this Committee. The EFRA and TLGR Committees, each composed of 17 Members, were each given power to set up two sub-committees.

47. Prior to the establishment of the 1979 departmental select committee system, much of the House’s select committee activity was in fact carried out by sub-committees: in particular the half dozen or so sub-committees of the Estimates Committee in the 1950s and 1960s and then of the Expenditure Committee in the 1970s, as well as the sub-committees of the Nationalised Industries Committee. Even a cross-cutting subject committee such as the Science and Technology Committee operated in some measure through sub-committees.

48. The 1979 system, under which the departmental committees were created, represented a deliberate move away from sub-committee operation to full committees. Initially, only three of the “standard” departmental select committees had the power to set up sub-committees: Foreign Affairs, Home Affairs and Treasury and Civil Service:

- Foreign Affairs used an Overseas Development Sub-Committee through the 1979 Parliament, but thereafter made very little use of its power
- Home Affairs had an active Race Relations and Immigration Sub-Committee in the 1979 and 1983 Parliaments but thereafter made limited use of the power
- The Treasury Committee (from 1979 to 1995 the Treasury and Civil Service Committee), by contrast, has had a virtually unbroken record of sub-committee activity, originally explicitly on the Civil Service, and in recent sessions engaged in particular in scrutiny of administrative issues within the departments for which Treasury ministers are accountable, including inquiries into the Inland Revenue and Customs and Excise.

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63 HC (2002-03) 288, para 5
64 HC (2002-03) 378, para 28; HC (2002-03) 269, para 17
65 HC (2002-03) 63-viii, para 21
49. In 1997 the Education and Employment and the Environment, Transport, and Regional Affairs [ETRA] Committees were given 17 members and the power to set up two sub-committees, in recognition of the fact that the corresponding departments had been recently created by merging separate departments, each of which had been monitored by a separate committee.\(^{67}\) Both committees operated in the 1997-2001 Parliament through two sub-committees: the ETRA Committee also carried out a number of inquiries in full committee.

50. The Reports of our predecessor Committee, which formed the basis of the July 2001 changes to Standing Orders, did not explicitly advocate giving the power to set up a sub-committee to departmental committees. The proposal seems to have been founded on the independent Hansard Commission’s Report of June 2001.\(^{68}\) Its support for greater use of sub-committees was apparently based on its admiration of the work done in particular by the sub-committees of the ETRA Committee, and its unusual arrangement of two co-chairmen. It did not comment on the experience over the same period of the Education and Employment Committee: nor on earlier experience of sub-committees.

51. In its February 2002 Report on Select Committees, the Modernisation Committee suggested that, given the heavy scrutiny workload proposed for committees, “we would expect most select committees eventually to appoint sub-committees of an ad hoc or a semi-permanent character”.\(^{69}\) That may have sprung in part from the proposal from the Committee, not endorsed by this Committee or accepted by the House, that the standard size of committees should rise from 11 to 15.

52. There has been sub-committee activity in the last 18 months.

- The TLGR Committee operated until its dissolution in July 2002, as had its predecessor Committee, through two very active, permanent and more or less autonomous sub-committees, on Transport and Urban Affairs. The main committee also conducted a number of inquiries.\(^{70}\)

- The EFRA Committee has gone down a different road, of setting up short-term sub-committees for specific inquiries, with a Chairman appointed for each inquiry, as well as conducting full committee inquiries. Seven such sub-committees were established in the course of 2002. It has managed to abbreviate the potentially laborious process of both the sub-committee and then the main committee having to agree to a Report.\(^{71}\)

- The ODPM Committee, of 11 members, was established in July 2002 on the demise of the TLGR Committee.\(^{72}\) It immediately set up an Urban Affairs Sub-Committee, which has completed one inquiry and has embarked on a second.\(^{73}\)

- The Treasury Sub-Committee continues to be active as in earlier Parliaments, and completed 3 inquiries in the course of 2002.

- The Health Committee agreed on 12 December 2002 to set up a Maternity Services Sub-Committee, which has recently started its work.

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\(^{67}\) The Education and Employment Committee was first set up in March 1996 with 13 Members, and power to set up one sub-committee.

\(^{68}\) The Challenge for Parliament: Making Government Accountable

\(^{69}\) HC (2001-02) 224, para 46

\(^{70}\) HC (2002-03) 406, para 2

\(^{71}\) HC (2002-03) 269, paras 18-19

\(^{72}\) Votes and Proceedings, 22 July 2002, p 183

\(^{73}\) HC (2002-03) 288, para 1
• The Environmental Audit Committee has set up a Sustainable Development Education Sub-Committee, which has begun its inquiry into Learning the Sustainability Lesson.

• As noted above, we ourselves use a Sub-Committee as a means of getting around the unwieldiness of doing detailed work in a large committee. It has undertaken the first stage work of preparing the possible themes for the new question sessions with the Prime Minister.

53. The strength of a sub-committee is its ability to permit a smaller group of members to carry out detailed work, such as on the Estimates, with a clear separate identity. It still, however, needs the resources of members and staff, and has to overcome extra procedural hurdles, such as when publishing a Report. For whatever reason, the explicit expectation of the Modernisation Committee a year ago, and the implicit assumption of the July 2001 change in Standing Orders, that semi-permanent use of sub-committees would develop, has not been met.

Joint Committees: Quorum

54. The Joint Committee on Human Rights has made a case to us for a change in the quorum requirements under which it currently operates. Its Chairman explains that under Standing Order No. 152B, its quorum is three Members from each House, which represents 50 per cent of its membership. At the Joint Committee’s request, the quorum requirement was reduced to two in the last Session, but only while taking evidence. It rarely takes oral evidence, but its deliberations have frequently been curtailed prematurely as a result of the loss of a quorum. A reduction of the quorum to two, or an increase in membership to seven, would help resolve this problem. We support the request from the Joint Committee, and invite the business managers of both Houses to implement one of the two options.

Debates in Westminster Hall and the Chamber

55. Committee Reports require debate and discussion if they are to affect the public affairs agenda. It has long been this Committee’s wish to increase the opportunity for Reports to be debated in the Chamber. The creation of a parallel Chamber in Westminster Hall has provided a welcome extra opportunity for such debates. Under Standing Order No. 10 (13), the Speaker appoints not more than six Thursdays on which the business in Westminster Hall is debated on select committee Reports chosen by this Committee. In addition, the Government makes further Thursdays available to us on an informal basis, for which we nominate the Report for debate.

56. Overall, the operation of the debates has generally worked well. Three hours usually provide adequate time for members of the relevant committee and other colleagues to review the Report with the Minister. Indeed, on some occasions the time can prove generous, and we might consider occasionally recommending two Reports to share the slot, as was considered by the Modernisation Committee in its Second Report of 1998-99, to ensure fuller coverage of Reports over the session. The full list for last Session, from July 2001 to November 2002, was as follows:

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Session 2002–03:

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57. However, two problems have arisen which could undermine the progress that has been made in extending debate on committee Reports.

58. First, our share of Westminster Hall debates risks being reduced. In Session 2001–02, select committee Reports were debated on 22 out of 39 Thursdays including the six days nominated by us. So far, in the current Session to 20 March 2003, there have been 14 Thursday sittings in Westminster Hall, and only 5 committee Reports have been debated including on one nominated day. Indeed, the Government have failed to implement the recommendation of the Modernisation Committee that two-thirds of all Thursdays should be made available for debates on committee Reports.\(^{76}\) The experimental cross-cutting question sessions, which are being tried out in the current Session, are reducing some debates allocated to us from 3 hours to 2 hours. They should be taken out of the other government days. **If the situation does not improve, and the informal system does not deliver an adequate number of debates, then an increase in the number of days formally allocated to the Committee will be necessary.**

59. Secondly, we have observed some lack of consideration in the way in which the Government arranges the select committee debates being held in government time. Usually there has been good informal coordination between the Whips and our staff to select dates that are convenient for committees and Ministers, with adequate notice of what is planned. However, in July 2002, the Health Committee had an offer of a debate in government time on its Report on *The Role of the Private Sector in the NHS* withdrawn at short notice. When, later, the same Report was nominated by us for one of the six allotted days, the Committee was initially told that a Minister might not be able to reply. The Education and Skills Committee\(^ {77}\) and the ODPM Committee also suffered from last minute changes or cancellations. We recognise that the Government’s programme is provisional and may have to be changed at the last minute, but we would be less concerned if we believed that the topics which replaced the committee debates were genuinely urgent—which did not appear to be the case. We hope that, with better advance discussion between our staff and the Whips, such problems can be avoided in the future. **We shall monitor progress and take whatever action is necessary to publicise such practices.**

60. The Science and Technology Committee expressed its belief that Westminster Hall debates would be more meaningful and better attended if they could be held on a substantive motion, thus allowing the House to express a view, instead of on a Motion for the adjournment of the sitting.\(^ {78}\)

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\(^{77}\) HC (2002–03) 359, para 9

\(^{78}\) HC (2002–03) 260, para 29
61. The Modernisation Committee’s 1999 Report explicitly allowed for the possibility of substantive motions in Westminster Hall.\textsuperscript{79} Our predecessor Committee, in its March 2000 Report, \emph{Shifting the Balance}, supported the use of substantive motions.\textsuperscript{80} The Government rejected this.\textsuperscript{81} In its Report of July 2000 on the Government Reply, our predecessor Committee noted:

There is a strong preference for debates on substantive motions, because this provides focus and point to the House’s consideration of a Report.... we believe that substantive motions would give select committees a higher profile, and contribute to improving their effectiveness.\textsuperscript{82}

62. Standing Order No 10 provides that six members can block any proceedings on a substantive motion in Westminster Hall, and that objection by a single member is enough to block a decision on any Question. The draft resolution referred to by the Science and Technology Committee on the Research Assessment Exercise was no doubt drafted by the Committee with that in mind. There may often be value in encouraging committees to present the outcome of an inquiry in the form of a relatively brief draft resolution. This is indeed common parliamentary practice. \textbf{We therefore endorse the view of our predecessor Committee, recently repeated by the Science and Technology Committee, that there would be benefit in some debates in Westminster Hall on select committee Reports being held on substantive motions, where these have been agreed by a committee and reported to the House in its Report.}

63. Another, related area for improvement was put forward by the Culture, Media and Sport Committee, which suggested that the mechanism for “tagging” a select committee publication to an item on the Order Paper was cumbersome and that a better way of alerting Members to relevant material produced by committees should be developed.\textsuperscript{83} We look to that Committee to make proposals for us to consider.

\textbf{A Strategy for the Public and the Media}

64. In our Report last January, we noted that a media strategy was being developed by the Committee Office in co-operation with the Communications Adviser and Communications Officer. With the help of that specialist advice, encouraging progress has been made:

\begin{itemize}
  \item most committees have now reviewed their media lists, using central press lists and a series of regional and specialist lists.
  \item the proportion of committees producing substantive press releases at publication of Reports has increased. These have often been successful in improving the quality and range of coverage.
  \item standard guidance has been issued to committee staff on broadcasting; press conferences; launching an enquiry; and publication of a Report, including distribution of the latter by electronic means.
  \item welcome notes for members of the public attending evidence sessions are now produced by most committees using a standard template.
\end{itemize}

\textsuperscript{79} HC (1998–99) 194, para 47
\textsuperscript{80} Liaison Committee, First Report of Session 1999-2000, \emph{Shifting the Balance: Select Committees and the Executive}, HC 308, para 39
\textsuperscript{81} HC 4737, paras 24-28
\textsuperscript{83} HC (2002–03) 148, para 24
committee web pages have been redesigned as part of the redesign of www.parliament.uk (see below).

65. In addition, we have been following the pilot webcasting service currently being undertaken, and welcome the possibility for oral evidence to be available on sound and vision at www.parliametlive.tv. We understand that the current system is largely based on a choice made by the broadcasters, and is limited so that only one committee is webcast at any one time; with some modest investment it should be possible to increase the number of simultaneous webcasts. The future of the webcasting service is shortly to be reviewed, and we believe that it should be maintained and extended in order to increase the accessibility of committee meetings to a wider public. This can be notably valuable where a committee wishes to encourage the public to follow, and respond to, its pre-legislative work, as with the Joint Committee on the draft Communications Bill (see below, para 79).

Young Voters

66. We are glad to note that select committees have responded to concerns that the turnout in the most recent general election was relatively low and particularly so among young voters. The Modernisation Committee has been considering what part Parliament could play in assisting delivery of the new compulsory citizenship curriculum in schools, and the Domestic Committees continue to work with the House of Commons Commission to provide improved facilities for visitors, especially schoolchildren. The Education Unit in the House of Commons Library has done excellent work in this area over a number of years. Several committees, most recently Welsh Affairs and Human Rights, and previously Science and Technology, have taken positive steps to include young people directly by taking formal evidence from such organisations as the UK Youth Parliament\(^8\) or in respect of Wales, Funky Dragon (the Children and Young People's Assembly for Wales) who are due to give evidence at Westminster, for the first time in Welsh, on 9 April.\(^9\)

New Format for Reports

67. In our February 2002 Report we shared the view expressed in the Leader of the House’s Memorandum to the Modernisation Committee that the format of select committee Reports was old-fashioned and obsolete.\(^6\) We noted that earlier proposals for improvement had founded on grounds of cost, and recorded our determination “to achieve a more inviting format”. We also recorded that relatively minor changes had been introduced as from January 2002: a reworked cover page, larger typeface and arabic numbering of Report pages.\(^7\)

68. The Modernisation Committee’s subsequent Report on Select Committees applauded these minor changes and recommended the use of “experts in design and layout to ensure that reports benefit from the most modern technology and the most attractive design”. It expressed its belief that there were areas where substantial savings could be secured in publishing costs, for example by reducing the volume of evidence published. Significantly, the Modernisation Committee concluded

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\(^9\) This is part of the Welsh Affairs Committee’s inquiry into Empowering Children and Young People in Wales.

\(^6\) Modernisation of the House of Commons: A Reform Programme for Consultation. Memorandum submitted by the Leader of the House of Commons, HC 440 of Session 2001–02

\(^7\) HC (2001–02) 590, paras 32-33
the House should not shrink from some marginal increase in cost if that is necessary to give Reports a more modern and attractive presentation. 88

69. Our March 2002 response to the Modernisation Committee’s Report welcomed its endorsement of the work underway to improve the format of Reports, and to increase the proportion of evidence sent to the printers by electronic means. We expressed strong reservations over the suggestion that much oral and written evidence could be available only on the internet and recorded that

We still have no intention of following the trend of some recent government publications, with more white space, coloured graphics and photographs than content. 89

70. Over the past 12 months, the Committee Office has

- questioned over 100 “users” of select committee Reports to establish the sort of changes they would—and would not—welcome: those questioned included a representative sample of Members not currently on select committees as well as regular users identified by individual committees, and Chairmen and members of committees

- procured the services of a professional designer to generate a new design and layout in close consultation with those responsible for writing, formatting and printing Reports

- commissioned the creation of the necessary templates for committee staff

- set up a training programme for committee staff in the use of these new templates.

71. It is intended that the new format will be used as from 1 May 2003. In our view, it retains the simplicity of the existing layout, and recognises the peculiar features of select committee Reports which differentiate them from Government publications -

- production of the copy is done entirely by committee staff on desk-tops using standard software: a single committee team will produce a dozen or more such Reports a year, of varying lengths and complexity

- committees expect very rapid publication, generally now a week or less from the date of agreement of a Report

- consciousness among committees and their staff of the costs of publishing and printing.

72. We have sought to avoid mere glossiness in presentation, and to ensure that Reports can be produced swiftly using existing technology. We plan to introduce a second colour:

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88 HC (2001–02) 224, paras 51-54
89 HC (2001–02) 692, para 46
use more modern typefaces and better quality paper; and provide a simpler layout. This also takes account of the new style used in the House's internal publications. These changes are all intended to increase the accessibility of committee Reports to a wider public. The additional costs should be largely offset by savings from procuring electronic versions of written evidence from witnesses whenever possible.

73. We have also taken the opportunity to make slight changes to the format of oral evidence, to make it clearer to the reader who has asked each question and who has answered. The new format will no longer show the name of the inquiring Member at the beginning of each page of the minutes of evidence. Since the page break is more likely than not to come in the evidence given by a witness rather than in the middle of a question, heading a column of text with the name of the "inquiring Member" is likely to be misleading. For those using the evidence, it is not difficult to establish very rapidly, should they wish to know, the name of the inquiring Member. Accordingly, we shall not be following the exact terms of Standing Order No. 131. We recommend that Standing Order No. 131 be suitably redrafted at the next convenient occasion.

Electronic Publication

Websites

74. In our review of 2001 we reported that the new Parliamentary website being developed would include improved websites of individual committees. These improved committee websites are now operational and provide users with a more accessible and welcoming gateway to finding out about the work of individual committees and their publications, with pages for future meetings, press notices and so on. The web pages will be further improved over the months ahead.

Uncorrected Transcripts

75. In its January 2002 memorandum to the Committee, the Education and Skills Committee recommended that publication should be allowed on the internet of uncorrected oral evidence given by HM Chief Inspector of Schools, as the head of a non-Ministerial Department, on the same basis as evidence from Ministers. We noted the suggestion in our Report and our intention to look again at the issue of widening the categories of oral evidence which can be placed uncorrected on the internet.

76. With the agreement of the House of Commons Commission, and subject to detailed Guidelines which we have endorsed, committees have been free since June 2002 to place any uncorrected transcripts on the internet, subject to the assent of the witnesses. Around half of all transcripts are now handled in this way: for a number of committees it is the rule rather than the exception. Hard copies are produced by the Vote Office for use inside the House; those available in this way will shortly be listed on the Vote Office daily list of publications.

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90 Which states: "To every question or series of questions asked of a witness under examination in the proceedings of a select committee, and at the beginning of each page of the minutes of evidence, there shall be prefixed the name of the inquiring Member".
91 HC (2001–02) 590, para 31
92 HC (2001–02) 590, Appendix D, para 13
93 HC (2001–02) 590, para 31
Since June 2002, committee Reports have been available on the internet in portable document format—pdf—meaning that when printed out by a user they are in essence a facsimile of the printed version of a Report. This provides obvious advantages to those wishing to use a Report. The html—hypertext mark-up language—version has been retained as well, which enables a user to search a Report and extract passages for insertion in other documents.

Online Consultation

In its July 2002 Report on Digital Technology: Working for Parliament and the Public, the Information Committee considered the potential for using Information and Communications Technologies (ICT) to increase public participation in the work of select committees, through online consultations on specific inquiries being undertaken. It set out a number of detailed recommendations for the conduct of such consultations and suggested that

The Liaison Committee would be an appropriate forum to consider whether such a move [wide adoption of online consultations] might be desirable in principle.  

The Committee noted, and strongly welcomed, the decision of the Joint Committee on the draft Communications Bill then sitting to establish a website allowing the public to register their views on the draft bill.

Later, in July 2002, the Joint Committee’s Report included an annex setting out the results of the Online Forum, and the Committee’s views on its value. The Committee concluded that it had been “an extremely useful exercise, with lessons for future pre-legislative scrutiny” and that “the innovative features of our inquiry... have enhanced the openness of our deliberations”.

In response to these Reports, and aware of the electronic consultations carried out in recent years by several committees, the Committee Office has established a working group at official level to identify the options for future use by select committees of electronic consultation. The group includes representation from the House of Lords. There are of course costs involved, as the Joint Committee on the draft Communications Bill pointed out, and implications for staff resources. We expect to be in a position to make recommendations on the best way ahead in the near future.

Resources to support Committee Activity

As we mentioned earlier, our main role is to support and develop the scrutiny role of committees. It was the view of our Chairman, after he had undertaken comprehensive individual discussions with the chairs and clerks of select committees shortly after taking office, that the latter were under-resourced for the level of activity which they were now expected to undertake. He recommended to the Modernisation Committee that the National Audit Office (NAO) be asked to carry out an assessment of the appropriate level of back-up staff that should be provided to enable the whole committee scrutiny structure to work effectively. The Modernisation Committee helpfully responded with a recommendation.
for a review, assisted by the NAO, to "assess the need for specialist and other support staff for select committees". The House has already welcomed [the Report's] "commitment to more specialist and support staff for select committees". The review is shortly to be considered by the House of Commons Commission, which will consult us on its implementation. We intend to make an early response, and may report further to the House.

97 HC (2001-02) 224, para 29
APPENDICES

APPENDIX 1

Letters from the Chairman of the Committee to Chairmen of Select Committees enclosing guidance on Core Tasks

(a) Letter to all Departmental Select Committee Chairmen

CORE TASKS FOR SELECT COMMITTEES

As many of you know, the Committee approved the attached Guidance on Objectives and Tasks at its meeting on 20 June.

I would be grateful if you would ensure that the document is drawn to the attention of your Committee, of course bearing in mind the reminder in para 2 of the Guidance that each Committee is free to decide its own programme. We are however all bound by the House’s endorsement on 14 May of the Modernisation Committee’s Report to pay due attention to such a set of objectives.

The Liaison Committee also agreed that the annual report to the Committee should reflect the objectives, as indicated in Annex 3.

These objectives and tasks are illustrative and not prescriptive. They have been agreed by the Liaison Committee where all Committees are represented, as a move towards encouraging “a more methodical and less ad hoc approach to the business of scrutiny”. Nor are they set in stone: indeed, they are likely to be amended in the light of experience. They do not seek to add to the work of Committees, but rather to help Committees assure themselves that they are working effectively. Their use in drawing up the annual reports should also greatly improve the review of committee work that the Liaison Committee makes to the House each autumn.

You will also wish to know that I have today written to Robin Cook enclosing a copy, and drawing attention to the duties falling on Ministers and Departments as a result of these objectives and tasks. I enclose a copy of that letter.99 No doubt your Committee will want to take matters forward with your department as appropriate.

Alan Williams

26 June 2002

99 See Appendix 2
(b) Letter to all Non-Departmental Select Committee Chairmen

CORE TASKS FOR SELECT COMMITTEES

As many of you know, the Committee approved the attached Guidance on Objectives and Tasks at its meeting on 20 June.

I would be grateful if you would ensure that the document is drawn to the attention of your Committee, of course bearing in mind the reminder in para 2 of the Guidance that each Committee is free to decide its own programme. We are however all bound by the House’s endorsement on 14 May of the Modernisation Committee’s Report to pay due attention to such a set of objectives.

The objectives are primarily directed at departmental select committees, but as para 4 of the Guidance makes clear, the Liaison Committee hopes that other Committees will reflect how far they can be applied to their work. Your Committee may also wish to consider how far its annual report to the Liaison Committee can reflect the objectives.

These objectives and tasks are illustrative and not prescriptive. They have been agreed by the Liaison Committee where all Committees are represented, as a move towards encouraging “a more methodical and less ad hoc approach to the business of scrutiny”. Nor are they set in stone: indeed, they are likely to be amended in the light of experience. They do not seek to add to the work of Committees, but rather to help Committees assure themselves that they are working effectively. Their use in drawing up the annual reports should also greatly improve the review of committee work that the Liaison Committee makes to the House each autumn.

You will also wish to know that I have today written to Robin Cook enclosing a copy, and drawing attention to the duties falling on Ministers and Departments as a result of these objectives and tasks. I enclose a copy of that letter.100

Alan Williams

26 June 2002

100 See Appendix 2
APPENDIX 2

Correspondence between the Chairman of the Committee and the Leader of the House of Commons

(a) Letter from the Chairman of the Committee to the Leader of the House of Commons and Chairman of the Modernisation Committee

CORE TASKS FOR SELECT COMMITTEES

At its meeting on 20 June, the Liaison Committee endorsed the attached Guidance to Select Committees on objectives and tasks. These reflect the illustrative model in the Modernisation Committee’s First Report, as approved by the House on 14 May, and responds to the invitation in the House’s Resolution of that date to establish common objectives for Select Committees. These objectives and tasks are being commended to departmental select committees.

As you know, the Liaison Committee has supported “a more methodical and less ad hoc approach to the business of scrutiny”. We have reiterated in the covering guidance note that each Committee is free to decide how best it should carry out its remit from the House, but that we expect these objectives and core tasks to be reflected in the format of the annual report from each departmental Select Committee.

You will also see at paragraph 3 of the Guidance that the Committee considers that these are duties falling on Ministers and Departments as a result of its adoption of these objectives and tasks. These are listed under each objective. At this stage, we propose to suggest that each Committee pursue the points arising with its department, and identify what changes are needed to bring about the desired outcome. In due course, I expect the Liaison Committee to examine how far Ministers and Departments have got in doing their bit to help departmental and other Select Committees achieve their objectives, drawing on reports from individual Committees.

Alan Williams

26 June 2002
Letter from the Leader of the House of Commons and Chairman of the Modernisation Committee to the Chairman of the Committee

CORE TASKS FOR SELECT COMMITTEES

Thank you for your letter of 26 June enclosing the Liaison Committee’s Guidance to Select Committees.

The purpose of the Modernisation Committee’s proposals was to bring a greater clarity to the work of the select committees and to ensure that the approach to their work is more systematic than has sometimes been the case. I therefore welcome the revision of your guidance as to what select committees should include in their annual reports to the Liaison Committee and commend you on the speed with which you discharged this duty.

The Modernisation Committee acknowledged that each individual select committee should retain the freedom to balance its workload. However, we felt this was not incompatible with developing a clear, annual cycle of activity which departmental select committees would be expected to perform. Indeed, the provision of extra resources for committees was intended to enable a more rigorous and systematic form of scrutiny. I look forward to seeing how far the committees fulfil these objectives in the next batch of annual reports.

Robin Cook

18 July 2002
APPENDIX 3

Core Tasks for Select Committees:
Guidance from the Liaison Committee

Introduction

1. At its meeting on 23 April, the Liaison Sub-Committee supported the creation of a list of indicative Core Tasks, principally for departmental select committees (DSCs). Following consultation at clerk level, a set of ten core tasks for DSCs has been grouped under four principal objectives (see Annex 1). The first three objectives spring from Standing Order No. 152 under which departmental select committees are established.

Core Tasks: A Template For The Annual Report

2. Each committee is free to decide how best it should carry out its remit from the House. But the Liaison Committee is agreed that DSCs should act with due regard to the expressed view of the House on 14 May (see Annex 2), and commends to DSCs these objectives and core tasks. It will expect them to be reflected in the format of the annual report from each DSC, as indicated in Annex 3.

Duties of Ministers And Their Departments

3. The Liaison Committee also considers that there are duties falling on Ministers and Departments as a result of its adoption of these objectives and associated tasks. These are listed in relation to each task.

Use by Other Committees

4. The Liaison Committee hopes that other select committees will also reflect on how far these objectives and tasks could be applied to make their work more systematic and comprehensive.

Liaison Committee

20 June 2002
ANNEX 1

Departmental Select Committee Objectives And Tasks: An Illustrative Template

OBJECTIVE A: TO EXAMINE AND COMMENT ON THE POLICY OF THE DEPARTMENT

Task 1: To examine policy proposals from the UK Government and the European Commission in Green Papers, White Papers, draft Guidance etc, and to inquire further where the Committee considers it appropriate

This calls for more systematic scrutiny of proposals made. It is not intended to involve formal written or oral evidence as a matter of course, but to ensure that a Committee is at least apprised of proposals and has the opportunity to consider whether detailed scrutiny of them should form part of their programme of work.

Departments must ensure that Committees are informed directly of policy proposals and provided with the necessary documentation, rather than waiting to be asked.

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Task 2: To identify and examine areas of emerging policy, or where existing policy is deficient, and make proposals

This calls for Committees to identify areas where, based on judgement of Members, views of others etc, a Committee inquiry would be worthwhile.

Ministers must be prepared to give proper consideration to policy proposals from committees. This may involve revision of the practice on instant reaction/rebuttal.

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Task 3: To conduct scrutiny of any published draft bill within the Committee’s responsibilities

This calls for Committees to commit time for necessary oral evidence and reporting, subject to its timetable for other inquiries.

Ministers must ensure that committees are warned early on the likely appearance of draft bills: must consult with committee chairmen on how they are to be handled: and must allow a decent time for committee consideration.

***********

Task 4: To examine specific output from the department expressed in documents or other decisions

This calls for a formal framework for being informed of secondary legislation, circulars and guidance, treaties and previously identified casework decisions, so that they can if needed be drawn to a Committee’s attention.

Departments will have to engage in co-operative discussions with committee staff on the best means of ensuring that committees are kept abreast of such outputs.
OBJECTIVE B: TO EXAMINE THE EXPENDITURE OF THE DEPARTMENT

Task 5: To examine the expenditure plans and out-turn of the department, its agencies and principal NDPBs

This calls for a systematic framework for committee scrutiny of the Department’s Main and Supplementary Estimates: its expenditure plans; and its annual accounts.

Departments will as a matter of course have to produce more explanatory material on financial matters, eg on Supplementary Estimates, underspends etc

OBJECTIVE C: TO EXAMINE THE ADMINISTRATION OF THE DEPARTMENT

Task 6: To examine the department’s Public Service Agreements, the associated targets and the statistical measurements employed, and report if appropriate

This calls for an established cycle of written scrutiny and annual reporting of results.

Ministers must be prepared to be genuinely responsive to committee concerns on PSAs etc

Task 7: To monitor the work of the department’s Executive Agencies, NDPBs, regulators and other associated public bodies

This calls for a systematic cycle of scrutiny of annual reports. It does not require either written or oral evidence except where a Committee judges it to be necessary.

The bodies concerned must ensure that their accountability to Parliament is recognised by full and regular provision of information, including annual reports and other publications.

Task 8: To scrutinise major appointments made by the department

This would call for scrutiny of all major appointments made.

Departments would have to systematically notify committees in advance of all major appointments pending and/or made.
Task 9: To examine the implementation of legislation and major policy initiatives

This would call for a framework of detailed annual progress reports from departments on Acts and major policy initiatives so that committees could decide whether to undertake inquiry.

Ministers must be more willing to provide for annual reports on particular pieces of legislation, and departments to provide detailed annual reports on identified policy areas or initiatives.

OBJECTIVE D: TO ASSIST THE HOUSE IN DEBATE AND DECISION

Task 10: To produce Reports which are suitable for debate in the House, including Westminster Hall, or debating committees.

This could call for committees to come to an explicit view when deciding on an inquiry as to whether a debate was in due course envisaged.


ANNEX 2

Extract from the Votes and Proceedings: 14th May 2002

Resolved, That this House approves the First Report of the Select Committee on Modernisation of the House of Commons relating to Select Committees, House of Commons Paper No. 224-I, and in particular welcomes its commitment to more specialist and support staff for select committees; is of the view that the package as a whole will strengthen the scrutiny role of the House; and invites the Liaison Committee to establish common objectives for select committees, taking into account the illustrative model set out in paragraph 34 of that report, namely:

- to consider major policy initiatives
- to consider the Government's response to major emerging issues
- to propose changes where evidence persuades the Committee that present policy requires amendment
- to conduct pre-legislative scrutiny of draft bills
- to examine and report on main Estimates, annual expenditure plans and annual resource accounts
- to monitor performance against targets in the public service agreements
- to take evidence from each Minister at least annually
- to take evidence from independent regulators and inspectorates
- to consider the reports of Executive Agencies
- to consider, and if appropriate report on, major appointments by a Secretary of State or other senior ministers
- to examine treaties within their subject areas.
ANNEX 3

ANNUAL REPORTS

From these model/illustrative objectives, the following headings will be used in the template for annual reports to the Liaison Committee:

Tasks 1 and 2 and 4 and 7 to 9: **Identification of inquiries** carried out into (a) Government policy proposals (b) areas seen by the Committee as requiring examination because of deficiencies (c) departmental actions (d) associated public bodies (e) major appointments (f) implementation of legislation and major policy initiatives

Task 3: examination of any **draft legislation**

Task 5: examination of **expenditure**

Task 6: examination of **PSAs**

All tasks: extent to which **systematic structure** is in place for meeting the indicative tasks listed, and response of department
APPENDIX 4

Letter from the Chairman of the Joint Committee on Human Rights (JCHR) to the Chairman of the Liaison Committee

WORK OF THE JCHR IN 2002

The Liaison Committee has asked each of the departmental select committees to produce reports on their activities in 2002, with particular reference to the “core tasks”. As you know, the JCHR is of a rather different nature than the departmental committees. The most obvious distinction is, of course, that it is a joint committee of the two Houses. Additionally, our terms of reference are “to consider matters relating to human rights in the UK”. We do not therefore have a specific government department to hold to account in terms of the details of its service delivery performance or financial accountability. So far as general policy development is concerned, we would normally be engaged with cross-cutting issues which engage human rights, rather than the details of specific policy initiatives.

The core tasks are therefore of limited relevance to our work. Although we would not wish to disengage from the Liaison Committee’s valuable exercise altogether, I do not envisage that the JCHR will be able to publish the kind of review report you envisage this year. I explain below my thinking about what kind of review could be appropriate to our work. Before that, I set out what we have done in 2002, and attempt to relate that work to the core tasks. I would be happy for this letter to be published with a Liaison Committee report.

Core Tasks

Task 1: To examine policy proposals from the UK Government and the European Commission in Green Papers, White Papers, draft Guidance etc, and to inquire further where the Committee considers it appropriate.

To a large extent this is not relevant to our remit. However, we have followed up a number of statements made by Ministers relating to the Human Rights Act, the ECHR, and other international instruments.

In particular, we have decided to examine systematically the Government’s responses to the Concluding Observations of the various UN Committees on the UK’s periodic reports under the major international human rights instruments. In 2002, we focussed on the UN Convention on the Rights of the Child. We took evidence from NGOs in the children’s field, from a group of children themselves, and from the Minister for Children and Young People. We will be reporting our conclusions and recommendations shortly. In 2003, we will focus on the International Covenant on Economic, Social and Cultural Rights.

We have also been monitoring, in co-operation with the FCO, proposals to reform the European Court of Human Rights.

In the context of our inquiry into the case for a human rights commission, we have responded formally to the consultation on the future of the anti-discrimination commissions and the proposal to create a new single equality body.
It is likely that at some stage we will have to give some attention to the implications of the European Charter of Fundamental Rights and Freedoms. However, since this is attracting political attention from many directions, we have not given it any priority.

**Task 2: To identify and examine areas of emerging policy, or where existing policy is deficient, and make proposals.**

Our major inquiry over the period since the General Election has been examining the case for establishing a human rights commission. In this context, the funding from the Liaison Committee which enabled us to visit a number of Commonwealth human rights commissions last Autumn contributed a great deal to our inquiry. We agreed a report on 3 March 2003.

**Task 3: To conduct scrutiny of any published draft bill within the Committee’s responsibilities.**

All draft Bills fall within our area of responsibility in relation to their human rights implications, and so far we have considered and reported on all of them. In 2002, we published reports on the Draft Communications Bill, the Draft Extradition Bill and the Draft Mental Health Bill. We found this a very useful exercise, and the responses from the Government to our findings have been by and large positive (though the Mental Health Bill has of course yet to emerge). Our inquiries have overlapped with those of other committees into the wider questions raised by draft Bills—in particular the Joint Committee on the Draft Communications Bill. This has not caused any difficulties—these other committees seem happy that we should concentrate on looking at these draft Bills through a human rights prism, as a complement to their work.

**Task 4: To examine specific output from the department expressed in documents or other decisions.**

Not generally applicable. Overall human rights policy responsibility lies with the Lord Chancellor’s Department. Monitoring of its work was the responsibility of the Home Affairs Committee, and now lies with the Committee on the Lord Chancellor’s Department.

We have had one persistent problem relating to the treatment of human rights questions in the Explanatory Notes to Bills (in respect of the statement of compatibility required under section 19 of the Human Rights Act), which could be considered under this heading. The current Cabinet Office guidance on the Human Rights Act leaves it to Departments to decide how fully to deal with Convention rights in these Notes. This has made it difficult in its legislative scrutiny work (which I describe in more detail below) for the Committee to determine which rights had been considered and what view the Minister had taken in relation to them. On occasions we have had to put, and the Department to answer, a large number of questions, many of which could have been avoided by including a fuller account of the Government’s thinking in the Explanatory Notes. After some correspondence between us, the Lord Chancellor’s Department put out guidance in early 2002 advising that the Explanatory Notes should at least identify the Convention rights which the Department considers to be engaged by provisions of the Bill, together with a brief account of the reasons for concluding that the provisions are, or are not, compatible.

Unfortunately, that guidance has not been universally followed. It would be more valuable, and save time in the long run, if the LCD guidance could be adopted across Whitehall as representing good practice on this point.
Task 5: To examine the expenditure plans and out-turn of the department, its agencies and principal NDPBs.

Much the same considerations apply as for Task 4. However, in March 2002 we took evidence on the work of the Human Rights Unit of the LCD. We did not make a report. I would hope, with the agreement of the new LCD Committee, we might to continue to monitor the work of this relatively small unit on an annual basis.

There is only one NDPB which at present could be considered to fall directly within our remit. That is the Northern Ireland Human Rights Commission. With the agreement of the Northern Ireland Affairs Committee, we took evidence on the work of the Commission from the Commission itself, and the NIO, in November 2002. We hope to report our conclusions shortly.

In the context of our inquiry into the case for a human rights commission, we have taken evidence from the three anti-discrimination commissions (the DRC, CRE and EOC). If the proposal to establish a single equality body goes ahead, we could see strong grounds for its being accountable to Parliament principally through the JCHR. This would be particularly the case if the new body had responsibilities in relation to the promotion and protection of human rights.

Task 6: To examine the department’s Public Service Agreements, the associated targets and the statistical measurements employed, and report if appropriate.

Not relevant to the JCHR. See my comments under Task 4 above.

Task 7: To monitor the work of the department’s Executive Agencies, NDPBs, regulators and other associated public bodies.

In general terms, not relevant to the JCHR, but see my comments on the Northern Ireland Human Rights Commission under Task 5 above. We have also taken written evidence from a wide range of public sector inspectorates and regulators on how the Human Rights Act has affected their approach to their work.

Task 8: To scrutinise major appointments made by the department.

Not relevant to the JCHR. It may become so in the context of a human rights commission or a single equality body.

Task 9: To examine the implementation of legislation and major policy initiatives.

We have not examined the implementation of legislation, as by and large this would fall outside our remit. We have, however, followed up on human rights points we have raised in relation to Bills as they were passing through Parliament. This is an area of work which we will strive to put on a more systematic footing as our legislative scrutiny work develops.

We have examined, as I have mentioned before, the Government’s proposal to create a new single equality body in the context of our inquiry into the case for a human rights commission. We will continue to monitor the development of this policy initiative. If there are other major cross-cutting policy initiatives engaging human rights issues which
emerge (an example might be a proposal to establish a children’s commissioner for England), we will be likely to examine them.

We hope to develop further a strand of inquiries into cross-cutting human rights issues. We have announced an inquiry into the implications for human rights protection of the meaning of “public authority” under the Human Rights Act which appears to be emerging in caselaw. We intend to look at issues such as deaths in custody from a human rights angle, when time allows.

Task 10: To produce Reports which are suitable for debate in the House, including Westminster Hall, or debating committees.

A number of our reports have been tagged to debates in the House of Commons on various stages of legislation. We have also reported on a number of items of delegated legislation, and our reports have been tagged to these debates or referred to in standing committee. Our reports have also been widely used in debates on Bills in the House of Lords (perhaps to a greater extent than in this House).

As the standing orders require us to, we reported in our Sixth Report of Session 2001–02 on the first, and so far only, remedial order made under the Human Rights Act. In our Seventh Report of that Session, we made a number of recommendations for improving the handling of these instruments within Government and Parliament. The Government’s response to our recommendations was very tardy. We were disappointed that it rejected our recommendations relating to the parliamentary procedures applying to remedial orders, which had been supported by the Procedure Committee.

Legislative Scrutiny

Having dealt with the core tasks, I now turn to the core work of the JCHR, which falls outside these tasks. This is our legislative scrutiny work.

Government Bills

Under section 19 of the Human Rights Act, every Government Bill is required, on publication, to be prefaced by a statement from the responsible Minister as to whether, in his or her opinion, the provisions of the Bill are compatible with Convention rights, as defined in the Act.

In the last Session we reported on all Bills presented to Parliament in respect to their compatibility with Convention Rights as defined by the Human Rights Act 1998 and other human rights instruments. We produced, in total, nineteen reports on Bills before both Houses in that session.101 Our general approach to this work is—

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That every Government Bill will be examined at as early a stage as possible to establish whether significant questions of human rights appear to be raised by any of its provisions.

Where such questions appear to arise, written ministerial responses to specific enquiries from the Committee will be sought.

Where it seems appropriate, written commentary from non-governmental sources on these questions will be sought at the same time.

Ministerial and other responses will be considered, pursued and published alongside any report of the Committee’s opinion.

Oral evidence will only be taken in exceptional cases.

Where a Bill has been substantially amended in either House in such a way as to appear to raise significant new questions relating to the human rights compatibility of its provisions, we have been prepared to consider it afresh in its altered form.

Drawing lessons from our experience of the first Session of conducting this systematic scrutiny, we intend to move in this Session towards a principle of ‘exception reporting’, that is generally reporting our considered views to each House only when a Bill appears to give rise to a significant risk of a violation of a human right. We intend to make that assessment on the basis of a number of criteria including—

(a) the seriousness of the interference with, and the nature of, the right(s) affected,

(b) the severity of the impact of any infringement on victims,

(c) the vulnerability of potential victims, and

(d) the extent to which the Bill in question appears to have taken account of any earlier recommendations of the Committee in respect of similar matters (including reports we have made on draft Bills).

Detailed reports on particular Bills will in general be confined to those which seem to us to raise substantial human rights issues.

Private Members’ Bills

Our approach to this type of scrutiny has been slightly modified for Private Members’ Bills, which do not have a section 19 statement attached.

Each Private Member’s Bill is examined by the Committee for compatibility questions but, in allocating time and resources to this scrutiny, we have due regard to the priority that needs to be accorded to consideration of government legislation. However, we do consider that ballot Bills in the Commons should reasonably have a higher priority than other Private Members’ Bills in that House.

Where questions of compatibility arise in relation to a Private Member’s Bill, we have given an opportunity for the Bill’s sponsor to respond to our concerns. We recognise that this may not always be possible, and we have, in general, simply reported such matters for the attention of each House, rather than expecting the Member in charge necessarily to provide written responses, or drawing adverse inferences from a failure to do so. Again, we make substantive reports only on those Private Members’ Bills which raise significant human rights issues measured against the criteria outlined above.

Private Bills

*We also consider each Private Bill deposited, and the Promoter’s opinion on its compatibility with the Human Rights Act. We have reported on a small number.*

Co-operation of Government Departments

With a remit extending to matters relating to human rights in the UK, our reports have regularly gone beyond the Ministers’ section 19 statements of compatibility, which relate only to Convention rights. Departments and Ministers have generally been prepared to respond, in a full and reasoned way, to these questions. As a result, we believe we have been helping to extend awareness, in Parliament and within Government Departments, of a range of human rights as they apply in the UK.

By the regularity of our scrutiny, we also hope that we are helping to focus the minds of Ministers and officials in Departments on salient human rights issues at an early stage in the preparation of legislation. In particular, by directing attention to the safeguards needed to secure respect for these rights, we seek to ensure that everyone is aware of the incidental human rights implications of legislation which does not directly violate rights, but might lead to situations in which they are threatened.

In general, we have found Ministers and Departments good at responding to written questions we submit to them. Good working relationships have been established with parliamentary clerks and leaders of Bill teams in some Departments, greatly simplifying and facilitating the process of scrutiny. Departments have begun to recognise the advantage of answering our questions promptly, and the Home Office (which by virtue of both the quantity and nature of its legislation attracts a great deal of attention from us) should be particularly commended in this respect.

Some departments take steps to ensure that they keep in touch with the Committee, and can anticipate its needs and build them into its timetable. Some have also consulted us about possible amendments to Bills, including amendments to respond to human rights concerns. We welcome this. Although it is unlikely to be possible to achieve full agreement between Parliament and the Executive on every matter, our objective of improving the respect for human rights in the provisions of new legislation will be achievable only if the various people involved in the process of making that legislation see themselves as working together, rather than against each other.

Future Developments

We are working out our approach as we go along, and adapting it. The overall object is to develop ways of engaging Members of both Houses and Government in human rights discussions, and at the same time to give human rights specialists and NGOs, and members of civil society more generally, an additional, more systematic channel for involving themselves in the political engagement with human rights.
Annual Report

My reason for not proposing an annual report for formal consideration by the Committee at this stage is that we hope to produce a fuller report on our work in the course of the next few months. Time pressures have made it impossible to do this by now. My intention is that this report would—

draw some detailed lessons from our legislative scrutiny work;

revisit the recommendations relating to the making of remedial orders which the Government rejected;

summarise our monitoring of the decisions of the UK courts in relation to the Human Rights Act and the decisions of the European Court of Human Rights against the UK, and the Government’s responses to these decisions; and

take an overview of the progress of implementation of the Human Rights Act more generally.

Designing a format which would provide a useful overview of our work is a complex and time consuming task, and we are some way from being ready to publish the results. I hope, however, that this letter will give the Liaison Committee sufficient material on the work of the JCHR in 2002 for its own purposes.

Quorum

There is, however, one issue on which I would seek the specific support of the Liaison Committee. The quorum of the JCHR is three Members from each House. That is 50% of our membership—the highest quorum requirement of any committee of either House I believe. The problem of sustaining the quorum is exacerbated by the split requirement between the Houses—in theory we could have eight members of the Committee present (66% of its membership) and still be inquorate.

Although attendance is usually good, we have had on occasions real problems with this requirement—particularly in sustaining a dual quorum when we have a prolonged deliberative meeting to cover a lot of complex legislative scrutiny business. I have heard no persuasive argument for giving the JCHR the most onerous requirement of any parliamentary committee (and twice that of the House sitting in Westminster Hall). The other joint committees established in standing orders appear mostly to have a quorum of two from each House, and more members.

At the Committee’s request, the quorum requirement for both Houses was reduced to two in the last Session, but only while taking oral evidence. We rarely take oral evidence, but our deliberations have been frequently curtailed prematurely as a result of the loss of a quorum.

I would be grateful for the support of the Liaison Committee in seeking a reduction of the quorum of the JCHR to two from each House, or as an alternative or additional measure, an increase in membership to seven. Or, more radically, a provision that the Chairman can count towards the quorum of both Houses.
Resources

Since my report last year to the Liaison Committee, our staff has been augmented by the establishment of a Committee Assistant post and a Committee Specialist post (both paid for by the Commons). This has been a great help. However, like other committees, staff resources are still stretched at times, and have still to be regarded as a limiting factor on what we can do. We are unlikely to benefit from the creation of the Scrutiny Unit, because of the particular nature of our work.

I am making no specific request for additional resources at this stage. However, I think the time may come when the authorities of the two Houses may need to think about how to staff a Joint Committee of the nature of the JCHR through more innovative and integrated arrangements for the permanent service of both Houses to work together.

Jean Corston

7 March 2003
APPENDIX 5

Correspondence between the Chairman of the Committee and the Chief Secretary to the Treasury

(a) Letter from the Chairman to the Chief Secretary to the Treasury

I would like to raise with you a matter which has been causing some concern, namely the timing of the laying of the Estimates, in particular Supplementary Estimates, and their prior availability to Committees in proof form.

The issue has been drawn to my attention by the Chairman of the Transport Committee, but I have reason to believe that it has similarly affected a number of other departmentally related Select Committees.

Mrs Dunwoody’s letter to me clearly describes the problems caused to her Committee by the delay in providing the Clerk of the Committee with a proof of the relevant Estimate (in this case a new Estimate). Rather than seek to paraphrase her letter, I set out below the relevant part of it:

“I am writing to suggest the Liaison Committee protests about the extremely short time which has elapsed between laying this year’s Winter Supplementary Estimates and New Estimates [and the Estimate day debate]. The Government appears to have forgotten that the seven days the Standing Order specifies must elapse between laying the Estimate and voting on it is a minimum, not an aspiration. In our case, the new Estimate for the Department for Transport contained a great deal of interesting material. It was laid on 27th November, only five working days before the debate itself; there was no time to report on the Estimate, let alone to come back to the Liaison Committee, if we had wished, to suggest a change to the debate. Moreover, the proof of the Estimate arrived on the 27th itself; there was no advance notice. The Liaison Committee has pressed for Committees to have power to put substantive matters before the House. Since the Government resists, the motion to reduce is the only effective motion we can bring forward ourselves; if there is no time to consider the Estimates we cannot even deploy that weapon effectively.

I understand that the responsible Clerk of Committees has already written to the Treasury on this matter, which is extremely welcome, but I believe the Liaison Committee should take it up as well. There is no need for the interval between laying the Estimates and the debate to be so short. Standing Order No. 55 simply requires the vote to take place before 6 February. In my view, there should be a clear month between the proof of the Estimates and the Estimates day debate.”

I would be most grateful if you could respond to Mrs Dunwoody’s points, addressing in particular the question of the absence of any gap between the provision of the Estimates in proof and their formal laying before the House, and the timing of the relevant Estimates day debate.

As you will appreciate, if the Estimates days are to provide an opportunity for effective scrutiny of proposed expenditure it is essential that the necessary documents are in the hands of Committees in time to allow for their proper consideration and, if necessary, a report to the House.
May I have an early reply, please?

Alan Williams
23 January 2003

(b) Letter from the Chief Secretary to the Treasury to the Chairman of the Committee
LAYING OF ESTIMATES

1. Thank you for your letter of 23 January regarding the timing of the laying of Estimates. I understand fully the concerns of Select Committees to obtain proofs of their departments’ Estimates sufficiently early so as to be able to scrutinise them properly in advance of the Estimates day debate.

2. We make every effort to ensure that Supplementary Estimates are laid as early as possible before the House and that Select Committees get proof copies before presentation to provide them with as much time as possible for scrutiny. However, whilst resource based Estimates provide more detailed and useful information on departmental spending compared to their cash equivalents, this is at the price of increased complexity. Estimates now take more time to produce and require more checking to ensure they are right. This has led to slightly later presentation and provision of proof copies to Committees than was perhaps the case in the past.

3. Shortening the timetable under which the Supplementary Estimates are produced is not a practical option at present since it would risk errors and omissions. This will though be considered whenever the processes for drafting, checking and printing the Estimates are further improved (something which is continuing).

4. One other possible option, that of bringing the timetable forward, is also relatively impractical. This may be possible in respect of the Winter Supplementary Estimates (which are processed during September-November and could perhaps begin a little earlier), but the Spring (January-February) and Summer (May-June) Supplementary Estimates could not realistically be brought forward any further or they would simply follow directly on from the previous Estimates rounds (the Main Estimates in the case of the Spring Supplementary Estimates).

5. It would not therefore be practical to provide Committees with proof copies of the Estimates one month before the Estimates day debate as Mrs Dunwoody suggests. Departments need time to assess their needs to enable taut and realistic Estimates to be presented. Requiring them to finalise the details one month before the debate could lead to the Estimates not being as taut and realistic as required.

6. May I suggest the following change to current practice? Our practice in the past has been to provide Select Committees with copies of final proof versions of the Estimates once they have been signed off for the presses. I have asked officials to ensure in future that when a department’s Estimate has been finalised and approved by the Treasury, a copy will immediately be sent to the relevant Committee. In the event that there are substantive changes between the provision of the proof and presentation, a further proof copy will be provided for the Committee.

7. I hope that this will prove a satisfactory balance between the various demands on the process.

Paul Boateng
20 February 2003
PROCEEDINGS OF THE COMMITTEE RELATING TO THE REPORT

THURSDAY 20 MARCH 2003

Members present:

Mr Alan Williams (in the Chair)
Mr Donald Anderson  Mr Edward Leigh
Mr Alan Beith        Mr David Lepper
Mr Andrew Bennett    Mr John McFall
Mr Derek Conway      Mr Michael Mates
Mr David Curry       Mr Chris Mullin
Mrs Gwyneth Dunwoody Mr Peter Pike
Mr Michael Fabricant Mr Barry Sheerman
Dr Ian Gibson        Sir Nicholas Winterton
Mr David Hinchliffe  Dr Tony Wright
Mr John Horam        Sir George Young
Mr Martyn Jones      
Mr Gerald Kaufman

The Committee deliberated.

* * * * *

Draft Report (Annual Report for 2002), proposed by the Chairman, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 82 read and agreed to.

Resolved, That the Report be the First Report of the Committee to the House.

Several papers were ordered to be appended to the Report.

Ordered, That the Chairman do make the Report to the House.

Ordered, That the provisions of Standing Order No. 134 (Select committees (reports)) be applied to the Report.

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[Adjourned till Thursday 3 April at half-past Nine o’clock.]