



House of Commons
Liaison Committee

Annual Report for 2004

First Report of Session 2004–05



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Report, together with appendices and formal minutes

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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; to choose select committee reports for debate in the House and to hear evidence from the Prime Minister on matters of public policy.

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 – Dame Marion Roe MP (*Conservative, Broxbourne*)
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Defence – Mr Bruce George MP (*Labour, Walsall South*)
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Human Rights (Joint Committee) – Jean Corston MP (*Labour, Bristol East*)
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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 SO 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/liaisoncom

Committee staff

The current staff of the Committee are George Cubie (Clerk), Robert Wilson (Second Clerk), Lis Partridge (Committee Assistant) and Catherine Close (Secretary). For this Report they were assisted by Fiona McLean, Emily Commander, Dr Sue Griffiths, Lucinda Maer and Matthew Whittaker.

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1 Introduction

1. 2004 is expected to be the last full year of work for select committees in the current Parliament. Accordingly this annual review may provide the final opportunity for us to report progress in strengthening the scrutiny system since our appointment in 2001.

2. **With the support of the House, we have been able to address issues of resources, presentation and communication.** From the perspective of March 2005, we can report:

- continuing **high levels of committee activity**, with averages of 20 public meetings and 10 reports published every sitting week;
- a clear framework for the scrutiny agenda based on the **core tasks**;
- developing engagement in **policy dialogue** with ministers and their departments;
- substantial involvement in **pre-legislative scrutiny**;
- necessary **increases in staffing** agreed as a result of the Review of Select Committee Resources carried out in 2002, to be reviewed again in the next Parliament;
- valued professional support to individual committees from the newly-established **Committee Office Scrutiny Unit**, particularly on draft bills and scrutiny of expenditure;
- dedicated **media advice and support**, now extended to all departmental committees and being developed further;
- useful experience of **on-line consultation** and of evidence by **video-link**;
- modernised **two-colour format for reports**;
- **webcasting of all public meetings of committees**, either in sound or vision, with a 14-day archive;
- **websites** for individual committees and an **internet calendar** of future meetings;
- a sustained share of roughly two-thirds of **Thursday debates in Westminster Hall** for select committee reports;
- engagement by select committees to support **consideration of legislation** and other matters in the Chamber;
- assurances on **improved access to persons and information** which we will put to the test in individual committees.

3. These themes are discussed further either in later sections of this Report, or in the annual reports issued separately by individual committees on which we have drawn for our

text.¹ **They underpin the increase in visibility and impact which select committees have achieved, and which our successors in the next Parliament need to take further.**

4. Since July 2002, we have also had the opportunity to hold **twice-yearly evidence sessions with the Prime Minister**, most recently on 8 February. The size of our Committee made this process unwieldy but, after six sessions, we have been able to develop a workable and more focused method of organising the questioning by using groups on particular topics. As well as making the Head of Government more accountable, each session provides a welcome opportunity for examination of issues at greater length, and in greater depth, than is possible at Prime Minister's Questions. We hope that these exchanges, which are widely reported, can expose current policy questions to greater public understanding.

¹ See Appendix 1. A letter from the Chairman of the Environmental Audit Committee to the Chairman of the Liaison Committee is attached as Appendix 2. A letter from the Chairman of the Joint Committee on Human Rights to the Chairman of the Liaison Committee is attached as Appendix 3. A memorandum from the Head of the Scrutiny Unit to the Chairman of the Liaison Committee is attached as Appendix 4.

2 Review of committees' work

5. This section of our Report provides our usual overview of the vast range of work carried out by individual committees in ensuring accountability. We aim to:

- illustrate the breadth and depth of committee work;
- give examples of innovative or best practice; and
- highlight concerns raised by committees.

Core tasks

6. **The core tasks now provide the central scrutiny agenda for the accountability of ministers and their departments to Parliament.** This is the second full year of their operation, following their issue in June 2002 as guidance to individual committees. Their text was developed by us from the House's Resolution of 14 May 2002 in order to identify the range of work which it is reasonable for the House to expect each committee to cover over time.²

7. The choice of inquiries remains for each committee to make, and needs to leave flexibility to respond to urgent political issues. Nevertheless, the benefits of using the core task framework to encourage "a more methodical and less *ad-hoc* approach to the business of scrutiny" are apparent.³ The review below demonstrates the substantial range and impact of committee work over the calendar year 2004, with some reference to activities in early 2005.

2 *Votes and Proceedings*, 14 May 2002, p 864–5

3 Liaison Committee, Second Report of Session 2001–02, *Select Committees: Modernisation Proposals*, HC 692, para 16

	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.

8. Many committees have helpfully used tables to indicate the relevance of each of their inquiries to the core tasks, thus demonstrating the range covered by each inquiry. For understandable reasons, not all committees' work falls neatly within the framework. This is especially the case for the Northern Ireland Affairs, Scottish Affairs, and Welsh Affairs Committees, and cross-cutting committees such as the Environmental Audit and Science and Technology Committees. Nonetheless, most of these committees have reported on their coverage of core tasks in so far as they are applicable.⁴

9. The discipline of assessing their work against the framework has encouraged committees to ensure that they monitor the widest possible range of departmental activity; it also allows the public and the media to appreciate more easily the comprehensive examination of Government which committees undertake.

Task 1: Scrutiny of policy proposals

10. Committees have continued to respond and contribute to the pressing policy debates of the day. Examples of the high-profile topics tackled by committees include:

- climate change;⁵
- the military action in Iraq;⁶
- the war on terrorism;⁷
- family justice;⁸
- obesity;⁹
- choice and voice in public service reform;¹⁰
- gypsy and traveller sites.¹¹

11. Policy proposals affecting the UK originate from a wide range of sources, not all of them domestic. The first core task therefore encompasses scrutiny of policy proposals both

4 In place of an annual report, the Chairman of the Environmental Audit Committee has written to our Chairman outlining the work done by the Committee in 2004. The letter is appended to this Report. See Appendix 2.

5 Environmental Audit Committee, Third Report of Session 2003–04, *Pre-Budget Report 2003: Aviation Follow-up*, HC 233-I; Seventh Report of 2003–04, *Aviation: Sustainability and the Government Response*, HC 623; and Eleventh Report of Session 2003–04, *Aviation: Sustainability and the Government's second response*, HC 1063; the Committee's inquiry into *The International Challenge of Climate Change: UK Leadership in the G8 and EU* is ongoing. Environment, Food and Rural Affairs Committee, Sixteenth Report of Session 2003–04, *Climate Change, Water Security and Flooding*, HC 558; the Committee's inquiry into *Climate change: looking forward* is ongoing.

6 Defence Committee, Third Report of Session 2003-04, *Lessons of Iraq*, HC 57 and International Development Committee, *Iraq: The Role of Humanitarian Agencies in post- conflict situations*, 14 July 2004, HC 918-I

7 Foreign Affairs Committee, Second Report of Session 2003–04, *Foreign Policy Aspects of the War Against Terrorism*, HC 81, and the Seventh Report of Session 2003–04, *Foreign Policy Aspects of the War Against Terrorism*, HC 441. The Home Affairs Committee's inquiries into *Homeland Security, Terrorism and Community Relations*, and *Police Powers under anti-terrorism legislation* are ongoing.

8 Constitutional Affairs Committee, Fourth Report of Session 2004–05, *Family Justice: the operation of the Family Courts*, HC 116

9 Health Committee, Third Report of Session 2003–04, *Obesity*, HC 23

10 The Public Administration Committee's inquiry into *Choice, Voice and Public Services* is ongoing.

11 ODPM Committee, Thirteenth Report of Session 2003–04, *Gypsy and Traveller Sites*, HC 633-I

from the UK Government and from the European Commission. Committees must necessarily be selective about which of these policy proposals they choose to examine in depth, given the large number of proposals which issue from both Government and the Commission. Nevertheless, committees cover many key proposals, as demonstrated by the examples of UK Government policy documents scrutinised in-depth by committees set out in the table below.

Committee	Policy documents	Committee approach
Constitutional Affairs	DCA consultation papers <i>Constitutional Reform: A Supreme Court for the United Kingdom, Constitutional Reform: A New Way of Appointing Judges</i> and <i>Constitutional Reform: reforming the office of the Lord Chancellor</i>	Inquiry and reports ¹²
Culture, Media and Sport	DCMS's decision documents <i>National Lottery Licensing and Regulation</i> and <i>National Lottery Funding</i>	Inquiry and report ¹³
Defence	MoD's White Paper <i>Delivering Security in a Changing World</i> MoD's White Paper <i>Delivering Security in a Changing World: Future Capabilities</i>	Inquiry and report ¹⁴ Ongoing inquiry
Education and Skills	DfES White Paper <i>Realising Our Potential</i>	Ongoing inquiry
Environmental Audit	HM Treasury papers <i>Budget 2004: Prudence for a purpose—A Britain of Stability and Strength</i> and <i>Pre-Budget Report 2003: The strength to take the long-term decisions for Britain: Seizing the opportunities of global recovery</i>	Inquiry and report ¹⁵
Home Affairs	Home Office White Paper <i>Identity Cards: The Next Steps</i>	Inquiry and report ¹⁶
Office of the Deputy Prime Minister: Housing, Planning, Local Government and the	ODPM White Paper <i>Our Fire and Rescue Service</i>	Inquiry and report ¹⁷

12 Constitutional Affairs Committee, First Report of Session 2003–04, *Judicial appointments and a Supreme Court (court of final appeal)*, HC 48-I, and Third Report of Session 2004–05, *Constitutional Reform Bill [Lords]: the Government's proposals*, HC 275-I

13 Culture, Media and Sport Committee, Fifth Report of 2003–04, *Reform of the National Lottery*, HC 196

14 Defence Committee, Fifth Report of Session 2003–04, *Defence White Paper 2003*, HC 465

15 Environmental Audit Committee, Tenth Report of Session 2003–04, *Budget 2004 and Energy*, HC 490

16 Home Affairs Committee, Fourth Report of Session 2003–04, *Identity Cards*, HC 130-I

17 ODPM Committee, Third Report of Session 2003–04, *The Fire Service*, HC 43-I

Regions (ODPM)		
Public Administration	DCA consultation paper <i>Effective Inquiries</i>	Inquiry and report ¹⁸
Trade and Industry	DTI consultation document <i>Company Law: Flexibility and Accessibility</i>	Inquiry and report ¹⁹
Treasury	HM Treasury paper <i>Budget 2004: Prudence for a purpose—A Britain of Stability and Strength</i> HM Treasury paper <i>2004 Spending Review: Stability, security and opportunity for all: investing for Britain's long term future</i> HM Treasury paper <i>Opportunity for all: The strength to take the long-term decisions for Britain—Pre-Budget Report 2004</i>	Inquiry and report ²⁰ Oral evidence sessions ²¹ Inquiry and report ²²
Work and Pensions	DWP strategy statement <i>Revitalising Health and Safety</i>	Inquiry and report ²³

12. European Commission policy proposals are an important source of UK domestic policy and law. Examples of proposals examined by committees include the Science and Technology Committee's inquiry into the Commission's proposals for new legislation on the regulation of chemicals in its inquiry *Within REACH: The EU's new chemicals strategy*, and the Environment, Food and Rural Affairs (EFRA) Committee's examination of a Commission communication which set out a series of possible reforms to the sugar regime under the Common Agricultural Policy.²⁴ Commission policy proposals may of course be interlinked with UK Government proposals, as demonstrated by EFRA's inquiry into *By-catch of dolphins and porpoises off the UK coast*.²⁵ This examined proposals put forward separately by both the UK Government and the Commission to curb cetacean by-catch, in the form of a consultation paper published by the Department of Environment, Food and Rural Affairs (Defra) and a draft regulation published by the Commission, and compared the differing provisions contained in the two documents. Committees may also be involved with the formulation of policy at the European level: for example, the Home Affairs

18 Public Administration Committee, First Report of Session 2004-05, *Government by Inquiry*, HC 51

19 Trade and Industry Committee, Ninth Report of Session 2003-04, *Updating Company Law: the Government's consultation document on 'Company Law: Flexibility and Accessibility'*, HC 1041

20 Treasury Committee, Sixth Report of Session 2003-04, *The 2004 Budget*, HC 479

21 Treasury Committee, *Spending Review 2004*, 15 July and 14 October 2004, HC 906-i and -ii

22 Treasury Committee, First Report of Session 2004-05, *The 2004 Pre-Budget Report*, HC 138

23 Work and Pensions Committee, Fourth Report of Session 2003-04, *The Work of the Health and Safety Commission and Executive*, HC 456-I

24 Science and Technology Committee, Sixth Report of Session 2003-04, *Within REACH: The EU's new chemicals strategy*, HC 172; Environment, Food and Rural Affairs Committee, Twelfth Report of Session 2003-04, *Reform of the Sugar Regime*, HC 550-I

25 Environment, Food and Rural Affairs Committee, Third Report of Session 2003-04, *Caught in the net: by-catch of dolphins and porpoises off the UK coast*, HC 88

Committee was represented at preliminary consultations in the European Parliament on the European Council's next five-year justice and home affairs programme.²⁶

13. It is, of course, the European Scrutiny Committee which takes primary responsibility for examining the detail of EU documents. In 2004, the Committee scrutinised 1001 documents, of which it deemed 558 to be of legal and/or political importance and recommended 53 for debate, including three on the Floor of the House. In addition to 33 weekly reports, the Committee also reported for the first time on the European Commission's annual work programme for 2004 and began an inquiry into the EU's constitutional treaty, on which it intends to report in March 2005.²⁷

14. The Government announced in the 2004 Pre-Budget Report that all government departments will publish annual implementation plans for European legislation.²⁸ This welcome development may help select committees in future to contribute to more detailed and more timely scrutiny of European proposals, a matter now being considered by the Modernisation Committee.

Task 2: Identification and examination of areas of emerging or deficient policy

15. Examination of emerging or deficient existing policy is a particular strength of select committees, and a significant proportion of committee time is devoted to such work. Examples of inquiries undertaken in respect of this core task give a flavour of the wide range of policy deficiencies tackled by committees:

- the Culture, Media and Sport Committee undertook an inquiry into *Arts Development: Dance* to examine whether the funding for and profile of dance had kept pace with developments elsewhere in the arts and in sports;²⁹
- the Defence Committee initiated an inquiry into *Duty of Care* to consider how the armed forces discharge their duty of care responsibilities to recruits under initial training;³⁰
- the Education and Skills Committee's inquiry into *Education Outside the Classroom* investigated the declining opportunities for children to experience the outdoors as part of their education and considered the factors dissuading teachers from organising school trips;³¹
- the Foreign Affairs Committee inquiry into *South Africa* reviewed the strength and vitality of the UK's relationship with South Africa, ten years after the formal end of the

26 Home Affairs Committee, Second Report of Session 2004–05, *Work of the Committee in 2004*, HC 280, para 29

27 European Scrutiny Committee, Sixth Report of Session 2003–04, *The European Commission's Annual Work Programme for 2004*, HC 42-vi

28 *Pre-Budget Report*, December 2004, Cm 6408, para 3.40

29 Culture, Media and Sport Committee, Sixth Report of Session 2003–04, *Arts Development: Dance*, HC 587-I

30 Inquiry ongoing.

31 Education and Skills Committee, Second Report of 2004–05, *Education Outside the Classroom*, HC 120

apartheid regime, on the basis that the UK and South African governments work closely together on a range of issues and share many global concerns and ambitions;³²

- the Health Committee carried out two inquiries into deficiencies in social medical care (*Elder Abuse* and *The Provision of Allergy Services*)³³ which it described as an area “perennially neglected” by the Department of Health (DoH);³⁴
- the International Development Committee’s inquiry into *Migration and Development* aimed, in part, to raise awareness within Government of the development dimension in ongoing debates about migration;³⁵
- the Northern Ireland Affairs Committee initiated an inquiry into *The Parades Commission and Public Processions (Northern Ireland) Act 1998*, partly out of concern that the Government had yet to respond to Sir George Quigley’s 2002 review of the Parades Commission and its underpinning legislation;³⁶
- the Public Administration Committee’s inquiry into *Reforming the Honours System* examined the honours system and assessed whether it was fit for purpose as a way of recognising and rewarding service to the community;³⁷
- the Scottish Affairs Committee’s inquiry into *The Proposed Whisky Strip Stamp* investigated the implications for the Scotch whisky industry of the Chancellor of the Exchequer’s plans for a strip (or tax) stamp on bottles of whisky and considered whether other means of preventing fraud were available;³⁸
- the Treasury Committee’s inquiry into *Restoring confidence in long-term savings* was motivated in part by recent events which had shown that confidence in savings and the savings industry was at a low ebb;³⁹
- the Transport Committee’s inquiry into *The Future of the Railway* was prompted by the Committee’s concerns about spiralling costs and the poor performance of the rail network.⁴⁰

16. Measuring the precise impact of a committee inquiry is difficult. It is not always possible to establish a clear chain of causation between scrutiny work by committees and any subsequent changes in Government policy. Nevertheless, some clear examples of such a correlation did emerge during 2004. The Science and Technology Committee’s inquiry

32 Foreign Affairs Committee, Fifth Report of Session 2003–04, *South Africa*, HC 117

33 Health Committee, Second Report of Session 2003–04, *Elder Abuse*, HC 111-I, and Sixth Report of Session 2003–04, *The Provision of Allergy Services*, HC 696-I

34 Health Committee, First Report of Session 2004–05, *The Work of the Committee in 2004*, HC 284

35 International Development Committee, Sixth Report of Session 2003–04, *Migration and Development: How to make migration work for poverty reduction*, HC 79-I

36 Northern Ireland Affairs Committee, Second Report of 2004–05, *The Parades Commission and Public Processions (Northern Ireland) Act 1998*, HC 172

37 Public Administration Committee, Fifth Report of Session 2003–04, *A Matter of Honour: Reforming the Honours System*, HC 212-I

38 Scottish Affairs Committee, Third Report of Session 2003–04, *The Proposed Whisky Strip Stamp*, HC 419

39 Treasury Committee, Eighth Report of 2003–04, *Restoring confidence in long-term savings*, HC 71-I

40 Transport Committee, Seventh Report of Session 2003–04, *The Future of the Railway*, HC 145

into *The Use of Science in UK International Development Policy* identified a fundamental lack of scientific culture at the Department for International Development (DfID). The Secretary of State for International Development subsequently credited the Committee with his decision to appoint a Chief Scientific Adviser at DfID and told the Committee that:

the inquiry you have undertaken has had a profound impact, certainly on me and on the Department ... As far as the relationship between select committees and government departments are concerned, I think this is how it should work, because if we do not inquire and listen to each other and reflect and respond, then the system does not work very effectively.⁴¹

17. The Transport Committee's Report on its inquiry into *The Future of the Railway* concluded that a fundamental reorganisation of the railway was required. The Committee considers that the Railways Bill subsequently introduced into the House of Commons broadly embodied its Report's recommendations. The regulatory impact assessment accompanying the Bill cited the Committee's work as a powerful argument for the premise that change is necessary.⁴²

18. The Culture, Media and Sport Committee's inquiry into the Government's plans for reform of the national lottery concluded that multiple licences were a recipe for disaster and identified a number of other ways for encouraging effective competition for a single operating licence.⁴³ The Government reconsidered its policy and subsequently published the National Lottery Bill, which provided for a "clear and firm presumption" for a single licence, awarded by competition.⁴⁴ Following the Bill's publication, the Secretary of State wrote to the Committee stating that:

The work the Government undertook ... was hugely influenced by the work of the Committee, particularly the likely level of competition for the next licence, the effects of offering more than one licence and the experience of international lotteries.⁴⁵

19. Committees have once again demonstrated that examining policy proposals and scrutinising areas of emerging or deficient policy constitutes a particularly robust use of the parliamentary scrutiny system. **Committees are continuing to make an important contribution to high profile policy debates; furthermore, they are also ensuring that the spotlight of parliamentary scrutiny is directed at lower profile areas of policy, thus directing Ministers' attention to areas which might otherwise be ignored.**

Task 3: Scrutinising draft bills

20. The Government's commitment to pre-legislative scrutiny has again in 2004 been reflected in the number of bills published in draft and examined by joint or select

41 Science and Technology Committee, Thirteenth Report of Session 2003–04, *The Use of Science in UK International Development Policy*, HC 133

42 Transport Committee, First Report of Session 2004–05, *Work of the Committee in 2004*, HC 251

43 HC (2003–04) 196

44 Culture, Media and Sport Committee, Second Report of Session 2004–05, *Work of the Committee in 2004*, HC 253, para 21

45 *Ibid.*, para 22

committees. Amongst the bills subjected to pre-legislative scrutiny in 2004 were several of major importance, whether in terms of their size and complexity, significance in policy terms, or both.

21. The following draft bills or orders were scrutinised by departmental select committees:

Draft bill or order	Committee
draft Animal Welfare Bill	EFRA ⁴⁶
draft Criminal Defence Service Bill	Constitutional Affairs ⁴⁷
draft Criminal Justice (Northern Ireland) Order	Northern Ireland Affairs ⁴⁸
draft Identity Cards Bill	Home Affairs ⁴⁹
draft Regional Assemblies Bill	ODPM ⁵⁰
draft School Transport Bill	Education and Skills ⁵¹
draft Transport (Wales) Bill	Welsh Affairs ⁵²

22. In addition, the following draft bills were examined by joint committees of the two Houses:

- draft Charities Bill;⁵³
- draft Disability Discrimination Bill;⁵⁴
- draft Gambling Bill⁵⁵ and further provisions on Regional Casinos;⁵⁶
- draft Mental Health Bill.⁵⁷

46 EFRA Committee, First Report of Session 2004–05, *The Draft Animal Welfare Bill*, HC 52-I

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

48 Northern Ireland Affairs Committee, Fifth Report of Session 2003–04, *'Hate Crime': the Draft Criminal Justice (Northern Ireland) Order 2004*, HC 615

49 HC (2003–04) 130-I

50 The Government has indicated that it does not intend to take this Bill forward. The ODPM Committee intends to publish a report "which will put down a set of markers to be considered should the Government propose new forms of regional devolution in the future": see ODPM Committee, Second Report of Session 2004–05, *The Work of the Committee in 2004*, HC 149, para 24.

51 Education and Skills Committee, Third Report of Session 2003–04, *The Draft School Transport Bill*, HC 509

52 Welsh Affairs Committee, Fourth Report of Session 2003–04, *Draft Transport (Wales) Bill*, HC 759

53 Joint Committee on the Charities Bill, First Report of Session 2003–04, *The Draft Charities Bill*, HL Paper 167-I, HC 660-I

54 Joint Committee on the Draft Disability Discrimination Bill, First Report of Session 2003–04, *Draft Disability Discrimination Bill*, HL Paper 82-I, HC 352-I

55 Joint Committee on the Draft Gambling Bill, First Report of Session 2003–04, *Draft Gambling Bill*, HL Paper 63-I, HC 139-I

56 Joint Committee on the Draft Gambling Bill (Regional Casinos), First Report of Session 2003–04, *Draft Gambling Bill (Regional Casinos)*, HL Paper 146-I, HC 843-I

57 Inquiry ongoing.

23. Although, in general, the number of a select committee's recommendations adopted by the Government should be treated with some caution as an indicator of the committee's effectiveness, in the case of pre-legislative scrutiny it is possible to track a committee's influence with some certainty through changes in the eventual Bill proper. The table below shows that the three Joint Committees, which have so far reported, can claim to have significantly shaped the outcome of the legislation.

Table 1
Proportion of Recommendations from Committees on Draft Bills Accepted by HMG

Draft Bill	Number of Recommendations	Accepted in Full	Partly Accepted	Rejected
Gambling	139	121 ⁵⁸	8	10
Disability Discrimination	75	41	11	23
Charities	54	26	13	14

24. Other indications of the impact of committees on the quality of legislation were:

- the *draft School Transport Bill* was returned to Parliament in a modified form which addressed many of the issues raised by the Education and Skills Committee and was accompanied by a funding commitment for pilot local education authorities; the Committee notes that its Report was “widely drawn upon by Members participating in the Second Reading debate and Committee Stage of the Bill”⁵⁹
- the EFRA Committee's Report on the *draft Animal Welfare Bill* was welcomed by the Government as drawing attention to many important and complex issues; the Government has indicated that it intends to amend the Bill and the regulatory impact assessment in response to many of the Committee's concerns and criticisms⁶⁰
- the Government welcomed the Home Affairs Committee's Report on the *draft Identity Cards Bill* and incorporated a number of the Committee's recommendations into the Bill eventually introduced to Parliament, including systematic peer review of technical aspects of biometrics and an enhanced role for the National Identity Scheme Commissioner⁶¹
- the Government accepted the Northern Ireland Affairs Committee's recommendation that the *draft Criminal Justice (Northern Ireland) Order* should be amended to afford the same protection to people with disabilities as for crimes based on hostility of race,

58 One of the recommendations accepted by the Government was that the Joint Committee should be reappointed to consider the Government's response to the Committee's conclusion on the treatment of large casinos. The reappointed Committee made a further 24 recommendations.

59 Education and Skills Committee, Fourth Report of Session 2004–05, *The Work of the Committee in 2004*, HC 359, para 11

60 EFRA Committee, Fourth Special Report of Session 2004–05, *The Draft Animal Welfare Bill: Government Reply to the Committee's Report*, HC 385; the Bill itself is yet to be introduced to Parliament.

61 HC (2004–05) 280, para 8

sectarianism and sexual orientation, thus ensuring that “a highly vulnerable group received appropriate legal protection”, in the words of the Committee.⁶²

25. As in previous years, Joint Committees on draft Bills draw heavily for procedural, administrative and specialist support on the staff of the Scrutiny Unit. The Unit also provided assistance of various sorts to departmentally related committees carrying out pre-legislative scrutiny.

26. The Joint Committee on Human Rights (JCHR) examines many draft bills presented to Parliament in respect of their human rights implications, and usually reports when human rights concerns are raised. The Committee does not produce reports on individual draft bills but produces regular progress reports on the scrutiny of bills and draft bills throughout the session. In 2004, the JCHR reported substantively on three draft bills:

- the draft Charities Bill;⁶³
- the draft School Transport Bill;⁶⁴
- the draft Criminal Defence Service Bill.⁶⁵

27. All three of these draft bills were also subject to formal pre-legislative scrutiny by departmental committees or joint committees. The JCHR notes that this ‘dual’ scrutiny has not caused any major difficulties, because these other committees seem happy that the JCHR should complement their work by looking at these draft bills through a “human rights prism”.⁶⁶ As the Committee scrutinises every bill presented to Parliament, it has the opportunity to follow up the extent to which its recommendations on draft bills have been taken account of in the form and content of the bill as introduced.

28. A number of departmental committees also scrutinised bills not in draft form:

- the Constitutional Affairs Committee (*Constitutional Reform Bill [Lords]*);⁶⁷
- the Public Administration Committee (*Inquiries Bill [Lords]*).⁶⁸ The Committee, having traced the long-term diminution of parliamentary involvement in this process, expressed grave reservations that the Bill excluded Parliament from any direct involvement in the setting up of inquiries of a politically sensitive nature where, in the Committee’s view, it should have a role. During the passage of the Bill in the House of Lords, extensive reference was made to the Committee’s Report, and an amendment similar to one proposed by the Committee was carried at Third Reading on 28 February;

62 Northern Ireland Affairs Committee, Fourth Report of Session 2004–05, *The Work of the Committee in 2004*, HC 262

63 Joint Committee on Human Rights, Twentieth Report of Session 2003–04, *Scrutiny of Bills: Eighth Progress Report*, HL Paper 182, HC 1187

64 Joint Committee on Human Rights, Seventeenth Report of Session 2003–04, *Scrutiny of Bills: Seventh Progress Report*, HL Paper 157, HC 999, and HC (2003–04) 1187, HL Paper (2003–04) 182

65 HC (2003–04) 999

66 See Appendix 3.

67 HC (2004–05) 275

68 HC (2004–05) 51

- the Transport Committee (*Energy Bill [Lords]*).⁶⁹

29. There was therefore a slight increase in the numbers of draft bills scrutinised by both departmental committees and joint committees in 2004, as compared with 2003. Significant numbers of bills are still not being published in draft prior to introduction to either House. If a committee wishes to make a useful contribution to Parliament's scrutiny of a bill that has been introduced, it must generally examine the bill within a very short timeframe, with consequent disruption to the committee's planned programme, and with the added complication that a bill may be amended as it passes through either House. **We welcome the recent growth in the number of bills published in draft form and encourage the Government to raise the proportion further.**

Innovation in committees' working methods

30. As we noted in our previous Annual Report, early in 2004 the Public Administration Committee broke new ground by publishing its own draft bill on the civil service. The Government subsequently accepted the Committee's recommendation calling for a civil service bill and, in November 2004, published its own draft bill for consultation. The Committee welcomes this development and notes that it is the first time a government has come forward with a firm proposal to put the civil service on a statutory footing to give its core values constitutional protection.⁷⁰ In 2004, the Committee also published a draft bill on the Executive's prerogative powers. The Committee comments that its purpose in publishing both draft bills was to show the feasibility of its calls for legislation in each of these areas and expresses the hope that it has demonstrated the more proactive role select committees can play with regard to legislation, complementing their task of pre-legislative scrutiny.⁷¹

31. The Welsh Affairs Committee has also broken new ground by contributing to the institution of a procedure known as 'reciprocal enlargement', whereby Members of the National Assembly for Wales can be invited to take part in House of Commons select committee proceedings, and *vice versa*. We discuss this new procedure in greater detail in part 3 of this Report. The procedure was put into practice for the first time in 2004 when the *draft Transport (Wales) Bill* was scrutinised by the Welsh Affairs Committee and a committee of the National Assembly (the Economic Development and Transport Committee). The Committee considered that joint formal working "demonstrated a significant enhancement to scrutiny of draft legislation that affects Wales", particularly because co-ordination prevented duplication of effort.⁷²

32. The Transport Committee looked at the transport implications of two draft bills, the *draft Disability Discrimination Bill* and the *draft School Transport Bill*, that fell to other departmental committees for scrutiny. The Committee's aim was not to deal with any detailed drafting points—indeed, the Committee called for evidence before the draft bills were available—but to look at the broad policy involved; the Committee therefore

69 Transport Committee, Ninth Report of Session 2003–04, *Navigational Hazards and the Energy Bill*, HC 555

70 Public Administration Committee, Second Report of 2004–05, *Work of the Committee in 2004*, HC 306, para 8

71 HC (2004–05) 306, para 14

72 Welsh Affairs Committee, First Report of Session 2004–05, *Work of the Committee in 2004*, HC 256, para 37

considered the draft bills within the context of wider inquiries into the subjects in question. The Committee completed its reports on the inquiries in time for them to be used by the committees conducting the formal pre-legislative scrutiny of each draft bill, the Joint Committee on the Draft Disability Discrimination Bill and the Education and Skills Committee, respectively.⁷³

33. We welcome the innovative approaches taken by committees in seeking to ensure the quality and utility of scrutiny work on draft legislation.

Notification to Committees

34. The likely pattern of draft bills in 2004 had been foreshadowed in a letter from the Leader of the House to our Chairman at the time of the November 2003 Queen's Speech. This process was repeated, in respect of draft bills scheduled to be published in 2005, by means of a similar letter in November 2004. **We are grateful to the Leader of the House for establishing the practice of providing us with advance notice of the possible scope and timing of the publication of draft bills.** Even allowing for some inevitable uncertainty about precise dates of publication, this information is helpful both to individual select committees and the Scrutiny Unit in planning their programme of work. As we indicate below, however, there remain a number of problems which need to be addressed before the system of pre-legislative scrutiny can be said to be working properly.

35. The main problems to which committees engaged in pre-legislative scrutiny have drawn attention are: the late publication of draft bills; delays in establishing the Committee itself; unreasonable deadlines for reporting; and the unavailability or lateness of key supporting documentation. To some extent these difficulties are all interrelated, since they reflect the over-ambitious timetable set by the Government for the completion of the pre-legislative scrutiny stage of a bill within the overall legislative programme. We set out some issues below:

Late Publication of Draft Bills

- Commenting on the fact that only 50 clauses (out of over 300) of the *draft Gambling Bill* had been published before they were established, the Joint Committee said "... our work has been hampered by the lack of key clauses until late in our lifetime, and there are some areas in which we have not been able to conduct any scrutiny whatsoever".⁷⁴ The Constitutional Affairs Committee experienced similar problems with the *draft Criminal Defence Service Bill*.
- The Home Affairs Committee and the Work and Pensions Committee undertook to conduct pre-legislative scrutiny of the *draft Corporate Manslaughter Bill* as a joint exercise, but publication of the draft Bill has been "repeatedly delayed".⁷⁵

73 HC (2004–05) 251, para 23; the Reports were Sixth Report of Session 2003–04, *Disabled People's Access to Transport*, HC 439, and Eighth Report of Session 2003–04, *School Transport*, HC 318

74 HC (2003–04) 139-I, HL Paper (2003–04) 63-I, para 17

75 HC (2004–05) 280, para 17 and Work and Pensions Committee, First Report of Session 2004–05, *Work of the Committee in 2004*, HC 133, para 20

- The Welsh Affairs Committee expressed concern about the timetable for scrutiny of draft bills affecting Wales. The Government has developed the practice of publishing one draft bill for Wales in each session of Parliament; the Committee has undertaken to scrutinise each of those draft bills as and when they are published. The Committee's report on a draft bill needs to be published in time for a debate on the draft bill in the Welsh Grand Committee, which usually takes place in the last week before the summer recess. The Committee comments that "all three draft bills for Wales have been published late in the parliamentary year which [has] presented us with a very tight deadline".⁷⁶ The Committee has recommended that the Government move forward its timetable for the publication of Wales-only draft bills to allow the Committee, and its counterparts in the National Assembly, a suitable period of time within which to undertake pre-legislative scrutiny.⁷⁷

Delays in Establishing Committees

- Referring to problems experienced by other committees conducting pre-legislative scrutiny, the Joint Committee on the *draft Charities Bill* commented: "The difficulty can be mitigated by appointing a Joint Committee as early as possible – even if publication of the draft bill is slipping. This enables the Committee, as we did over two weeks, to undertake preliminary briefing."⁷⁸

Unreasonable Deadlines for Reporting

- Despite the strong criticisms expressed by previous committees about what were widely seen as unreasonably demanding deadlines for reporting imposed by the Government, compression of time has continued to be a serious problem for pre-legislative scrutiny committees. The difficulties are compounded when an end date is set which falls on the other side of a recess, particularly the summer recess. With this in mind, the Joint Committee on the *draft Charities Bill* recommended "that neither House should agree to deadlines [for reporting] in motions to appoint Joint Committees where the time for consideration of the draft Bill is less than 12 sitting weeks from the date of publication of the draft Bill."⁷⁹ Similar sentiments were expressed by the EFRA Committee in relation to their consideration of the *draft Animal Welfare Bill*.

Unavailability or Late Arrival of Key Supporting Documentation

- Despite the fact that the *draft Mental Health Bill* runs to over 300 clauses and 14 schedules, many of its key provisions remain to be filled out in codes of practice. These were not published in draft in time for the Joint Committee to consider them before it was due to report to Parliament, leaving key areas unscrutinised.

Whether a draft bill is a suitable candidate for pre-legislative scrutiny

- The EFRA Committee also identified a problem with the extent to which the policy behind the *draft Animal Welfare Bill* had been subjected to appropriate consultation

76 HC (2004–05) 256, para 43

77 HC (2003–04) 759, para 12

78 HC (2003–04) 660-I, HL Paper (2003–04) 167-I, para 397

79 Cm 6305, para 398

prior to the draft Bill's publication. Prior to the publication of the draft Bill in July 2004, Defra had last consulted on the policy of developing a *draft Animal Welfare Bill* in January 2002. Although the Committee welcomed the opportunity to consider the draft Bill, it concluded that the draft Bill had not been an appropriate candidate for pre-legislative scrutiny by Parliament in the absence of the Government having first conducted its own consultation process and that it “could and should have been published for pre-legislative scrutiny purposes in a more developed state”.⁸⁰ The Committee considered that the Government should choose to rely on Parliament's pre-legislative scrutiny process, rather than conducting a separate consultation process in accordance with Cabinet Office guidelines, only where the policy behind a draft bill has recently been consulted on, or where the draft bill is minor or uncontroversial.

36. The fact that all the committees concerned succeeded in publishing comprehensive reports within their deadline should not be taken by the Government as a sign that the practical difficulties were not as serious as claimed. Rather it reflects the commitment and efforts of the members and staff of the committees. This must not be allowed to become the norm for pre-legislative scrutiny. We therefore call upon the Leader of the House to take steps to ensure that committees' reasonable criticisms of the process are addressed. **The Government must also ensure that appropriate consultation has taken place on the policy behind a draft bill, prior to its publication. The full benefit of the pre-legislative scrutiny process can be realised only if draft legislation is published in a sufficiently developed state.**

37. **Committees are eager to examine draft bills thoroughly and thoughtfully, in order to make it more likely that well-considered legislation is presented to Parliament, and to enable Parliament to carry out better-informed scrutiny of the Government's legislation. The Government must ensure that it sends clear signals to committees in order to enable them to organise their programmes appropriately.**

38. The importance of dealing with these issues was emphasised in a letter from our Chairman to the Leader of the House dated 6 December 2004, sent in response to Mr Hain's letter of 23 November 2004 setting out the proposed list of draft bills for the 2004–05 Session. Our Chairman also made clear in his letter that **there should be “a presumption in favour of draft bills going to departmental select committees for pre-legislative scrutiny, where they are ready and willing to undertake this.”**

Submitting memoranda in place of draft bills

39. In 2004, two government departments provided their respective departmental committees with memoranda setting out the key principles underpinning proposed—but unpublished—legislation and giving details of the main policy proposals. The Transport Committee agreed to receive a memorandum from the Department for Transport (DfT) on the Government's plans for a Road Safety Bill, and the Defence Committee agreed to receive a memorandum from the Ministry of Defence (MoD) on the Government's plans for a Tri-Services Armed Forces Bill.

40. Both committees commented that it had been difficult to carry out thorough scrutiny of the memoranda because of the lack of detail contained therein. The Defence Committee described the memorandum submitted by the MoD as providing “little more than an outline of many aspects of the proposed legislation” and, on this basis, concluded that this process should not be considered to be equivalent to the detailed pre-legislative scrutiny merited by significant legislation.⁸¹ The Transport Committee welcomed the initiative shown by the DfT in sharing its legislative plans at an early stage but emphasised that the Government must provide such documents to committees in good time if committees are to be in a position to conduct a thorough scrutiny.⁸²

41. We note that, twice in 2004, the Government appears to have sought to have a departmental committee scrutinise a memorandum containing proposals for a bill, rather than publishing a draft bill for scrutiny. However, given the support the Government has expressed for the pre-legislative scrutiny process, we would be extremely concerned if this process came to be regarded as a substitute for, or an alternative to, pre-legislative scrutiny of a draft bill. We consider that such a process is more appropriate for use in the case of minor or uncontroversial legislation, and we urge the Government to ensure that its use is considered only in such cases.

Joint Liaison Committee

42. The Select Committee on the Constitution of the House of Lords has recommended the creation of a Joint Liaison Committee with the principal function of co-ordinating the approach of the two Houses to matters of common interest, such as the use of joint committees for pre-legislative scrutiny, and of enabling the resolution of disagreements between them on select committee-related issues.⁸³

43. Whist we understand the case for such a proposal, we are cautious about the practical implications. In particular, **we are doubtful whether the creation of what would inevitably be a rather unwieldy body would be justified by any benefits it might produce.**

Task 4: Examination of departmental decisions, circulars, guidance etc

44. The task of examining specific output from the department expressed in documents or other decisions complements task 1, which is to examine policy proposals. In our previous Annual Report, we noted that the most striking example of work carried out under this task is the detailed work of the Quadripartite Committee on licensing decisions relating to arms exports.⁸⁴ In 2004, the Home Affairs Committee initiated new work under this task when it began to undertake formal scrutiny of draft sentencing guidelines issued by the Sentencing Guidelines Council (SGC), the first two sets of which were published in

81 Defence Committee, First Report of Session 2004–05, *Work of the Committee in 2004*, HC 290, para 53

82 HC (2004–05) 251, para 25

83 House of Lords Select Committee on the Constitution, Fourteenth Report of Session 2003–04, *Parliament and the Legislative Process*, HL Paper 173-I, para 41

84 Liaison Committee, First Report of Session 2003–04, *Annual Report for 2003*, HC 446, para 30

September 2004.⁸⁵ The Committee's work contributes to the formulation of guidelines within the new sentencing framework established by the Criminal Justice Act 2003. The framework aims to put the sentencing of offenders in England and Wales on a more systematic and coherent basis. In order to prepare for this new role, the Committee took oral evidence from the Chairman of the SGC—the Lord Chief Justice—in July 2004, and also recruited an adviser on sentencing to the Committee secretariat.⁸⁶

Task 5: Scrutiny of expenditure plans and outturns

45. Select committees continued in 2004 to take forward and build on their work in previous years in scrutinising departmental expenditure plans. The principal focus has been on Estimates and departmental annual reports, but committees have also examined resource accounts and the 2004 Spending Review settlements. Once again, the assistance and advice provided by the financial experts in the Scrutiny Unit has proved invaluable in carrying out such tasks.

46. During 2004 there was an overall increase in activity, both in terms of the number of committees examining Estimates, particularly Supplementary Estimates, and of those carrying out inquiries into departmental annual reports. In one or two cases, committees which were dissatisfied with a department's initial response on a Supplementary Estimate pursued the matter further through correspondence. In one of the most striking examples of financial scrutiny, the Work and Pensions Committee secured an Estimates Day Debate (Winter Supplementaries, 2004–05) on the DWP's poor record of managing large-scale IT projects. The Committee had previously published a Report on the subject which highlighted the potentially large sums of money at stake as a result of cost and time overruns and the failure of IT contractors to deliver projects which worked efficiently. The debate was attended by the recently appointed Secretary of State – an unusual event which perhaps indicated the seriousness attached by the Department to the Committee's criticisms. Further details of financial scrutiny by committees are given in the memorandum by the Scrutiny Unit (see Appendix 4). Examples of financial scrutiny are set out in the following table.

85 HC (2004–05) 280, paras 24 and 25; Home Affairs Committee, Fifth Report of Session 2003–04, *Draft Sentencing Guidelines 1 and 2*, HC 1207

86 Home Affairs Committee, *Sentencing Guidelines*, 1 July 2004, HC 844-i

Committee	Scrutiny of expenditure undertaken
Defence	<ul style="list-style-type: none"> • Routine monitoring of defence expenditure carried out through the inquiry into <i>Defence Procurement</i>⁸⁷ • Oral evidence session with permanent secretary and finance director examined format of MoD's annual report and accounts, resource accounting and budgeting⁸⁸ • Correspondence with MoD about Spring and Winter Supplementary Estimates
Education and Skills	<ul style="list-style-type: none"> • Report on DfES expenditure following oral evidence session with Secretary of State and permanent secretary focussing on efficiency of DfES, management of job cuts within DfES and schools funding issues⁸⁹ • Report on work of Ofsted, produced on an annual basis
Home Affairs	<ul style="list-style-type: none"> • Oral evidence session with permanent secretary and officials, following the Home Office's response to a questionnaire scrutinising its expenditure⁹⁰ • Correspondence with Home Office about Main and Supplementary Estimates
International Development	<ul style="list-style-type: none"> • Report produced on DfID's annual report following oral evidence session with the permanent secretary⁹¹ • Correspondence with DfID about Spring and Winter Supplementary Estimates⁹²
ODPM	<ul style="list-style-type: none"> • Report produced on ODPM's annual report following two oral evidence sessions with ministers and the permanent secretary⁹³
Public Administration	<ul style="list-style-type: none"> • Oral evidence session with cabinet secretary and senior officials focussing on Cabinet Office's annual report, its performance and expenditure⁹⁴

87 Defence Committee, Sixth Report of Session 2003–04, *Defence Procurement*, HC 572-1

88 Defence Committee, *MOD Annual Report and Accounts*, 12 May 2004, HC 589-i

89 Education and Skills Committee, First Report of Session 2004–05, *Public Expenditure on Education and Skills*, HC 168

90 Home Affairs Committee, Third Report of Session 2004–05, *Home Office Target-Setting 2004*, HC 320

91 International Development Committee, Eighth Report for Session 2003–04, *Department for International Development: Departmental Report 2004*, HC 749

92 Education and Skills Committee, Sixth Report of Session 2003–04, *The Work of Ofsted*, HC 426

93 ODPM Committee, First Report of Session 2003–04, *ODPM Annual Report and Accounts 2003*, HC 102

94 Public Administration Committee, *The Work of the Cabinet Office*, 1 April 2004, HC 513-i

Scottish Affairs	<ul style="list-style-type: none"> • Oral evidence session with ministers on Scotland Office's annual report, followed up by correspondence on detailed expenditure questions arising from annual report⁹⁵
Treasury	<ul style="list-style-type: none"> • Oral evidence session on the Office for National Statistics' annual report and accounts⁹⁶ • Oral evidence session on the Statistics Commission's annual report⁹⁷ • Oral evidence session on the Inland Revenue Spring Departmental Report 2004⁹⁸
Welsh Affairs	<ul style="list-style-type: none"> • Oral evidence session with the Secretary of State and senior officials focussing on Wales Office's annual report, following a memorandum from Wales Office giving detailed information about the policy, finance and administration of the Department⁹⁹
Work and Pensions	<ul style="list-style-type: none"> • Oral evidence session with the Secretary of State and senior officials to question them on DWP's annual report¹⁰⁰

47. Since 1991, the Health Committee has sent a detailed questionnaire to the DoH, known as the public expenditure questionnaire. This provides the Committee and the public with an analysis of the Department's expenditure over the previous financial year and forms the basis of the Committee's annual scrutiny of DoH expenditure. Although the Committee refines the questionnaire each year, it also ensures that some of the information sought remains unchanged from year to year, to enable comparative data to be collected. The Committee comments that many research institutions make use of the material collected through the questionnaire.¹⁰¹

48. In addition to such routine scrutiny, committees have also raised a number of serious issues about expenditure, including:

- the reasons why the DCA continues to be the subject of special measures from the Treasury, as a result of historically poor financial management (Constitutional Affairs Committee);¹⁰²

95 Scottish Affairs Committee, *Scotland Office Annual Report 2004*, 29 June 2004, HC 823-i

96 Treasury Committee, *Office for National Statistics: Annual Report and Accounts 2003–04*, 27 October 2004, HC 1203-i

97 Treasury Committee, *The Statistics Commission's Annual Report 2003–04*, 8 September 2004, 1039-i

98 Treasury Committee, *Inland Revenue Spring Departmental Report 2004*, 30 June 2004, HC 835-i

99 Welsh Affairs Committee, *The Wales Office Departmental Report 2003*, 25 June 2003, HC 883

100 Work and Pensions Committee, *Departmental Report*, 20 October 2004, HC 1171-i

101 HC (2004–05) 284, paras 21 and 22

102 Constitutional Affairs Committee, Second Report of Session 2004–05, *Work of the Committee in 2004*, HC 207, paras 34–36

- the calculation of costs of the UK's military operation in Iraq including the MoD's practice of identifying only net additional costs and the impact of resource accounting and budgeting (RAB) on the costing of the operation, as this was the first time that a major operation had been costed under RAB principles (Defence Committee);¹⁰³
- the failure of the Government's UK e-University project, which was set up by way of a public-private partnership and terminated with a loss of £50 million, having never achieved its targets for student numbers or for private investment (Education and Skills Committee);¹⁰⁴
- concerns that the Government is drawing a simple association between increased funding and lasting gains in improvement in, for example, GCSE results (Education and Skills Committee);¹⁰⁵
- concerns that the Foreign and Commonwealth Office (FCO) is selling appreciating assets and, all too often, investing the proceeds in heavily depreciating assets and, in particular, that the sales of the New York and Dublin residences had been badly mishandled resulting in losses in seven figures (Foreign Affairs Committee);¹⁰⁶
- the possible loss to public funds of £5 million as a result of abuse of the Terrorism Act 2000 compensation schemes administered by the Compensation Agency, an executive agency of the Northern Ireland Office set up in 1992 to administer compensation schemes for the victims of terrorism and other violent crimes (Northern Ireland Affairs Committee);¹⁰⁷
- the continuing high level of negative (or 'qualified') audit opinions on the resource accounts of Northern Ireland departments (Northern Ireland Affairs Committee);¹⁰⁸
- the Department for Work and Pension's (DWP) expenditure of £4.25 billion on IT projects since 2001 and concerns that this spending had not led to an improvement in the quality of service while reducing unnecessary public expenditure through inefficiencies, fraud and errors (Work and Pensions Committee).¹⁰⁹

49. Committees have continued to build on their role of examining expenditure, through analysis and review of departmental annual reports, Supplementary Estimates, departmental resource accounts and 2004 spending review settlements. In comparison with 2003, an increased number of oral evidence sessions on departmental annual reports were held and an increased number of committees examined the Supplementary Estimates.¹¹⁰

103 HC (2004–05) 290, para 57

104 Education and Skills Committee, Third Report of Session 2004–05, *UK e-University*, HC 205

105 HC (2004–05) 168, para 12

106 Foreign Affairs Committee, First Report of Session 2004–05, *The work of the Committee in 2004*, HC 112, paras 41–43

107 Northern Ireland Affairs Committee, Fourth Report of Session 2003–04, *The Compensation Agency*, HC 271

108 Northern Ireland Affairs Committee, Third Report of Session 2004–05, *Northern Ireland Departments' 2002–03 Resource Accounts*, HC 173

109 Work and Pensions Committee, Third Report of Session 2003–04, *Department for Work and Pensions Management of Information technology Projects: Making IT Deliver for DWP Customers*, HC 311, para 22

110 See Appendix 4.

Estimates Timetable

50. As we reported last year, the Chief Secretary to the Treasury agreed to a change in the relevant Standing Order¹¹¹ so that the minimum interval between the laying of the Estimates and their being voted on by the House was doubled from 7 to 14 days. It is too early to say whether this change will be enough on its own to meet committees' concerns about the compressed timetable for their consideration of the Estimates. (For example, it is not yet clear how the revised Standing Order would operate if the 14 day period straddled a periodic adjournment or a prorogation.) But the extension did allow us to consider the proposals from committees for the 2004–05 Winter Supplementary Estimates day to a timescale which would have been extremely difficult under the previous arrangements.

51. We also expressed concern in last year's Report about the Government's failure to fulfil its undertaking to allow committees an early sight of the Estimates in draft form. This was the subject of correspondence between our Chairman and the Chief Secretary to the Treasury. Since then, despite some small improvement, the situation remains unsatisfactory. **We therefore repeat our recommendation that the Treasury should take steps to ensure that committees receive draft Estimates at the earliest practicable date.**

Provision of an Estimates Memorandum

52. The Scrutiny Unit has highlighted to us some difficulties which have arisen in respect of the new requirement for departments to produce an Estimates Memorandum in support of each estimate presented to Parliament for approval (including Revised or Supplementary Estimates).¹¹² This requirement has been imposed by HM Treasury. The new Memoranda are intended to assist select committees' scrutiny of public expenditure by providing an explanation of the impact and consequences of changes sought in each estimate. Memoranda must be provided to committees no later than the date on which the estimate is laid, and should follow a standardised format. The Memoranda were first produced in respect of the Winter 2004–05 Supplementaries.

53. An analysis carried out by the Scrutiny Unit suggests that the quality of the first Estimates Memoranda has been patchy, with a "marked variability between departments in their quality and usefulness".¹¹³ In two cases the documents arrived over a week late, whilst two committees found the Memoranda so unsatisfactory that they returned them and requested revised, more helpful versions. We hope that the Treasury will learn the lessons of these first Estimates Memoranda and, by issuing clear guidance to departments along the detailed lines we suggested in our last Report, ensure that the overall standard of the documents is improved to take account of committees' legitimate scrutiny requirements.

54. The Scrutiny Unit will continue, on behalf of committees, to discuss with the Treasury ways of enhancing the quality of the range of financial information presented to Parliament, in order to help committees to carry out their work more effectively.

111 Standing Order No. 55

112 See Appendix 4.

113 Appendix 4, para 29

Task 6: Scrutinising Public Service Agreements and targets

55. Committees tend to address the task of examining Public Service Agreement (PSA) targets in one or both of the following ways:

- as part of their annual examination of departments' annual reports; or
- as part of their general policy-based inquiry work, where PSA targets are relevant to specific inquiries.

PSA targets as part of examination of departmental annual reports

56. Many committees use their annual examination of departments' annual reports to focus particularly on a department's performance as measured against its PSA targets. Examples of issues raised by committees about targets in this context include:

- The EFRA Committee highlighted the fact that Defra is not on track to achieve its PSA target of reducing carbon dioxide emissions by 20% by 2010 and recommended that the forthcoming review of the climate change programme should ensure that not only Defra but other departments—including the Department of Trade and Industry (DTI), the DfT and HM Treasury—firmly re-commit themselves to reducing all emissions of greenhouse gases;¹¹⁴
- The International Development Committee considered that DfID's departmental report contained inadequate information about how DfID was addressing its underperformance in relation to certain key PSA targets. The Committee cited two cases of underperformance in the 16 key countries in Africa—maternal mortality and under-five mortality rates—and commented that the lack of information in the report on the steps which DfID could take to increase the likelihood of meeting targets made it difficult for the Committee to assess whether an improvement was likely to be made;¹¹⁵
- The Regulatory Reform Committee drew attention once again to the slow progress being made towards meeting the Cabinet Office's PSA target of having 60 regulatory reform orders (RROs) made by April 2006 and noted that, despite persistently missing successive PSA targets for the number of RROs made, "the Cabinet Office was confidently claiming, even in March 2004, that it was 'on course' to reach its [April 2006] target of 60".¹¹⁶ The Committee recommended that the Cabinet Office should inform the Committee if there is a substantial risk that it will miss its PSA target.¹¹⁷

57. Committees not charged with scrutinising a government department may still examine performance indicators. The Science and Technology Committee notes that, although the Office of Science and Technology (OST) has no PSA targets, as it is not a department in its own right, there are other indicators against which the performance of the UK's science

114 EFRA Committee, Fifteenth Report of Session 2003–04, *The Departmental Annual Report 2004*, HC 707, paras 28 and 29

115 HC (2003–04) 749, paras 63–67

116 Regulatory Reform Committee, First Special Report of 2004–05, *Operation of the Regulatory Reform Act 2001*, HC 273, para 7

117 *Ibid.*, para 9

and engineering base can be measured. The Committee has also met with the director-general of the research councils to discuss OST's undertaking to develop a new performance management system that will be used to inform the resource allocations to the seven research councils.¹¹⁸

PSA targets relevant to inquiry work

58. Several committees have set out in their annual reports how particular inquiries undertaken in 2004, although not explicitly focused on PSA targets, nevertheless addressed key targets. For example, the Health Committee explained that:

- its inquiry into *GP Out-of-Hours Services* examined DoH target 3, which relates to access to a primary care professional;
- its inquiries into *Elder Abuse* and *Palliative Care* examined DoH target 8, which aims to improve the quality of life and independence of older people;
- its inquiry into *Obesity* examined DoH target 6, which seeks a substantial reduction from the major killer diseases by 2010;
- its inquiries into *Palliative Care*, *Elder Abuse*, *The Provision of Allergy Services* and *Obesity* all examined DoH target 11, which seeks to reduce health inequalities by 10% by 2010.¹¹⁹

59. The EFRA Committee again described the relationship between its inquiries and Defra's PSA targets in tabular form:¹²⁰

EFRA inquiry	Relevant PSA target
Cetacean by-catch	Target 1 (SR 2004)
Sites of Special Scientific Interest	Target 3 (SR 2004)
Climate change, flooding and water security	Targets 1 and 2 (SR 2004)
Bovine TB	Target 9 (SR2004)
Implementation of CAP reform in the UK	Target 5 (SR 2004)
Draft Animal Welfare Bill	Target 9 (SR 2004)
Waste policy and the Landfill Directive	Target 3 (SR 2002); target 6 (SR 2004)
Climate change: looking forward	Targets 1 and 2 (SR 2004)

60. In the course of their policy-based inquiry work, committees made a number of criticisms concerning the operation of PSAs:

- The EFRA Committee's Report on *Sites of Special Scientific Interest* (SSSIs) described Defra's PSA target of ensuring that 95% of England's SSSIs are in favourable condition

118 Science and Technology Committee, Second Report of Session 2004–05, *Annual Report 2004*, HC 199, para 19

119 HC (2004–05) 284, para 27

120 EFRA Committee, Third Report of Session 2004–05, *The Work of the Committee in 2004*, HC 281, para 30

by 2010 as “very challenging” and expressed concern that the target would not be met unless a number of far-reaching changes to Defra’s broader environmental policies were made, in good time;¹²¹

- In its inquiry into *Rehabilitation of Prisoners*, the Home Affairs Committee expressed regret at the Home Office’s decision to reclassify the PSA target of reducing re-offending as a ‘standard’, committing the Department simply to maintaining existing levels of performance, and drew attention to the existence of an ‘internal target’ which does quantify a desired reduction in re-offending levels. The Committee felt it was inherently confusing that the Home Office was simultaneously committed to “no deterioration in re-offending rates” and to a quantified reduction in those rates;¹²²
- The Home Affairs Committee also criticised the Government’s targets on processing asylum applications, in its Report on *Asylum Applications*, and called for the targets to be made more challenging, with a reduction in the current relatively high proportion of successful appeals formally included as part of the target;¹²³
- The ODPM Committee’s Report on *Decent Homes* focused explicitly on the PSA target set for the Office of the Deputy Prime Minister: Housing, Planning, Local Government and the Regions to bring all social housing into decent condition by 2010 and to increase the proportion of private housing in decent condition occupied by vulnerable groups. The Committee was disturbed by the “large unacknowledged and unexplained discrepancies” it found in the Department’s data on progress towards meeting the target, effectively made it impossible to assess whether the Department was on course to deliver “one of its key PSA targets”. The Committee called for a “higher and broader” ‘decent homes plus’ PSA target to be set now, for achievement at a later date;¹²⁴
- The Transport Committee comments that it has long been sceptical about the PSA target for increasing the number of passenger kilometres travelled on the railway, on the basis that the target was too heavily biased towards long-distance services and that substantial increases in number of shorter journeys would therefore not be adequately recognised. The Committee notes that the target has now been abandoned.¹²⁵

Operation of PSA targets

61. Committees also raised important concerns about the effective functioning of PSA targets. The International Development Committee raises questions about the suitability of some of DfID’s targets, on the basis that many of the Department’s PSA targets are affected by a wide range of factors not within the Department’s remit and, therefore, control. The

121 EFRA Committee, Fourteenth Report of Session 2003–04, *Sites of Special Scientific Interest: Conserving the Jewels of England’s Natural Heritage*, HC 475

122 Home Affairs Committee, First Report of Session 2004–05, *Rehabilitation of Prisoners*, HC 193-I, paras 60–68

123 Home Affairs Committee, Second Report of Session 2003–04, *Asylum Applications*, HC 218-I, para 146

124 ODPM Committee, Fifth Report of Session 2003–04, *Decent Homes*, HC 46-I

125 HC (2004–05) 251, para 37

Committee considers that this problem is compounded by a lack of reliable data on which to measure progress against some targets, which could invalidate some targets.¹²⁶

62. The Health Committee observes that, although it has been able to examine some of the Department of Health's PSA targets, the large number of targets has made it impossible for the Committee to examine all the targets systematically. While the number of PSA targets being monitored by the DoH has been reduced from 55 to 39, it is still a large number, and the situation is unlikely to be improved in the foreseeable future since additional targets are expected to be added in 2005.¹²⁷ The Committee states that it has been concerned, throughout this Parliament, about the proliferation of the Department's targets. The reasons for the Committee's concern are two-fold: first, the Committee considers that the NHS concentrates on those problems for which a target exists; the corollary is that if there is no target relating to a problem it tends to be ignored. Secondly, the Committee considers that targets may have perverse consequences. For example, requiring GPs to see their patients within 48 hours has led some GPs to refuse to allow patients to make appointments more than 48 hours in advance, thus making it much more difficult for those who want routine consultations to plan their lives.¹²⁸

63. Committees have raised important and constructive concerns about both the substance and functioning of PSA targets. Committees have also demonstrated their flexibility in considering PSA targets in the context both of examining departmental annual reports and of wider policy-based inquiry work. Given each committee's extensive experience in overseeing the activities of a particular government department, we expect the Government to give careful consideration to concerns raised about such targets.

Task 7: Monitoring the work of agencies and others

64. Committees take a number of different approaches to monitoring the work of agencies, NDPBs and other associated public bodies. As we discussed in our previous Annual Report, some committees have a rolling programme of one-off evidence sessions with such bodies, with the aim of scrutinising all bodies over a period of time.¹²⁹ These committees continued their rolling programmes in 2004. For example, the Science and Technology Committee completed its programme of holding separate scrutiny sessions with each of the seven research councils in the course of the Parliament.¹³⁰ The Committee considers that the performance of the research councils it examined in 2004 had improved, relative to the performance of those it examined in 2003. The Committee believes this improvement is due, at least in part, to its rolling programme of scrutiny, which has provided the research councils with a strong incentive to ensure that they are working efficiently and to a high standard.¹³¹

126 International Development Committee, Second Report of Session 2004–05, *Work of the Committee in 2004*, HC 326, para 46

127 HC (2004–05) 284, para 27

128 *Ibid.*, para 30. The Committee is pursuing this problem by way of its public expenditure questionnaire: see paragraph 42.

129 HC (2003–04) 446, para 51

130 HC (2004–05) 199

131 *Ibid.*, paras 20–24

65. In addition, some committees' inquiries focused on the work of a particular body. For example:

- the Culture, Media and Sport Committee's inquiry into *The BBC Charter Renewal*;¹³²
- the Health Committee's ongoing inquiry into *The Influence of the Pharmaceutical Industry*, which examines the effectiveness of the Medicines and Healthcare products Regulatory Agency (MHRA), the regulator of the pharmaceutical industry;¹³³
- the Northern Ireland Committee's inquiries into *The Compensation Agency*, *The functions of the Office of the Police Ombudsman* and *The Functions of the Northern Ireland Policing Board*;¹³⁴
- the ODPM Committee's inquiries into *The Role and Effectiveness of the Housing Corporation*, *The Role and Effectiveness of the Commission for Architecture and the Built Environment* and *The Role and Effectiveness of the Standards Board for England*.¹³⁵

66. Other committees touched on the work of agencies and other associated public bodies in the course of broader inquiries. For example:

- the Defence Committee's *Defence Procurement* Report focused on problems and failings within the Defence Procurement Agency;¹³⁶
- the EFRA Committee looked at the activities of many of Defra's associated bodies in the general course of its inquiries, including Ofwat,¹³⁷ the Environment Agency,¹³⁸ the Countryside Agency, English Nature and the Forestry Commission,¹³⁹ and the Milk Development Council;¹⁴⁰ it also touched on the work of bodies associated with other government departments, including the Food Standards Agency,¹⁴¹ the Office of Fair Trading and the Competition Commission;¹⁴²
- the Foreign Affairs Committee carried out scrutiny of the British Council and the BBC World Service as part of its annual inquiry into the FCO's departmental report;¹⁴³

132 Culture, Media and Sport Committee, First Report of Session 2004–05, *A public BBC*, HC 82-I

133 Inquiry ongoing: see HC (2004–05) 284, para 34.

134 HC (2003–04) 271; remaining inquiries ongoing: see HC (2004–05) 262, para 30.

135 ODPM Committee, Eighth Report of Session 2003–04, *The Role and Effectiveness of the Housing Corporation*, HC 401-I; remaining inquiries ongoing: see HC (2004–05) 149.

136 HC (2003–04) 572-I

137 EFRA Committee, First Report of Session 2003–04, *Water Pricing*, HC 121, and Nineteenth Report of Session 2003–04, *Water Pricing: follow-up*, HC 1186

138 See, for example, HC (2003–04) 558 and Eighteenth Report of Session 2003–04, *Dismantling Defunct Ships in the UK*, HC 834.

139 The EFRA Committee's inquiry into *The Government's Rural Delivery Strategy* is ongoing.

140 EFRA Committee, Ninth Report of Session 2003–04, *Milk Pricing in the United Kingdom*, HC 335

141 The EFRA Committee's inquiry into *Food Information* is ongoing.

142 HC (2003–04) 335

143 Foreign Affairs Committee, Eighth Report of Session 2003–04, *Foreign and Commonwealth Office Annual Report 2003–2004*, HC 745

- the Home Affairs Committee took evidence from a wide range of bodies associated within the Home Office including individual police forces, the Prison Service, the Probation Service, the Criminal Cases Review Commission and the Sentencing Guidelines Council;¹⁴⁴
- the Treasury Committee took oral evidence from the Financial Services Authority (FSA) on two occasions in the course of inquiries into *Restoring Confidence in Long-term Savings* and *The EU and Financial Services* and took both opportunities to seek an update from the FSA on progress on negotiations which had been the subject of an earlier inquiry by the Committee.¹⁴⁵

67. One of the Public Administration Committee's key responsibilities is to examine any reports of the Parliamentary Commissioner for Administration and Health Service Commissioner (the Ombudsman) which are laid before the House. In practice, the Committee both reviews the work of the Ombudsman's office and takes forward concerns expressed by the Ombudsman. During 2004, as well as taking formal evidence from the Ombudsman on the expenditure and administration of her office, the Committee held an informal seminar with the Ombudsman and her senior staff to discuss possible improvements to the office's services. The Committee also took up concerns expressed by the Ombudsman about the new NHS complaints system by taking oral evidence on the issue. Finally, acting jointly with the Ombudsman, the Committee surveyed Members on the work of her office, in particular on the question of whether the MP 'filter' for directing complaints to the Ombudsman should be retained.¹⁴⁶

68. The large number of agencies, NDPBs and other public bodies associated with government departments means that it is impracticable for a committee to scrutinise all such bodies on an annual basis. Nevertheless, by making use of rolling programmes of scrutiny and by taking evidence from bodies relevant to particular inquiries, committees are achieving good coverage of the activities of agencies and other associated public bodies. **Where practicable, we encourage committees to adopt a planned programme of scrutiny of the work of agencies, NDPBs and other associated public bodies falling within their remit.**

Task 8: Scrutiny of major appointments

69. As we noted in our previous Annual Report, committees do not routinely carry out prior scrutiny of appointments in the sense of taking part in the selection procedure. Committees may, however, hold formal evidence sessions with incumbents of major posts soon after their appointments: in 2004, for example, the Home Affairs Committee took oral evidence from the newly appointed Chairman of the Criminal Cases Review Commission.¹⁴⁷ Committees may also hold informal meetings with individuals appointed to key roles: again in 2004, the Health Committee met with the chairman and chief executive designate of the Commission for Healthcare Audit and Inspection (CHAI) about

144 See, for example, HC (2004-05) 193-I; Home Affairs Committee, *The Work of the Criminal Cases Review Commission*, 27 January 2004, Session 2003-04, HC 289-i; and *Sentencing Guidelines*, 1 July 2004, HC 844-i.

145 HC (2003-04) 71-I, para 24; the remaining inquiry is ongoing: see HC (2004-05) 335, para 6.

146 HC (2004-05) 306, para 10

147 Home Affairs Committee, *The Work of the Criminal Cases Review Commission*, 27 January 2004, HC 289-i

two weeks before the body was formally constituted.¹⁴⁸ Committees may also take an interest in such matters without holding sessions with the new appointees, formally or otherwise. The Transport Committee comments that, although it took a keen interest in Government appointments within its remit, it did not feel it necessary to be implicated in them by holding introductory sessions.¹⁴⁹

70. During 2004, the Constitutional Affairs Committee had cause to consider the appropriate limits of committees' ability to scrutinise major appointments made by a department, in the course of taking evidence on *Judicial appointments and a Supreme Court (court of final appeal)*.¹⁵⁰ Some witnesses suggested that the Committee should hold 'confirmation hearings' with new appointees to the new supreme court, as a means of ensuring that Parliament had confidence in the Judiciary. The Committee was not persuaded that such hearings would improve the process of appointing senior judges. The Committee considered that there would be 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.¹⁵¹

71. In our previous Annual Report, we noted the EFRA Committee's recommendation to the Government that Defra put in place procedures to inform the Committee in advance of all major appointments pending and/or made.¹⁵² Defra has since formally responded to the Committee's recommendation, undertaking to give the Committee advance notice, wherever possible, of the announcement of major appointments and to provide a regular update listing other major appointments that have been made over the preceding months and for which no press release was issued.¹⁵³ The Committee has welcomed this development.¹⁵⁴ We note that the Work and Pensions Committee has expressed its disappointment that it is not specifically informed by the DWP in advance of any appointments to posts in the Department or in non-departmental public bodies, and has consequently recommended that DWP put appropriate notification procedures in place.¹⁵⁵

Task 9: Implementation of legislation

72. A significant proportion of committee inquiry work considers the implementation of legislation or of major policy initiatives. In 2004, committees have considered the implementation of European law, as well as domestic law. Examples of the ways in which committees approached this core task in 2004 included:

148 HC (2004–05) 284, para 33

149 HC (2004–05) 251, para 39

150 HC (2003–04) 48-I

151 Constitutional Affairs Committee, Second Report of Session 2004–05, *Work of the Committee in 2004*, HC 207, para 41

152 HC (2003–04) 446, para 54

153 EFRA Committee, Fourteenth Special Report of Session 2003–04, *The Annual Report of the Committee 2003: Government Reply to the Committee's Report*, HC 1037

154 HC (2004–05) 281, para 18

155 HC (2004–05) 133, para 16

- the Constitutional Affairs Committee’s Report into *The Freedom of Information Act 2000: Progress towards implementation*, which was published about a month before the Act became fully operational and found that government departments’ readiness to implement the Act appeared to be “patchy”,¹⁵⁶
- the Education and Skills Committee’s examination of the impact of the Higher Education Act 2004 which allowed universities to charge differential tuition fees on home and foreign students;¹⁵⁷
- the EFRA Committee’s inquiries into the *End of Life Vehicles Directive and Waste Electrical and Electronic Equipment Directive* and *Implementation of CAP reform in the UK*, which examined the implementation of EU legislation in the UK, and its ongoing inquiry into *Waste Policy and the Landfill Directive*, which is examining how effectively the Government and the Environment Agency are implementing the Landfill Directive in the UK,¹⁵⁸
- the Home Affairs Committee’s evidence session on the use by the police of powers granted under anti-terrorism legislation, a matter which the Committee intends to examine further in the context of its ongoing inquiry into *Terrorism and Community Relations*, and its inquiry into *Anti-Social Behaviour*, which has looked at how provisions of the Criminal Justice and Police Act 1998, in particular, anti-social behaviour orders and fixed penalty notices, are being put into effect;¹⁵⁹
- the Northern Ireland Affairs Committee’s inquiry into *Electoral Registration in Northern Ireland*, which was launched following the introduction of the Electoral Fraud (Northern Ireland) Act 2002 and concluded that, although the Act appeared to be having some success at combating electoral fraud, it had the unintended consequence of contributing to the steep and progressive decline in the numbers of voters appearing on the register over recent years,¹⁶⁰
- the Trade and Industry Committee’s ongoing inquiry into *UK Employment Regulation*, which is considering the contribution that labour market flexibility makes to the UK economy and whether the current degree of flexibility is appropriate or desirable given, on the one hand, the concerns expressed by employers’ organisations about the burden of regulations introduced in recent years and, on the other, the unions’ view that the

156 Constitutional Affairs Committee, First Report of Session 2004–05, *Freedom of Information Act 2000: progress towards implementation*, HC 790-I

157 Education and Skills Committee, *Higher Education Bill*, 14 January 2004, HC 216; *International Education*, 7 June 2004 and 23 June 2004, HC 647-i and -ii; and *Admissions to Higher Education*, 25 November 2004, HC 41-i

158 EFRA Committee, Fourth Report of Session 2003–04, *End of Life Vehicles Directive and Waste Electrical and Electronic Equipment Directive*, HC 103; Seventh Report of Session 2003–04, *Implementation of CAP Reform in the UK*, HC 226-I; inquiry into *Waste Policy and the Landfill Directive* is ongoing.

159 Home Affairs Committee, *Anti-Terrorism Powers*, 8 July 2004, HC 886-i, and HC (2004–05) 280, para 10, and *Anti-Social Behaviour*, 30 November 2004, 21 December 2004 and 10 January 2005, HC 80-i,-ii and -iii, and 19 January 2005, HC 80-II

160 Northern Ireland Affairs Committee, First Report of Session 2004–05, *Electoral Registration in Northern Ireland*, HC 131

flexibility in the labour market results in UK employees working longer hours and having less security of employment;¹⁶¹

- the Work and Pensions Committee’s ongoing inquiry into *The Introduction of Pension Credit*, which is examining the introduction of pension credit under the State Pension Credit Act 2002, which came into force in October 2003, and the ability of the Pension Service to deliver pension credit successfully.¹⁶²

73. There is evidence that the Government is factoring committee work into its own legislative review processes. The Science and Technology Committee understands that the DoH will await the Committee’s forthcoming Report on its inquiry into *Human Reproductive Technologies and the Law* before revising the Human Fertilisation and Embryology Act 1990. The Committee’s inquiry revisits the 1990 Act and considers it particularly in the light of the development of new technologies for research and treatment and recent changes in ethical and social attitudes.¹⁶³

74. As we discussed in our previous Annual Report, committees are well-suited to undertaking post-legislative scrutiny, in part because they can be more candid than government-led or government-sponsored reviews, and more responsive to the views of stakeholders.¹⁶⁴ The Leader of the House has recognised this, describing departmental select committees as “the obvious vehicles for such post-legislative scrutiny”, although he has acknowledged that committees may require extra resources if they are to carry out post-legislative scrutiny on a systematic basis.¹⁶⁵

Task 10: Debates in Westminster Hall and the Chamber

75. Apart from the frequent reference to committee reports in debates of all kinds, it is Westminster Hall, as a parallel Chamber, which has continued to serve as the main forum in which committee reports are formally debated. Standing Order No. 10 (13) stipulates that the Speaker shall appoint not more than six Thursdays on which the business in Westminster Hall should be debates on select committee reports. The Government makes further Thursdays available, with a target of two thirds of debates to be available to us as recommended by the Modernisation Committee.¹⁶⁶

76. In the 2003–04 Session, 25 days out of 33 were allotted to select committee reports (including one day allocated but not used), compared with 23 out of 35 in the 2002–03 Session. In the current Session, the total is 6 out of 10 days [up to and including 3 March]. Subjects debated in the 2003–04 Session were:

¹⁶¹ Trade and Industry Committee, Fourth Report of Session 2004–05, *The Work of the Committee in 2004*, HC 214, para 6

¹⁶² HC (2004–05) 133, para 17

¹⁶³ Inquiry ongoing: see HC (2004–05) 199, para 13.

¹⁶⁴ HC (2003–04) 446, paras 57–59

¹⁶⁵ HC Deb, 13 January 2004, cols 667–9

¹⁶⁶ Select Committee on Modernisation of the House of Commons, Fourth Report of Session 1999–2000, *Sittings in Westminster Hall*, HC 906, para 39

Committee	Report or issues
Broadcasting	The Rules of Coverage
Constitutional Affairs	Judicial appointments and a Supreme Court (court of final appeal)
Culture, Media and Sport	Privacy and Media Intrusion
Environment, Food and Rural Affairs	Caught in the net: by-catch of dolphins and porpoises off the UK coast
Foreign Affairs	Foreign Policy Aspects of the War against Terrorism
Foreign Affairs	Foreign Policy Aspects of the War against Terrorism
Health	Sexual Health
Health	Elder Abuse
Home Affairs	Asylum Applications
International Development	Development Assistance and the Occupied Palestinian Territories
Northern Ireland Affairs	The Illegal Drugs Trade and Drug Culture in Northern Ireland
ODPM	Postal Voting
ODPM	Social Cohesion
Public Administration	Ministerial Accountability and Parliamentary Questions
Public Administration	On Target? Government By Measurement
Science and Technology	Light Pollution and Astronomy
Science and Technology	The Scientific Response to Terrorism
Science and Technology	Too little too late? Government Investment in Nanotechnology
Science and Technology	Within REACH: The EU's new chemicals strategy
Transport	Overcrowding on Public Transport
Transport	Ports
Treasury	Transparency of Credit Card Charges
Work and Pensions	European Social Fund
Work and Pensions	Child Poverty in the UK

77. In addition, the following Reports were debated on the Floor of the House during Estimates days: *People, Pensions and Post Offices: The impact of 'Direct Payment' on post offices and their customers* (Trade and Industry Committee) (11 December 2003);¹⁶⁷ *Childcare for Working Parents* (Work and Pensions Committee) (11 December 2003);¹⁶⁸ *Biofuels* (Environment, Food and Rural Affairs Committee) (11 March 2004);¹⁶⁹ *Aviation* (Transport Committee) (11 March 2004).¹⁷⁰

167 Eleventh Report of Session 2002–03, *People, Pensions and Post Offices: The impact of 'Direct Payment' on post offices and their customers*, HC 718

168 Fifth Report of Session 2002–03, *Childcare for Working Parents*, HC 564-I

169 Seventeenth Report of Session 2002–03, *Biofuels*, HC 929-I

170 Sixth Report of Session 2002–03, *Aviation*, HC 454-I

3 Working practices

Innovations in committee practices

78. In last year's Report, we noted innovations by committees to supplement the traditional technique of a full committee collecting evidence in written form, taking formal oral evidence at Westminster, and then agreeing a report. In 2004 these continued to be developed, as we set out below.

Connecting with the devolved assemblies

Wales

79. The last year has seen a major step forward in joint working between the Welsh Affairs Committee and committees of the National Assembly for Wales. This has enabled an innovative and progressive approach to scrutiny of legislation affecting Wales. Following recommendations from the Procedure Committee, the House agreed that the Welsh Affairs Committee should be able to meet with the relevant committee of the National Assembly under an arrangement known as 'reciprocal enlargement'.¹⁷¹ This involves one committee meeting under its normal procedures but with Members of the other committee taking part, and has led to oral evidence being taken at some meetings at Westminster under House of Commons procedures and at other meetings at Cardiff Bay under National Assembly rules.¹⁷² Seven meetings have now been held under the reciprocal enlargement procedures.

80. Two bills relating to Wales have now been considered in this way: the *draft Transport (Wales) Bill* and the *Public Service Ombudsman (Wales) Bill*.¹⁷³ Reciprocal enlargement does not allow for the production of joint reports. However, the Welsh Affairs Committee and the Committees of the National Assembly have produced complementary reports on these two Bills. The Committee has also considered the Government's legislative programme for the current Session and has identified ten bills relating to Wales for further examination.

81. The authority for formal joint working between the Welsh Affairs Committee and Committees of the National Assembly was agreed to on a temporary basis and will expire at the end of this Parliament. **We conclude that the success of formal joint working between the Welsh Affairs Committee and Committees of the National Assembly presents a strong argument for making permanent formal joint working in the next Parliament.**

171 Welsh Affairs Committee, Fourth Report, of Session 2002–03, *The Primary Legislative Process as it affects Wales*, HC 79; Procedure Committee, Third Report of Session 2003–04, *Joint activities with the National Assembly for Wales*, HC 582; agreed by the House on 7 June 2004.

172 HC (2004–05) 256

173 HC (2003–04) 759; Welsh Affairs Committee, Third Report of Session 2004–05, *Public Services Ombudsman (Wales) Bill [HL]*, HC 234

Northern Ireland

82. Since the suspension of the Northern Ireland Assembly in October 2002, the Northern Ireland Affairs Committee has had the additional responsibility of scrutinising the work of the departments of the Northern Ireland Executive. In January 2004, the Committee appointed a Sub-Committee, comprising all members of the main Committee, to consider matters that had fallen previously within the remit of the Northern Ireland Assembly.¹⁷⁴ This has enabled a more systematic and thorough approach to the scrutiny of devolved matters than was possible previously. The Sub-Committee benefits from the assistance of a clerk on secondment from the Assembly.¹⁷⁵

Scotland

83. In the last year, the Scottish Affairs Committee has re-examined an aspect of the devolution legislation passed in the 1997–2001 Parliament. Following the provisional proposals of the Boundary Commission for Scotland to reduce the number of Scottish Westminster constituencies from 72 to 59, the Government announced that it would seek to amend the Scotland Act 1998, so that the number of Members of the Scottish Parliament would not as a consequence be reduced pro rata. The Committee has now issued its Report on the *Coincidence of Parliamentary Constituency Boundaries and the Consequences of Change*.¹⁷⁶

Information gathering

84. Committees employed several innovative means of gathering evidence, beyond the usual public call for written memoranda. In its *Duty of Care* inquiry the Defence Committee took a range of measures to encourage individual recruits to make their views known on a confidential basis. As well as private meetings with recruits during their extensive programme of visits, the Committee had posters with information about the inquiry and contact details put up in training establishments. Small individual cards with similar information were also made widely available.

85. In its inquiry into *Rehabilitation of Prisoners*, the Home Affairs Committee invited over 1,000 prisoners to participate in a ‘prison diary project’.¹⁷⁷ The Committee wrote to randomly selected individuals in six prison establishments, asking them to complete a seven-day diary of their prison routine. The project had a response rate of 31%, and the Committee commented that analysis of the diaries gave a valuable insight into the number of hours prisoners spend in education, vocational training, rehabilitative programmes, work schemes and leisure activities. The Committee found that the statistics they obtained through this project presented a picture significantly bleaker than that provided by Home Office statistics.¹⁷⁸

174 HC (2004–05) 262

175 *Ibid.*, para 4

176 Scottish Affairs Committee, First Report of Session 2003–04, *Coincidence of Parliamentary Constituency Boundaries in Scotland and the Consequences of Change*, HC 77

177 HC (2004–05) 280, paras 25 and 26

178 HC (2004–05) 193-I, para 37

86. In the course of its hearings into *Orphans and Children made vulnerable by AIDS*, the International Development Committee heard evidence from orphans and children made vulnerable by AIDS by way of a video-link with Kampala, Uganda.¹⁷⁹ The Committee comments that the children's testimony "gave them a voice and provided a moving tribute to their courage and resilience".¹⁸⁰ The Committee used the information gathered to press DfID to improve its new AIDS/HIV strategy. The Public Administration Committee also took a novel approach to information gathering: as part of its inquiry into *Choice, Voice and Public Services*, the Committee commissioned a survey from the National Audit Office on public attitudes to choice.¹⁸¹

On-line consultation

87. The Science and Technology Committee's ongoing inquiry into *Human Reproductive Technologies and the Law* deals with some extremely sensitive issues that have an impact on the everyday lives of members of the public. The Committee therefore decided to hold an on-line public consultation exercise before the start of the inquiry, in order to attract comments both from experts in the field and from people with relevant personal experiences who would perhaps not want to submit formal evidence to a select committee. The results were able to help frame the terms of reference for the inquiry. During the consultation period, 333 users registered to take part in the on-line forum; 111 of those users logged onto the site and posted a total of 554 messages. Of those who actually took part in the consultation, approximately half were affiliated to an interested organisation, and half were private individuals. The Committee also offered contributors to the on-line consultation the opportunity to appear to give oral evidence as part of the formal inquiry, and 12 were selected. This gave the Committee the opportunity to probe some of the issues raised during the consultation in greater detail.¹⁸²

88. The Northern Ireland Affairs Committee also made use of an on-line consultation process as part of its ongoing inquiry into *'Hate Crime' in Northern Ireland*. The Committee comments that this process enabled it to gather some interesting contributions.¹⁸³

Co-operation between committees

89. Committees worked co-operatively in order to achieve better scrutiny of European matters. The European Scrutiny Committee twice made use of its power to request an opinion from a departmental select committee, both times on subjects on which the departmental select committee had conducted or was conducting an inquiry. The European Scrutiny Committee asked the Science and Technology Committee, which had recently completed an inquiry into nanotechnology, for its opinion on the Commission's

179 International Development Committee, *Orphans and Children made vulnerable by AIDS*, 4 May 2004, 20 May 2004 and 1 July 2004, HC 573

180 *Ibid.*, paras 28 and 29

181 HC (2004–05) 306, para 6

182 HC (2004–05) 199, para 44

183 HC (2004–05) 262, para 21

document on that subject.¹⁸⁴ The European Scrutiny Committee described the Science and Technology Committee's response as "helpful" and put further questions to the Minister based on the response before agreeing to clear the document. The European Scrutiny Committee has also requested an opinion from the Health Committee on a draft Regulation on medicinal products for paediatric use.

90. When, in July 2004, the European Scrutiny Committee recommended a debate in a European standing committee on a document relating to the integration of financial services, it indicated that the debate would benefit from any advance preparatory work that might be done by the Treasury Committee. The Treasury Committee took the opportunity to take oral evidence from a wide range of witnesses, including the Financial Services Authority, consumer bodies and trade organisations; as a result, useful evidence was made available to Members participating in the debate.¹⁸⁵

Sources of advice

91. Committees also receive advice from the Scrutiny Unit, the work of which has already been mentioned, and from specialist advisers appointed on an *ad hoc* basis.¹⁸⁶ The work of the Scrutiny Unit on financial reporting and related matters, encompassing the Estimates, departmental spending plan reports and annual performance reports as well as the resource accounts, has brought a new dimension to the ability of the select committee system as a whole to compare and contrast the performance of different departments in this area, to identify significant shortcomings and to encourage the spread of best practice. In addition, secondees from the House of Commons Library have assisted both the core work of committees and the statistical analysis carried out by the Scrutiny Unit.

92. As a supplement to these sources, the Environmental Audit Committee notes that it has been receiving increasing levels of support from the National Audit Office (NAO). The NAO has responded to a number of specific requests from the Committee for assistance and has provided a number of reports and briefings. The Committee describes the informal working relationship that has been established as a "step-change" in the resources available to the Committee; it is pressing for a formalisation of the arrangement.¹⁸⁷

Co-operation between committees and government departments

93. Some committees have commented, in their annual reports, on the particularly good systems for information provision which they have agreed with their respective government departments. The Northern Ireland Committee describes the system it instituted in 2002, whereby the Northern Ireland Office updates the Committee about its activities at regular intervals, as an extremely useful aid to scrutiny.¹⁸⁸ The system alerts the

184 The Science and Technology Committee's Report was its Fifth Report of 2003–04, *Too little too late? Government Investment in Nanotechnology*, HC 56-1.

185 HC (2004–05) 185, para 7

186 See paragraphs 52–54.

187 See Appendix 2.

188 Northern Ireland Affairs Committee, Second Report of 2002–03, *Annual Report 2002*, HC 271, para 17

Committee to the wide range of work in progress across all parts of the NIO and the Northern Ireland departments.¹⁸⁹

94. In a similar vein, the Transport Committee reports that, as a result of discussions between committee staff and DfT officials, the DfT has agreed to send a wide range of information to the committee secretariat without it having to be specifically requested, including all statutory instruments, departmental consultations and agendas of forthcoming European Transport Council meetings. The Committee comments that this system has increased the Committee's overall awareness of DfT's activities, and given the Committee the opportunity to intervene in these activities if it so wishes.¹⁹⁰

Deficiencies in information provided

95. By contrast, some committees have commented in their annual reports on deficiencies in the information provided to them by departments. Committees' concerns relate to the timeliness and quality of departments' responses to committee requests for information or formal written evidence and of Government responses to committee reports. Concerns are also expressed about departments failing to keep committees adequately informed of important announcements and decisions. For example:

- The Constitutional Affairs Committee comments that it has not always received papers of an adequate standard from the DCA and that it has had some difficulty in getting trustworthy statistical analysis of data on several occasions.¹⁹¹
- The Environmental Audit Committee again raises concerns about the quality of Government responses to its reports, which it describes as “extremely variable in content”.¹⁹² The Committee considered one Government response, in particular, to be “lamentable” as it “scandalously failed to respond at all” to several of the Committee's recommendations.¹⁹³ The Committee notes that Government responses to its reports are regularly late. The Committee acknowledges that this is sometimes understandable, as responses have to be marshalled across several government departments and collated within Defra, but states that it is not always kept properly informed of possible delays.
- The EFRA Committee reports on the difficulties it has sometimes experienced in arranging evidence sessions with Defra ministers and expresses the hope that the Secretary of State for Environment, Food and Rural Affairs will appear on a more regular basis before the Committee than has hitherto been the case. The Committee suggests that the problems it has experienced in securing the attendance of ministers may reflect a wider lack of understanding within Defra about the priority that should be given to the work of the Committee and to Parliament as a whole.¹⁹⁴ The Committee also draws attention to a general lack of timeliness on Defra's part in responding to

189 HC (2004–05) 262, para 34

190 HC (2004–05) 251, para 16

191 HC (2004–05) 207, para 33

192 See Appendix 2.

193 Environmental Audit Committee, Third Report of Session 2003–04, *Pre-Budget Report 2003: Aviation Follow-up*, HC 233-I and HC (2003–04) 623

194 HC (2004–05) 281, paras 27–29

requests for information in writing, for written memoranda on inquiries and in providing government responses within the standard two-month deadline.¹⁹⁵

- The Science and Technology Committee expresses its frustration with the Government's response to its Report *Scientific Publications: Free for all?*¹⁹⁶ The response argued against a number of recommendations that the Committee did not in fact make. The Committee also raises concerns that a NDPB was put under pressure by the DTI not to submit an independent, and divergent, response to the Committee's Report. It regards the approach taken by the DTI as having been "unduly sensitive" in this case. Finally, the Committee comments on the particular difficulties it faces dealing with departments across government, due to the cross-cutting nature of science policy, a situation which the Committee feels has hampered its investigations on a number of occasions.¹⁹⁷
- The Work and Pensions Committee expresses its disappointment about the Department for Work and Pensions' failure to inform the Committee of several important publications and statements, which it attributes to an apparent lack of co-ordination within the DWP which leaves their liaison team ill-informed. The Committee urges the DWP to ensure that the Committee has appropriate information supplied at the earliest possible time, if necessary by direction from the highest level.¹⁹⁸

96. We note the concerns of some committees about the quality of service provided by certain government departments. Good working relationships between departments and select committees are crucial to effective parliamentary scrutiny. We expect the departments concerned to consult the relevant committee/s in order to address committees' concerns. In particular, it is crucial that departments:

- **keep committees properly informed of important announcements and decisions and of publication of key documents;**
- **respond to committees' requests for information in a timely fashion, with information of a high quality which engages with the issues identified by committees; and**
- **keep committees informed of anticipated delays to departmental responses to such requests.**

97. We expect departments to ensure that Government responses to committee reports are delivered within the standard two-month deadline. Committees should be kept informed of any anticipated delay, and the reasons for it. In its responses, the Government should ensure that it engages meaningfully with the substance of committees' conclusions and recommendations.

195 HC (2004–05) 281, paras 40–45

196 Science and Technology Committee, Tenth Report of 2003–04, *Scientific Publications: Free for all?*, HC 399-I, paras 36–41

197 HC (2004–05) 199, paras 36–37

198 HC (2004–05) 133, para 14

98. In the case of reports agreed ahead of a Dissolution, we would expect Government responses to be published within two months of the date of the General Election. This would ensure that they are published without undue delay, and available to any successor committee.

4 New developments

Public Petitions

99. On 19 January 2005 the House approved the recommendations in paras 5 and 8 of the Fifth Report of the Procedure Committee of Session 2003-04 on *Public Petitions*.¹⁹⁹ The Procedure Committee consulted us before making its recommendations, and discussed a possible role of select committees in relation to petitions as follows:

The Modernisation Committee recommended that petitions should "stand referred" to the relevant departmental select committees. It envisaged that the Committee might take evidence about a petition, include it in a current or forthcoming inquiry, ask the Government for a response or reject it on the basis that it was "more properly the responsibility of some ... body" other than the House. It also recommended, however, the retention of the existing procedure whereby all petitions are printed and sent to the relevant Government department, so that Ministers may make observations.

We consulted the Liaison Committee about this recommendation: the exchange of correspondence is set out in Appendix 2. We thought that the use of the word "referred" might imply that committees would be expected (at least by the petitioners) to take some action. Some petitions are about individual cases: committees usually resist taking up such cases. Committees might also, of course, not wish to ascribe more priority to issues raised in petitions than to those coming before them in less formal ways, including letters from the public and suggestions by Members. We therefore suggested, as an alternative, sending a copy of each presented petition to the relevant select committee, without any formal "referral" and with, perhaps, therefore, less expectation that committees would feel obliged to say something about each petition.

The Liaison Committee considered the subject on 19 October and agreed with this suggestion. We therefore recommend to the House that a copy of each petition, once printed, should be sent to the relevant departmental select committee at the same time as it is sent to the relevant Government department. Government observations, or notifications received by the Journal Office that no observations are to be made, should also be passed on to the relevant committee. On occasions, committees may wish to press for observations to be made when then they have not been forthcoming.

100. We are grateful to the Procedure Committee and the House for supporting the suggestion which meets our wishes. It will be for individual select committees to judge whether or not to take any action on a petition sent to it. While it is the policy of some committees not to investigate individual cases of complaint against their corresponding Department, this new procedure will at least ensure that committees are aware of all relevant petitions, and of the observations in response made by the Department. It can provide a further example of policy for the committee to monitor.

¹⁹⁹ Procedure Committee, Fifth Report of Session 2003-04, *Public Petitions*, HC 1248

Secondary legislation

101. A few recent Acts provide for a particularly high level of parliamentary scrutiny where Ministers exercise their powers to amend primary legislation by statutory instrument. Under this “super-affirmative” procedure, Parliament has an opportunity to influence the content of secondary legislation. A proposal is laid before Parliament for a 60-day period, during which the Minister’s proposal may be subject to close examination by a select committee, before the Government later presents the draft instrument in its final form for formal approval by both Houses.

102. Standing Orders provide for super-affirmative orders under the Human Rights Act 1998 to be considered by the Joint Committee on Human Rights, and for the Regulatory Reform Committee to consider Orders under the Regulatory Reform Act 2001 amending primary legislation. There is no comparable provision for consideration by committees of orders made under section 17 of the Local Government Act 1999 or section 9 of the Local Government Act 2000 and so far committees have not taken on this work.²⁰⁰

103. The Government has indicated that it may pursue this fast-track to amending Acts of Parliament, for instance in providing powers under the next company law reform Bill for Ministers to amend primary legislation by order. The Trade and Industry Committee has recommended that if the Government wants to pursue its plans for amending company law by means of secondary legislation, then “any changes in the exercise of the most significant powers be subject to the Regulatory Reform Order procedure, which ensures both wide publication and more detailed parliamentary scrutiny than other forms of secondary legislation.”²⁰¹ The Regulatory Reform Committee has agreed that “there is a strong case for the proposed new power to use a super-affirmative procedure when reforming company law, but we consider it an open question whether it is our Committee or some other parliamentary Committee that is charged with the task of scrutinising individual proposals.”²⁰²

104. The Procedure Committee has repeatedly called for a “sifting” select committee on the merits of statutory instruments.²⁰³ In the event, the Lords has appointed its own Select Committee on the Merits of Statutory Instruments, which began issuing reports on statutory instruments from April 2004.²⁰⁴ **While departmental select committees value their autonomy in deciding their own programmes of work, there is a case for more**

200 For example, the proposal for the Community Care Plans (Disapplication) (England) Order 2003 (2003/1716) was laid before Parliament for 60 days under section 9 of the Local Government Act 2000. The Order in effect repealed a requirement in primary legislation, in this case the National Health Service and Community Care Act 1990. Similarly, the proposal for the Local Authorities’ Plans and Strategies (Disapplication) (England) Order 2005 (2005/157) was laid on 30 June 2004 under the same Act. The Order removed statutory requirements in primary legislation on local authorities to prepare various plans, including youth justice plans and homelessness strategies.

201 Trade and Industry Committee, Sixth Report of Session 2002–03, *The White Paper on Modernising Company Law*, HC 439, para 126 and HC (2003–04) 1041, para 4

202 HC (2004–05) 273, para 43

203 Procedure Committee, Fourth Report of Session 1995–96, *Delegated Legislation*, HC 152; First Report of Session 1999–2000, *Delegated Legislation*, HC 48; First Report of Session 2002–03, *Delegated Legislation: Proposals for a Sifting Committee*, HC 501 and Second Report of Session 2002–03, *Delegated Legislation: Proposals for a Sifting Committee: The Government’s Response to the Committee’s First Report*, HC 684. See also Second Report from the Select Committee on Modernisation of the House of Commons, Session 2001–02, *Modernisation of the House of Commons: A Reform Programme*, HC 1168.

204 See Twenty-fifth Report of Session 2003–04 from House of Lords Select Committee on the Merits of Statutory Instruments, *Review of the Work of the Committee*, HL 206.

systematic scrutiny of such significant statutory instruments which amend Acts of Parliament. Otherwise the detailed scrutiny of super-affirmative legislation might be an appropriate task for the Committee on the Merits of Statutory Instruments if it is converted into a Joint Committee. This issue should be addressed early in the new Parliament.

Freedom of Information

105. The Freedom of Information Act 2000 came into force on 1 January 2005. It applies to the House of Commons as a public authority, including select committees. As select committees have always published a large range and quantity of information about their activities, both in hard copy and now extensively on the website, a sudden surge of requests was not expected as a result of the Act. This has, so far, proved correct. At the date when this Report was agreed there had been 15 requests for information relating to select committees under the Act. Most of these sought access to unpublished evidence and were accordingly refused on the grounds that the material requested was exempt from disclosure under section 34 of the Act (Parliamentary Privilege). One initiative which the Act has encouraged relates to the earlier publication of the formal Minutes of select committees, which are now placed on committees' websites within a week or so of the relevant meetings. We would expect our next Annual Report to deal with any issues of general interest relating to freedom of information arising from the Act.

Term limits for Chairmen

106. Following a recommendation by the Modernisation Committee,²⁰⁵ the House agreed on 14 May 2002 to establish the principle of term limits for Select Committee Chairmen. The measure was given effect by Standing Order No. 122A which states:

122A. Unless the House otherwise orders, no Select Committee may choose as its chairman any Member who has served as chairman of that committee for the two previous Parliaments or a continuous period of eight years, whichever is the greater period.

It is important to note that the Standing Order applies only at the point where a Committee is electing a chairman. The timing of re-appointment of committees in the next Parliament will be a factor in determining which of the existing cadre of Chairmen will be directly affected by this new provision.

²⁰⁵ Select Committee on Modernisation of the House of Commons, First Report of Session 2001–02, *Select Committees*, HC 224, para 43

5 Engaging with the public and the media

107. In last year's Report, we stressed the value of gaining the attention of the public and the media:

Successful committee inquiries do not take place in a vacuum. Gaining the attention of the public and the media is a worthy objective for two principal reasons: if the public are better informed about how they are governed as a result of Ministers and officials having publicly to explain their actions as part of a select committee inquiry, a fundamental requirement of a functioning democracy has been served; secondly, the more public interest there is in a particular inquiry, the greater will be the public debate that it generates, and the more pressure there will be for the Government to recognise the importance of the recommendations based on the evidence received. Therefore, **gaining the attention of the public and the media is a necessary select committee objective.**²⁰⁶

Report of the Modernisation Committee

108. Since then, the Modernisation Committee has produced a Report on *Connecting Parliament with the Public*.²⁰⁷ This included a chapter on the House of Commons and the media, which identified the themes of the House's communications strategy as:²⁰⁸

- a) the strong emphasis on the role and work of select committees, and the provision of up-to-date news about current inquiries, in plans for further medium-term improvements to the website;
- b) giving clear priority to expanding the quality and range of select committee coverage in developing the House's media liaison work; and
- c) focusing the promotion of the expanded webcasting service primarily on select committees.²⁰⁹

109. The Report discussed whether or not there should be a central press office, and commented that there were "inherent difficulties with the use by the House of press officers in the same role as Government press officers", because "the House does not have a continuing policy or unanimous view". Thus the House's communications strategy "must reflect the fact that the House consists of 659 individual MPs, representing numerous political parties".²¹⁰ The Modernisation Committee then commented:

There is one obvious area where a consensus view could be promoted in the media: that of select committee reports. Where a committee of the House has reached a view on a subject and reported on it, it is right that the committee should have the

²⁰⁶ HC (2003–04) 446, para 68

²⁰⁷ Select Committee on Modernisation of the House of Commons, First Report of Session 2003–04, *Connecting Parliament with the Public*, HC 368

²⁰⁸ *Ibid.*, chapter 7, para 105 onwards

²⁰⁹ *Ibid.*, para 117

²¹⁰ *Ibid.*, para 118

resources to communicate its views effectively to the press. That is part of the reason why the development of the press office function is concentrated in the Committee Office and the Clerk's Department.²¹¹

Media advice

110. We welcomed the arrival of some dedicated media help for a group of committees in October 2003, and such support was extended in 2004. As recommended by the Review of Select Committee Resources in 2002–03, three select committee media officers are now in post as part of the new Media and Communications Services team. The media officers are available to assist all select committees, but they concentrate particularly on the departmental committees in respect of which they are considered part of each committee team.

111. This extra support is available to individual committees and, most usefully from our own perspective, to assist us in our duties as Chairmen. The media officers work to improve public understanding of, and engagement with, the House's scrutiny function by actively promoting the work of select committees to a wide range of media outlets, including national and regional print and broadcast media, and both trade and consumer press. This work includes:

- publicising reports and evidence sessions;
- providing strategic and tactical advice and support to select committees on media-related aspects of their work, such as that valued by the Defence Committee in handling sensitive issues during its *Duty of Care* inquiry;²¹²
- liaising with lobby journalists and specialist correspondents to improve awareness of committee work;
- developing media best practice across a range of committees;
- ensuring that coverage of our work, and its value, is available to a wider audience.

112. This liaison work has proved not only effective but also, we understand, has been well received by journalists. The aim is not just to increase the quantity of media coverage, but also to improve its quality. Over time it is likely that their role could be developed further, but already some improved coverage for committee work is being seen, not only in the national press and broadcast media but also in the regional press and in specialist publications.

Webcasting

113. The improvements to the webcasting service announced in last year's Annual Report were implemented successfully during 2004.²¹³ In October 2004 the webcasting service at www.parliamentlive.tv—free and universally available—was expanded. It now provides live

²¹¹ HC (2003–04) 368, para 119

²¹² HC (2004–05) 290, para 24

²¹³ HC (2003–04) 446, para 69

coverage of every meeting which is taking place in public. It is not unusual for as many as 15 meetings to be webcast simultaneously. We understand that the scale of Westminster's output is unmatched by any other legislature in the world. All material carried live, whether televised or in sound-only, is available from an on-demand searchable archive for the following 14 days. **This direct access for the public is a welcome achievement, which we hope can eventually be extended to visual coverage of all public meetings.**

Other work by committees to engage with the public

114. The classic way for committees to engage with the public is to carry out visits in the United Kingdom. Such occasions provide an opportunity both for formal evidence and, more importantly, for informal contact with local individuals and organisations. For example, the Transport Committee travelled to Shrewsbury and the Marches to examine Rural Railways, and visits by the Home Affairs Committee to prisons, or the Defence Committee to defence establishments, were frequent during 2004.²¹⁴

115. In addition, there were other initiatives. The Public Administration Committee hosted two half-day conferences during 2004.²¹⁵ The first, entitled 'Appointment by Lot—A Role for the Citizen in Governance?' focused on the way in which thousands of people are appointed in the UK every year to public institutions, and discussed current procedures for appointment and possible alternatives.²¹⁶ The second, 'From Sleaze to Trust', attracted around 180 people; speakers included the Leader of the House and Howell James, the Permanent Secretary for Government Communications.²¹⁷ In addition, as part of its inquiry into *Choice and Voice in Public Services*, the Committee held an informal seminar in which government experts, academics, 'think tanks' and the voluntary sector participated.²¹⁸

116. The Culture, Media and Sport Committee also took an innovative approach to the launch of its Report on *Arts Development: Dance*.²¹⁹ To coincide with the launch of the Report, the Random Dance Company performed the first dance especially choreographed for the House of Commons, on the parliamentary estate.

Public perception of Parliament

117. **We welcome the promotion of the work of select committees to the public as part of the House's communications strategy.** The strategy is outlined in paragraph 105 above. Recent research carried out for the House by the Hansard Society produced an encouraging response from a series of pilot visits involving groups from constituencies. These visits focused on the working parts of Parliament, rather than the normal public tour. Feedback from participants showed that the visitors gained a positive impression of

214 See Sessional Return for entries relating to individual select committees.

215 HC (2004–05) 306, paras 17–18

216 The conference was organised in association with the Centre for Public Scrutiny and the Institute for Public Policy Research.

217 The conference was organised in association with the Committee on Standards in Public Life and the Constitution Unit of University College London.

218 HC (2004–05) 306, para 6

219 HC (2004–05) 253, para 10

select committee work, producing favourable comments that it was “generally non-adversarial, well-researched and not divided on party lines”, as well as more interesting than Commons debates.²²⁰

118. As we develop the promotion of the work of committees with the extra staff resources which have recently been put in place, we will bear in mind the need to publicise and explain our work not only to the media, but also directly to the public. One recent innovation was the production of notes for visitors who attend our evidence sessions. But improved websites and the webcasting service enable us to engage with the wider public who do not visit the Palace of Westminster. We would support a further enhancement of these services.

6 Committee activity and resources

Select committee activity

119. As noted at the start of this Report, there were continuing high levels of committee activity in 2004. Table 1 and Chart 1 detail the number of committee meetings occurring in each session since 1997–98, split by committee type.²²¹

- While the total number of committee meetings has largely fluctuated in line with session lengths, there has been a **slight increase in the number of meetings per sitting week**, with the rate for Session 2003–04 of 34.1 representing a 20% increase from 1997–98.
- Most of this increase is due to the growth in the number of meetings held by *other scrutiny committees*, including those by *ad hoc* bill committees carrying out **pre-legislative scrutiny**.
- There has also been a steady rise over the period in the proportion of all committee meetings which are **public evidence sessions**. Such meetings are now at the highest rate ever per sitting week, and represented 60% of the total in 2003–04, up from 49% in 1997–98. The Science and Technology Committee even recorded that during 2004 it held 42 meetings and took evidence at 41 of them.²²²

120. Table 2 and Chart 2 detail the number of substantive reports published in each session since 1997–98, again split by committee type.

- The total number of reports published has increased over the period and reached a **new high of 365** in 2003–04, up 14% from 1997–98.
- Reports were published at an **average rate of 9.9 per sitting week** in 2003–04, 59% higher than in 1997–98, and second only to the rate of 10.3 recorded in the short 2000–01 Session.

221 *Departmental select committees*: committees (and sub-committees) shadowing government departments or functions/initiatives performed by those departments. *Other scrutiny committees*: Consolidation, Environmental Audit, European Scrutiny, Human Rights, Public Accounts, Public Administration, Regulatory Reform, Statutory Instruments, Tax Law Rewrite Bills and *ad hoc* bill committees. *Domestic/admin committees*: Domestic Committees plus Finance and Services, Liaison, Modernisation, Procedure, Selection and Standards and Privileges Committees.

222 HC (2004–05) 199

Table 1: Select committee meetings by type of committee: 1997–98 to 2003–04

Number	Departmental select committees		Other scrutiny committees		Domestic/admin committees		All committees	
	All meetings	of which public ¹	All meetings	of which public ¹	All meetings	of which public ¹	All meetings	of which public ¹
1997–98	959	617	240	81	279	24	1,478	722
1998–99	756	478	230	117	168	14	1,154	609
1999–00	803	535	191	65	166	16	1,160	616
2000–01	339	197	117	51	81	5	537	253
2001–02	801	496	292	118	219	15	1,312	629
2002–03	798	567	295	132	152	13	1,245	712
2003–04	758	561	358	178	146	20	1,262	759
Rate per sitting week²								
1997–98	18.4	11.9	4.6	1.6	5.4	0.5	28.4	13.9
1998–99	21.6	13.7	6.6	3.3	4.8	0.4	33.0	17.4
1999–00	20.1	13.4	4.8	1.6	4.2	0.4	29.0	15.4
2000–01	17.8	10.4	6.2	2.7	4.3	0.3	28.3	13.3
2001–02	17.8	11.0	6.5	2.6	4.9	0.3	29.2	14.0
2002–03	21.0	14.9	7.8	3.5	4.0	0.3	32.8	18.7
2003–04	20.5	15.2	9.7	4.8	3.9	0.5	34.1	20.5

Notes: ¹Meetings at which oral evidence was taken wholly in public.

²Weeks where the House of Commons sat for at least two days, excluding emergency recalls.

Source: *Sessional Returns, Sessions 1997–98 to 2003–04*

Slight increase in number of committee meetings per sitting week since 2000–01

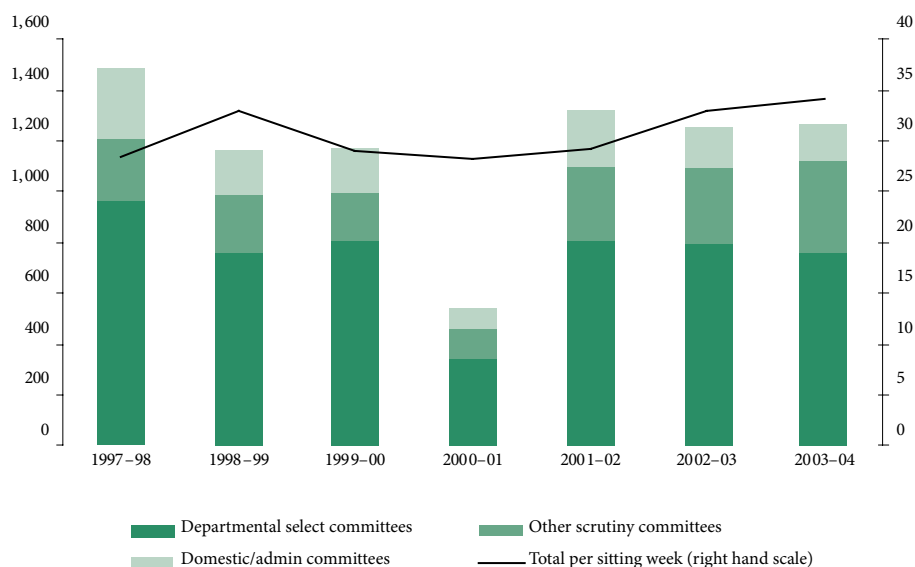


Chart 1: Committee meetings by type of committee and session: 1997–98 to 2003–04

Source: *Sessional Returns, Sessions 1997–98 to 2003–04*

Table 2: Substantive committee reports published by session: 1997–98 to 2003–04

	Departmental select committees	Other scrutiny committees	Domestic/admin committees	All committees
Number				
1997–98	112	177	32	321
1998–99	134	118	26	278
1999–00	134	123	32	289
2000–01	122	57	16	195
2001–02	119	201	19	339
2002–03	161	173	16	350
2003–04	152	199	14	365
Rate per sitting week¹				
1997–98	2.2	3.4	0.6	6.2
1998–99	3.8	3.4	0.7	7.9
1999–00	3.4	3.1	0.8	7.2
2000–01	6.4	3.0	0.8	10.3
2001–02	2.6	4.5	0.4	7.5
2002–03	4.2	4.6	0.4	9.2
2003–04	4.1	5.4	0.4	9.9

Notes: ¹Weeks where the House of Commons sat for at least two days, excluding emergency recalls.

Source: *Sessional Returns, Sessions 1997–98 to 2003–04*

**Number of substantive committee reports
reached a new high in 2003–04 Session**

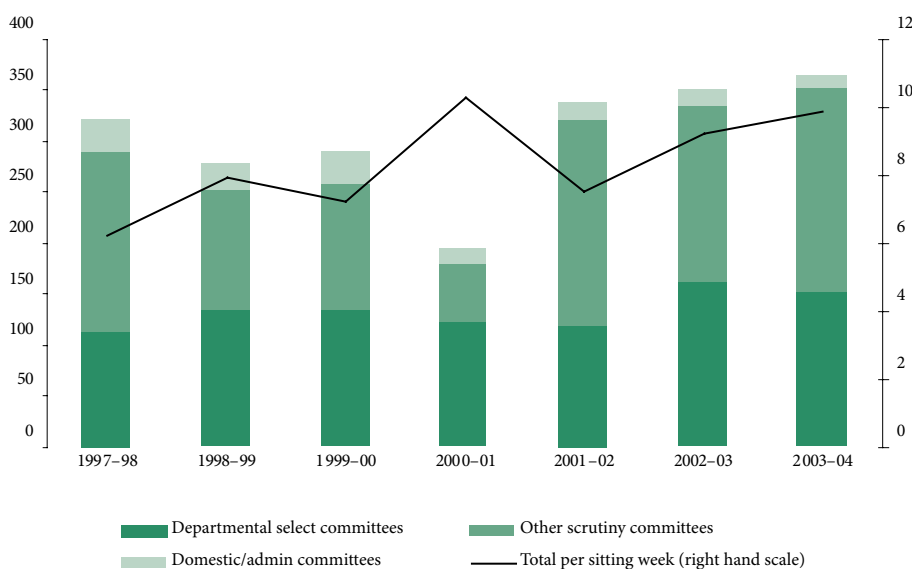


Chart 2: Number of substantive reports published by type of committee and session: 1997–98 to 2003–04

Source: *Sessional Returns, Sessions 1997–98 to 2003–04*

Costs of select committee work

121. Table 3 details the costs of committee work in each session since 1997–98, broken down by broad expenditure category. The increase in costs set out in the Table has mainly been driven by the increased staffing support for committees as a result of the creation of the Scrutiny Unit and the Review of Select Committee Resources in 2002–03, as discussed earlier. The total number of staff supporting select committees at the end of the period was 207.5, of which 171 were in the Committee Office.

122. Table 3 gives details of costs for select committees. The figures for printing and publication relate to parliamentary sessions of varying length so direct comparisons cannot be made between them.

Table 3: Approximate select committee costs (cash terms): 1997/98 to 2003/04

<i>£000s</i>	Staff costs ¹	Select committee expenses ²	Printing and publication costs	Total costs
1997/98	:	2,069	2,616	:
1998/99	:	1,778	2,079	:
1999/00	3,500	2,099	2,375	7,974
2000/01	4,000	846	980	5,826
2001/02	4,300	2,279	1,479	8,058
2002/03	5,200	2,187	1,410	8,797
2003/04	6,300	2,757	1,532	10,589

Notes: ¹Approximates for financial year.

²Includes visits, specialist advisers' fees, work commissioned, transcription of evidence and witnesses' expenses.

Source: *Sessional Returns, Sessions 1997–98 to 2003–04*

123. Comprehensive details of expenditure attributable to individual select committees are included in the Sessional Return for Session 2003–04 published on 25 January.²²³

7 Accountability of Government: revision of the guidance to officials

124. In our last Annual Report, we recorded our concern at the contrast between the level of access to information and people achieved by Lord Hutton in his recent inquiry, and that available to select committees.²²⁴

125. We expressed our view as follows:

The Government has undertaken to co-operate as fully as possible in the provision of information to Parliament.²²⁵ It is therefore reasonable to expect that select committees should receive Government co-operation as fully as an inquiry set up by the Government itself.

During evidence to us on 3 February,²²⁶ the Prime Minister agreed to undertake a review within Government of its guidance to officials relating to the availability of witnesses and evidence (usually known as ‘the Osmotherly Rules’).²²⁷ The Leader of the House gave a similar undertaking on 5 February,²²⁸ and we look forward to discussing the results of the review with him. We have drawn the Government’s attention to particular aspects of the problem, about which we have been concerned for some time:

- access to No. 10 policy advisers;
- availability of current policy reviews and reports;
- evidence on ‘joined-up’ policies from government departments involved, including HM Treasury.²²⁹

126. The Government’s review took most of 2004, and eventually produced a new draft of Departmental Evidence and Response to Select Committees on which we took evidence from the Leader of the House, Rt Hon Peter Hain MP, on 19 October.²³⁰

127. The Guidance is a text produced by Government for its own officials. It is not a parliamentary text nor has it ever been endorsed by us or our predecessors. Its approach offers a signal of how fully Whitehall is prepared to make itself accountable to select committees.

128. Overall, many of the changes that appear in the new version simply reflect developments in the structure and practice of committees since the last edition issued in January 1997. Of more significance are:

224 HC (2003–04) 446

225 See the Resolution of the House on Ministerial Accountability to Parliament, CJ (1996–97) 328.

226 Liaison Committee, *The Prime Minister*, 3 February 2004, HC 310-i, Q 1

227 Departmental Evidence and Response to Select Committees, Cabinet Office, 1997

228 HC Deb, 5 February 2004, col 905

229 HC (2003–04) 446, paras 87–90

230 Liaison Committee, *Evidence to Committees*, 19 October 2004, HC 1180-i

- The addition of the words “including special advisers” in para 43: “Where a Select Committee indicates that it wishes to take evidence from a particular named official, including special advisers, the presumption should be that Ministers will agree to meet such a request”;
- The reference to providing information largely through memoranda has been removed from paragraph 56. It used to read (as para 50): “The Government's commitment to provide as much information as possible to Select Committees is met largely through the provision of memoranda, written replies to Committees' questions and oral evidence from Ministers and officials. It does not amount to a commitment to provide access to internal files, private correspondence, including advice given on a confidential basis or working papers”;
- A new paragraph: “Government Departments should, wherever possible, co-operate fully with inquiries on joined-up policies” (para 61).

129. The overall position on provision of information to select committees is now described by the Government as follows in its current draft:

The Government is committed to being as open and as helpful as possible with Select Committees. The presumption is that requests for information from Select Committees will be agreed to. Where a Department feels that it cannot meet a Committee's request for information, it will make clear its reasons for doing so citing the appropriate exemptions in the Code of Practice on Access to Government Information (FOI Act from January 2005) or the relevant statute. Where a department feels it cannot disclose information in open evidence sessions or in memoranda submitted for publication, Departments will wish to consider whether the information requested could be provided on a confidential basis. (para 67)

130. When the Committee took evidence on the new text from the Leader of the House in October, we continued to express concern at the remaining gap between the access to information and persons enjoyed by outside reviews such as the Hutton Inquiry, and our own past experience in select committees. Nevertheless, we were encouraged by the Leader's new emphasis on “the presumption that the provision of information will be agreed to”. He said:

We have made a number of positive and very significant changes in response: namely, making clear the presumption that Committees' requests on attendance of civil servant witnesses, including Special Advisers, will be agreed to; making clear the presumption that the provision of information will be agreed to, including the presumption of cooperation on joined-up inquiries, including a new paragraph on parliamentary privilege in relation to evidence from civil servants and non-departmental public body staff, and encouraging departments to be proactive in providing relevant information and documents to Committees.²³¹

131. Mr Hain assured us that “there has not been such a clear-cut presumption before” (Q15) although Ministers’ reserved the right to look at [access] on a case-by-case basis (Q11).²³²

132. In parliamentary terms, this is an encouragingly positive statement. The test will be in delivery, as always. Such warm words from the Leader of the House will need to be translated into action by his colleagues and their departments. We will put these and the other assurances to the test in individual committees. On the basis of our experience, and that of our successors in a new Parliament, in which we hope select committees will be nominated promptly, the Liaison Committee will judge ministers and departments on their performance in practice.

Conclusions and recommendations

1. Committees are continuing to make an important contribution to high profile policy debates; furthermore, they are also ensuring that the spotlight of parliamentary scrutiny is directed at lower profile areas of policy, thus directing Ministers' attention to areas which might otherwise be ignored. (Paragraph 19)
2. We welcome the recent growth in the number of bills published in draft form and encourage the Government to raise the proportion further. (Paragraph 29)
3. We welcome the innovative approaches taken by committees in seeking to ensure the quality and utility of scrutiny work on draft legislation. (Paragraph 33)
4. We are grateful to the Leader of the House for establishing the practice of providing us with advance notice of the possible scope and timing of the publication of draft bills. (Paragraph 34)
5. The Government must ensure that appropriate consultation has taken place on the policy behind a draft bill prior to its publication. The full benefit of the pre-legislative scrutiny process can be realised only if draft legislation is published in a sufficiently developed state. (Paragraph 36)
6. Committees are eager to examine draft bills thoroughly and thoughtfully, in order to make it more likely that well-considered legislation is presented to Parliament, and to enable Parliament to carry out better-informed scrutiny of the Government's legislation. The Government must ensure that it sends clear signals to committees in order to enable them to organise their programmes appropriately. (Paragraph 37)
7. There should be "a presumption in favour of draft bills going to departmental select committees for pre-legislative scrutiny, where they are ready and willing to undertake this." (Paragraph 38)
8. We note that, twice in 2004, the Government appears to have sought to have a departmental committee scrutinise a memorandum containing proposals for a bill, rather than publishing a draft bill for scrutiny. However, given the support the Government has expressed for the pre-legislative scrutiny process, we would be extremely concerned if this process came to be regarded as a substitute for, or an alternative to, pre-legislative scrutiny of a draft bill. We consider that such a process is more appropriate for use in the case of minor or uncontroversial legislation, and we urge the Government to ensure that its use is considered only in such cases. (Paragraph 41)
9. We are doubtful whether the creation of a Joint Liaison Committee, which would inevitably be a rather unwieldy body, would be justified by any benefits it might produce. (Paragraph 43)
10. Committees have continued to build on their role of examining expenditure, through analysis and review of departmental annual reports, Supplementary Estimates, departmental resource accounts and 2004 spending review settlements. In

comparison with 2003, an increased number of oral evidence sessions on departmental annual reports were held and an increased number of committees examined the Supplementary Estimates. (Paragraph 49)

11. We repeat our recommendation that the Treasury should take steps to ensure that committees receive draft Estimates at the earliest practicable date. (Paragraph 51)
12. Committees have raised important and constructive concerns about both the substance and functioning of PSA targets. Committees have also demonstrated their flexibility in considering PSA targets in the context both of examining departmental annual reports and of wider policy-based inquiry work. Given each committee's extensive experience in overseeing the activities of a particular government department, we expect the Government to give careful consideration to concerns raised about such targets. (Paragraph 63)
13. Where practicable, we encourage committees to adopt a planned programme of scrutiny of the work of agencies, NDPBs and other associated public bodies falling within their remit. (Paragraph 68)
14. We conclude that the success of formal joint working between the Welsh Affairs Committee and Committees of the National Assembly presents a strong argument for making permanent formal joint working in the next Parliament. (Paragraph 81)
15. We note the concerns of some committees about the quality of service provided by certain government departments. Good working relationships between departments and select committees are crucial to effective parliamentary scrutiny. We expect the departments concerned to consult the relevant committee/s in order to address committees' concerns. In particular, it is crucial that departments:
 - keep committees properly informed of important announcements and decisions and of publication of key documents;
 - respond to committees' requests for information in a timely fashion, with information of a high quality which engages with the issues identified by committees; and
 - keep committees informed of anticipated delays to departmental responses to such requests. (Paragraph 96)
16. We expect departments to ensure that Government responses to committee reports are delivered within the standard two-month deadline. Committees should be kept informed of any anticipated delay, and the reasons for it. In its responses, the Government should ensure that it engages meaningfully with the substance of committees' conclusions and recommendations. (Paragraph 97)
17. In the case of reports agreed ahead of a Dissolution, we would expect Government responses to be published within two months of the date of the General Election. This would ensure that they are published without undue delay, and available to any successor committee. (Paragraph 98)

18. While departmental select committees value their autonomy in deciding their own programmes of work, there is a case for more systematic scrutiny of such significant statutory instruments which amend Acts of Parliament. Otherwise the detailed scrutiny of super-affirmative legislation might be an appropriate task for the Committee on the Merits of Statutory Instruments if it is converted into a Joint Committee. This issue should be addressed early in the new Parliament. (Paragraph 104)
19. The liaison work by the select committee media officers has proved not only effective but also, we understand, has been well received by journalists. The aim is not just to increase the quantity of media coverage, but also to improve its quality. Over time it is likely that their role could be developed further, but already some improved coverage for committee work is being seen, not only in the national press and broadcast media but also in the regional press and in specialist publications. (Paragraph 112)
20. Direct access for the public to select committee meetings via webcasting is a welcome achievement, which we hope can eventually be extended to visual coverage of all public meetings. (Paragraph 113)
21. We welcome the promotion of the work of select committees to the public as part of the House's communications strategy. (Paragraph 117)
22. As we develop the promotion of the work of committees with the extra staff resources which have recently been put in place, we will bear in mind the need to publicise and explain our work not only to the media, but also directly to the public. One recent innovation was the production of notes for visitors who attend our evidence sessions. But improved websites and the webcasting service enable us to engage with the wider public who do not visit the Palace of Westminster. We would support a further enhancement of these services. (Paragraph 118)
23. The Guidance 'Departmental Evidence and Response to Select Committees' is a text produced by Government for its own officials. It is not a parliamentary text nor has it ever been endorsed by us or our predecessors. Its approach offers a signal of how fully Whitehall is prepared to make itself accountable to select committees. (Paragraph 127)
24. In parliamentary terms, the evidence given to us by the Leader of the House on 19 October contained an encouragingly positive statement. The test will be in delivery, as always. Such warm words from the Leader of the House will need to be translated into action by his colleagues and their departments. We will put these and the other assurances to the test in individual committees. On the basis of our experience, and that of our successors in a new Parliament, in which we hope select committees will be nominated promptly, the Liaison Committee will judge ministers and departments on their performance in practice. (Paragraph 132)

Appendix 1: List of Annual Reports of Select Committees for 2004

Committee	Report reference
Constitutional Affairs	Second Report, HC 207: <i>Work of the Committee in 2004</i>
Culture, Media and Sport	Second Report, HC 253: <i>Work of the Committee in 2004</i>
Defence	First Report, HC 290: <i>Work of the Committee in 2004</i>
Education and Skills	Fourth Report, HC 359: <i>The Work of the Committee</i>
Environmental Audit	Letter from the Chairman (Appendix 2)
Environment, Food and Rural Affairs (EFRA)	Third Report, HC 281: <i>The Work of the Committee in 2004</i>
European Scrutiny	Sixth Report, HC 38-vi: <i>The Work of the Committee in 2004</i>
Foreign Affairs	First Report, HC 112: <i>The Work of the Committee in 2004</i>
Health	First Report, HC 284: <i>The Work of the Committee in 2004</i>
Home Affairs	Second Report, HC 280: <i>Work of the Committee in 2004</i>
Human Rights (Joint Committee)	Letter from the Chairman (Appendix 3)
International Development	Second Report, HC 326: <i>Work of the Committee in 2004</i>
Northern Ireland Affairs	Fourth Report, HC 262: <i>The Work of the Committee in 2004</i>
ODPM	Second Report, HC 149: <i>The Work of the Committee in 2004</i>
Public Administration	Second Report, HC 306: <i>Work of the Committee in 2004</i>
Science and Technology	Second Report, HC 199: <i>Annual Report 2004</i>
Scottish Affairs	First Report, HC 277: <i>Work of the Committee in 2004</i>
Trade and Industry	Fourth Report, HC 214: <i>The Work of the Committee in 2004</i>
Transport	First Report, HC 251: <i>Work of the Committee in 2004</i>

Treasury	Third Report, HC 335: <i>Work of the Treasury Committee in 2004</i>
Welsh Affairs	First Report, HC 256: <i>Work of the Committee in 2004</i>
Work and Pensions	First Report, HC 133: <i>Work of the Committee in 2004</i>

All HC numbers are of Session 2004–05.

Appendix 2: Letter from the Chairman of the Environmental Audit Committee

Letter from the Chairman of the Environmental Audit Committee to the Chairman of the Liaison Committee

1. For the two calendar years before 2004, EAC voluntarily committed itself to produce an Annual Report, in line with the practice of departmental select committees. EAC understands how useful the Liaison Committee finds these Reports, which provide much of the matter for its own Report on the working of select committees. For this last year, 2004, it has been decided that current pressures of work, a result of the expected General Election in May, mean that, instead of an Annual Report, the Liaison Committee will instead have this letter to draw upon.

2. This letter briefly outlines the breadth of the agenda that EAC followed during 2004, emphasising its continuity with the work agenda from previous years – a distinct characteristic of the EAC – and the range of different departments from which it took evidence. It also stresses the significance of its inquiries and Reports to the House, to the Government and to the wider public; and finally points out some more procedural issues (in the widest sense) relating to its work. Attached are two annexes relating to our work and to the Government's responses to our Reports.

3. With regard to EAC's agenda during 2004, let me stress at the outset that, mindful of its unusual cross departmental remit, we have tried to pursue inquiries which take account of the full breadth of Government activity. Inevitably, the Department for Environment, Food and Rural Affairs has borne the brunt of our scrutiny, but our work has also covered aspects of the activities of HM Treasury (Budget and pre-Budget Report inquiries), the Department for Transport (our inquiries into aviation, resulting in three Reports during 2004), the Office of the Deputy Prime Minister (our Sustainable Housing inquiry), the Home Office, the Department for Constitutional Affairs (both scrutinised in relation to the Sub-Committee's inquiries into environmental crime), the Department for Trade and Industry (energy), the Department for Education and Skills (our current Sub-Committee's inquiry into environmental education) and the Foreign and Commonwealth Office (our inquiry into the challenge of international climate change). Memoranda have been sought and received from all of these departments, Government responses have been prepared by them alone or in conjunction with DEFRA, and civil servants or Ministers have given evidence from five departments other than DEFRA, with Ministers from two more departments having given or due to give evidence on inquiries begun in 2004 during the first month of 2005.

4. In addition, our annual Greening Government exercise by its very nature covered every department of state, and EAC's inquiry and Report into the Sustainable Development Strategy review likewise covered the whole panoply of environmental activity undertaken by Government. Both of these inquiries also carried forward patterns of work or particular areas of regular interest upon which EAC has focused in past years. Some significant areas of Government activity – the Department for Health, the Department for Culture, Media and Sport, the Department for Trade and Industry, the Department for Work and Pensions, the Ministry of Defence – are still to come under specific scrutiny from EAC, but we hope and expect that relevant opportunities will present themselves.

5. In terms of EAC's impact, obviously it is very difficult to determine to what extent our recommendations or conclusions directly bear upon changes or developments in Government policy even when these follow in time. As we both know all too well, a select committee will – knowingly or unknowingly – on occasion be pushing against a half-open door: sometimes it will be banging its head against a wall. EAC over 2004 has done a little bit of both.

6. Our Sub-Committee on environmental crime, which was established at the tail-end of 2003 and pursued its agenda through four inquiries and reports - the last still expecting its belated Government response – pushed against an opening door. The issue of local environmental degradation, of fly-tipping and fly-posting, and the connection between environmental blight and anti-social behaviour and crime, was an issue of rising concern amongst the general public and increasingly prominent in the media. The Sub-Committee's inquiries

coincided with a number of Government consultations in this area, and a not insignificant number of our recommendations found their way in some form or other into policy – most notably visible in the Clean Neighbourhoods and Environment Bill – or into ongoing policy development (such as proposals to change some environmental offences from criminal to civil offences).

7. Inquiries themselves can of course have an effect regardless of their outcome. Concerns expressed privately to EAC by several bodies close to Government early in 2004, that water companies were going to be let off the hook by Government in terms of the extent of the programme of environmental improvements that they would be mandated to carry out, led to an immediate inquiry. While the inquiry was in train, and before the Report was drafted, it seems that heads in Government were knocked together, and the water companies made aware that they would have to accept a more substantial programme than they wanted, and one more acceptable to the bodies who had initially expressed their concerns to us. In this case, the Report that concluded the inquiry was in some respects less important and less efficacious than the fact that the inquiry took place at all when it did.

8. Sometimes, however, the Government is very resistant to EAC's agenda. At the beginning of the year, it was clear that we did not see eye-to-eye with the Government over the issue of the GM farm-scale trials and plans to allow GMHT crops to be grown commercially in the UK. Indeed, the Government made a statement in the House only a few days after our Report was issued that effectively dismissed its conclusions and recommendations. The Government response when received was very poor. However, the Report did act as a focus (and catalyst) for a lot of public discussion and concern, and received a good deal of media attention; and the Government's own reaction in policy terms, while still permitting GM crops to be grown, was more prudent than it might have been. And that very prudence has meant that to date no commercial manufacturer of GM seed has gone ahead with marketing the product here.

9. Likewise, in continuing a stream of work begun in its 2003 Report on the Budget and aviation, EAC continued to emphasise a point of grave concern with regard to aviation emissions, climate change and CO₂ targets to which the Government, and the Department for Transport in particular, was very resistant. EAC's Report on the 2003 Pre-Budget Report and Aviation, which came out in March 2004, stoked concerns about the environmental impact of uninhibited growth in aviation, following the aviation White Paper and Government decisions about future airport and runway provision. Again, the Government response to our concerns was very dismissive – not to say rude – but pressure from us, the publicity generated by the Report, and the fact that similar concerns were being raised by the RCEP and the SDC, created the momentum which led to the joint PSA target for control of CO₂ emissions being signed up to by the Department for Transport – a clear successful outcome for our labours. Moreover, Government rhetoric on climate change is now more likely to allude to the problem of aviation emissions.

10. The debate on climate change has also been advanced in another respect. For several years, the EAC has audited the overall progress which the Government has been making against its key 2010 targets – the 20% carbon reduction target and the 10.4% renewables target. Nearly two years ago, the EAC courted the wrath of the Treasury by pointing out that the UK Climate Change Strategy was way off course and that more action was called for, a concern it reiterated most recently last August in its Budget 2004 and Energy report. It therefore gave us a certain ironic satisfaction that, in launching its review of the Climate Change Strategy towards the end of 2004, the Government finally acknowledged our point.

11. And with regard to these last two inquiry streams, GM crops and aviation, it is only relevant to point out, as touched upon above, that EAC still has concerns relating to the quality of Government replies. EAC receives most of its Government responses through DEFRA, although occasionally they come from another Government department. Even responses originating within DEFRA often carry a significant amount of material sourced extra-departmentally. The responses received by us are therefore extremely variable in content. While this is no doubt to a degree inevitable, and in part contingent upon the extent to which the Government accepts our recommendations or conclusions, it does lead to occasions on which the nature of the response is so sketchy, or so wilfully unhelpful, as to require some action from us. The Government response to the Committee's Report on GM crops was very poor. It effectively dismissed the Report without even bothering to answer several of its key points, and also deliberately misinterpreted several other points in an attempt to rubbish its conclusions and recommendations. We therefore issued a Report very critical of the tone and lack of real content in the Government response on GM, and expedited its publication so that it was available for the debate on GM on the Floor of the House on 5th May.

12. With regard to EAC's pre-Budget and Aviation Report, the tone of the Government response and its singular lack of content were even more noticeable. This lamentable response, originating with DfT, scandalously failed to respond at all to several recommendations aimed at the Government. We printed it in our own 7th Report which took issue with its tone and failure to engage with our conclusions. We also insisted on the Government again responding to those points ignored or misrepresented in its first response. To give DfT some credit, the second response was a great improvement on the first, a point acknowledged in our 11th Report which, for the moment, has drawn a line under this saga.

13. Government responses have also been late (see Annex B), a regular phenomenon which we are sympathetic towards insofar as some of these responses have to be marshalled across several government departments and collated within DEFRA before they are sent on to us. However, EAC is not always alerted to possible delays, and even when so alerted, delays still have a tendency to extend themselves, suggesting that some departments may well take advantage of the habitual delay with cross-cutting EAC responses to be less than efficient.

14. Finally, I have to make mention of growing support given by NAO to EAC. As you are aware, the Government's intention in setting up EAC – at least in terms of the manifesto upon which it campaigned – was for the Committee to be given support formally by NAO, in roughly the same way that PAC is supported. Again, as you know, that support failed to materialise. At the end of EAC's first Parliament, our predecessor Committee pressed Government for that support to no avail. However, over the last two years, the EAC has made in its reports a number of requests for audit assistance in certain specific areas – to which the NAO has proved very willing to respond. The growth of an informal relationship (helped by the ongoing secondment to the EAC of an NAO auditor) is now resulting in a number of reports and briefings from the NAO. The first of these was appended to the our Greening Government 2004 Report, and others have at the time of writing been received or are in the process of being finalised before despatch to our staff. This informal working relationship represents a step-change in how the work of EAC is resourced and could have welcome implications for the range of EAC scrutiny and for the breadth of its output. Even more welcome, however, would be the formalising of this support, for which EAC will continue to press.

15. I hope that the above gives a good indication of the most significant points relating to EAC's work over 2004.

Peter Ainsworth MP
February 2005

ANNEX A

Table 1: Subjects covered by EAC Committee, 2004

Subject	Evidence sessions in 2004	Sub-Committee	Outcome
Annual Report 2003	-	No	Report, January 2003 (1 st Report, Session 2003-04, HC215)
GM Foods – Evaluating the Farm Scale Trials	4	No	Reports, March and May 2004 (2 nd and 5 th Reports, Session 2003-04, HC90 and 564)
Pre-Budget 2003: Aviation follow-up	4	No	Reports, March, June and September 2004 (3 rd , 7 th and 11 th Reports, Session 2003-04, HC233, 623 and 1063)
Water: The Periodic Review 2004 and the Environmental Programme	3	No	Report, May 2004 (4 th Report, Session 2003-04, HC416)
Environmental Crime and the Courts	4	Yes	Report, May 2004 (6 th Report, Session 2003-04, HC126)
Greening Government 2004	-	No	Report, July 2004 (8 th Report, Session 2003-04, HC881)
Environmental Crime: Fly-tipping, fly-posting, Litter, Graffiti and Noise	3	Yes	Report, July 2004 (9 th Report, Session 2003-04, HC445)
Budget 2004 and Energy	5	No	Report, August 2004 (10 th Report, Session 2003-04, HC490)
Environmental Crime: Wildlife Crime	4	Yes	Report, October 2004 (12 th Report, Session 2003-04, HC605)
The Sustainable Development Strategy: illusion or reality?	4	No	Report, November 2004 (13 th Report, Session 2003-04, HC624)
Hazardous Waste and Waste Policy	1	No	Evidence to be published in 2005
Housing; building a Sustainable Future?	7	No	Report to be published in 2005

The international challenge of Climate Change: UK leadership in the G8 and EU	4	No	Report to be published in 2005
Environmental Crime: Corporate Crime	3	Yes	Report to be published in 2005
Environmental Education	2	Yes	Report to be published in 2005

Table 2: Visits by the EAC Committee in 2004

Location	Purpose of Visit
Bonn, Germany	Attending International Parliamentary Forum on Renewable Energies
Berlin, Germany	State Visit Climate Change Conference
Brussels, Belgium	EU Policy and the Environment
Farnham Castle	Study Seminar – Putting the Environment First
Leeds Council	Inquiry Fly-tipping, fly-posting, Litter, Graffiti and Noise
Aberdeen, Scotland	Inquiry Housing: Building a Sustainable Future and future inquiries into renewable energies
Hackbridge, Surrey	Inquiry Housing: Building a Sustainable Future

ANNEX B

Government responses 2004

REPORT	PUBLISHED 2004	GOVERNMENT REPLY RECEIVED 2004	DAYS TO REPLY	DAYS OVERDUE ²³³
GM Foods Evaluating the Farm Scale Trials	5 March	28 April (published with the Committee's 5 th Report on 10 May)	54	0
Pre-Budget 2003: Aviation follow-up	15 March	19 May (published with the Committee's 7 th Report on 7 June)	65	4
Water: The periodic Review 2004 and the Environmental Programme	6 May	8 July	62	1
GM Food – Evaluating the Farm Scale Trials: the Government Response to the Committee's Second Report	10 May	Not applicable	-	-
Environmental Crime and the Courts	12 May	12 October	152	91
Aviation Sustainability and the Govt Response	7 June	13 September (published with the Committee's 11 th Report on 23 September)	98	37
Greening Government 2004	27 July	27 October	92	31
Environmental Crime: Fly-tipping, Fly-posting, Litter, Graffiti and Noise	28 July	25 October	89	28
Budget 2004 and Energy	11 August	12 October	62	1
Aviation: Sustainability and the Government's Second Response	23 September	Not applicable	-	-

²³³ For the purpose of these calculations we have assumed two months to equate 61 days.

Environmental Crime Wildlife Crime	7 October	Reply due 7 December	-	24 as at 31 December 2004
The Sustainable Development Strategy: Illusion or Reality	8 November	Reply due 8 January	-	-

Appendix 3: Letter from the Chairman of the Joint Committee on Human Rights

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

Work of the JCHR in 2004

The Liaison Committee has asked each of the Departmental Select Committees to produce reports on their activities in 2004, with particular reference to the “core tasks”. As I said in my letters to you last year and the year before, the JCHR is of a rather different nature from 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, and, again, I do not envisage that the JCHR will publish an annual report this year. Before the end of this Parliament, if time permits, we do propose to publish a Report reviewing our activities over the entire Parliament, which we hope will prove valuable to our successors in the next Parliament as well as to a wider audience. In the meantime, I set out below what we have done in 2004, 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. We confine our scrutiny work mainly to legislation or proposals for legislation. However, we examine the Government’s responses to the Concluding Observations of various UN Committees on the UK’s periodic reports under the major international human rights instruments. In 2004, we published a Report on the UN International Covenant on Economic, Social and Cultural Rights.²³⁴ The next treaty we will be considering is the International Convention on the Elimination of Racial Discrimination. We expect to take evidence and produce a Report early in 2005.

We also continued to monitor proposals to reform the European Court of Human Rights. We visited the Council of Europe institutions in Strasbourg in March to hold discussions on this topic. Reform proposals were eventually contained in Protocol No. 14 to the ECHR and associated Recommendations. We reported on these during the “Ponsonby period” following the formal laying of the Protocol before Parliament.²³⁵

We responded by letter to the European Commission’s consultation on the proposal to transform the EU Monitoring Centre on Racism and Xenophobia into an EU Fundamental Rights Agency.

From time to time in our scrutiny of legislation we also consider the human rights implications of associated draft guidance. An example was in relation to the *draft School Transport Bill*.²³⁶

²³⁴ Twenty-first Report of Session 2003–04, *The International Covenant on Economic, Social and Cultural Rights*, HC 1188 (Government Response awaited)

²³⁵ First Report of Session 2004–05, *Protocol No. 14 to the European Convention on Human Rights*, HC 106

²³⁶ Seventeenth Report of Session 2003–04, *Scrutiny of Bills: Seventh Progress Report*, HC 999 and Twentieth Report, Session 2003–04, *Scrutiny of Bills: Eighth Progress Report*, HC 1187

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

In my letter to you last year I reported our pleasure that in 2003 the Government had accepted our recommendation that a Commission for Equality and Human Rights should be established. We have continued to follow this issue during 2004, making visits to South Africa and Ireland to obtain information on their equivalent Commissions and producing two more Reports on the subject as proposals for the body's functions and structure have been refined.²³⁷ We will continue this work when the Equality Bill is introduced in the current Session.

In our scrutiny of the Children Bill²³⁸ we continued to monitor the provisions relating to the establishment of a Children's Commissioner for England which we had recommended the previous year.

For nearly the entire year we continued our inquiry into the human rights implications of deaths in state custody, which included the question of the adequacy of subsequent inquiries into such deaths. This constituted our major non-scrutiny work of the year, involving substantial written and oral evidence and visits to a number of custodial institutions in the UK. Our Report was published in December.²³⁹

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. In 2004, we reported substantively on the *draft Charities Bill*,²⁴⁰ the *draft School Transport Bill*²⁴¹ and the *draft Criminal Defence Service Bill*.²⁴² Our inquiries have overlapped with those of other committees into the wider questions raised by draft bills, but this has not caused any major 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.

This task is not generally applicable as we have no single department to monitor. Overall human rights policy responsibility lies with the Department of Constitutional Affairs, and we have begun an inquiry into the DCA's review of international human rights instruments, the result of which was reported in July.

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

This task is largely inapplicable to us, but see Task 7 below.

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

This task is not relevant to the JCHR.

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

In general terms, this task is not relevant to the JCHR. 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, on

237 Eleventh Report of Session 2003–04, *Commission for Equality and Human Rights: Structure, Functions and Powers*, HC 536, and Sixteenth Report of Session 2003–04, *Commission for Equality and Human Rights: The Government's White Paper*, HC 998

238 Nineteenth Report of Session 2003–04, *Children Bill*, HC 537

239 Third Report of Session 2004–05, *Deaths in Custody*, HC 137

240 Twentieth Report of Session 2003–04, *Scrutiny of Bills: Eighth Progress Report*, HC 1187

241 Seventeenth Report of Session 2003–04, *Scrutiny of Bills: Seventh Progress Report*, HC 999, and Twentieth Report of Session 2003–04, *Scrutiny of Bills: Eighth Progress Report*, HC 1187

242 HC (2003–04) 999

which we reported in 2003. In this context, we note and welcome the Government's announcement on 17 December of the outcome of the review of the Commission's powers, and look forward to seeing further details of this as well as the Government's response to our Report.

We continue to see strong grounds for the proposed Commission for Equality and Human Rights being accountable to Parliament principally through the JCHR, when it is established.

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

Not relevant to the JCHR. It may become so in the context of the proposed Commission for Equality and Human Rights.

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

We maintain a constant interest in the implementation of the Human Rights Act 1998 itself, including the development of judicial case-law, as well as the effectiveness of administrative and policy measures taken within the Government and other public authorities to promote human rights values. In March we published an important Report on meaning of "public authority" under the Human Rights Act 1998²⁴³ in the light of emerging case-law which appeared to place a restrictive interpretation on it.

We do not generally examine the implementation of other legislation, as by and large this would fall outside our remit. We have, however, followed up in reports on human rights points we have raised in relation to Bills as they were passing through Parliament, particularly in relation to the Anti-terrorism, Crime and Security Act 2001.²⁴⁴

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. Our Reports continue to be widely used and cited in legislative debates in both Houses.

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 Session 2003–04 we reported on nearly all Bills presented to Parliament in respect of their compatibility with Convention Rights as defined by the Human Rights Act 1998 and other human rights instruments.²⁴⁵ During that Session, the Committee published thirteen reports on Bills before both Houses.²⁴⁶ We considered a total of 105 Public Bills, including 35 Government Bills. Our general approach to this work remains—

243 Seventh Report of Session 2003–04, *The Meaning of Public Authority under the Human Rights Act*, HC 382

244 Sixth Report of Session 2003–04, *Anti-Terrorism, Crime and Security Act 2001: Statutory Review and Continuance of Part 4*, HC 381; and Eighteenth Report of Session 2003–04, *Review of Counter-terrorism Powers*, HC 713

245 The two exceptions were the Gambling Bill and the School Transport Bill, both introduced late in the Session and carried over to the 2004–05 Session. In the case of the latter Bill, we reported substantively on the preceding draft Bill in our Seventeenth and Twentieth Reports of Session 2003–04.

246 Third Report of Session 2003–04, *Scrutiny of Bills: Progress Report*, HC 252; Fourth Report of Session 2003–04, *Scrutiny of Bills: Further Progress Report*, HC 303; Fifth Report of Session 2003–04, *Asylum and Immigration (Treatment of Claimants etc.) Bill*, HC 304; Eighth Report of Session 2003–04, *Scrutiny of Bills: Third Progress Report*, HC 427; Tenth Report of Session 2003–04, *Scrutiny of Bills: Fourth Progress Report*, HC 503; Twelfth Report of Session 2003–04, *Scrutiny of Bills: Fifth Progress Report*, HC 603; Thirteenth Report of Session 2003–04, *Scrutiny of Bills: Sixth Progress Report*, HC 640; Fourteenth Report of Session 2003–04, *Asylum and Immigration (Treatment of Claimants, etc.) Bill: New Clauses*, HC 828; Fifteenth Report of Session 2003–04, *Civil Partnership Bill*, HC 885; Seventeenth

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.

We continued during Session 2003–04 to operate Bill scrutiny in accordance with 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 make that assessment on the basis of a number of criteria including—

- the seriousness of the interference with, and the nature of, the right(s) affected,
- the severity of the impact of any infringement on victims,
- the vulnerability of potential victims, and
- 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 have been confined to those which seem to us to raise substantial human rights issues requiring extended discussion.²⁴⁷

During the 2003–04 Session we kept pace with Government Bills in our scrutiny work. We do however wish to register our concern at the speed with which major Government Bills are being dealt with, particularly in the Commons, at the start of Session 2004–05. In the case of some Bills with significant human rights implications, we fear that we may be unable to carry out our scrutiny in time to inform parliamentary debate. I am writing separately to the Leader of the House on this matter.

Private Members' Bills

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.

Report of Session 2003–04, *Scrutiny of Bills: Seventh Progress Report*, HC 999; Nineteenth Report of Session 2003–04, *Children Bill*, HC 537; Twentieth Report of Session 2003–04, *Scrutiny of Bills: Eighth Progress Report*, HC 1187; Twenty-third Report of Session 2003–04, *Scrutiny of Bills: Final Progress Report*, HC 1282

247 Asylum and Immigration (Treatment of Claimants, etc.) Bill, Civil Partnership Bill and Children Bill.

Private Bills

We also consider each Private Bill deposited, and the Promoter's opinion on its compatibility with the Human Rights Act. In Session 2003–04, we reported on each of the four Private Bills introduced.

Remedial orders

We are required by our governing Standing Order to consider and report on remedial orders laid under the Human Rights Act. One such order was made and laid in 2004, the Naval Discipline Act 1957 (Remedial) Order 2004, under the urgent procedure provided for by section 10 and paragraph 4 of Schedule 2 to the Act. We duly reported on this order, recommending it be approved.²⁴⁸

On 1 March 2004 the Human Rights Act 1998 (Making of Remedial Orders) Bill was introduced into the House of Lords by Lord Lester of Herne Hill, then a member of our Committee and acting on our behalf. The Bill would have made two procedural changes to the parliamentary procedure on remedial orders which we had previously recommended²⁴⁹ and which had been endorsed by the House of Commons Procedure Committee.²⁵⁰ The Bill passed the Lords and I took it up when it arrived in the Commons, but it did not receive a second reading here.

Delegated Legislation

In general terms, we do not examine delegated legislation systematically. We rely on the JCSI to consider Convention rights issues as a question of vires. However, we have on occasion pursued especially significant instruments in human rights terms, especially where these arise from powers we commented on substantively in the course of our legislative scrutiny. We reported twice on specific items of delegated legislation,²⁵¹ and these reports were referred to in the debates in both Houses.

Co-operation of Government Departments

With a remit extending to matters relating to human rights in the UK, our legislative scrutiny 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 they have with their evidence to our other, non-scrutiny, inquiries. We believe that this has assisted us in extending awareness, in Parliament and within government departments, of a range of human rights as they apply in the UK.

Rt Hon Jean Corston MP

January 2005

248 Ninth Report of Session 2003–04, *Naval Discipline Act 1957 (Remedial) Order 2004*, HC 477

249 In our Seventh Report of Session 2001–02, *Making of Remedial Orders*, HC 473.

250 Procedure Committee's First Report of Session 2001–02, *Making of Remedial Orders: Recommendations by the Joint Committee on Human Rights*, HC 626

251 Twenty-second Report of Session 2003–04, *The Nationality, Immigration and Asylum Act 2002 (Specification of Particularly Serious Crimes) Order 2004*, HC 1212; and Second Report of Session 2004–05, *The Draft Criminal Justice Act 2003 (Categories of Offences) Order 2004*, HC 107

Appendix 4: Memorandum on the Work of the Scrutiny Unit

Scrutiny Unit activity in 2003-04

Overview

1. The Committee Office Scrutiny Unit was set up in November 2002 following recommendations from the Liaison Committee, the Modernisation Committee and the Procedure Committee, and the approval of the House of Commons Commission. The Unit provides specialist support for committees on expenditure matters and draft bills, together with an element of ‘surge’ capacity at times of unexpected demand or temporary staff shortages and more general support in its areas of specialism. The Unit reached its full complement in January 2004 with ten specialists and seven core staff, but the short-term nature of many contracts means staff turnover has been high.
2. The Scrutiny Unit carried out 87 tasks for select committees in the 2003–04 parliamentary session. Of these, 42 related to expenditure, 14 related to draft bills and 31 related to other tasks such as legislation other than draft bills. As Table 1 shows, however, the 14 draft bill tasks accounted for over two thirds (68 per cent) of staff time, with expenditure accounting for a further 22 per cent of activity and other tasks representing 10 per cent.
3. Chart 1 shows that the split of Unit staff time between these three task types has not been uniform over the session but has been driven by parliamentary activity, such as the publication of draft bills and departmental annual reports.
4. Table 2 details the ten largest individual objects of Scrutiny Unit activity in 2003–04: the largest being the *draft Gambling Bill*, which accounted for over 400 staff days (not including support from House of Lords staff). Each of the four largest objects relate to joint committees staffed by the Unit. In total, the Unit staffed eight joint committees and worked with three others in 2003–04, entailing 1,228 staff days of work – more than half the Unit total.
5. Each of the eight joint committees staffed by the Unit considered draft bills. In several instances, a significant number of memoranda were received. The Unit received over 1,200 memoranda in relation to the *draft Mental Incapacity Bill*, over 400 for the *draft Mental Health Bill* (to date), and over 350 for both the *draft Civil Contingencies Bill* and the *draft Charities Bill*.
6. Chart 2 details the number of tasks and the length of time spent by the Unit on work for Commons select committees. This chart excludes work that cuts across several committees, such as that undertaken on Winter and Spring Supplementary Estimates (which forms a significant element of its work), and focuses on those tasks on which committees have approached the Unit for assistance. Differences in usage levels across committees have depended on subject matter, relevant committee and Unit staff expertise, and the timing of requests. The largest users of Unit time were the ODPM, EFRA, Constitutional Affairs and Northern Ireland Affairs committees.

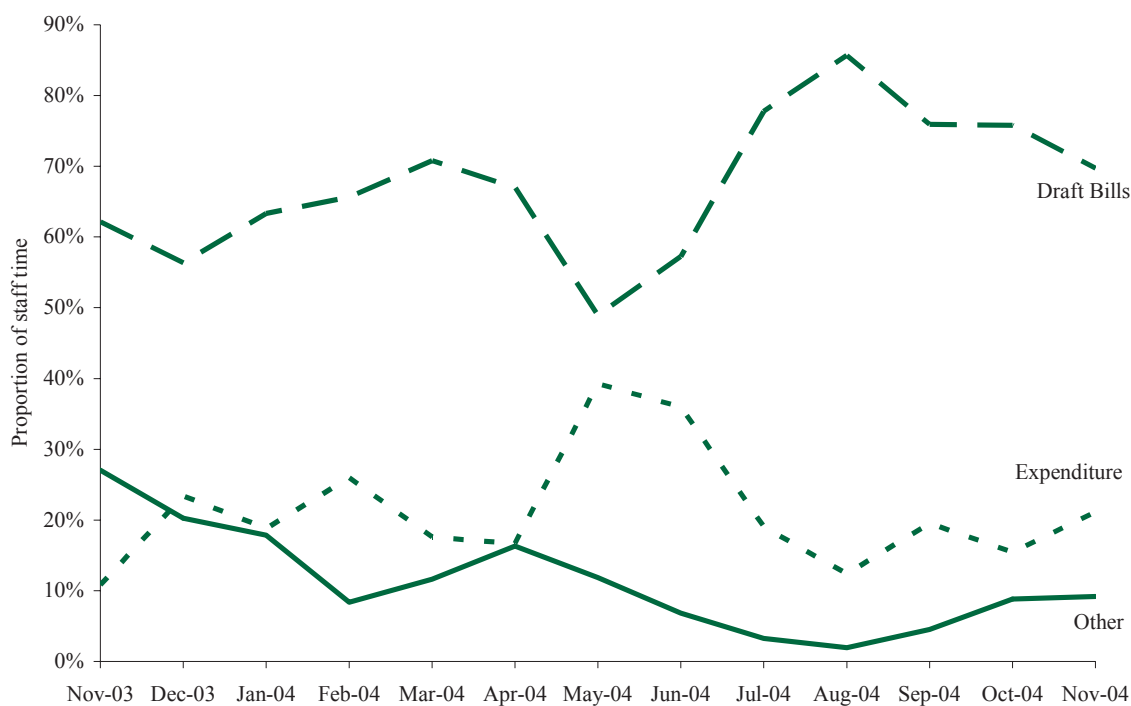
**Table 1: Scrutiny Unit activity during 2003–04 Session:
Number of tasks and number of staff days by type of task**

	Number of tasks				Number of staff days			
	Expenditure	Draft Bills	Other	Total	Expenditure	Draft Bills	Other	Total
Nov-03	2	2	4	8	2.0	11.5	5.0	18.5
Dec-03	3	5	8	16	34.0	82.0	29.5	145.5
Jan-04	9	6	7	22	38.5	129.5	36.5	204.5
Feb-04	10	4	8	22	46.5	117.5	15.0	179.0
Mar-04	11	5	9	25	47.0	189.0	31.0	267.0
Apr-04	9	6	7	22	25.5	102.5	25.0	153.0
May-04	12	7	5	24	63.0	78.5	19.0	160.5
Jun-04	15	8	7	30	71.0	113.0	13.5	197.5
Jul-04	15	6	4	25	41.0	167.5	7.0	215.5
Aug-04	5	4	3	12	16.0	110.5	2.5	129.0
Sep-04	12	4	3	19	39.0	151.5	9.0	199.5
Oct-04	8	5	5	18	24.5	120.5	14.0	159.0
Nov-04	8	3	3	14	23.0	76.0	10.0	109.0
Session	42	14	31	87	471.0	1,449.5	217.0	2,137.5

Notes: Nov-03 relates to period from 26 November 2003-30 November 2003 only
Nov-04 relates to period from 1 November 2004-18 November 2004 only

Source: Scrutiny Unit timesheets

Chart 1: Division of Scrutiny Unit staff time between three task categories varied over the course of the 2003–04 Session



Notes: Nov-03 relates to period from 26 November 2003-30 November 2003 only
Nov-04 relates to period from 1 November 2004-18 November 2004 only

Source: Scrutiny Unit timesheets

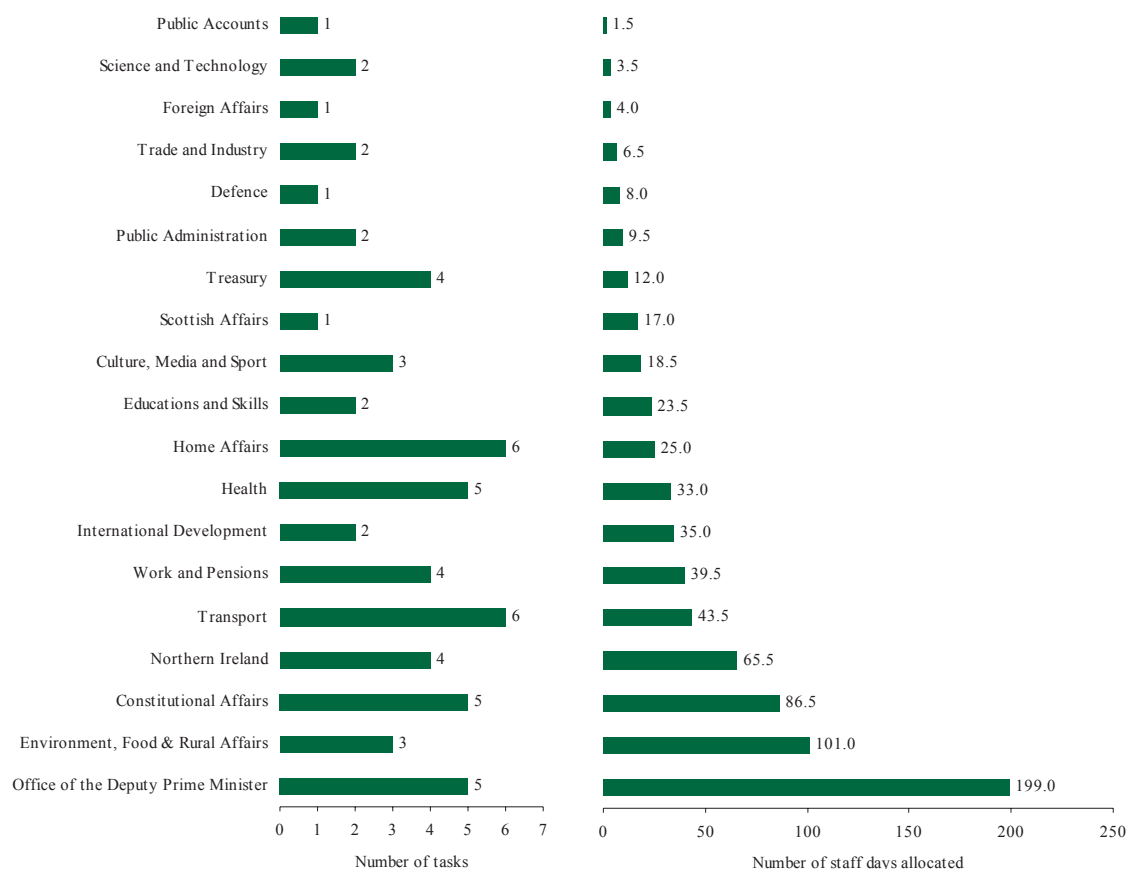
**Table 2: Scrutiny Unit staff days allocation in 2003–04 Session:
Ten largest items**

Task	Committee	Nov-03 -	Mar-04 -	Jun-04 -	Aug	Sep-04 -	Session 2003-
		Feb-04	May-04	04	04	Nov-04	2004
Draft Gambling Bill (Regional Casinos)	Joint Committee	0.0	0.0	44.5	0.0	3.5	48.0
Decent Homes	ODPM	37.5	15.5	0.0	0.0	0.0	53.0
Draft Regional Assemblies Bill	ODPM	0.0	0.0	33.0	0.0	30.0	63.0
Balance of Funding Review	ODPM	23.0	24.0	19.5	0.0	0.0	66.5
Draft Animal Welfare Bill	EFRA	0.0	2.0	29.5	0.0	67.5	99.0
Draft Disability Discrimination Bill	Joint Committee	70.0	97.5	0.0	0.0	0.0	167.5
Draft Mental Health Bill	Joint Committee	2.5	10.5	45.0	0.0	199.5	257.5
Draft Charities Bill	Joint Committee	9.5	78.0	193.5	0.0	47.5	328.5
Draft Gambling Bill	Joint Committee	246.5	159.0	0.0	0.0	0.0	405.5

Notes: Nov-03 relates to period from 26 November 2003-30 November 2003 only
Nov-04 relates to period from 1 November 2004-18 November 2004 only

Source: Scrutiny Unit timesheets

Chart 2: Scrutiny Unit work for select committees in 2003–04 Session



Source: Scrutiny Unit timesheets

Task 1: Scrutiny of policy proposals

7. Amongst other relatively small tasks undertaken on behalf of select committees, the Unit assisted the Joint Committee on Human Rights with its review of counter-terrorism powers, analysing the legal response of 14 foreign jurisdictions to the threat from international terrorism.

Task 2: Identification and examination of areas of emerging or deficient policy

8. Examples of tasks falling under this heading include *ad hoc* assistance provided to the Constitutional Affairs Committee for a single evidence session on ecclesiastical patronage and assistance given to the Home Affairs Committee in reviewing and questioning the cost assumptions underlying the possible introduction of ID cards.

Task 3: Draft Bills

9. The Unit worked on draft bills by providing (in collaboration with staff of the House of Lords) the secretariat of *ad hoc* joint committees and assisting departmental select committees. This was the major consumer of Unit resources.

The two Joint Committees on the Draft Gambling Bill

10. The Joint Committee on the Draft Gambling Bill was appointed by the House of Commons and the House of Lords on 9 September 2003. The bulk of the draft Bill, which ran to 268 clauses and 10 schedules, was published in instalments between July 2003 and February 2004. The Joint Committee received over 170 written submissions and held 17 oral evidence sessions. Evidence was heard from a broad range of witnesses, including Christian groups, industry associations, academics, a trade union and four Government Ministers. In addition, the Committee made a number of visits within the UK, including to Great Yarmouth and Blackpool, as well as two overseas visits.

11. The Committee's Report was published in April 2004. Given the range and complexity of the issues examined during the intensive eight month inquiry, the Report ran to over 600 paragraphs and included 139 recommendations. The Government's response, published in June 2004, described the Report as "a thorough examination of all the issues surrounding the reform of gambling law in Britain" and accepted 129 of the Committee's 139 conclusions and recommendations.

12. The Committee recommended that it should be reappointed to consider the Government's response to its conclusions relating to the definition, location, economic and other implications of the largest casinos. This recommendation was accepted by the Government and the Joint Committee on the Draft Gambling Bill (Regional Casinos) was appointed on 21st June 2004. Although the Committee reported within a month of its appointment, it received over 50 submissions and held four oral evidence sessions, hearing evidence from more than 25 witnesses.

13. The Committee's Regional Casinos Report, published in July 2004, ran to nearly 100 paragraphs, including 24 conclusions and recommendations. A number of these recommendations were accepted in the Government's September 2004 response to the Report. The Gambling Bill was presented to the House of Commons on 24th November 2004 and the Parliamentary and public debates about it have been informed by the conclusions and recommendations of the Joint Committees, whose work has been referred to extensively.

Draft Disability Discrimination Bill

14. The *draft Disability Discrimination Bill* was published on 3 December 2003. It fitted within the existing framework of the Disability Discrimination Act 1995. A Joint Committee was established by resolutions of the House of Commons on 15 January 2004 and the House of Lords on 21 January 2004. The Committee received over 140 written submissions in response to a general call for evidence. Oral evidence was heard in nine public meetings in February and March.

15. In its Report published on 27 May, the Committee made 75 recommendations. The Government responded to the Report on 15 July; it accepted 41 of the Committee's recommendations, partially accepted, deferred or delegated 11, and rejected 23.

16. The Disability Discrimination Bill was introduced to the House of Lords on 25 November 2004.

Draft Charities Bill

17. A joint committee was appointed on 10 May 2004 to "consider and report on any draft Charities Bill presented to both Houses by a Minister of the Crown" and to do so by the Government deadline of 30

September 2004. The draft Bill was published by the Home Office on 27 May 2004. The Committee held 14 meetings, 8 of which were oral evidence sessions, and received 362 memoranda.

18. The Committee published its Report on 30 September 2004, making 54 recommendations in total. The Government's response was published, alongside the Bill proper, by the Home Office on 21 December 2004. Of the Committee's 54 recommendations the Government accepted 26, partially accepted, deferred or delegated 13, misinterpreted 1 and rejected 14.

Draft Mental Health Bill

19. A Joint Committee on the Draft Mental Health Bill was set up in July 2004 with 12 Members from each House under the chairmanship of Lord Carlile of Berriew. The Joint Committee is required to consider and report on the draft Bill, which was published on 8 September, by 31 March 2005. The Committee began taking oral evidence on 20 October and by the end of the year had held eight evidence sessions, including one at the National Assembly for Wales, had received 401 memoranda and had visited mental health facilities in South London and in Cardiff.

Assisting other Committees with pre-legislative scrutiny work

20. The Scrutiny Unit provided extensive legal and financial expertise to support the Constitutional Affairs Committee in connection with its inquiry into the *draft Criminal Defence Service Bill*. The Unit also assisted the ODPM Committee in its pre-legislative scrutiny of the *draft Elected Regional Assemblies Bill*, giving specialist advice on the economic and constitutional implications of the proposals. Specialist financial and legal support was also provided to the Education and Skills Committee in connection with its scrutiny of the *draft School Transport Bill*. In addition, the Unit's lawyers provided advice to the Northern Ireland Affairs Committee on the Draft Criminal Justice (Northern Ireland) Order 2004 and to the Defence Committee on its inquiry into the Government's proposals for a Tri-Services Act. The Unit assisted the Environment, Food and Rural Affairs Committee with legal and financial briefing as well as contributing to the Committee's final report on the *draft Animal Welfare Bill*.

Task 4: Examination of departmental decisions, circulars, guidance etc

21. Under this heading, support from the Unit has generally focused on financial and legal aspects of material encountered by individual committees in the course of their wider policy inquiries. The Unit provided substantial input into the Northern Ireland Affairs Committee's inquiry into electoral registration.

Task 5: Scrutiny of expenditure plans and outturn

22. In addition to the expenditure issues raised in the course of policy inquiries and draft bills, committees' scrutiny of public expenditure continued to develop both in volume and breadth during the year. This work was conducted through analysis and review of:

- departmental annual reports;
- Supplementary Estimates;
- departmental resource accounts; and
- 2004 Spending Review settlements.

23. This wider basis demonstrates that an active interest is directed towards expenditure-related issues by departmental select committees. Committees' ability to identify and highlight such issues has continued to be enhanced by the Scrutiny Unit's expert assistance.

24. Activity during 2004 continued to focus primarily on departmental annual reports. Examination was conducted either by correspondence or by taking oral evidence from Ministers or officials. A significant number of the oral sessions included questions relating to the 2004 Spending Review settlements. Overall, an increased number of oral evidence sessions on departmental annual reports were held compared to last year and an equivalent number of committee reports are intended to be produced.

25. The number of committees examining Supplementary Estimates continued to increase during the year, building on previous levels in both the 2003–04 Spring Supplementary and 2004–05 Winter Supplementary

Estimates rounds. This work took the form of written correspondence with departments and follow up action as appropriate, with the Scrutiny Unit performing the majority of this analysis on behalf of committees.

26. A number of committees undertook a detailed review of their department's resource accounts for the first time in 2004, whilst the Northern Ireland Affairs Committee continued to examine all Northern Ireland departments' resource accounts. Both the Public Administration Select Committee and the Northern Ireland Affairs Committee found evidence of poor financial control in combination with either a lack of corporate governance processes or unacceptably high levels of fraud and error and dedicated oral evidence sessions to these findings. Subsequent to this, the Northern Ireland Affairs Committee published a report in January 2005 setting out their findings and recommendations on this inquiry.

27. Following correspondence with the Liaison Committee Chairman, which highlighted concerns over the lack of time between the presentation of Estimates and their being formally put to the House for approval, the Chief Secretary to the Treasury agreed, as part of a package of amendments updating Standing Order No. 55, that the minimum period between laying and voting the Estimates be extended from seven to fourteen clear days, providing committees with more time to examine Estimates, seek further information from departments and, if appropriate, report back to the House. This extension allowed the Liaison Committee to suggest an education-related topic for the Estimates Day, after analysis of the Supplementary Estimate requests, which was accepted by the House and debated on 9 December 2004.

28. In conjunction with this change, Treasury now requires departments to produce an Estimates Memorandum in support of each Estimate presented to Parliament for approval (including Revised or Supplementary Estimates). The new Memorandum is intended to assist select committees' scrutiny of public expenditure by providing explanations of the impact and consequences of changes sought in the Estimate. Memoranda are to be provided to committees no later than the date the Estimate is laid, and should follow a standardised format.

29. Cross-departmental analysis undertaken by the Scrutiny Unit of the first set of Memoranda, those supporting the 2004–05 Winter Supplementary Estimates, showed marked variability between departments in their quality and usefulness. In the majority of cases Memoranda did not contain sufficient detail under the specified standard headings to add significantly to committees' understanding of the changes sought. In two instances the Memoranda produced were of such poor quality that committees returned the documents and requested revised versions from the departments. In another two instances the Memoranda arrived over a week late.

Task 6: Scrutinising Public Service Agreements and targets

30. The Unit has undertaken ongoing systematic review of departments' annual spring expenditure reports and annual autumn performance reports, and provided briefing to select committees on these matters. These briefings have been used to pursue issues with individual departments relating to public service agreements and targets.

Task 7: Monitoring the work of agencies and others

31. The Unit has provided extensive background briefing to committees in supporting their work under this heading.

Conclusions

32. Overall, demand for the services provided by the Unit remains strong, but generally in a reasonable balance with the resources we have to meet it. It seems likely, if present trends continue, that demand for support for joint committees on draft bills may continue to grow significantly. If it does, there will be staffing implications.

33. The financial scrutiny work of the Unit is significantly enhancing the House's capacity to take an overview of the quality of government financial reporting and its usefulness to select committees and individual Members. This is an area of work in which there is room for further development.

34. A general election will provide an opportunity for a strategic review of the Unit and the application of resources to tasks, within the broad framework set by the Liaison Committee and the House of Commons Commission in establishing the Unit.

Paul Evans
Head of the Scrutiny Unit
22 February 2005

Formal minutes

Thursday 3 March 2005

Members present:

Mr Alan Williams, in the Chair

Mr Peter Ainsworth	Mr Michael Jack
Derek Conway	Mr Robert Key
Mr John Denham	Mr Edward Leigh
Mrs Gwyneth Dunwoody	Mr Peter Pike
Mr Bruce George	Mr Barry Sheerman
Dr Ian Gibson	Sir Nicholas Winterton
Mr David Hinchliffe	Sir George Young
Mr Jimmy Hood	

* * *

The Committee deliberated.

Draft Report (Annual Report for 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 132 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.

* * *

[Adjourned till a date and time to be set by the Chairman.]

Reports from the Liaison Committee since 1996

The following reports have been produced by the Committee since Session 1996–1997.

Session 2003–04

First Report	Annual Report for 2003	HC 446
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Session 2002–03

First Report	Annual Report for 2002	HC 558
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Session 2001–02

First Special Report	Evidence from the Prime Minister	HC 984
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First Report	The Work of Select Committees 2001	HC 590
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Second Report	Select Committees: Modernisation Proposals	HC 692
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Session 2000–01

First Report	Shifting the Balance: Unfinished Business	HC 321
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Session 1999–2000

First Report	Shifting the Balance: Select Committees and the Executive	HC 300
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Second Report	Independence or Control?	HC 748
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Third Report	Resource Accounting and Budgeting	HC 841
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Session 1996–97

First Report	The Work of Select Committees	HC 323
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