



House of Commons
Constitutional Affairs
Committee

**Work of the
Committee in 2004**

Second Report of Session 2004–05

Report, together with formal minutes

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The Constitutional Affairs

The Constitutional Affairs Committee (previously the Committee on the Lord Chancellor's Department) is appointed by the House of Commons to examine the expenditure, administration and policy of the Department for Constitutional Affairs and associated public bodies.

Current membership

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Peter Bottomley MP (*Conservative, Worthing West*)
Mr James Clappison MP (*Conservative, Hertsmere*)
Ross Cranston MP (*Labour, Dudley North*)
Mrs Ann Cryer MP (*Labour, Keighley*)
Mr Jim Cunningham MP (*Labour, Coventry South*)
Mr Hilton Dawson MP (*Labour, Lancaster and Wyre*)
Andrew Rosindell MP (*Conservative, Romford*)
Mr Clive Soley MP (*Labour, Ealing, Acton and Shepherd's Bush*)
Keith Vaz MP (*Labour, Leicester East*)
Dr Alan Whitehead MP (*Labour, Southampton Test*)

Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. 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/conaffcom

Committee staff

The current staff of the Committee are Roger Phillips (Clerk), Dr John Gearson (Second Clerk), Richard Poureshagh (Committee Assistant), Alexander Horne (Legal Specialist), Julie Storey (Secretary), Tes Stranger (Senior Office Clerk) and Adèle Brown (Committee Media Officer).

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Contents

Report	<i>Page</i>
1 Introduction	3
Leading debate	3
Constitutional Reform	3
Immigration and Asylum	3
Legal Aid	4
Family Justice	4
Relations between judges and Parliament	4
Scrutinising legislation	5
Scrutinising the Department	5
Relations with the Department	5
Protection of a Witness: Privilege	6
Liaison with the Department	7
Special Problems	7
Security	7
Confidentiality	7
2 Objectives and tasks	9
Objective A: to examine and comment on the policy of the Department	9
Task 1: To examine policy proposals from the UK Government and the European commission in Green Papers, White Papers, draft Guidance etc, and to inquire further where the Committee considers it appropriate	9
Task 2: To identify and examine areas of emerging policy, or where existing policy is deficient, and make proposals	9
Task 3: To conduct scrutiny of any published draft bill within the Committee's responsibilities	10
Task 4: to examine specific output from the Department expressed in documents or other decisions	10
Objective B: to examine the expenditure of the Department	11
Task 5: to examine the expenditure plans and outturn of the department, its agencies and principal NDPBs	11
Objective C: to examine the administration of the Department	12
Task 6: to examine the department's Public Service Agreements, its associated targets and the statistical measurements employed, and report if appropriate	12
Task 7: to monitor the work of the department's executive agencies, NDPBs, regulators and other associated public bodies	12
Task 8: to scrutinise major appointments made by the Department	13
Task 9: to examine the implementation of legislation and major policy initiatives	13
Objective D: to assist the House in debate and decision	13
Task 10: to produce Reports which are suitable for debate in the House, including Westminster Hall, or debating committees	13

All tasks: the extent to which systematic structure is in place for meeting the indicative tasks listed, and response of department	14
ANNEX A	15
Table 1: Subjects covered by the Constitutional Affairs Committee, 2004	15
ANNEX B	16
Table 2: Visits by the Constitutional Affairs Committee in 2004	16
ANNEX C	17
Table 3: Liaison Committee criteria relevant to 2004 inquiries	17

Formal minutes	18
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1 Introduction

Leading debate

1. This has been a very busy year for the Committee, in which it has sought to establish itself as an influential voice in public debates relating to its core subject matter.

Constitutional Reform

2. In February 2004 we published an important Report on the Government's plans to reform the system for appointment of judges, to establish a Supreme Court and to abolish the office of Lord Chancellor. Shortly after we reported, the Government published its Constitutional Reform Bill, which started its passage through the House of Lords. Unusually, the House of Lords decided to establish a Select Committee on the Bill and also to carry over the Bill so that it could continue to be debated in the current session. Our Report and the evidence we took was extensively relied on in debate in the House of Lords, both in the Chamber and in the Select Committee.

3. We have returned to this subject in the light of the published Constitutional Reform Bill. In May and June 2004 we took evidence from Professor I R Scott, Hon Margaret Wilson, Attorney General, of New Zealand, Rt Hon Dame Sian Elias GNZM, Chief Justice of New Zealand, Rt Hon Thomas Gault DCNZM, President of the New Zealand Court of Appeal, and Rt Hon Sir Kenneth Keith KBE, a Judge of the New Zealand Court of Appeal, Rt Hon Lord Bingham of Cornhill, Senior Lord of Appeal in Ordinary, and the Lord Chancellor (with Sir Hayden Phillips GCB, the then Permanent Secretary of the Department for Constitutional Affairs) on questions relating to the administration of the proposed new Supreme Court and on the relations between the judges and Parliament. We also travelled to Australia and New Zealand to examine the practical arrangements for the Australian High Court and the recently established Supreme Court in New Zealand. The original proposals put forward by the Government have changed a good deal and in particular we note the announcement made on 13 December in debate in the House of Lords relating to Government policy on this topic. We shall make a further report on the subject in the light of changes made to the Bill.

Immigration and Asylum

4. We reported on the Government's proposed changes to publicly funded immigration and asylum work in Session 2002–2003.¹ We published the Government's Response to this Report as our Second Special Report in January 2004.² We returned to this issue in the course of our enquiry into Asylum and Immigration Appeals. That inquiry continued our examination of this subject, which we had announced on 28 February 2003. On

1 Constitutional Affairs Committee, Fourth Report of Session 2002–03, *Immigration and Asylum: the Government's proposed changes to publicly funded immigration and asylum work*, HC 1171-I and II

2 Constitutional Affairs Committee, Second Special Report of Session 2003–04, *Government Response to the Fourth Report on Immigration and Asylum: the Government's proposed changes to publicly funded immigration and asylum work*, HC 299

27 November 2003 the Government introduced the *Asylum and Immigration (Treatment of Claimants, etc) Bill*. The changes proposed in that Bill were the third major set of changes to the system of asylum and immigration in the last few years. Its most recent predecessor was the *Nationality, Immigration and Asylum Act 2002*. Originally, we had intended to examine the cost to public funds of supporting new appeal structures, such as the Asylum Support Adjudicators, and of supporting the extension of legal aid. This matter was overtaken in part by the Government's subsequent proposals relating to appeal structures contained in the Bill. One of the most controversial clauses in the Bill sought to introduce an "ouster" clause, which removed the jurisdiction of the Courts. We received a good deal of evidence about this clause from the judiciary and the legal profession. We reported in time for the Committee's views (which were highly critical of the "ouster clause") to be made known to the House; the clause was subsequently removed from the Bill, in accordance with our recommendations.

5. We have returned to the area of asylum and immigration with an inquiry into the legal aid arrangements for asylum and immigration appeals. We expect to report on this early in 2005.

Legal Aid

6. Legal Aid is one of the major areas of expenditure of the Department for Constitutional Affairs. It occupies almost two thirds of its budget. This is an obvious area for us to concentrate on. We carried out two inquiries which focused on Legal Aid in 2004. The first was *Civil Legal Aid: adequacy of provision*; the second was on the *Draft Criminal Defence Service Bill*.

Family Justice

7. The inquiry which has attracted the most considerable public interest is our inquiry into Family Justice. We have received over 150 submissions from judges, lawyers and members of the public. We have taken evidence from the President of the Family Division and other judges who preside regularly over Family Courts; we have heard from lawyers who practise in this area, as well as representatives of litigants', fathers' and children's organisations. We shall report on this early in 2005.

Relations between judges and Parliament

8. The cooperation of the judiciary is crucial for our work. One of the major issues surrounding the Government's proposals for abolition of the office of Lord Chancellor was the need for the judiciary to have confidence in arrangements for representing its views in Government and Parliament.

9. Early on in the Committee's life we reached an agreement with the Lord Chief Justice about the basis on which members of the judiciary would appear before us to give evidence. We are very pleased to report that we have received significant assistance from Her Majesty's judges in connection with our inquiry into the Government's proposals relating to the *Constitutional Reform Bill*, in our inquiry into system of immigration appeals, and in our current inquiry into Family Justice. **We have established the Committee as a major conduit for the expression of the judiciary's experience and**

views on the working of the judicial system and on wider policy matters. We express our gratitude for the cooperation that we have received from the judiciary at all levels.

Scrutinising legislation

10. The Government's practice of sending draft bills for consideration is one which we fully support. Of course, there will always be a tension between the demands of examining a draft bill, which may require considerable allocation of resources, and the Committee's general programme of scrutiny. We carried out an inquiry into the *Draft Criminal Defence Service Bill* and, in the process, identified serious shortcomings in the Government's proposals. We refer to the lessons learnt from this process below [see paragraphs 28 and 29].

11. We did not restrict ourselves to examination of draft bills. As we noted above, we conducted an inquiry into aspects of the *Asylum and Immigration (Treatment of Claimants, etc) Bill* which fell within our area of responsibility. This inquiry was carried out quite swiftly in order to ensure that the House had the opportunity to read our views about the extensive changes proposed under the Bill. In the event, the Government changed its policy to a great extent along the lines advocated by us.

Scrutinising the Department

12. We are developing our scrutiny role in respect of the Constitutional Affairs Department. As we reported last year, the Department is in the process of major change. It is acquiring new responsibilities, such as oversight of the implementation of freedom of information legislation in the public service (on which we reported early in the current Session).³

13. In the course of preparing evidence for this inquiry a number of public bodies reviewed their preparations for implementation of the *Freedom of Information Act*. This was a demonstration of the impact which Committee inquiries can have, independently of what recommendations are made at the end of the process, because the process itself causes Departments and public bodies to review their policy and administration when preparing to give evidence.

Relations with the Department

14. Last year we reported that relations with the Department since our establishment had been generally good but that it was clearly taking the Department some time to get used to the requirements placed upon it by Select Committee scrutiny. We cited an occasion where serious difficulties had occurred because of the failure to ensure that a vital memorandum reached us in time to allow us to see it before we considered our final report. The Department is clearly making efforts to get used to having a Select Committee. Nonetheless, there have been occasions where it has failed to notify us in good time of particular events. For example, the Department forgot to tell us that it was publishing its

³ Constitutional Affairs Committee, First Report of Session 2004–05, *Freedom of Information Act 2000 – progress towards implementation*, HC 79–I and II

Response to our Fourth Report *Civil Legal Aid: adequacy of provision*;⁴ Committee staff found out about it from journalists who rang up after it had been published. On the positive side, the Department has shown itself ready to change its practice: we persuaded it to publish its responses to the consultation on the Constitutional Reform proposals in full rather than in summary on its web site. This is now its standard departmental practice.

Protection of a Witness: Privilege

15. At the end of 2003 we were contacted by Mrs Judy Weleminsky, a witness who claimed that she had been punished as result of having sent us a memorandum which was used in our report on CAFCASS.⁵ We issued a Special Report⁶ which was debated by the House on 15 January 2004.⁷ On a motion moved by the Chairman of the Committee, the House referred the matter to the Committee on Standards and Privileges, which reported on 1 April 2004.⁸ That Committee concluded that, on the basis of facts admitted in evidence, a contempt had been committed (even in the absence of intent), but did not consider that any further action should be taken against those responsible. It said:

The difficulties which have arisen in this case might have been avoided if parliamentary privilege had been at the fore-front of the minds of all concerned, rather than at the back.⁹

It continued:

The issuing of proper guidance on parliamentary privilege to all Government Departments and public bodies ought to mean that no similar case to this one should arise in the future. Nonetheless, we believe that all committees have a responsibility to continue to be vigilant in this matter, not only in the interests of their own particular witnesses and their own inquiries, but also to protect the undoubted constitutional rights and duties of the House and all its committees, and the rights of those who give evidence to them.¹⁰

It urged the Government to remedy the deficiencies as a matter of urgency, and to consult the House on the terms of any proposed new guidance.

16. On 8 July, the Permanent Secretary at the Department for Constitutional Affairs wrote to the Chairman of the Standards and Privileges Committee enclosing a draft of a new section on evidence to select committees which the Government proposes to include in the Cabinet Office publication *Guidance on Codes of Practice for Board Members of Public Bodies*. That Committee welcomed the proposed advice in the new version of the *Guidance*

4 Constitutional Affairs Committee, Fourth Report of Session 2003–04, *Civil Legal Aid: adequacy of provision*, HC 391–I and II

5 Constitutional Affairs Committee, Third Report of Session 2002–03, *Children and Family Court Advisory and Support Service (CAFCASS)*, HC 614–I and II, Ev 226–230

6 Constitutional Affairs Committee, First Special Report of Session 2003–04, *Protection of a witness-privilege*, HC 210

7 HC Deb, 15 January 2004, cols 975 and 976

8 Committee on Standards and Privileges, Fifth Report of Session 2003–04, *Privilege: Protection of a witness*, HC 447

9 *ibid*, para 58

10 *ibid*, para 60

on *Codes of Practice for Board Members of Public Bodies*, which, it said: “if followed, should avoid any risk of a recurrence of events similar to those which led to our Fifth Report”.¹¹

17. The Government has reviewed the guidance on Departmental Evidence and Response to Select Committees (Osmotherly rules) and has ensured that the issue of parliamentary privilege is included as part of this.

Liaison with the Department

18. We would like to thank the liaison officers in the Department who have assisted us throughout the year. We have the impression that it is still the case that in many areas the Department is learning how to cooperate with a Select Committee and occasionally it seems to us that they have some difficulty in ensuring that all parts of the Department understand the need for assisting the Committee in a timely way. Our staff have maintained useful informal links with the Department when preparing inquiries such as the Family Justice inquiry, where officials met the committee staff privately.

19. We list below the core objectives and tasks for select committees, indicating how we have carried out each of these. In annexes to this report we also list the subjects covered by us, the visits which we made and a table of which Liaison Committee criteria were relevant to our inquiries in 2004.

Special Problems

Security

20. An unfortunate aspect of our inquiry into Family Justice has been the need for us to take special steps to ensure security for our witnesses as well as to protect the integrity of the evidence taking process. Regrettably, we have had to restrict entry to the room where witnesses were giving oral evidence to badge holders and people who were specifically vouched for by witnesses. All other members of the public have been able to view proceedings *via* a live video feed in a separate room. This has been in response to the actions of the pressure group Fathers 4 Justice, members of which have in the past year disrupted the Chamber of the House of Commons and handcuffed the Minister for Children (who is scheduled to give evidence to us during this inquiry). The activities of this organisation have resulted in a restriction on the right of interested members of the public to be present at our evidence sessions.

Confidentiality

21. A further difficulty arose in relation with this inquiry. As the law stands, parties to family cases are forbidden to pass on details of their cases to those not involved in proceedings before the court.¹² The reason for this is to protect parties to family cases, in particular children. There are significant disadvantages to a blanket ban on any disclosure. It means, for example, that it is impossible for journalists to gain access to the courts to be

11 Committee on Standards and Privileges, Sixth Report, Session 2003–04, *Privilege: Protection of a Witness (Government Response)*, HC 1055, para 3

12 Administration of Justice Act 1960, s. 12 and the Children Act 1989, s. 97(2)

able to collect information about the general running of the system. We shall comment in our Report on Family Justice on confidentiality in family justice cases.

22. Although the law does not apply to Parliament in the same way as to individual citizens, for reasons of comity it is of course desirable for parliamentary committees to respect orders of the court. Therefore, we took a decision at the beginning of the inquiry not to accept evidence about specific cases. Instead, the Committee staff has prepared a statistical digest of all the matters relating to specific cases which were brought to their attention by members of the public writing in. The letters which we received relating to individual cases were not treated as evidence in a formal sense; by this means we hoped to avoid any difficulty in respect of the interplay between the law relating to confidentiality in family cases and parliamentary protection of witnesses. We are glad to acknowledge that the President of the Family Division agreed with our approach.

2 Objectives and tasks

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

23. We described in our Annual Report for 2003 our inquiry into the Government's proposals which eventually were expressed in the *Constitutional Reform Bill*. We have already mentioned (in paragraphs 2 and 3 above) continuing work on this subject.

24. In July 2004 the Government published a Green Paper, entitled *Parental Separation: Children's Needs and Parents' Responsibilities*.¹³ On the basis of this Green Paper, we began our inquiry into Family Justice (see paragraphs 7 to 10 above).

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

25. One aspect of the proposed changes to the office of Lord Chancellor was the impact on the Lord Chancellor's power of **patronage in ecclesiastical matters**. We devoted a day's evidence session to this topic. We focused on the following particular areas of interest :

- How important is the future of the Lord Chancellor's ecclesiastical patronage function to the existing, varied system of patronage?
- How does the exercise of ecclesiastical patronage by the Lord Chancellor work in practice, and how does it differ from the way other patrons exercise their powers?
- Which of the three government options for the future of the Lord Chancellor's ecclesiastical patronage function is preferable (i.e. that the functions: be transferred to another minister of the Crown, such as the Secretary of State for Constitutional Affairs; revert to the Crown, with the Prime Minister advising the Queen, as with other Crown appointments; or be transferred to the Church)? Are there other options that the Government has not considered?
- If the Lord Chancellor's ecclesiastical patronage responsibilities were transferred to the Church, who should assume them? Would such a change be seen as a step towards disestablishment of the Church?

26. We took evidence from representatives of the Bishops' Council; lower clergy and lay people; and officials from the Prime Minister's office who deal with ecclesiastical patronage. The evidence given at this session contributed significantly to the Government's decision that the Lord Chancellor's ecclesiastical patronage should revert to the Crown, on the advice of the Prime Minister.

27. We have continued our oversight of the **asylum and immigration system** by inquiring into the Government's proposals contained in the consultation document: *The Asylum and Immigration Tribunal—The Legal Aid Arrangements for Onward Appeals* (see paragraphs 4 and 5 above). After the Government dropped the controversial “ouster clause”, which was designed to restrict access to the courts, it established a paper oriented review system, with cases to be returned to the Asylum and Immigration Tribunal (AIT) where there was an error of law in the original decision.

28. The Government now proposes to change the basis of funding such appeals. It proposes to “introduce a system of retrospective funding for challenges to decisions of the AIT, with legal aid being awarded at the end of the process when the appeal decision has been reconsidered” (thus ensuring that lawyers would have to bear the risk that if they pursued a case which the Tribunal or Administrative Court decided was without merit, they would not be paid for their work); it also proposes to set the threshold for the test which claimants' lawyers would have to meet to obtain funding at a very high level, namely, far more than reasonable prospects of success. Our concern is that the Department may be using the legal aid system as a backdoor route to restrict legitimate appeals.

29. We have already noted our work on **family justice** (see paragraphs 7 to 10 above).

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

30. Our inquiry into the *Draft Criminal Defence Service Bill* [see paragraph 13 above] was our first experience of examining a draft Bill. Initially, we had some difficulty in getting a text of the draft Bill from the Department. We came very close to being unable to conduct the inquiry because of the late appearance of the draft Bill. **We understand that the late production of draft Bills is a common experience with other Committees and we hope that the Liaison Committee will continue to pursue this matter.**

31. Despite this problem we found the process of examining the draft Bill extremely useful. It gave witnesses who were involved with the administration of justice, whether from the professions or on the judicial side, an opportunity to explain the practical difficulties associated with the Government's proposals. It also allowed the Government and the Legal Services Commission an opportunity to respond to some of the criticisms made by those from whom we took evidence. Whenever time permits we will take the opportunity to examine draft Bills in the future.

Task 4: to examine specific output from the Department expressed in documents or other decisions

32. The Department continues to supply us with a wide variety of documents which it produces. These range from research reports and statistical bulletins to agency Reports and circulars. These are used to inform our continuing inquiries.

33. We have not always received papers from the Department of an adequate standard. We had some difficulty in getting trustworthy statistical analysis of data on several occasions. This arose in connection with inquiries relating to legal aid and Family Justice. For

example, the Department gave us misleading statistics relating to domestic violence, which related not only to domestic violence, but also to other types of harmful conduct.

Objective B: to examine the expenditure of the Department

Task 5: to examine the expenditure plans and outturn of the department, its agencies and principal NDPBs

34. As it did last year, the Committee Office Scrutiny Unit helped us with the scrutiny of the Spring Supplementary Estimates. It brought to our attention matters which we subsequently raised with the Department in writing. Later, we questioned Sir Hayden Phillips GCB, the then Permanent Secretary of the Department, in oral evidence on public expenditure issues.¹⁴

35. The Department continues to be the subject of special measures from the Treasury. Sir Hayden described the reason for this as follows:

I observed during my first few years in the Lord Chancellor's Department that year-on-year at around Christmas time I was told we were going to overspend on our budget, particularly in relation to legal aid, and each year we put in a reserve claim at the end of the year to cover it. Quite often, that reserve claim turned out not to be necessary. In 2002—and I am trying to do this by anecdote because it brings out the problem—I was told we needed a reserve claim of £40-odd million and I used up some considerable personal capital in the Chief Secretary of the day to persuade him that that was all right. He agreed. Then, as a result of a bureaucratic disaster, the supplementary estimate was not laid and therefore we did not get the money, so I spent the next two months sweating quite considerably. But I should have relied on our historic inability to forecast accurately: we came out and we did not need the reserve claim.¹⁵

He continued:

We under-spent, I forget the amount, and I was told rather cheerfully that it was all right. I thought that this was not a cause for celebration; this was a cause for real concern. That was the point [...] at which I decided that we had to fundamentally reform our finance function and I went into the market place and hired a professional from the private sector who had a proven track record as a finance director in major companies. That we began to put right, but that activity did not take place until the beginning of 2003 on the creation of the Committee. In that year we had a very large reserve claim again, at the point at which I wanted to make some serious changes in the way the department did business and the Treasury wanted to see some serious changes in the way the department did business, so the so-called special measures came together with what I recognised was a real need for the department to change. They amounted to our working extremely closely with the Treasury—on a quarterly basis; regular meetings. We have had for the first time over the last 18 months a set of management accounts that you can absolutely trust and

¹⁴ Constitutional Affairs Committee, Oral evidence, 13 July 2004, Session 2003–04, HC 907–i

¹⁵ Q 43 [Sir Hayden Phillips]

there is one financial story told to everybody, including the Treasury, rather than a series of different figures—which has always been the argument before. I think that has been extremely helpful and the result is that we have been told by the Treasury and by the Chief Secretary that we have genuinely made a major transformation in financial management.¹⁶

36. Sir Hayden thought that having the Department on “special measures” was an advantage which he hoped would continue.¹⁷ We will continue to monitor the situation closely.

Objective C: to examine the administration of the Department

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

37. We took evidence on the Departmental Annual Report and on the departmental Public Service Agreement Targets.¹⁸ Because the Department is changing so rapidly it is not possible to make comparisons over any length of time.

38. This was the last occasion on which Sir Hayden appeared before us as Permanent Secretary; he retired shortly afterwards to be replaced by Mr Alex Allan.

Task 7: to monitor the work of the department’s executive agencies, NDPBs, regulators and other associated public bodies

39. In our Annual Report for 2003 we mentioned our plans to conduct evidence sessions with representatives of public bodies for which the Lord Chancellor was responsible and to provide a link between Parliament and two other important public officeholders associated with the Department, namely the Information Commissioner and the Electoral Commissioner. Time did not permit us to take evidence from the Electoral Commission, but we did take evidence from the Information Commissioner, as well as from the National Archives. In the week before we took evidence from The National Archives we visited its facilities at Kew and the Chief Executive explained the evolution of the Public Records Office into The National Archives. Both of these sessions contributed to our inquiry into the Implementation of the *Freedom of Information Act*.¹⁹

40. We also took evidence from the Legal Services Ombudsman, Zahida Manzoor CBE. Among the issues we focused on were: the extent to which the role of the Legal Services Ombudsman had changed with the advent of the new role of the Legal Services Complaints Commissioner; the extent to which the changes within the Law Society (i.e. the abolition of the Office for the Supervision of Solicitors and the pilot trial of the new Solicitors complaints Bureau) were driven by criticism from the Ombudsman’s office; and the

16 Q 44 [Sir Hayden Phillips]

17 Q 44 [Sir Hayden Phillips]

18 Constitutional Affairs Committee, Oral evidence, 13 July 2004, Session 2003–04, HC 907–i

19 Constitutional Affairs Committee, First Report of Session 2004–05, *Freedom of Information Act 2000 — progress towards implementation*, HC 79–I and II

expected impact of the Review of the Regulatory Framework for Legal Services in England and Wales.

Task 8: to scrutinise major appointments made by the Department

41. The power to scrutinise major appointments made by the Department became an issue during the inquiry into the *Constitutional Reform Bill* proposals, because some suggested that a Committee should interview appointees to the Supreme Court around the time of their appointment. In our First Report²⁰ we said:

While we heard no convincing evidence to indicate that confirmation hearings would improve the process of appointing senior judges, we recognise the potential benefits to public understanding of the role of the new Supreme Court if a practice were to be adopted of inviting Judges, including recently appointed ones, to appear before an appropriate Committee from time to time (including this Committee).

42. However, we do think that it would be useful if we were to set up a general practice of examining senior departmental non-judicial appointees. This might be formal or informal, according to what suited the circumstances best. We had a very useful informal meeting with Alex Allan, the new Permanent Secretary, soon after his appointment at which we were able to discuss his plans for developing his Department's work.

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

43. As we mention above (see paragraphs 15 and 16) we carried out an inquiry into *the implementation of the Freedom of Information Act 2000*, for which the Department for Constitutional Affairs is the lead Department. This was on the basis of a snapshot of three areas: the police; the National Health Service; and local Government. With just less than a month to go before the Act becomes fully operational, we found that readiness for implementing the Act day from central government departments appeared to be "patchy".

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

44. We have already mentioned that our Report²¹ on the Government's proposals which were set out in the *Constitutional Reform Bill* was extensively used in debate in the House of Lords. In addition, our Report on Asylum and Immigration Appeals²² was tagged on the order paper in time for debate on the *Asylum and Immigration (Treatment of Claimants,*

20 Constitutional Affairs Committee, First Report of Session 2003–04, *Judicial appointments and a Supreme Court (court of final appeal)* HC 48-I and II

21 *ibid*

22 Constitutional Affairs Committee, Second Report of Session 2003–04, *Asylum and Immigration Appeals* HC 211-I and II

etc.) *Bill* at report stage.²³ We shall propose that our Report on the *Draft Criminal Defence Service Bill*²⁴ will be tagged on the Order Paper when the Government puts forward the *Criminal Defence Service Bill* for Second Reading.

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

45. We are making progress in establishing a settled pattern of work involving the Department. We have taken steps to build closer links with the Committee Office Scrutiny Unit which has given us invaluable assistance in examining the Supplementary Estimates. The Scrutiny Unit provided us with help when we investigated impact of the proposed abolition of the Lord Chancellor's role in ecclesiastical patronage (see paragraph 24 above). The Unit gave us indispensable help in our work on the Legal Services Ombudsman and on the *Draft Criminal Defence Service Bill*.

23 See para 4 above

24 Constitutional Affairs Committee, Fifth Report of Session 2003–04, *Draft Criminal Defence Service Bill* HC 746–I and II

ANNEX A

Table 1: Subjects covered by the Constitutional Affairs Committee, 2004

Subject	Evidence sessions in 2003	Outcome
Judicial appointments and a Supreme Court (court of final appeal)	3	Report, February 2004
Asylum and Immigration Appeals	4	Report, March 2004
Civil Legal Aid: adequacy of provision	5	Report, July 2004
Draft Criminal Defence Service Bill	3	Report, July 2004
Implementation of the Freedom of Information Act	4	Report, November 2004
Constitutional Reform Bill: the Government's proposals	4	Report to be published
Family Justice: the operation of the family courts	3	Report to be published
The reform of the Office of Lord Chancellor: ecclesiastical patronage	1	Evidence, March 2004
The work of the Information Commissioner	1	Evidence, June 2004
Statutory supervision of legal professionals: the work of the Legal Services Ombudsman	1	Evidence, June 2004
Department for Constitutional Affairs Departmental Report 2003/04	1	Evidence, July 2004

ANNEX B**Table 2: Visits by the Constitutional Affairs Committee in 2004**

Location	Purpose of visit
Hackney	Inquiry into Civil Legal Aid: adequacy of provision
The National Archives, Kew	Inquiry into Implementation of the Freedom of Information Act
Australia and New Zealand	Inquiries into Constitutional Reform Bill: the Government's proposals and Implementation of the Freedom of Information Act

ANNEX C

Table 3: Liaison Committee criteria relevant to 2004 inquiries

	Government and Commission policy proposals	Examination of deficiencies	Departmental actions	Associated public bodies	Major appointments	Implementation of legislation	Draft legislation	Expenditure	Evidence from Minister	Public Service Agreements
Judicial appointments and a Supreme Court (court of final appeal)		√							√	
Asylum and Immigration Appeals	√	√								
Civil Legal Aid: adequacy of provision		√	√	√		√		√	√	√
Draft Criminal Defence Service Bill	√						√		√	
Implementation of the Freedom of Information Act			√	√		√			√	√
Constitutional Reform Bill: the Government's proposals	√	√							√	
Family Justice: the operation of the family courts	√	√		√		√			√	
The reform of the Office of Lord Chancellor: ecclesiastical patronage	√	√								
The work of the Information Commissioner				√		√				
Statutory supervision of legal professionals: the work of the Legal Services Ombudsman				√		√				
Department for Constitutional Affairs Departmental Report 2003/04								√		√

Formal minutes

Tuesday 11 January 2005

Members present:

Mr A J Beith, in the Chair

Peter Bottomley

Mrs Ann Cryer

Mr Hilton Dawson

Mr Clive Soley

Dr Alan Whitehead

The Committee deliberated.

Draft Report [Work of the Committee in 2004], proposed by the Chairman, brought up and read.

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

Paragraphs 1 to 45 read and agreed to.

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

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

[Adjourned till Tuesday 18 January at 9.15am]

Reports from the Constitutional Affairs Committee

Session 2003–04

First Special Report	Protection of a witness – privilege	HC 210
First Report	Judicial appointments and a Supreme Court (court of final appeal) <i>Government response</i>	HC 48 <i>Cm 6150</i>
Second Special Report	Government Response to the Fourth Report on Immigration and Asylum: the Government’s proposed changes to publicly funded immigration and asylum work	HC 299
Second Report	Asylum and Immigration Appeals <i>Government response</i>	HC 211 <i>Cm 6236</i>
Third Report	Work of the Committee 2003	HC 410
Fourth Report	Civil Legal Aid: adequacy of provision <i>Government response</i>	HC 391 <i>Cm 6367</i>
Third Special Report	Further Government Response to the Second Report on Asylum and Immigration Appeals	HC 868
Fifth Report	Draft Criminal Defence Service Bill <i>Government response</i>	HC 746 <i>Cm 6410</i>

Session 2004–05

First Report	Freedom of Information Act 2000 — progress towards implementation	HC 79
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