



House of Commons  
Liaison Committee

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# **Annual Report for 2005–06**

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**First Report of Session 2006–07**





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**First Report of Session 2006–07**

*Report, together with appendices and formal minutes*

*Ordered by The House of Commons  
to be printed 15 March 2007*

## The 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:

Administration – Mr Frank Doran MP (*Labour, Aberdeen North*)  
Communities and Local Government – Dr Phyllis Starkey MP (*Labour, Milton Keynes South West*)  
Constitutional Affairs – Mr Alan Beith MP (*Liberal Democrat, Berwick-upon-Tweed*)  
Culture, Media and Sport – Mr John Whittingdale MP (*Conservative, Maldon and Chelmsford East*)  
Defence – Mr James Arbuthnot MP (*Conservative, North East Hampshire*)  
Education and Skills – Mr Barry Sheerman MP (*Labour/Co-op, Huddersfield*)  
Environmental Audit – Mr Tim Yeo MP (*Conservative, South Suffolk*)  
Environment, Food and Rural Affairs – Mr Michael Jack MP (*Conservative, Fylde*)  
European Scrutiny – Michael Connarty MP (*Labour, Linlithgow and East Falkirk*)  
Finance and Services – Sir Stuart Bell MP (*Labour, Middlesbrough*)  
Foreign Affairs – Mike Gapes MP (*Labour/Co-op, Ilford South*)  
Health – Mr Kevin Barron MP (*Labour, Rother Valley*)  
Home Affairs – Mr John Denham MP (*Labour, Southampton Itchen*)  
Human Rights (Joint Committee) – Mr Andrew Dismore MP (*Labour, Hendon*)  
International Development – Rt Hon Malcolm Bruce MP (*Liberal Democrat, Gordon*)  
Northern Ireland Affairs – Sir Patrick Cormack MP (*Conservative, South Staffordshire*)  
Procedure – Mr Greg Knight MP (*Conservative, Yorkshire East*)  
Public Accounts – Mr Edward Leigh MP (*Conservative, Gainsborough*)  
Public Administration – Dr Tony Wright MP (*Labour, Cannock Chase*)  
Regulatory Reform – Andrew Miller MP (*Labour, Ellesmere Port and Neston*)  
Science and Technology – Mr Phil Willis MP (*Liberal Democrat, Harrogate and Knaresborough*)  
Scottish Affairs – Mr Mohammad Sarwar MP (*Labour, Glasgow Central*)  
Selection – Rosemary McKenna MP (*Labour, Cumbernauld, Kilsyth and Kirkintilloch East*)  
Standards and Privileges – Sir George Young MP (*Conservative, North West Hampshire*)  
Statutory Instruments – David Maclean MP (*Conservative, Penrith and The Border*)  
Trade and Industry – Peter Luff MP (*Conservative, Mid Worcestershire*)  
Transport – Mrs Gwyneth Dunwoody MP (*Labour, Crewe and Nantwich*)  
Treasury – Mr John McFall MP (*Labour/Co-op, West Dunbartonshire*)  
Welsh Affairs – Dr Hywel Francis MP (*Labour, Aberavon*)  
Work and Pensions – Mr Terry Rooney MP (*Labour, Bradford North*)

### 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](http://www.parliament.uk).

### **Publication**

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at [www.parliament.uk/parliamentary\\_committees/liaison\\_committee.cfm](http://www.parliament.uk/parliamentary_committees/liaison_committee.cfm).

### **Committee staff**

The current staff of the Committee are Helen Irwin (Clerk), Robert Wilson (Second Clerk), Kevin Candy (Committee Assistant) and Catherine Close (Secretary). For this Report they were assisted by Eliot Wilson, David Weir, and Matthew Hamlyn and Anwen Rees from the Scrutiny Unit.

### **Contacts**

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## Summary

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Accountability of Government now depends vitally on select committees, whose work since the General Election of 2005 is reviewed in this report.

Hopefully, select committees are doing what the public would like to do. They are posing challenging questions to ministers and civil servants. Without them, there would be no meaningful parliamentary scrutiny.

In open evidence sessions, often in front of the cameras, ministers—in our case the Prime Minister—and officials have to explain and justify their policies. Committees analyse issues and offer conclusions based on evidence. Their reports regularly set the daily political agenda. In this way the full range of Government activity is under Parliament's scrutiny.

Eighteen select committees monitor the main government departments, and others specialise in subjects covering more than one ministerial responsibility. Half the House of Commons takes part in this work, working together in committees of up to 14 Members. Nearly thirty years since its creation in 1979, the modern system of select committees is coming of age.

This report begins by reviewing the different sorts of investigative committee work which now make up the central scrutiny agenda. It then discusses the ways in which committees have been developing their working methods, most notably to connect more directly with the public through webfora or via the media. Financial scrutiny is getting greater emphasis and more resources. Post-legislative scrutiny may be another area for examination, if the right mechanism can be found. Overall, the annual scrutiny output remains impressive—currently up to 150 reports, more than 500 evidence sessions. Thanks to select committees, Parliament is now more active in watching and challenging what Government is doing.



# 1 Introduction

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1. This is our first review of committee work following the General Election of May 2005, and we cover the period to early 2007. As usual, there was some delay before select committees were nominated, but all were established in time to meet and initiate programmes of work before the summer recess. Since then committees have been active across a wide range of policy areas, discharging their duties in a variety of different, and often innovative, ways. Their work regularly dominates political news. It ranges from high profile evidence sessions—such as those which unearthed the failure of the Home Office to deport foreign nationals released from prison,<sup>1</sup> or extracted an admission from the Home Secretary that the immigration system was “not fit for purpose”<sup>2</sup>—to reports which set the daily agenda for public discussion—on identity cards, drug classification, party funding, carbon emissions, parking policy and enforcement or smoking in public places, to give some recent examples.

2. Scrutiny is carried out by the individual select committees which our Members chair—the 18 committees which correspond to government departments, and others such as Environmental Audit, Human Rights,<sup>3</sup> Public Accounts, Public Administration, or Regulatory Reform whose work cuts across all ministerial responsibilities.

3. For proper accountability of Government, committees need full cooperation from ministers and officials, access to information and witnesses, resources to assess the material, and public awareness of their work, currently achieved mainly through the media. Our brief as the Liaison Committee is to make sure that these are available. Particular issues are discussed in later sections of our report, or in the reports on their work produced by individual select committees, on which we have drawn for this text.

4. The Liaison Committee carries out its own scrutiny by means of twice-yearly evidence sessions with the Prime Minister, most recently on 6 February 2007.<sup>4</sup> We have also continued our dialogue with the Leader of the House over issues such as committees’ access to information from departments, post-legislative scrutiny of Acts of Parliament and the role of committees in examining draft bills. We are grateful to the current Leader, Rt Hon Jack Straw, and his predecessors for their willingness to cooperate with our work, which now extends to responding to this report. In addition, we have taken a close interest in the development of committees’ working practices and in their financial scrutiny of Government and ways in which it can be enhanced. More detail on all these issues is included in the appropriate sections of our report.

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1 Committee of Public Accounts, Sixtieth Report of Session 2005–06, *Home Office Resource Accounts 2004–05 and follow-up on Returning failed asylum applicants*, HC 1079

2 Home Affairs Committee, Fifth Report of Session 2005–06, *Immigration Control*, HC 775-I, para 4

3 A Joint Committee with the House of Lords.

4 Oral evidence taken before the Liaison Committee on 6 February 2007, HC (2006–07) 300-i

## 2 Review of committees' work

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5. This section of our report provides an overview of the range of work carried out by individual committees in ensuring accountability. It aims 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 continue to provide the central scrutiny framework for committees as they hold ministers and their departments to account. The core task framework has now been in operation for over four years, since the list of tasks was issued to committees by the Liaison Committee in June 2002. The Committee developed the text of the core tasks from the House's resolution of 14 May 2002.<sup>5</sup>

7. The core tasks represent guidance to committees, not a rigid blueprint. Committees retain the right to choose their own inquiries and need the flexibility to adapt their work programme at short notice, e.g. in response to urgent political issues. Nevertheless, we are convinced that the core tasks framework has the benefit of encouraging a more methodical approach to the business of scrutiny, and helps ensure that all areas of departmental work are covered by committees. Furthermore, as we said in our 2004 report, the discipline of committees assessing their work against the framework “allows the public and the media to appreciate more easily the comprehensive examination of Government which committees undertake”.<sup>6</sup>

8. Not all work by committees falls neatly into the core tasks framework. This is especially the case for cross-cutting committees such as the Environmental Audit Committee and the Public Administration Select Committee, the remits of which range across areas covered by several departments, and without a Departmental Annual Report on which to focus their investigation into administration and expenditure. This is also true, for different reasons, of the Northern Ireland Affairs, Scottish Affairs and Welsh Affairs Committees.<sup>7</sup> The International Development Committee also reports that it has to adapt the core tasks to its particular circumstances, where “much of the policy we examine is implemented on a multilateral basis and often in conjunction with non-governmental organisations (NGOs), which are both national and international”.<sup>8</sup>

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5 *Votes and Proceedings*, 14 May 2002, pp 864–5

6 Liaison Committee, First Report of Session 2004–05, *Annual Report for 2004*, HC 419, para 9

7 For instance, the Welsh Affairs Committee monitors the Wales Office, which has no direct PSA targets (task 6), no responsibility for public bodies or agencies (task 7) and no major appointments (task 8).

8 International Development Committee, Third Report of Session 2006–07, *The Work of the Committee in 2005–06*, HC 228, para 2

Table 1: The core tasks

	OBJECTIVE A: TO EXAMINE AND COMMENT ON THE POLICY OF THE DEPARTMENT
Task 1	To examine policy proposals from the UK Government and the European Commission in Green Papers, White Papers, draft Guidance etc, and to inquire further where the Committee considers it appropriate.
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.

### **Task 1: Scrutiny of policy proposals**

9. This core task encompasses scrutiny of policy proposals both from the UK Government and from the European Commission. Given the volume of such proposals, committees have to be selective about which of them they choose to examine in depth. Nevertheless, they have managed to cover a wide range. The new committees established in this

Parliament have followed the tradition of their predecessors in contributing to the major public policy debates of the day. Some of the subjects are familiar from previous sessions, such as—climate change,<sup>9</sup> the “war on terrorism”<sup>10</sup> and special educational needs,<sup>11</sup> while others are new to committees’ agendas—for example, the switch-off of analogue TV,<sup>12</sup> the London Olympics<sup>13</sup> and space policy.<sup>14</sup>

10. Much of the work of committees done in fulfilment of this core task does not directly address specific policy documents or proposals from Government. But many inquiries do follow this approach, and a selection is set out in Table 2.

**Table 2: Scrutiny of Government policy proposals**

Committee	Policy document or proposal	Committee approach
Communities and Local Government	Planning Gain Supplement	Inquiry and report <sup>15</sup>
Defence	<i>Government’s Defence Industrial Strategy</i>	Inquiry and report <sup>16</sup>
Education and Skills	<i>DfES White Paper, Higher Standards, Better Schools for all</i>	Inquiry and report <sup>17</sup>
	<i>DfES White Paper, Further Education: Raising Skills, Improving Life Chances</i>	Inquiry and report <sup>18</sup>
Environmental Audit	<i>Code for Sustainable Homes</i>	Evidence taken <sup>19</sup>
Health	<i>DoH White Paper, Choosing Health: Making healthy choices easier</i>	Inquiry (into smoking in public places) and report <sup>20</sup>

9 E.g. Environmental Audit Committee, Sixth Report of Session 2005–06, *Keeping the lights on: Nuclear, Renewables and Climate Change*, HC 584-I; Environment, Food and Rural Affairs Committee, Eighth Report of Session 2005–06, *Climate Change: the role of bioenergy*, HC 965-I

10 See Foreign Affairs Committee, First Report of Session 2006–07, *The Work of the Committee in 2005 and 2006*, HC 206

11 Education and Skills Committee, Third Report of Session 2005–06, *Special Educational Needs*, HC 478-I

12 Culture, Media and Sport Committee, Second Report of Session 2005–06, *Analogue Switch-off: A signal change in television*, HC 650-I

13 Transport Committee, Third Report of Session 2005–06: *Going For Gold: Transport for London’s 2012 Olympic Games*, HC 588

14 Science and Technology Committee, inquiry ongoing (see Press Notice 53 of Session 2005–06, 19 July 2006).

15 Communities and Local Government Committee, Fifth Report of Session 2005–06, *Planning Gain Supplement*, HC 1024-I

16 Defence Committee, Seventh Report of Session 2005–06, *The Defence Industrial Strategy*, HC 824

17 Education and Skills Committee, First Report of Session 2005–06, *The Schools White Paper: Higher Standards, Better Schools For All*, HC 633-I

18 Education and Skills Committee, Fourth Report of Session 2005–06, *Further Education*, HC 649

19 Oral evidence taken before the Environmental Audit Committee on 25 January 2006, HC 779-iii

20 Health Committee, First Report of Session 2005–06, *Smoking in Public Places*, HC 485-I

Committee	Policy document or proposal	Committee approach
Trade and Industry	Consultation paper for the Energy Review: Our Energy Challenge	Three inquiries, two (on nuclear power and on local energy) resulting in reports, the other (on gas and coal imports) still in progress <sup>21</sup>
Treasury	HMT Consultation document, <i>Independence for statistics</i>	Inquiry and report <sup>22</sup>
Welsh Affairs	Welsh Office white paper, <i>Better Governance for Wales</i>	Inquiry and report <sup>23</sup>
Work and Pensions	DWP Green Paper, <i>A new deal for welfare: empowering people to work</i>	Inquiry and report <sup>24</sup>
Work and Pensions	DWP White Paper: <i>Security in retirement: towards a new pensions system</i>	Inquiry and report <sup>25</sup>

11. Several committees also examined specific proposals from the European Union. Examples include:

- Environment, Food and Rural Affairs (EFRA) Committee: inquiry and report, *Reform of the EU Sugar Regime*;<sup>26</sup>
- Science and Technology Committee: inquiry and report, *Watching the Directives: Scientific Advice on the EU Physical Agents (Electromagnetic Fields) Directive*;<sup>27</sup>
- Treasury Committee: inquiry and report, *European financial services regulation*.<sup>28</sup>

12. The European Scrutiny Committee takes primary responsibility for examining the detail of EU documents. In the calendar year 2006, the Committee scrutinised 1,002 documents, of which it deemed 494 to be of legal and/or political importance and recommended 50 for debate, including seven on the Floor of the House. In addition to its weekly reports (of which there were 32 in 2006), the Committee also continued to enhance the practice it started in 2004 of reporting on the European Commission's annual work programme. In 2005, the Committee reported on the Commission's Annual Policy

21 Trade and Industry Committee, Fourth Report of Session 2005–06, *New Nuclear? Examining the issues*, HC 1122; and First Report of Session 2006–07, *Local energy—turning consumers into producers*, HC 257. The inquiry still in progress is entitled *UK dependence on gas and coal imports*.

22 Treasury Committee, Tenth Report of Session 2005–06, *Independence of statistics*, HC 1111

23 Welsh Affairs Committee, First Report of Session 2005–06, *Government White Paper: Better Governance for Wales*, HC 551

24 Work and Pensions Committee, Third Report of Session 2005–06, *Incapacity Benefits and Pathways to Work*, HC 616-I

25 Work and Pensions Committee, Fourth Report of Session 2005–06, *Pension Reform*, HC 1068-I

26 EFRA Committee, Second Report of Session 2005–06, *Reform of the EU Sugar Regime*, HC 585-I

27 Science and Technology Committee, Fourth Report of Session 2005–06, *Watching the Directives: Scientific Advice on the EU Physical Agents (Electromagnetic Fields) Directive*, HC 1030

28 Treasury Committee, Seventh Report of Session 2005–06, *European financial services regulation*, HC 778

Strategy for 2006<sup>29</sup> and in 2006, it reported on the Council's and Commission's annual work programmes.<sup>30</sup> These reports from the Committee provide useful additional information to the departmentally-related select committees on forthcoming work by the Commission which may be of relevance to their inquiries. In addition to its weekly reports, the Committee has become increasingly active in holding oral evidence sessions with Ministers. The purpose of these sessions is twofold: to address scrutiny reserve breaches by the Government and to clarify the Government's position on matters of particular concern.

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

13. A significant proportion of committee time is devoted to examining emerging or deficient policy. Often the intervention of a committee will help raise the profile of an issue, or add to the pressure on the Government to modify its approach. Although it is difficult to calculate the exact impact of committees' work on the evolution of Government policy, reports from select committees have thrown up several examples. Rather than simply list a range of inquiries and reports into emerging or deficient policy areas—which can be found in the reports from individual committees—we set out in Table 3 a selection of those where there is direct evidence of an impact on the policy debate and the Government's position.

**Table 3: Emerging or deficient policy: impact of committees**

<b>Committee</b>	<b>Inquiry/report</b>	<b>Impact</b>
Constitutional Affairs	Legal Services Commission: removal of Specialist Support Services <sup>31</sup>	In response to the Committee's report, the LSC admitted that its consultation strategy had been flawed, and announced that it would withdraw its plans to end Specialist Support Services
Education and Skills	Schools White Paper <sup>32</sup>	Government policy changes following the report included: <ul style="list-style-type: none"> <li>• allowing proposals for the establishment of new community schools to be considered;</li> <li>• outlawing the use of interviews in the school admissions process;</li> <li>• requiring admissions authorities to act in accordance with Code of Practice on admissions;</li> <li>• broader remit for the Schools Commissioner.</li> </ul>

29 European Scrutiny Committee, Third Report of Session 2005–06, *The European Commission's Annual Policy Strategy for 2006*, HC 34-iii

30 European Scrutiny Committee, Twenty-fourth Report of Session 2005–06, HC 34-xxiv

31 Constitutional Affairs Committee, Fourth Report of Session 2005–06, *Legal Services Commission: removal of Specialist Support Services*, HC 919

32 HC (2005–06) 633-1

Committee	Inquiry/report	Impact
Health	NHS charges <sup>33</sup>	Government agreed to carry out recommended review and report by summer 2007
Northern Ireland Affairs	Organised crime <sup>34</sup>	Report resulted in several NI Departments taking steps to introduce legislation, including on the transportation of waste, taxi licensing and training for door supervisors
Public Administration	Inadequate Government responses to reports from Parliamentary Commissioner for Administration  Pensions <sup>35</sup>	<i>Debt of Honour</i> report <sup>36</sup> revealed Government scheme to be inadequate; <i>ex gratia</i> scheme changed  Contributed to debate about pensions regulation pre-2004; drew attention to Parliamentary Commissioner's constitutional position
Science and Technology	ID card technologies <sup>37</sup>	Report prompted the Government to assure the Committee that biometric technology will not be used without evidence that it will enhance the overall performance of the system
Transport	Train fares <sup>38</sup>	Government has undertaken to work with train-operating companies to simplify overcomplicated fare regimes
Treasury	National pension savings scheme <sup>39</sup>	Ministers acknowledged value of the report which had "helped our thinking greatly", and influenced debate prior to detailed policy proposals

33 Health Committee, Third Report of Session 2005–06, *NHS Charges*, HC 815-I

34 Northern Ireland Affairs Committee, Third Report of Session 2005–06, *Organised Crime in Northern Ireland*, HC 886

35 Public Administration Select Committee, Sixth Report of Session 2005–06, *The Ombudsman in Question: the Ombudsman's report on pensions and its constitutional implications*, HC 1081

36 Public Administration Select Committee, First Report of Session 2005–06, *A Debt of Honour*, HC 735

37 Science and Technology Committee, Sixth Report of Session 2005–06, *Identity Card Technologies: Scientific Advice, Risk and Evidence*, HC 1032

38 Transport Committee, Sixth Report of Session 2005–06, *How fair are the fares? Train fares and ticketing*, HC 700-I

39 Treasury Committee, Fifth Report of Session 2005–06, *The design of the National Pension Savings Scheme and the role of financial services regulation*, HC 1074-I

### Task 3: Scrutiny of draft bills

14. We are keen to encourage the examination of bills in draft. The Government claims to hold the same view. Yet the results belie the claimed good intentions. As far back as 2001, our predecessor Committee commented that:

despite the good intentions expressed in the 1997 Modernisation Committee's report, the number of bills published in draft since then has been disappointing. We look forward to an improvement in this situation.<sup>40</sup>

Numbers of draft bills did increase in the sessions following that report, but they have fallen again recently.<sup>41</sup> In the 2005–06 Session, the Government published only three draft bills—the lowest number since the 2000–01 Session.<sup>42</sup> This is fewer than the five published in 2004–05 (a far shorter Session), and also represents a smaller proportion of all Government bills introduced (three out of 58, compared to five out of 32). **We are disappointed that the Government has failed to live up to the expectations it has previously raised about the number of bills it will publish in draft.**

15. In the case of several draft bills, committees also expressed concerns relating to the timing of their publication and the time allowed for pre-legislative scrutiny which we discuss further in paragraphs 18–21 below.<sup>43</sup> The draft bills published and scrutinised by committees in 2005–06 are set out in Table 4, together with summary information about timings.

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40 Liaison Committee, Second Report of Session 2001–02, *Select committees: modernisation proposals*, HC 692, para 8

41 Appendix 4 on the work of the Scrutiny Unit contains more information about the number of draft bills in recent sessions.

42 In addition, the Government published draft clauses of the Terrorism Bill, but as these only appeared a few weeks before the Bill itself, no pre-legislative scrutiny took place.

43 See also Select Committee on Modernisation of the House of Commons, First Report of Session 2005–06, *The Legislative Process*, HC 1097, memorandum by Rt Hon The Lord Hunt of Wirral and Rt Hon Alan Beith MP, Ev 137–8

Table 4: Scrutiny of draft bills, Session 2005–06

Draft bill	Committee	Timing issues
Draft Coroners Reform Bill	Constitutional Affairs <sup>44</sup>	Published day before first oral evidence session in Committee's inquiry; report produced within two months
Draft Corporate Manslaughter Bill	Home Affairs/Work and Pensions (joint inquiry) <sup>45</sup>	Published in Session 2004–05; additional clauses published October 2005. Report produced December 2005
Draft Courts and Tribunals Bill	[Not scrutinised by a committee]	Published on the day the House rose for the summer recess
Draft Legal Services Bill	Joint Committee of both Houses <sup>46</sup>	Published May 2005; report produced within two months

In addition, the Environmental Audit Committee held a short inquiry into Defra's consultation paper on a draft Marine bill. The draft Marine Bill itself, although promised by the Government, has yet to appear.<sup>47</sup>

16. Ministers continue to acknowledge the value they place on the pre-legislative scrutiny process. For instance, the Home Office stated, in respect of the pre-legislative scrutiny of the draft Corporate Manslaughter Bill:

Whilst we are not accepting all of the Committees' recommendations, these will play an important part as we revise the draft Bill, and we are confident that the process of pre-legislative scrutiny will result in a number of important improvements to the Bill.<sup>48</sup>

**17. Pre-legislative scrutiny of draft bills is an area where committees can have some of their most significant impact on the work of Government, by improving texts on the basis of expert evidence. We recommend that the Government ensures that a more substantial number of draft bills are submitted for consideration in the future.**

44 Constitutional Affairs Committee, Eighth Report of Session 2005–06, *Reform of the coroners' system and death certification*, HC 902

45 Home Affairs and Work and Pensions Committees, First Joint Report of Session 2005–06, *Draft Corporate Manslaughter Bill*, HC 540-1

46 Report from the Joint Committee on Draft Legal Services Bill, Session 2005–06, HC 1154

47 Environmental Audit Committee, Eighth Report of Session 2005–06, *Proposals for a draft Marine Bill*, HC 1323. The Government announced in February 2007 that it hopes to publish a "Marine Bill White Paper" in March 2007. (HC Deb, 28 February 2007, col 285WH)

48 *Draft Corporate Manslaughter Bill: Government Reply to the First Joint Report Session 2005–06 HC 540*, Cm 6755, March 2006

### *The pre-legislative scrutiny process*

18. Although the committees concerned made many wide-ranging recommendations to Government about how draft bills should be amended before introduction, we focus here on issues of process raised by some committees.

19. As noted above, one of the problems connected with pre-legislative scrutiny has been the timing of publication of draft bills and the short period available for their scrutiny. The Constitutional Affairs Committee noted that the Department for Constitutional Affairs (DCA) published the draft Coroner Reform Bill extremely late—the day before the first oral evidence session—which was “wholly unsatisfactory”. This late publication, combined with the fact that pre-legislative scrutiny had to be completed by the summer recess, meant that little more than a month was available for the Committee to take evidence and publish a report. The Committee commented that, as a result:

we could not take a complete range of detailed evidence from witnesses on its provisions... The Government will, therefore, be publishing a Bill without the benefit of detailed pre-legislative scrutiny on the provisions of the draft Bill... **The Government cannot claim to be engaging in the pre-legislative scrutiny process when it has published the draft Bill so late that there is insufficient time for scrutiny to be carried out thoroughly and effectively.**<sup>49</sup>

The Home Affairs and Work and Pensions Committees noted that the time available for their joint scrutiny of the draft Corporate Manslaughter Bill restricted the amount of oral evidence they were able to take.<sup>50</sup> The draft Courts and Tribunals Bill was published so late in the session that no committee was able to take it up for pre-legislative scrutiny.

20. Apart from timing issues, other points were raised:

- the Constitutional Affairs Committee complained that the Minister had asked the Committee for its views on several issues at a point when it was too late to take evidence on them, which did not “constitute full engagement with the pre-legislative process”;<sup>51</sup>
- the Northern Ireland Affairs Committee expressed its disappointment that the Government was unable to meet its commitment to provide for pre-legislative scrutiny of proposals to replace the Diplock Courts.<sup>52</sup>

**21. The experiences of committees confirm the need for the Government to publish the draft bill in sufficient time to enable proper consideration by a committee. We recommend that the Government take account of the need for adequate time for detailed scrutiny by committees when planning publication. This could be done most suitably by informal consultation between the minister or the Leader of the House and the committee chairman.**

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49 HC (2005–06) 902-I, paras 7, 10

50 HC (2005–06) 540-I, para 3

51 HC (2005–06) 902-I, para 8

52 Northern Ireland Affairs Committee, Second Report of Session 2006–07, *The Work of the Committee in 2006*, HC 294, para 21

### Committees' consideration of other bills

22. In addition to pre-legislative scrutiny, some committees also examined bills after their introduction. Examples include:

- the Constitutional Affairs Committee produced short reports on the Armed Forces Bill, on aspects of the NHS Redress Bill [Lords] as part of its inquiry into Compensation Culture, considered the Compensation Bill [Lords] as part of the same inquiry and took evidence on the Electoral Administration Bill during its passage through the House;<sup>53</sup>
- the Defence Committee published two reports on the Tri-Service Armed Forces Bill, which sought to harmonise the separate systems of military law for the three Services, the first in time for Second Reading, the second before Commons consideration of Lords Amendments;<sup>54</sup>
- the EFRA Committee followed up its examination of the draft Animal Welfare Bill in Session 2004–05 with a brief inquiry into the Bill itself. Evidence taken in the inquiry informed debate during the Bill's passage (and see paragraph 50 below);<sup>55</sup>
- the Health Committee carried out an inquiry into the smoking element of the Health Bill. Its *Smoking in Public Places* Report recommended a total ban on smoking in all public places rather than the Government's proposed partial ban.<sup>56</sup> This recommendation was accepted by the House and the Health Bill was amended at report stage;
- the Transport Committee examined the Road Safety Bill during its passage through Parliament, although it noted that the tight timetable for passage of legislation "can make it very difficult for select committees to have any meaningful and timely input".<sup>57</sup>

23. Several committees also examined the Legislative and Regulatory Reform Bill during its passage through the House; we comment on their work in paragraphs 67–70 below.

24. In this context, we also draw attention to the work of the Joint Committee on Human Rights (JCHR), which among its other tasks scrutinises all Government and private bills passing through Parliament. The Committee aims to report on bills as early as possible in their passage through Parliament, and ideally before they have left the first House. More information about the work of the Joint Committee can be found in the letter from its Chairman published with our report.<sup>58</sup>

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53 Constitutional Affairs Committee, Second Report of Session 2005–06, *The Office of the Judge Advocate General*, HC 731; Fifth Report of Session 2005–06, *Compensation culture: NHS Redress Bill*, HC 1009; Third Report of Session 2005–06, *Compensation culture*, HC 754; Oral and Written Evidence, Session 2005–06, *Electoral Administration*, HC 640-i and ii

54 Defence Committee, First Report of Session 2005–06, *Armed Forces Bill*, HC 747, and Fourteenth Report of Session 2005–06, *Armed Forces Bill: proposal for a Service Complaints Commissioner*, HC 1711

55 EFRA Committee, Third Report of Session 2005–06, *The Animal Welfare Bill*, HC 683

56 Health Committee, *Smoking in Public Places*

57 Transport Committee, First Report of Session 2006–07, *Work of the Committee in 2005–06*, HC 226, para 14

58 Appendix 3

### Public Bill Committees

25. Just before the end of the 2005–06 Session the House agreed to important changes to the way it examines legislation, based on a report from the Modernisation Committee.<sup>59</sup> Perhaps the most significant is that most Public Bill Committees (as the former standing committees have been re-named) now have a power to take oral and written evidence on bills, enjoying the same powers as select committees, before subjecting them to the traditional “line by line” scrutiny.

26. Only two Public Bill Committees have so far taken oral evidence. The new procedure needs time fully to bed down before it will be possible to assess its likely long-term impact on the effectiveness with which the House considers bills. In addition, an assessment of the required briefing support will be necessary. So far this has been provided by Committee Office resources from the Scrutiny Unit and individual committee secretariats. We would be concerned if the new procedure reduced the scope either for pre-legislative scrutiny by select committees or their examination of bills once introduced. The examples we give in paragraph 22 above show how significant this can be. **We recommend that the Government give a clear commitment that the new evidence-taking procedure by Public Bill Committees does not reduce the need for pre-legislative scrutiny, nor does it preclude select committees from examining bills during their passage through the House when they consider their expertise is needed to examine the text in more depth.**

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

27. Few committees undertook discrete inquiries into circulars, guidance, etc from departments. However, some committees did examine specific documents as part of their wider work. For instance:

- the Communities and Local Government Committee examined the guidance issued to local authorities regarding re-licensing, involving the examination of two ministers, drawn from different government departments, which resulted in significant improvements in the timing and clarity of subsequent guidance;<sup>60</sup>
- the Defence Committee received copies of all secondary legislation laid by the MoD and plans to monitor closely secondary legislation brought forward under the Armed Forces Act 2006;<sup>61</sup>
- the Education and Skills Committee, as part of its inquiry into the white paper on schools, looked at the revised draft Code of Practice on Schools Admissions;<sup>62</sup>

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59 Select Committee on Modernisation of the House of Commons, *The Legislative Process; Votes and Proceedings*, 2.11.2006

60 Communities and Local Government Committee, First Report of Session 2006–07, *The Work of the Committee in 2005–06*, HC 198, paras 18–19

61 Defence Committee, Fifth Report of Session 2006–07, *The work of the Committee in 2005 and 2006*, HC 233, para 17

62 HC (2005–06) 633-I

- the Home Affairs Committee continued its scrutiny of the draft sentencing guidelines produced by the Sentencing Guidelines Council.<sup>63</sup>

### **Task 5: Scrutiny of expenditure plans and outturns**

28. Scrutiny of government expenditure is in principle one of the most important tasks of select committees. For the Committee of Public Accounts, this is the prime focus of its work, and the overwhelming majority of its sessions are devoted to this task. Other examples of effective financial scrutiny by committees are highlighted below. There is still a general consensus that committees have not in the past always been as effective as they might have been in challenging departments over their financial performance.<sup>64</sup> For this reason, we have started an examination of how committees' financial scrutiny of Government can be improved. We discuss this in paragraph 34 below.

29. As in previous years, committees' principal focus has been on the Estimates and annual departmental reports, although work has also been done on the Resource Accounts and Autumn Performance Reports. Table 5 gives examples of financial scrutiny by committees.

**Table 5: Scrutiny of expenditure**

<b>Committee</b>	<b>Scrutiny of expenditure undertaken</b>
Communities and Local Government	Departmental Annual Reports and Accounts inquiries, including oral evidence from officials and the Secretary of State, and examination of main and Supplementary Estimates
Culture Media and Sport	Oral evidence sessions with the Secretary of State and officials on Departmental Reports for 2005 and 2006, in each case following a memorandum from the Department in response to questions from the Committee
Defence Committee	Established a framework for scrutiny of the Estimates; produced reports on Spring Supplementary Estimate 2005–06, the Main Estimates 2006–07 and the Winter Supplementary Estimate 2006–07, in each case before the House was asked to agree to the Estimates  Inquiry into the MoD's Annual Report & Accounts, and examined the MoD's expenditure plans
Education and Skills	Two reports on DfES Expenditure following oral evidence session with Secretary of State and officials

63 Home Affairs Committee, First Report of Session 2006–07, *Work of the Committee in 2005–06*, HC 296, para 18

64 E.g. Hansard Society, Alex Brazier and Vidya Ram, *The Fiscal Maze: Parliament, Government and Public Money* (London, 2006)

Committee	Scrutiny of expenditure undertaken
Environment, Food and Rural Affairs	<p>Inquiry into 2005 Departmental Report</p> <p>Inquiry into 2006 Departmental Report and Defra's budget, including two oral evidence sessions with Permanent Secretary</p>
Home Affairs	<p>Scrutinised Departmental Annual Report, but the postponement of the annual report to July 2006 meant that the Committee was not able to hold a subsequent evidence session</p> <p>Examined Main and Supplementary Estimates via correspondence with the Department</p>
International Development	Produced a report on DFID's Departmental Report following an oral evidence session with the Permanent Secretary and other officials
Public Administration	Evidence sessions on work of the Cabinet Office and correspondence with the Cabinet Office in relation to the Estimates
Science and Technology	Regular examination of the DTI's spending so far as it relates to science and technology, and the research councils' budgets. Seeks written explanations as a matter of routine from both
Scottish Affairs	Departmental Annual Report inquiry. Also published an explanatory memorandum on the Spring Supplementary Estimate to make publicly available information that otherwise would not be
Trade and Industry	Oral evidence sessions on the 2005 and 2006 Departmental Reports with Secretary of State and the Permanent Secretary
Treasury	Regular examination of the annual reports and accounts of HM Treasury, HM Revenue & Customs and smaller departments reporting to the Chancellor of the Exchequer, including oral evidence on aspects of spending and on financial management in Government
Welsh Affairs	Departmental Annual Report inquiries 2005 and 2006
Work and Pensions	<p>Oral evidence sessions with the Secretary of State on the 2005 and 2006 Departmental Reports and with the Permanent Secretary on the Autumn Performance Report 2005</p> <p>Examined Main and Supplementary Estimates via correspondence with the Department</p>

30. Table 5 shows the variety of ways in which committees have approached this task. Some take evidence only from officials, others from the Secretary of State. In some cases, committees regard publication of written and oral evidence from the Department as sufficient, but around half of all departmental select committees now publish a report on

their findings. Examples of specific issues raised and approaches taken by committees include:

- the Communities and Local Government Committee worked to improve the quality of the Department of Communities and Local Government’s explanatory memoranda for the main and supplementary Estimates, including rejecting the memorandum for the 2006 Winter Supplementary Estimate;<sup>65</sup>
- the Defence Committee published reports into several individual procurement projects; monitored the Departmental Minutes detailing gifts made by the MoD of a value exceeding £250,000; and published a series of reports on the Defence Estimates, focussing on the costs of operations in Iraq and Afghanistan and the point in the year at which such expenditure is approved;<sup>66</sup>
- the Education and Skills Committee criticised the Department for constantly changing the format of the Report from year to year, making it difficult to track changes over time. The Committee stated that the regularity of change made it virtually impossible to follow the thread of policy and funding, with no explanation given for the changes and no consultation with the Committee prior to the changes. As a result of the report, staff of the Committee held discussions with officials of the DfES and the Committee was promised the opportunity to see certain parts of the next departmental report in draft to ensure that they provide the information the Committee requires;<sup>67</sup>
- the Foreign Affairs Committee drew particular attention to two issues in its report on the FCO’s Departmental Report: expenditure on the security of Posts and fraud;<sup>68</sup>
- the Health Committee sends a questionnaire annually to the Department asking for answers to a range of questions on expenditure, performance, activity and efficiency, etc. In 2006 the committee, with the assistance of the House of Commons Library, significantly revised the questionnaire to improve the type and layout of the information gathered and make it more accessible to readers.

31. Many committees have paid tribute to the assistance they have received from the Scrutiny Unit in carrying out their examination of departmental Estimates and expenditure plans. For instance, the Defence Committee notes its help in undertaking systematic scrutiny of the departmental Estimates<sup>69</sup> and the EFRA Committee states that it “derived a great deal of valuable assistance” from the Unit.<sup>70</sup> The Unit is a valuable resource

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65 HC (2006–07) 198, para 4

66 Defence Committee, Second Report of Session 2005–06, *Future Carrier and Joint Combat Aircraft Programmes*, HC 554; Fourth Report of Session 2005–06, *Costs of peace-keeping in Iraq and Afghanistan: Spring Supplementary Estimate 2005–06*, HC 980; Ninth Report of Session 2005–06, *Ministry of Defence Main Estimates 2006–07*, HC 1366; First Report of Session 2006–07, *Defence Procurement 2006*, HC 56; Third Report of Session 2006–07, *Costs of operations in Iraq and Afghanistan: Winter Supplementary Estimate 2006–07*, HC 129

67 Education and Skills Committee, First Report of Session 2006–07, *The Work of the Committee in 2005–06*, HC 301, para 19

68 Foreign Affairs Committee, Second Report of Session 2005–06, *Foreign and Commonwealth Office Annual Report 2004–05*, HC 522 and Eighth Report of Session 2005–06, *Foreign and Commonwealth Annual Report 2005–06*, HC 1371

69 HC (2006–07) 233, para 20

70 EFRA Committee, First Report of Session 2006–07, *Work of the Committee in 2005–06*, HC 213, para 51

in our work on financial scrutiny, and a useful channel of communication with the Treasury at official level about issues of mutual interest. The Unit has also developed guidance for government departments on how they can best fulfil their obligations to committees and Parliament in respect of financial and performance reporting. The work done by the Unit in supporting committees in their financial scrutiny work has been recognised outside Parliament, for instance by the Hansard Society.<sup>71</sup> The Unit has also compiled a review of the 2005 departmental reports, and will be producing a similar review of the 2006 reports, which we look forward to receiving in due course.<sup>72</sup> **The Scrutiny Unit has established itself as an integral part of the Committee Office and has added particular value to the work of committees in examining government expenditure.**

**32. We are impressed by the rigour that many committees are now bringing to their financial scrutiny work, and the timely and effective way they are making use of the Scrutiny Unit's analysis and support. Most government departments can now assume that the relevant departmental select committee will examine them on the key documents of all stages of the Parliamentary resource planning and accountability framework. We welcome the fact that so many committees report to the House following their examination of Departmental Annual Reports, as this helps inform Members and can also provide valuable feedback to the departments concerned about the quality of their financial reporting to Parliament. It is vitally important those committees that do not already publish such a report take steps to do so, and it is equally important that departments ensure that timely and clear information is given to them.**

### *Estimates memoranda*

33. Estimates memoranda are sent to departmental select committees when the Estimates are published, and are intended to provide an explanation by the government department of the changes sought in the Estimate and how these changes relate to public spending limits and departmental targets. They were introduced in 2004, at our request, and are a potentially valuable tool for select committees scrutinising both the Estimates and the financial management of departments more generally. We considered the effectiveness of the memoranda in a report in November 2006, and concluded that they were not yet fulfilling their potential:

We welcome the improvement in the quality of the memoranda since their introduction. Nevertheless, committees too often need to pursue information which ought to have been provided in the Memorandum. Committees' time is therefore spent seeking more information, rather than, as it should be, examining the substance of the Estimates.<sup>73</sup>

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71 The Hansard Society refers to "the success of the Scrutiny Unit in improving the quality and quantity of financial scrutiny". Alex Brazier and Vidya Ram, *The Fiscal Maze: Parliament, Government and Public Money* (London, 2006), para 13.5. More information about the financial scrutiny work, and other work, of the Unit can be found in Appendix 4.

72 The review of 2005 reports is available on the Liaison Committee website at <http://www.publications.parliament.uk/pa/cm200506/cmselect/cmliaisn/review/review.pdf>

73 Liaison Committee, Third Report of Session 2005–06, *Estimates memoranda*, HC 1685, para 1

It is too soon since the publication of our report to establish whether departments have taken on board our comments, but we will return to this issue in our next report. In the meantime, the Scrutiny Unit continues to monitor the quality of Estimates memoranda and to give guidance to government departments about how they can be further improved.

### *Improving financial scrutiny*

34. In October 2006 we held an informal seminar to discuss ways in which financial scrutiny of Government by select committees could be improved. We heard from the Chairman of the Committee of Public Accounts, the National Audit Office, the Clerk of the New Zealand House of Representatives, the Hansard Society and the Scrutiny Unit. We agreed that more could be done to increase the effectiveness of the House's scrutiny of government expenditure, in particular through provision of more useful information by the Government to Parliament. Following the seminar, we have established an informal sub-group of our Members to consider in more detail ways in which financial information could be provided and how committees might analyse and use that information. With their guidance, we look forward to establishing a dialogue on financial scrutiny with Treasury ministers, with a view to implementing improvements.

### *Estimates debates*

35. The Defence Committee raised a particular issue in relation to consideration of the Estimates by the House, and the role that can be played by select committees. It argues that the present system of allocating debating time for Estimates tends to favour debates on committee reports that are often only indirectly linked to the Estimate concerned, over reports which actually inform the House about the content of the Estimate. The Committee states:

The Liaison Committee may ask Committees to nominate subjects for debate on the approaching Estimates Day before they have had an opportunity properly to consider the Estimate. This tends to result in already existing reports, only indirectly linked to the Estimates, being chosen for debate. **We recommend that the Liaison Committee reconsider its system for identifying reports for debate on Estimates Days. The House of Commons tends to forget that its power to grant, or to deny, the Government's requests for resources represents a formidable control over the Executive.**<sup>74</sup>

36. The Defence Committee raises an important and interesting point about the way the House considers the Estimates and the general premise that the Government should have replied to a report before any debate in the House. In its work, it has shown that it is possible for committees to produce reports on Estimates in the very short period after they have been laid and before the House is asked to consider them. **We congratulate the Defence Committee on its work in informing Members of the implications of specific Estimates before they are asked to vote on them, and commend the Committee's practice to other committees.**

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74 HC (2006–07) 233, para 21

37. The Defence Committee asks us to reconsider the way in which we choose select committee reports for debate on Estimates days, so as to give greater priority to reports which have been produced specifically on the Estimate concerned. We sympathise with the Committee's desire to reinforce the House's traditional control over the Government's resources, but we are also conscious that there are currently only limited opportunities for debates on committee reports in the Chamber and that not all committees will be able to report on Estimates in the time available. For this reason, and despite the additional opportunities for debate now available in Westminster Hall, we would like to continue to reserve the possibility of recommending debates on a wide range of reports, albeit related to the Estimate under consideration. The wider issue that the Committee raises about the House's control over supply will be considered by our sub-group on financial scrutiny.

### ***Task 6: Scrutinising Public Service Agreements and targets***

38. Committees generally examine Public Service Agreements (PSAs) and associated targets either as part of their annual examination of departmental reports or in the course of their policy-based inquiries.

#### ***PSA Targets as part of examination of departmental reports***

39. Most committees now use their annual examination of departmental reports to check on departments' progress on PSA targets. Examples from 2005–06 include:

- the Education and Skills Committee looked carefully at the DfES's savings under the Gershon efficiency programme and expressed doubts about the helpfulness of quantifying them in cash terms;<sup>75</sup>
- the Transport Committee examined the Department's PSA targets and other performance targets;
- the Work and Pensions Committee scrutinised in particular the child poverty and employment rate targets, the targets for reducing the proportion of children in workless households, and the take up of Pension Credit.<sup>76</sup>

#### ***PSA targets relevant to inquiry work***

40. Examples of inquiries where PSA targets were addressed include:

- the EFRA Committee examined Defra's PSA targets in its inquiries into the Reform of the EU Sugar Regime and Avian Influenza;<sup>77</sup>

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75 HC (2006–07) 301, para 18

76 Oral evidence taken before the Work and Pensions Committee on 3 July 2006, *Departmental Report 2006*, HC (2005–06) 1389-i

77 EFRA Committee, *Reform of the EU Sugar Regime*; oral evidence taken before the EFRA Committee on 15 November 2005, *Avian Influenza*, HC (2005–06) 682-i

- the Home Affairs Committee examined in detail some individual Home Office targets in its report on Immigration Control;
- the Transport Committee considered progress against road casualty targets in its report on Roads Policing and Technology;<sup>78</sup>
- the Treasury Sub-Committee and the main Committee, in their inquiries into the 2006 Budget and the 2006 Pre-Budget Report, paid close attention to the Treasury's performance in relation to targets on reducing child poverty which it shares with the Department for Work and Pensions;<sup>79</sup>
- the Work and Pensions Committee, during its inquiry into Incapacity Benefits and Pathways to Work looked at how the Government was progressing with its rolling PSA target to increase the employment rate of disabled people and significantly reduce the difference between their employment rate and the overall rate;<sup>80</sup>
- the Work and Pensions Committee questioned the Secretary of State and Chief Executive of the CSA about the PSA target on parents with care on benefit;<sup>81</sup>
- the Work and Pensions Committee questioned the Health and Safety Commission and Executive about the failure to meet the PSA target of 5% reduction in fatal and major injuries in the workplace.<sup>82</sup>

### *PSA targets: general concerns*

41. Some committees also raised concerns about the methodology behind the setting and monitoring of PSA targets. For instance:

- the Communities and Local Government Committee again noted the unique dependency which DCLG has on both other government departments and local government to deliver its targets, and the implications this has for the Committee's scrutiny functions. This has resulted in the Committee needing to secure co-operation from a range of government departments and other select committees;<sup>83</sup>
- the Environmental Audit Committee sought information from the Treasury and other Departments on work being done to prepare for the Comprehensive Spending Review, particularly assessing the need for changed or new PSA targets in the light of environmental and sustainable development objectives. The Committee was

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78 Transport Committee, Tenth Report of Session 2005–06, *Roads Policing and Technology: Getting the right balance*, HC 975

79 Treasury Committee, Fourth Report of Session 2005–06, *The 2006 Budget*, HC 994-I and Second Report of Session 2006–07, *The 2006 Pre-Budget Report*, HC 115

80 Work and Pensions Committee, *Incapacity Benefits and Pathways to Work*

81 Oral evidence taken before the Work and Pensions Committee on 15 February 2006, *The Child Support Agency*, HC (2005–06) 920-i

82 Oral evidence taken before the Work and Pensions Committee on 24 May 2006, *The Health and Safety Commission and Executive*, HC (2005–06) 1143

83 HC (2006–07) 198, paras 1–2

unimpressed by the quality of the responses on this issue co-ordinated by the Treasury;<sup>84</sup>

- the EFRA Committee criticised Defra for its continuing inability to assess progress against one of its PSA targets;<sup>85</sup>
- the Foreign Affairs Committee identified a misalignment of targets and the Department's changed strategic priorities, and highlighted inconsistencies when targets sought to measure outcomes which were beyond the FCO's ability to secure;<sup>86</sup>
- the Home Affairs Committee welcomed the move towards fewer and simpler PSA targets, but argued that there was a need for reduction in centrally determined targets outwith the PSA framework;<sup>87</sup>
- the Treasury Committee probed the methods used to measure progress towards certain targets, seeking further clarification from the Treasury on the ways it assessed its performance against its target to raise the rate of UK productivity growth.<sup>88</sup>

**42. Committees have continued to examine closely the way Public Service Agreements have been set, and progress against them assessed and reported, since the 2004 Spending Review. The committees have in the process identified weaknesses and inconsistencies. As the Treasury and departments develop a new set of targets as part of the current Comprehensive Spending Review, we look forward to committees maintaining that critical engagement.**

### **Task 7: Monitoring the work of agencies and other public bodies**

43. Committees monitor the work of agencies and other public bodies within the remit of the departments for which they are responsible in different ways. Some agencies are monitored as part of a systematic review of all such public bodies; others are examined in an *ad hoc* manner; and some are considered in the context of policy-based inquiries. Many committees will undertake a mixture of these approaches over a Parliament. Examples of scrutiny of public bodies are given in Table 6.

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84 Appendix 2

85 EFRA Committee, Fourth Report of Session 2005–06, *The Departmental Annual Report 2005*, HC 693-I, para 45

86 HC (2005–06) 1371, paras 62–69

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

88 Oral evidence taken before the Treasury Committee on 18 October 2006, *HM Treasury Departmental Report 2006*, HC (2005–06) 1659-i

Table 6: Scrutiny of agencies and public bodies

Committee	Body	Type of scrutiny
Culture Media and Sport	BBC	Committee continued practice of holding an oral evidence session with the BBC to coincide with publication of its Annual Report
Defence	MoD's 17 Defence Agencies and five Trading Funds  Met Office  Defence Science and Technology Laboratory  Service Children's Education, Duke of York's Military School and the Queen Victoria School	Rolling programme of agency scrutiny  Inquiry and report  Inquiry in progress  Inquiry and report (into Educating Service Children) <sup>89</sup>
Education and Skills	Ofsted, Adult Learning Inspectorate, Learning and Skills Council	Dedicated meetings and in some cases oral evidence in relation to specific inquiries <sup>90</sup>
Environment, Food and Rural Affairs	Environment Agency  Rural Payments Agency	Inquiry and report <sup>91</sup>  Inquiry and interim report (main report expected in Session 2006–07) <sup>92</sup>
Foreign Affairs	British Council and BBC World Service	Scrutinised as part of inquiry into annual departmental report and inquiry and report on public diplomacy <sup>93</sup>
Health	Various bodies including: Commission for Social Care Inspection, NHS Confederation, NHS Direct, Human Fertilisation and Embryology Authority	Informal meetings with chairs and chief executives <sup>94</sup>
Public Administration	Civil Service Commissioner and Commissioner for Public Appointments <sup>95</sup>	Regular sessions of evidence

89 Defence Committee, Eleventh Report of Session 2005–06, *Educating Service Children*, HC 1054

90 E.g. oral evidence taken before the Education and Skills Committee on 9 November 2005 and 8 May 2006, *The Work of Ofsted*, HC (2005–06) 480-i and ii

91 EFRA Committee, Seventh Report of Session 2005–06, *The Environment Agency*, HC 780-I

92 HC (2006–07) 213, paras 16 and 56

93 Foreign Affairs Committee, *Foreign and Commonwealth Office Annual Report 2005–06* and Third Report of Session 2005–06, *Public Diplomacy*, HC 903

94 Health Committee, Second Report of Session 2006–07, *Work of the Committee 2005–06*, HC 297, para 39

95 Public Administration Select Committee, evidence published on the internet: *Ethics and Standards*, HC 884-viii; *Politics and Administration: Ministers and Civil Servants*, HC 660-i

Committee	Body	Type of scrutiny
Science and Technology	Research Councils	Committee has implemented a programme of thematic scrutiny, including visits by individual Members to different institutes. This thematic approach results in continual rather than periodic scrutiny for each Council and highlights best practice within Councils <sup>96</sup>
Trade and Industry	Export Credits Guarantee Department  Nuclear Decommissioning Authority and UK Atomic Energy Authority  ACAS	Committee reported on the work of the ECGD <sup>97</sup>  Inquiry and report <sup>98</sup>  Inquiry. Report expected in 2007 <sup>99</sup>
Transport	DoT's associated public bodies	Committee continues to take evidence from all bodies over the course of each Parliament; separate inquiry held into DoT's executive agencies <sup>100</sup>
Treasury	Governor of the Bank of England and other members of the Monetary Policy Committee	Committee continued its practice of taking evidence at least three times a year on the decisions of the MPC and MPC members' analysis of monetary policy <sup>101</sup>
Work and Pensions	Rolling programme of agency scrutiny:  Jobcentre Plus  Disability and Carers Service  Child Support Agency (CSA)	Inquiry and report <sup>102</sup>  Oral evidence <sup>103</sup>  Oral evidence. <sup>104</sup> New inquiry announced December 2006

The Committee of Public Accounts frequently scrutinises spending by agencies and other public bodies, although the lack of full access to the BBC hampers its work in this area.

96 Science and Technology Committee, First Report of Session 2006–07, *Work of the Committee in 2005–06*, HC 202, paras 24–25

97 Trade and Industry Committee, Fifth Report of Session 2005–06, *Export Credits Guarantee Department's bribery rules*, HC 1124

98 Trade and Industry Committee, Sixth Report of Session 2005–06, *The Work of the NDA and UKAEA*, HC 1028

99 Oral evidence taken before the Trade and Industry Committee on 24 January 2006, HC (2005–06) 852-i

100 Transport Committee, *Work of the Committee in 2005–06*, para 21

101 Treasury Committee, Third Report of Session 2006–07, *Work of the Committee in 2005–06*, HC 191, para 25

102 Work and Pensions Committee, Second Report of Session 2005–06, *The Efficiency Savings Programme in Jobcentre Plus*, HC 834-i

103 Oral evidence taken before the Work and Pensions Committee on 19 October 2005, HC (2005–06) 572

104 Oral evidence taken before the Work and Pensions Committee on 15 February 2006, HC (2005–06) 920-i

### Task 8: Scrutiny of major appointments

44. Committees do not routinely carry out prior scrutiny of appointments and have no role in the selection procedure—in other words, there is no scope for “confirmation hearings” on the model of the US Senate. However, committees can and do hold formal evidence sessions or other meetings with the holders of major posts soon after their appointment. Some committees now have in place arrangements whereby departments inform them of significant new appointments,<sup>105</sup> which helps facilitate this process. In addition, many committees take evidence from recently-appointed officials in the ordinary run of their inquiries.<sup>106</sup> Examples include:

- the Constitutional Affairs Committee is prohibited from examining individual judicial appointments, but it took evidence from members of the newly-established Judicial Appointments Commission;<sup>107</sup>
- the Science and Technology Committee conducted introductory hearings with the new Chief Executives of Natural Environment Research Council (NERC) and Particle Physics and Astronomy Research Council (PPARC), providing “the opportunity to satisfy Parliament that the post has been filled with someone of sufficient calibre; to establish the views and the principles that the new incumbent brings to the job; to alert them to our interests and concerns; and to heighten awareness of our role in scrutinising the work of organisations with an impact on science policy and of the individuals that work within them”;<sup>108</sup>
- the Treasury Committee has continued its practice of holding hearings with all new members of the Bank of England’s Monetary Policy Committee;<sup>109</sup>
- the Work and Pensions Committee makes a point of meeting chief executives reasonably soon after appointment, e.g. taking evidence from the Chief Executive of the Child Support Agency in February 2006.<sup>110</sup>

45. The Foreign Affairs Committee has again expressed its intention of scrutinising any major diplomatic or consular appointment of a person from without the Diplomatic Service. However, the only such appointments were made around the time of the 2005

105 See e.g. EFRA Committee, *Work of the Committee in 2005–06*, para 24; Work and Pensions Committee, Second Report of Session 2006–07, *Work of the Committee in 2005–06*, HC 215, para 30

106 E.g. the EFRA Committee’s evidence from successive new Chief Executives of the Rural Payments Agencies in its inquiry into the Agency, Fifth Report of Session 2005–06, *The Rural Payments Agency: interim report*, HC 840 and subsequent oral evidence sessions; and the new Chief Executive of Natural England in its inquiry into the Government’s *Vision for the Common Agricultural Policy*, oral evidence taken before the Environment, Food and Rural Affairs Committee on 14 June, 4 July, 12 July, 16 October and 18 October 2006, *The UK Government’s “Vision for the Common Agricultural Policy”*, HC (2005–06) 1250

107 Oral evidence taken before the Constitutional Affairs Committee on 18 July 2006, *The operation of the Judicial Appointments Commission*, HC (2005–06) 1554-i

108 HC (2006–07) 202, para 27

109 E.g. Treasury Committee, Eighth Report of Session 2005–06, *Bank of England Monetary Policy Committee: appointment hearing for Professor David Blanchflower*, HC 1211-i

110 Oral evidence taken before the Work and Pensions Committee on 15 February 2006, *The Child Support Agency*, HC (2005–06) 920-i

General Election, when no Committee was in existence, and as a result no such scrutiny took place.<sup>111</sup>

### **Task 9: Implementation of legislation**

46. Committees spend much of their time examining the way legislation—including secondary legislation and European legislation—is implemented. Examples of how they have done this in Session 2005–06 include:

- the Constitutional Affairs Committee examined the implementation of the Freedom of Information Act 2000;<sup>112</sup>
- the Home Affairs Committee examined Terrorism Detention Powers, the UK-US Extradition Treaty, and Human Rights Legislation and Government policy-making;<sup>113</sup>
- the Quadripartite Committee is examining the operation of the Export Control Act 2002 and the orders made under the Act;<sup>114</sup>
- the Transport Committee scrutinised some 15 Acts of Parliament to some degree. Its inquiry into roads policing and technology, for example, found that although the statutory framework had been established for the use of some new technology which could be used to enforce road traffic law, the equipment had not been approved for use by the Home Office;<sup>115</sup>
- the Work and Pensions Committee examined the Financial Assistance Scheme (FAS) established by the Pensions Act 2004 and the Financial Assistance Scheme Regulations (2005) and investigated how the legislation was working in practice through the work of the FAS.<sup>116</sup> The Committee also regularly reviews the implementation of government legislation and policy initiatives in its inquiries into the Departmental Annual Report.<sup>117</sup>

47. This core task also refers to the implementation of major policy initiatives. Examples of work under this heading include:

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111 Foreign Affairs Committee, *The Work of the Committee in 2005 and 2006*, para 54

112 Constitutional Affairs Committee, Seventh Report of Session 2005–06, *Freedom of Information—one year on*, HC 991

113 Home Affairs Committee, Fourth Report of Session 2005–06, *Terrorism Detention Powers*, HC 910; oral evidence taken before the Committee on 22 November 2005, *UK-US Extradition Treaty*, HC (2005–06) 710-i; oral evidence taken before the Committee on 31 October 2005, *Human Rights Legislation and Government Policy-making*, HC (2005–06) 1703-i and ii

114 Quadripartite Committee, First Report of Session 2005–06, *Strategic Export Controls: Annual Report for 2004, Quarterly Reports for 2005, Licensing Policy and Parliamentary Scrutiny*, HC 873, para 5; Press Notice 8, Session 2005–06

115 Transport Committee, *Roads Policing and Technology: Getting the right balance*

116 Work and Pensions Committee, oral evidence taken on 28 June 2006, HC (2005–06) 1362-i

117 Work and Pensions Committee, *Work of the committee in 2005–06*, para 32

- the Communities and Local Government Committee’s reports on Fire and Rescue Service, Planning Gain Supplement, relicensing and the affordability and supply of housing all looked into the implementation of major policy initiatives;<sup>118</sup>
- the Health Committee examined the Government’s programme of NHS Treatment Centres in its inquiry into Independent Sector Treatment Centres;<sup>119</sup>
- the Northern Ireland Affairs Committee continues to monitor the operation of parades in the Province.<sup>120</sup>

48. The Scottish Affairs Committee can claim a very particular impact arising from its examination of the implementation of legislation. Its report on “Sewel motions” (more properly known as “legislative consent motions”) recommended measures to make it clearer to Westminster MPs when such motions had been passed, to increase awareness at Westminster of which bills require the consent of the Scottish Parliament. The Government agreed to all of the Committee’s recommendations relating to the Standing Orders of the House. Thus the Committee has had a direct impact not only on the Government but on the working practices of the House of Commons.<sup>121</sup>

49. Some of the work done by committees in fulfilling this core task could be categorised as “post-legislative scrutiny”, an area in which some commentators have regarded Parliament as having been deficient.<sup>122</sup> We consider developments in the area of post-legislative scrutiny later in our report.<sup>123</sup>

### **Task 10: Debates in Westminster Hall and the Chamber**

50. Objective D and core task 10 relate to “assisting the House in debate and decision”. The main way committees do this is through the provision of reports and evidence which help inform Members in debates in the House and Westminster Hall.<sup>124</sup> Committee inquiries and reports are regularly cited in the course of debates. For instance, the Culture, Media and Sport Committee’s report on *Analogue switch-off* was referred to in the second reading debate on the Digital Switchover (Disclosure of Information) Bill, and work by the EFRA Committee on the draft Animal Welfare Bill and the draft Natural Environment and Rural Communities Bill in 2004–05 informed debates on the bills themselves in the 2005–06

118 Communities and Local Government Committee, Second Report 2005–06, *Re-licensing*, HC 606; Fourth Report 2005–06, *The Fire and Rescue Service*, HC 872-I; Fifth Report of Session 2005–06, *Planning Gain Supplement*, HC 1024-I; Third Report 2005–06, *Affordability and the Supply of Housing*, HC 703-I

119 Health Committee, Fourth Report of Session 2005–06, *Independent Sector Treatment Centres*, HC 934-I

120 Northern Ireland Affairs Committee, Third Special Report of Session 2005–06, *The Parades Commission and Public Processions (Northern Ireland) Act 1998: Government Response to the Committee’s Second Report of Session 2004–05*, HC 395

121 Scottish Affairs Committee, Fourth Report of Session 2005–06, *The Sewel Convention: the Westminster perspective*, HC 883

122 See e.g. EFRA Committee, *Work of the Committee in 2005–06*, para 27

123 See paras 101–105

124 In addition, committee members themselves can develop considerable expertise in the areas covered by their committee, which in turn can assist the House.

Session.<sup>125</sup> The work of the Committee of Public Accounts was the subject of two debates in the Chamber, in January and July.<sup>126</sup>

51. The primary function of the European Scrutiny Committee is to identify inter-institutional European documents which are of political and legal importance particularly those which must be debated before Ministers can give their agreement in the Council or the European Council. Of the debates which the Committee secured on the Floor of the House we would draw particular attention to the debate on Implementing the Hague programme on justice and home affairs.<sup>127</sup> The European Commission had argued that, because of the requirement for unanimity, it took too long to get Member States' agreement to legislation on police and judicial cooperation in criminal matters and compared this with the comparative ease with which legislation was adopted by QMV. The Committee's view was that criminal laws and procedures lay at the heart of national sovereignty and the legal traditions of the Member States and for that reason a debate on the Floor was appropriate. The debate received wide coverage in the media.

52. Westminster Hall has continued to be the main forum for debates on specific committee reports. 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.<sup>128</sup>

53. In the 2005–06 Session, 22 days out of 44 in Westminster Hall were allocated to debates on committee reports, compared to 25 out of 33 in 2002–03 and 6 out of 10 in the truncated 2004–05 Session. Subjects debated in the 2005–06 Session are listed in Table 7:

**Table 7: Reports debated in Westminster Hall, Session 2005–06**

<b>Committee</b>	<b>Report or issues</b>	<b>Date of debate</b>
Constitutional Affairs	Family justice: the operation of the family courts	12 January 2006
Constitutional Affairs	The courts: small claims	30 March 2006
Culture, Media and Sport	Analogue switch off: a signal change in television	6 July 2006
Education and Skills	Special Educational Needs	26 October 2006
Foreign Affairs	Foreign Policy Aspects of the War against Terrorism	8 December 2005
Foreign Affairs	Human Rights Annual Report 2005	15 June 2006

125 HC Deb, 18 December 2006, cols 1242–43; 6 June 2005, col 1006; 10 January 2006, col 161

126 HC Deb, 26 January 2006, cols 1590–1638; HC Deb, 18 July 2006, cols 242–291

127 European Scrutiny Committee, Forty-first Report of Session 2005–06, HC 34 xli

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

<b>Committee</b>	<b>Report or issues</b>	<b>Date of debate</b>
Health	New Developments in Sexual Health and HIV/Aids Policy	9 February 2006
Health	Changes to Primary Care Trusts	29 June 2006
Home Affairs	Terrorism and Community Relations	27 October 2005
Home Affairs	Rehabilitation of Prisoners	17 November 2005
Home Affairs	Anti-Social Behaviour	19 January 2006
Home Affairs	Immigration control	2 November 2006
International Development	Delivering the goods: HIV/AIDS and the provision of anti-retrovirals	11 May 2006
International Development	The WTO Hong Kong Ministerial and the Doha Development Agenda	12 October 2006
Public Administration	A Matter of Honour: Reforming the Honours System	27 April 2006
Quadripartite	Strategic Export Controls HMG's Annual Report for 2003, Licensing Policy and Parliamentary Scrutiny	16 March 2006
Science and Technology	Scientific Publications: Free for all?	15 December 2005
Science and Technology	Forensic Science on Trial	20 April 2006
Scottish Affairs	Meeting Scotland's Future Energy Needs	1 December 2005
Transport	Road Pricing: The Next Steps	24 November 2005
Treasury	Cash Machine Charges	16 February 2006
Work and Pensions	The Efficiency Savings Programme in Jobcentre Plus	13 July 2006

54. In addition, committee reports are debated on the floor of the House during Estimates days. Those debated in the 2005–06 Session are set out in Table 8.

Table 8: Reports debated in the House on Estimates Days

Committee	Subject of report	Date
Constitutional Affairs	Electoral administration (oral and written evidence only) <sup>129</sup>	3 July 2006
Defence	Costs of peace-keeping in Iraq and Afghanistan: MoD Spring Supplementary Estimate 2005–06 <sup>130</sup>	20 March 2006
Health	Influence of the Pharmaceutical Industry <sup>131</sup>	8 December 2005
Health	Public expenditure on health and personal social services 2005 (oral and written evidence only) <sup>132</sup>	20 March 2006
Science and Technology	Human reproductive technologies and the law <sup>133</sup>	3 July 2006

55. As a general rule, committee reports are not debated in Westminster Hall until a Government reply has been received. This enables the debate to be informed by a considered response from the Government to the recommendations in the committee's report. The Environmental Audit Committee notes that it wished to seek a Westminster Hall debate on nuclear power, renewables and climate change, but in the absence of a Government response this was not possible. The Committee is concerned that this gives an uncooperative department a chance to delay a debate or avoid a debate being held within a reasonable time. **It is unacceptable for a government department to delay its response to a committee report in order to delay or avoid a debate on the report in the House or Westminster Hall. We expect the Government, in its reply to our report, to agree to this.**

56. **While the number of debates on committee reports in Westminster Hall is welcome, it has dropped from the two-thirds target recommended by the Modernisation Committee. We pay tribute to the cooperation received from the Government Whips in arranging these debates, but recommend that the allocation rise towards the recommended target in the near future.**

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129 HC (2005–06) 640-i and -ii

130 HC (2005–06) 980

131 Health Committee, Fourth Report of Session 2004–05, *The Influence of the Pharmaceutical Industry*, HC 42-1

132 HC (2005–06) 736

133 Science and Technology Committee, Fifth Report of Session 2004–05, *Human Reproductive Technologies and the Law*, HC 7; Government Response, Cm 6641; and Eighth Special Report, Session 2004–05, *Inquiry into Human Reproductive Technologies and the Law*, HC 491

## 3 Working practices

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57. In this section we highlight some of the ways in which committees have continued to build on traditional working practices. Although the standard model of individual committees taking formal and written evidence at Westminster and making reports to the House remains at the core of their work, many committees have supplemented this approach, e.g. through joint working with each other and with bodies outside the House; through different forms of information-gathering; and through better connection with the public and other stakeholders. Also in this section, we examine the working relationship between committees and the Government.

58. A sudden change which occurred at the beginning of this Parliament was an increase in the size of some committees. Previously the standard size had been 11 Members, but this was raised to 14 by a change in Standing Orders, agreed on 13 July 2005 for the Defence, Foreign Affairs, Home Affairs, Trade and Industry and Treasury Committees. While this modification has enabled more Members to join those committees, the increased size has put pressure on their working methods, with more Members seeking to intervene in questioning of witnesses, to take part in visits, or needing to reach agreement on the text of a report.

### Working with others

59. This section covers work with the devolved parliament and assemblies and between committees in both Houses.

### *Relations with the devolved assemblies*

60. In the 2004 Report, our predecessor Committee noted the House's decision to allow "reciprocal enlargement", a process by which members of the Welsh Affairs Committee or relevant Committees of the National Assembly for Wales could take part in each other's meetings, albeit without voting. This was a "major step forward".<sup>134</sup> Although no reciprocal meetings have been held during the 2005–06 Session, the changes introduced under the Government of Wales Act 2006 make it likely that the process will become a standard one for examination of Orders in Council introduced by the Assembly under its new law-making powers.<sup>135</sup>

61. The Committee engages with the National Assembly in various ways. It held one of its meetings at the National Assembly in Cardiff, thus widening public knowledge of its work and providing opportunities for the public in Wales to see it in action; and a minister of the Welsh Assembly Government makes an oral statement to the Assembly on the Committee's work. The Welsh Affairs Committee also remains unique among Westminster committees in being able to conduct its proceedings in a language other than English.<sup>136</sup>

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<sup>134</sup> Liaison Committee, *Annual Report for 2004*, para 79

<sup>135</sup> Welsh Affairs, First Report of Session 2006–07, *Work of the Committee in 2005–06*, HC 291, para 49

<sup>136</sup> *Ibid.*, para 45

62. As noted in paragraph 48 above, the Scottish Affairs Committee has examined the Sewel Convention, relating to “Sewel” motions (more properly known as “legislative consent motions”), which allow for the UK Parliament to make decisions that might otherwise more properly be devolved to Holyrood. The Government accepted recommendations in the Committee’s report designed to make it clearer to Members at Westminster when such a motion had been passed in the Scottish Parliament, and thus to increase awareness at Westminster of which bills require the consent of the Scottish Parliament. However, the Government was less persuaded of the idea of having a “super” Scottish Grand Committee including MPs, MSPs and MEPs, saying it could blur the distinct responsibilities and lines of accountability of the different legislatures.<sup>137</sup>

63. The Northern Ireland Affairs Committee continues to have responsibility for scrutinising the work of the departments of the Northern Ireland Executive since the Northern Ireland Assembly was suspended in October 2002. The Committee’s role remains open to change as the political landscape in Northern Ireland continues to shift, and the full restoration of the Northern Ireland Assembly would remove scrutiny of the Northern Ireland departments currently directed by the Northern Ireland Office, from its remit. However, scrutiny of criminal justice and policing will remain within the Committee’s remit for at least another year.<sup>138</sup>

### **Relations with the Judiciary**

64. The increasing willingness by the Judiciary to participate in our inquiries has been notable and very welcome. The Constitutional Affairs Committee reports that:

the rapidly changing nature of the Constitution has meant that judges are increasingly involved in giving evidence to Select Committees...<sup>139</sup>

That Committee has established itself

as a major conduit for the expression of the judiciary’s experience and views on the working of the judicial system and on wider policy matters.<sup>140</sup>

The Home Affairs Committee has also benefited, most notably when a Lord Justice of Appeal took part in a session of evidence on human rights legislation held jointly with the Constitutional Affairs Committee. This attendance by a senior member of the judiciary was agreed by the Lord Chief Justice, and marks a helpful advance in Parliament’s ability to learn from the judiciary the considerations which the courts take into account when implementing legislation. The Home Affairs Committee noted that it had been

careful to avoid pressing [Lord Justice Maurice Kay] on matters on which it would be inappropriate for a serving judge to make public comment, but we found that even

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137 Scottish Affairs Committee, First Report of Session 2006–07, *Work of the Committee in 2006*, HC 308, para 22

138 Northern Ireland Affairs, *The Work of the Committee in 2006*, para 3

139 Constitutional Affairs Committee, Second Report of Session 2006–07, *Work of the Committee in 2005–06*, HC 259, para 13

140 Constitutional Affairs Committee, Second Report of Session 2004–05, *Work of the Committee in 2004*, HC 207, para 9

within the conventions governing these matters, it was possible for us to take some stimulating and useful evidence on the role and functions of the judiciary.<sup>141</sup>

In cooperation with the authorities in both Houses, new Guidelines on judges giving oral evidence have been developed by the Lord Chief Justice.

### Cooperation between committees

65. Committees cooperated in ways that helped achieve more effective scrutiny of Government, in areas such as examination of draft bills and policy-based inquiries. Examples are set out in Table 9.

**Table 9: Cooperation between committees**

Committees	Scrutiny activity
Constitutional Affairs and Home Affairs	Two joint evidence sessions, on the same day, on the impact of the Human Rights Act 1998 on Government policy-making <sup>142</sup>
Culture, Media and Sport and Trade and Industry	Joint oral evidence on Ofcom's draft Annual Plan, which the committees intend to repeat in 2007 <sup>143</sup>
Culture Media and Sport, Transport, Scottish Affairs	The Culture, Media and Sport Committee is part of a collective effort by select committees to monitor preparations for the London 2012 Olympic Games and Paralympic Games. The Committee has taken the lead in scrutiny, but given the interest of other committees, e.g. on the impact of the Games on transport networks, the supply of skills in the construction industry, local regeneration and other areas, it has drawn on work by the Transport Committee and the Scottish Affairs Committee <sup>144</sup>
Defence, Foreign Affairs, International Development and Trade and Industry	These committees operate as the Quadripartite Committee on Strategic Export Controls
Home Affairs and European Scrutiny	Joint evidence session on the implications of the accession of Romania and Bulgaria to the EU <sup>145</sup>
Home Affairs and Work and Pensions	Appointed sub-committees to carry out joint pre-legislative scrutiny of the draft Corporate Manslaughter Bill <sup>146</sup>

141 Home Affairs Committee, *Work of the Committee in 2005–06*, para 19

142 Oral evidence taken before the Home Affairs and Constitutional Affairs Committees on 31 October 2005, *Human rights legislation and policy making*, HC (2005–06) 1703-i and ii

143 Oral evidence taken before the Culture, Media and Sport and Trade and Industry Committees on 2 May 2006, *Ofcom Annual Plan 2006–07*, HC (2005–06) 1083-i

144 Culture Media and Sport, First Report of Session 2006–07, *Work of the Committee in 2005–06*, HC 234, para 17

145 Oral evidence taken before the Home Affairs and European Scrutiny Committees on 7 December 2006, *Migration Issues relating to the accession of Bulgaria and Romania to the EU*, HC (2006–07) 143-i

146 Home Affairs and Work and Pensions Committees, *Draft Corporate Manslaughter Bill*

66. Committees also worked on occasion with committees in the House of Lords. For instance, the EFRA Committee held a joint informal meeting with the House of Lords Science and Technology Committee to meet the Committee on Radioactive Waste Management,<sup>147</sup> and the Home Affairs Committee held a joint briefing with Sub-Committee F (Home Affairs) of the House of Lords European Union Committee at the office of the UK Permanent Representative in Brussels.

### *Scrutiny of the Legislative and Regulatory Reform Bill*

67. The most constitutionally significant proposal to come before the House in the first session of this Parliament was the Legislative and Regulatory Reform Bill. Three Commons committees expressed concern about the Bill:<sup>148</sup> Regulatory Reform, Procedure and Public Administration, together with the Joint Committee on Human Rights,<sup>149</sup> and coordinated their approach through the Liaison Committee. Further comment was made by committees in the House of Lords. Committees took the view that the Bill, as originally drafted, granted the Government powers which were far too wide. It would have given powers to ministers to amend virtually any existing Act of Parliament without restriction. The extent of parliamentary control over such proposals would have been extremely limited. In response to the consensus of opinion on all the committees that reported, these powers were radically curtailed and the relevant committees of both Houses were given effective vetoes over the inappropriate use of the reduced powers.

68. After its initial flurry of press articles, which had generally welcomed the measures to tackle red tape, the media quickly lost interest in the Bill. Within 20 days of the Bill being published, the Regulatory Reform Committee (RRC) agreed a special report on the Bill and became the first Committee to alert Members to its importance. It was only when the Bill underwent such detailed parliamentary scrutiny by select committees that the media finally awoke to the potential constitutional significance of the Bill.

69. The reports of these committees contributed to the Parliamentary and public debate and ultimately led to the Government changing its position. On 4 May, in the wake of the four Committee reports and just before the Bill's report stage, the Government tabled 65 amendments, including ones to drop the two most significant and controversial clauses (clauses 1 and 2). Further amendments to the Bill were agreed during its progress in the Lords. The Act that finally resulted was very different from the Bill as first introduced, allowing the order-making power to be used only to reduce or remove burdens. The Public Administration Select Committee sums up the eventual outcome as

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147 HC (2006–07) 213, para 9

148 Public Administration Select Committee, Third Report of Session 2005–06, *Legislative and Regulatory Reform Bill*, HC 1033; Regulatory Reform Committee, First Special Report of Session 2005–06, *Legislative and Regulatory Reform Bill*, HC 878; Procedure Committee, First Report of Session 2005–06, *Legislative and Regulatory Reform Bill*, HC 894; House of Lords Constitution Committee, Eleventh Report of Session 2005–06, *Legislative and Regulatory Reform Bill*, HL 194; Joint Committee on Human Rights, Seventeenth Report of Session 2005–06, *Legislative Scrutiny: Eighth Progress Report*, HL Paper 164/HC 1062; Twenty-first Report of Session 2005–06, *Legislative Scrutiny: Eleventh Progress Report*, HL Paper 201/HC 1216 and the Lords' Delegated Powers and Regulatory Reform Committee, Twentieth Report of Session 2005–06, *Legislative and Regulatory Reform Bill*, HL Paper 192

149 HL (2005–06) 164/HC (2005–06) 1062, and HL (2005–06) 201/ HC (2005–06) 1216

a demonstration of the effectiveness of Parliament ... the dramatically amended Act stands as testament to the impact of the Select Committee system.<sup>150</sup>

**70. The work of various committees on the Government’s Legislative and Regulatory Reform Bill represents a triumph for Parliamentary scrutiny. It is an example of Parliament, through its committees, forcing the Government to change its mind, and thus help produce a radically improved piece of legislation—good scrutiny making for good government.**

### **Cooperation at the EU level**

71. An important instance of how committees work beyond the bounds of Westminster is their activity in the EU context. For many years, committees have regularly sent delegates to EU-wide meetings of their counterpart committees, and this practice has continued in the present Parliament. Such conferences, and associated meetings, provide a valuable forum for informal exchanges of information and experience which can enlarge committees’ understanding of issues relevant to their work.<sup>151</sup> This is especially the case given the importance which EU legislation now has in member states.

72. During the UK Presidency of the EU, several committees hosted conferences of their counterpart committees at Westminster, as follows. Some of these were co-hosted with appropriate committees in the House of Lords—a further example of joined-up working by committees of Parliament.

**Table 10: Conferences hosted by committees during the UK’s EU Presidency**

<b>Committee</b>	<b>Dates (2005)</b>	<b>Non-UK countries represented at Member level</b>	<b>Non-UK participants</b>
COSAC Troika and Chairpersons	17–18 July	27	97
Defence	7–8 October	20	46
Environment, Food and Rural Affairs	20–21 November	24	77
European Scrutiny (COSAC)	9–11 October	28	227
Foreign Affairs	30 October–1 November	25	64
Home Affairs	23–24 November	23	70
International Development	27–28 November	21	57

<sup>150</sup> Public Administration Select Committee, First Report of Session 2006–07, *The Work of the Committee in 2005–06*, HC 258, para 11

<sup>151</sup> E.g. EFRA Committee, *Work of the Committee in 2005–06*, table 2; Home Affairs Committee, *Work of the Committee in 2005–06*, para 33

## Information gathering

73. Committees continued to develop new ways of gathering information in their patterns of working. Many of their approaches also reflect a desire to engage more fully with the public, an issue which we consider separately later in our report.

74. Examples of innovative information-gathering include the use of new media for reaching out to a wider range of interested parties:

- the Defence Committee used a web-based forum in its inquiry into Educating Service Children, in order to access the views of rank and file Service personnel and their families. While the initial degree of cooperation from the Ministry of Defence was disappointing, the exercise ultimately proved valuable and the Committee intends to hold another such forum in 2007;<sup>152</sup>
- the Education and Skills Committee, as part of its sustainable schools inquiry, established a consultation exercise for teachers, governors and other school staff facilitated by Teachers' TV through its website;<sup>153</sup>
- the International Development Committee took evidence from Pascal Lamy, Director General of the WTO by video-conference link in March 2006 as part of its inquiry into Doha;<sup>154</sup>
- the Treasury Committee took evidence from Dr Ivan Fellegi, Chief Statistician of Canada, by videolink, enabling the Committee to learn directly about the experience of an independent national statistics office in another country while incurring minimal public expense.<sup>155</sup>

75. Committees have also made good use of informal seminars with experts to inform their thinking before the formal evidence-taking phase of inquiries, or during the course of them. The Education and Skills Committee, for example, now runs such seminars on a regular basis. The Communities and Local Government Committee, which has long run such seminars, notes that during the 2005–06 Session it broadened the pool of expert advice upon which such seminars are based.<sup>156</sup> Many committees also held informal “awaydays” at the start of the new Parliament to consider their working methods and to discuss their programme of work with relevant experts.<sup>157</sup> Committees which adopted this approach note that they learned lessons that have improved the effectiveness of their inquiry identification and information gathering processes.<sup>158</sup>

<sup>152</sup> Defence Committee, *The work of the Committee in 2005 and 2006*, paras 55–57

<sup>153</sup> Education and Skills Committee, First Report of Session 2006–07, *Work of the Committee in 2005–06*, HC 301, para 22

<sup>154</sup> International Development Committee, *Work of the Committee in 2005–06*, para 8

<sup>155</sup> Treasury Committee, *Work of the Committee in 2005–06*, para 44

<sup>156</sup> HC (2006–07) 301, para 6; Communities and Local Government Committee, *Work of the Committee in 2005–06*, para 9

<sup>157</sup> EFRA Committee, *Work of the Committee in 2005–06*, paras 42 and 43; Science and Technology Committee, *Work of the Committee in 2005–06*, para 50; Work and Pensions Committee, *Work of the Committee in 2005–06*, para 9

<sup>158</sup> HC (2006–07) 198, para 11

76. Committees have used different configurations in order to share the burden of obtaining information and thus make better overall use of committee time. Examples of such approaches include:

- the EFRA Committee continued its use of rapporteurs: in Session 2005–06 two rapporteurs undertook preliminary information-gathering, including written evidence and a UK visit, in respect of the Rural Payments Agency (RPA). On their recommendation, the full Committee took evidence from the relevant Minister and the RPA’s Chief Executive. Subsequently a sub-committee was appointed to undertake a full inquiry;<sup>159</sup>
- six committees also set up formal sub-committees: Environmental Audit, EFRA, Home Affairs, Trade and Industry, Treasury and Work and Pensions;<sup>160</sup>
- the EFRA Committee created an “observatory” on avian influenza—an informal group of Members given a watching brief on the subject. This allowed the Committee to keep itself fully informed of developments on the subject, and thus be prepared at short notice to set up an inquiry should one be needed;<sup>161</sup>
- several committees made the most effective use of resources on overseas visits by dividing into small evidence-gathering groups.<sup>162</sup>

### *Sources of advice and assistance*

77. As in previous sessions, in addition to the support they receive from the Clerk’s Department (including the Parliamentary Office of Science and Technology) and the House of Commons Library, committees have benefited from advice and assistance from the National Audit Office (NAO). More information about this support is provided in the note from the NAO.<sup>163</sup> Some examples include:

- the Culture Media and Sport Committee appreciated the introduction of an enhanced role for the NAO in scrutiny of the value for money achieved by the BBC;<sup>164</sup>
- the Environmental Audit Committee continues to develop a particularly close relationship with the National Audit Office, leading to significant changes in the way in which the Committee’s work is resourced. There is now a dedicated EAC team at the NAO;<sup>165</sup>

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159 HC (2006–07) 213, para 16

160 For Environmental Audit Committee, see Appendix 2; for EFRA Committee, *Work of the Committee in 2005–06*, table 1; for Home Affairs and Work and Pensions (sub-committees on the draft Corporate Manslaughter Bill) see table 9 of this report; for Treasury Committee, *Work of the Committee in 2005–06*, para 6

161 HC (2006–07) 213, para 48

162 This is now a regular practice of the Foreign Affairs Committee, but is followed by other committees as well, such as the Trade and Industry Committee during its visit to India: Trade and Industry Committee, Third Report of Session 2005–06, *Trade and Investment Opportunities with India*, HC 881

163 See Appendix 5

164 HC (2006–07) 234, para 14

165 Appendix 2

- the EFRA Committee’s Rural Payments Agency Sub-Committee worked productively with the NAO, including a valuable informal briefing from the NAO for members of the Sub-Committee. The Committee also notes that the NAO made use of its work in its study of the Single Payment Scheme, which has helped the Committee and the NAO avoid duplication of work;<sup>166</sup>
- the Public Administration Select Committee received valuable briefing from the NAO, especially on the third sector;<sup>167</sup>
- the Work and Pensions Committee commented on its good working relationship with the National Audit Office, which had provided general support and advice as well as more detailed information for the inquiry into a Report by the Government under Section 82 of the Welfare Reform and Pensions Act 1999.<sup>168</sup>

**78. We greatly value the increased cooperation and support, now with more specific briefing, which committees have received from the National Audit Office, including secondments to the Scrutiny Unit and individual teams, and look forward to its continued development.**<sup>169</sup>

79. During the Session, many committees made use of the Scrutiny Unit which has submitted a Memorandum to us on its work in 2005–06 (see Appendix 4). We have already mentioned its work on financial scrutiny, which was commended by several committees. Here we also acknowledge its significant assistance to committees in pre-legislative scrutiny (for instance, in the inquiry by the Constitutional Affairs Committee into the draft Coroner Reform Bill). In a session when there were fewer draft bills (as noted in paragraph 14 above), the Unit has also been able to redeploy staff to provide “surge capacity” in areas such as economic and general policy analysis, and administrative support, for instance when committee teams have been temporarily short-staffed. The note from the Scrutiny Unit makes clear the rising trend over the last year in such general assistance for committees.<sup>170</sup> The Head of the Unit and his team have also helped to support the Liaison Committee itself in its examination of financial and post-legislative scrutiny.

## Engaging with the public and the media

80. Parliament is itself seeking to improve its welcome for visitors by its new team of visitor assistants who help to receive the public as they come into the building and explain the workings of the two Houses. To improve their knowledge of select committee work, each visitor assistant is now shadowing the work of one of our committees, so that he or she has first-hand experience which they can describe to the public.

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166 HC (2006–07) 213, para 52

167 HC (2006–07) 258, para 36

168 HC (2006–07) 215, para 5

169 See also paras 109–11 below, on the review of committee resources.

170 See Appendix 4

81. Some of the examples of information gathering by committees have included an important element of outreach to the public. Other activities by committees were specifically focused on increasing engagement with the public, directly and through the media, and included wholly new departures, such as involvement with ‘*You and Yours*’ on BBC Radio 4, as well as developments of previous approaches, such as UK visits and use of on-line forums for consultation. We highlight some examples of good practice in the following paragraphs.

82. ‘*You and Yours*’: several committee chairmen took part in panel discussions and live on-air phone-ins on BBC Radio 4’s ‘*You and Yours*’ programme. The committees involved included Communities and Local Government (Regional Government and Coastal Towns); Education and Skills, as part of its inquiry into Special Educational Needs;<sup>171</sup> Health (Smoking in Public Places)<sup>172</sup> and Work and Pensions (Pension Reform).<sup>173</sup> These programmes also gave listeners the chance to send in comments by email or letter, which many of them did—the Education and Skills Committee notes that 700 people gave comments to the Committee via the programme through telephone calls, emails and letters.<sup>174</sup> The BBC provided an analysis of these responses for each committee.<sup>175</sup> We are most grateful to the BBC for their cooperation in this successful innovation.

83. The Education and Skills Committee commented that exercises such as the ‘*You and Yours*’ programme:

have been extremely successful in gathering comment for our inquiries that we would not otherwise have received. They have also helped to raise the profile of the Committee’s work with the population at large, enabling people to see Members of Parliament working in a serious and non-partisan way on issues that are of real significance, and so helping to increase appreciation of the select committee system.<sup>176</sup>

84. *Visits away from Westminster*: this regular element of committee work continued to be effective. For example:

- the Defence Committee resolved at the beginning of the Parliament to take evidence away from Westminster on a regular basis, in order to engage more effectively with the public around the country;<sup>177</sup>
- the EFRA Committee took evidence from panels of individual witnesses who gave short presentations as part of the committee’s day-long visit to the Royal Agricultural Show at Stoneleigh. The formal evidence was followed up by discussions where witnesses could pursue issues raised in the evidence on an informal basis. This

171 HC (2006–07) 301, para 21

172 Health Committee, *Smoking in public places*, para 6

173 HC (2006–07) 215, para 50

174 HC (2006–07) 301, para 21

175 See e.g. HC (2005–06) 485-I, para 6 and 485-III, Ev 119

176 HC (2006–07) 301, para 23

177 HC (2006–07) 233, para 49

combination meant that the committee could engage directly with interested parties while also getting useful information on the record through the formal hearing.<sup>178</sup>

85. *Witness feedback pilots*: several committees helped pilot a scheme to obtain feedback from witnesses appearing before committees on their experience of evidence sessions. For instance, staff of the Work and Pensions Committee drew up a questionnaire on subjects ranging from administration arrangements to the tone and style of questioning. Following this pilot, the Liaison Committee has now agreed that a generic questionnaire should be available for the use of committees.<sup>179</sup>

86. *Evidence published online*: a recent change in the House's Standing Orders allows select committees to publish written evidence received on the internet without having to print it. This allows committees to get information into the public domain more quickly, for instance at the start of an inquiry, in a form which allows greater public access. The Defence Committee, for instance, has increasingly adopted this practice, in order to encourage debate on the evidence received.<sup>180</sup>

87. Finally, we note that the Science and Technology Committee contributes a regular update on its work to the journal *Science in Parliament*, and Members have also taken part in panel discussions at the Royal Society of Chemistry's "Voice of the Future" day for young scientists.

88. Many of these examples of public engagement involve effective liaison with the media, helped by the work of the select committee media officers, on which we comment in paragraph 109 below. Committees gave examples of how their work had been helped by media organisations. We have already mentioned the 'You and Yours' programme; in addition, we note the view of the EFRA Committee which highlights the value of such work:

Media coverage of our activities helps to inform public debate and strengthen our rapport with the wide range of individuals and organisations involved in agriculture and the environment... We are particularly grateful to BBC Radio Four's Farming Today for the way in which it has communicated to farmers the work of the Committee.<sup>181</sup>

### *Embargo period for advance copies of reports*

89. Committees are allowed to release embargoed copies of their reports up to 48 hours before the publication time to government departments, those who gave evidence to the relevant inquiry and the media.<sup>182</sup> The 48 hour limit restricts the potential media impact of select committee reports in several ways:

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178 HC (2006–07) 213, paras 45–47

179 HC (2006–07) 215, para 51

180 E.g. Defence Committee, *The work of the Committee in 2005 and 2006*, para 58; Work and Pensions Committee, *Work of the Committee in 2005–06*, para 52

181 HC (2006–07) 213, para 50

182 Standing Order No 134

- weekly magazines cannot cover reports because of their longer copy deadlines;
- reports published on a Monday cannot be released under embargo before Saturday, when daily journalists and subject specialists tend not to work;
- broadcasters often plan more than two days in advance, and need more than 48 hours to put together a package covering a report. Current affairs programmes will not decide on coverage until they have seen the text.

It could be argued that increasing the time limit would increase the risk that journalists would break the embargo. However, it has been our experience that most journalists respect the embargo system and will rarely jeopardise it.

**90. We believe that an increased embargo time, used with discretion rather than routinely, would alleviate the problems we have set out and would allow for more and better quality coverage of committee reports. We are therefore grateful to the Leader of the House, with whom we discussed this issue at our meeting on 21 November, for his agreement to bring forward for decision by the House a proposal to change the Standing Orders to extend the embargo period. We hope that the House will agree to make such a change in order to assist us.**

## Working with government departments

91. Once again, committees have commented in their reports on the level of cooperation they have received from government departments in their work. Overall, the picture is mixed: some departments are commended for their cooperation, but there are also many complaints, especially about access to information from departments.

92. Examples of more positive comments on departments' work include:

- the Communities and Local Government Committee noted the generally positive response from the Department for Communities and Local Government to requests for evidence and for the attendance of Ministers and officials;<sup>183</sup>
- the Defence Committee noted the “constructive relationship” between the Committee and the MoD, and commended the Department for responding to all its reports, within or shortly after the agreed two month deadline. The most recent reply, to the report of the *Work of the Committee in 2005 and 2006*, was notably positive.<sup>184</sup> The Foreign Affairs Committee reported the same prompt response times;<sup>185</sup>
- the EFRA Committee reported that, on the whole “we have enjoyed a good working relationship with Defra officials and Ministers, and we are grateful to them for the time they have taken to hold informal discussions with us”;<sup>186</sup>

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183 HC (2006–07) 198, para 3

184 Defence Committee, Sixth Special Report of Session 2006–07, *The work of the Committee in 2005 and 2006: Government Response to the Committee's Fifth Report of Session 2006–07*, HC 344

185 Defence Committee, *The work of the Committee in 2005 and 2006*, paras 74 and 78; Foreign Affairs Committee, *Work of the Committee in 2005 and 2006*, para 57

186 HC (2006–07) 213, para 53

- the International Development Committee reported that it was “fortunate” to have two informal meetings a year with the Secretary of State for International Development.<sup>187</sup>

93. However, these positive comments about the general attitude of departments were balanced or even outweighed by specific complaints, especially about timing and quality of Government replies to reports and access to documents. Examples of the former include:

- the Committee of Public Accounts was not satisfied by the Foreign and Commonwealth Office’s response to its request for full details of early severance and early retirement payments, following an evidence session on the Department’s Resource Accounts;<sup>188</sup>
- the Communities and Local Government Committee noted the poor quality of information provided by the Department for Communities and Local Government in the evidence submitted to the Committee and more widely, e.g. responses to parliamentary questions and in its Annual Report;<sup>189</sup>
- the Education and Skills Committee commented that the Government’s response to its report on Special Educational Needs was disappointing and that on a number of significant issues it did not accurately portray recommendations that the Committee had made;<sup>190</sup>
- the EFRA Committee was concerned that Defra’s responses to requests for written evidence or other information could take “some considerable time” to reach the Committee;<sup>191</sup>
- the Trade and Industry Committee expressed dissatisfaction with the Government’s Response to its report on the Export Credits Guarantee Department, and the Committee made a further report on the issue;<sup>192</sup>
- the Treasury Committee found the Treasury was slow in providing written evidence following up oral evidence sessions; in one case the supplementary evidence was not received until after the relevant report had been agreed. The Committee also expressed concerns about the quality of some replies.<sup>193</sup>

94. Other committees referred to specific instances where departments refused to supply documents to them, or did not adequately inform committees about information relevant to inquiries. Examples include:

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187 HC (2006–07) 228, para 72

188 Uncorrected transcript of oral evidence taken before the Committee of Public Accounts on 15 February 2006, HC (2005–06) 933-i

189 HC (2006–07) 198, para 3

190 HC (2006–07) 301, para 10

191 HC (2006–07) 213, para 55

192 Trade and Industry Committee, Second Report of Session 2006–07, *Work of the Committee in 2005–06*, HC 332, para 29

193 HC (2006–07) 191, paras 48 and 52–54

- the Foreign Affairs Committee noted the continuing problem of eliciting information from the FCO, which had not improved as a result of the Freedom of Information Act. The committee noted that the FCO has consistently failed to inform it even of the existence of highly relevant documents, and has been reluctant to supply the committee with copies;<sup>194</sup>
- the Department of Health refused the Health Committee certain information on the value for money of the Independent Sector Treatment Centre scheme, on the grounds of commercial confidentiality, which made it difficult for the committee to draw conclusions about the scheme;<sup>195</sup>
- Treasury Ministers refused to provide the Treasury Sub-Committee with information about the legal basis on which it recovered supposed tax credits overpayments. The Paymaster General responded to the request as if it had been made under the Freedom of Information Act 2001 and not under the House's own inherent powers.<sup>196</sup>

### *Documents of the Office of Government Commerce*

95. A particular problem of access was highlighted when two committees attempted to obtain copies of the gateway reviews undertaken by the Office of Government Commerce (OGC), with mixed results. The reviews are carried out on acquisition programmes or procurement projects at key decision points by a team of experienced people, independent of the project team. Defra acceded to a request from the EFRA Committee to see OGC gateway reviews of progress by the Rural Payments Agency (RPA) in implementing the new Single Payment Scheme for EU agricultural payments, which the Committee regarded as vital to its inquiry into the RPA. Defra supplied these documents (and other internal Defra management papers) on the basis of an undertaking by the Committee to keep the documents confidential and to make only limited references to them in its final report.<sup>197</sup>

96. On the other hand, the Work and Pensions Committee initially received a negative response to a request for OGC quarterly reports on efficiency targets.<sup>198</sup> It needed the assistance of the Leader of the House, with whom we raised the issue in November, to unblock the refusal. Jack Straw wrote to us that the matter had been “reviewed”, and the Committee would receive reports on a confidential basis. However, the Committee had also asked for a copy of the gateway review for the new IT system for the Department's proposed Employment and Support Allowance. This request was refused, on the grounds that the OGC had refused to disclose information contained within gateway review reports to anyone but the senior responsible officer for the project.<sup>199</sup>

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194 HC (2006–07) 206, paras 58–59

195 Health Committee, *The work of the committee in 2005–06*, para 10

196 HC (2006–07) 191, para 49

197 HC (2006–07) 213, para 55

198 Work and Pensions Committee, Second Special Report of Session 2005–06, *The Efficiency Savings Programme in Jobcentre Plus: Government Response to the Committee's Second Report on Session 2005–06*, HC 1187, para 8

199 HC (2006–07) 215, para 24

### *Access to No. 10 policy advisers and former departmental officials*

97. In its previous annual reports, the Liaison Committee has referred to problems faced by committees in obtaining access to No. 10 policy advisers.<sup>200</sup> In the 2005–06 Session, the Public Administration Select Committee sought to take evidence from Lord Birt while he was an adviser to the Prime Minister. The Committee’s request was declined, as on previous occasions. However, Lord Birt gave evidence after he left the Government. The Committee concluded that there was no reason why anything Lord Birt said would have been inappropriate while he was in Government.<sup>201</sup>

98. The EFRA Committee sought to take evidence from the former Permanent Secretary at Defra, in respect of his responsibilities connected with the Committee’s inquiry into the Rural Payments Agency. The Committee notes that, where Ministers and senior officials have left their posts, it is difficult for select committees to establish lines of accountability in relation to policy decisions. The Committee was able to obtain the agreement of the departments concerned and the former permanent secretary, now permanent secretary at the DTI, gave evidence on two occasions to the Committee. The Committee regarded such meetings as essential to its inquiry, and expressed its gratitude to the witnesses concerned and to Defra for its assistance.<sup>202</sup> The Public Accounts Committee also took evidence from a former Accounting Officer in the course of its inquiries.<sup>203</sup>

### *Our conclusions on cooperation from Government*

99. Our predecessor Committee discussed provision of information to committees with the then Leader of the House, Rt Hon Peter Hain, in October 2004, following the publication of a draft of the revised Government guidance to officials on departmental evidence to committees (known as the “Osmotherly rules”). Mr Hain assured the Committee that the Government’s presumption was that:

Committees’ requests on attendance of civil servant witnesses, including Special Advisers, will be agreed to... the provision of information will be agreed to... departments [will be encouraged] to be proactive in providing relevant information and documents to Committees.<sup>204</sup>

100. Recent experience by committees, as summarised above, does not suggest that all departments are yet fully committed to this approach. We discussed this with the current Leader of the House, Rt Hon Jack Straw, at a private meeting on 21 November 2006. At that meeting, Mr Straw proposed that committee chairmen encountering such problems should contact him, and he would take up the cases with his Cabinet colleagues. **As we reported above, the Leader’s assistance has already brought results, and we look**

200 Liaison Committee, *Annual Report for 2004*, para 125

201 HC (2005–06) 258, para 40

202 EFRA Committee, *The work of the Committee in 2005–06*, para 56. The Committee also took evidence from two former ministers after they had left the Government, and the former Acting Chief Executive of the RPA after he had retired.

203 Committee of Public Accounts, *Sixtieth Report of Session 2005–06, Home Office Resource Accounts 2004–05 and follow-up on Returning failed asylum applicants*, HC 1079

204 HC (2004–05) 419, para 130

forward to improved provision of information by departments to committees. We also welcome Defra's decision to give the EFRA Committee confidential access to Office of Government Commerce gateway reviews, and expect the Leader of the House to recommend this helpful approach to other departments, in particular the Department of Work and Pensions. In the same spirit of cooperation evident in our meeting with the Leader, we also look forward to a greater readiness by No. 10 to allow special advisers to give evidence to committees while in post. While we recognise the importance of the convention that the Permanent Secretary in post, as accounting officer, has sole responsibility for the work of the department, it can be very useful for former officials to give evidence to committees, as this makes it easier for the facts of a case to be established when the officials actually involved in the issue under consideration are available to question.

## 4 New developments

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### Post-legislative scrutiny

101. In previous reports, the Liaison Committee has noted the important role of select committees in scrutinising the operation of Acts of Parliament.<sup>205</sup> On 25 October 2006 the Law Commission published a report on its findings following a consultation on post-legislative scrutiny, launched at the Government's request in January 2006.<sup>206</sup> The consultation arose from the Government's response to a report of the House of Lords Select Committee on the Constitution, which recommended a more systematic approach to the scrutiny of legislation once enacted.<sup>207</sup> We held an informal meeting with the then Chairman of the Law Commission, Sir Roger Toulson, in March 2006, and the Scrutiny Unit submitted a paper to the consultation. **We are glad to have developed closer links with the Law Commission and look to maintain them in the future.**

102. The Law Commission found “overwhelming support for the principle that there should be a more systematic approach to post-legislative scrutiny”. It cites the following key reasons for such an approach:

- to see whether legislation is working out in practice as intended;
- to contribute to better regulation;
- to improve the focus on implementation of policy aims to identify and disseminate good practice so that lessons may be drawn from the successes and failures revealed by the scrutiny work.

103. The Commission's report emphasises the importance of a flexible, rather than “one size fits all”, approach to post-legislative review. It states a preference for reviewing a few pieces of legislation a year, rather than recommending blanket scrutiny of all legislation. Some post-legislative scrutiny is already conducted by government departments, and other statutory and non-statutory bodies. However, the Law Commission's consultation revealed a “strong message” that Parliament should have ownership of the process of post-legislative scrutiny.

104. The Commission recommends the appointment of “a new Parliamentary joint committee on post-legislative scrutiny”. The Commission proposes that:

select committees would retain the power to undertake post legislative review, but if they decided not to exercise that power, the potential for review would then pass to a dedicated committee. The committee, supported by the Scrutiny Unit, could be involved at pre-legislative as well as post-legislative stages in considering what should

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205 HC (2004–05) 419, para 74

206 Law Com no. 302

207 House of Lords Select Committee on the Constitution, Fourteenth Report of 2003–04, *Parliament and the Legislative Process*, HL 173-I

be reviewed, could undertake the review work itself or commission others to do so and would develop organically within its broad terms of reference.<sup>208</sup>

105. We have already noted, in our analysis of core task 9, the wide range of work select committees already carry out on post-legislative scrutiny, such as the Quadripartite Committee's review of the Export Control Act 2002 and the joint hearings by the Constitutional Affairs Committee and the Home Affairs Committee on the impact of the Human Rights Act 1998.<sup>209</sup> **Like the Law Commission, we believe that Parliament has the key role to play in post-legislative scrutiny; we also believe that select committees should be at the heart of the process. There is also a strong argument for a more systematic approach to such scrutiny, to maximise the benefits of select committees' involvement in the process. However, we believe that very careful thought will be needed to establish the right mechanism for achieving this. We look forward to working with the Government on developing such a mechanism. To this end we have established a small sub-group to take this issue forward, including in the first instance an informal meeting with the Leader of the House on the best way ahead.**

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208 *Op cit*, para 3.47

209 See para 64 above

## 5 Activity and resources

### Select committee activity

106. The 2005–06 Session saw select committees holding 1,500 formal meetings—the highest figure for many years, and higher than in recent sessions of comparable length. In the last ten years, the total of 365 published reports has only been matched in 2003–04. Committees were not established until July 2005, but the number of formal committee meetings per sitting week was comparable to the post-election Session of 1997–98, and higher than in the post-election Session of 2001–02. Tables 11 and 12, and figures 1 and 2, give more details on numbers of meetings held and committee reports published. In considering these figures set out in them, it is important to note that the data are derived from the House’s sessional returns, which do not capture information about committees’ informal activities, such as seminars, informal meetings and awaydays, the value of which we have made clear earlier in this report.

**Table 11: Select Committee meetings by Session 1997–98 to 2005–06**

	Departmental select committees		Other scrutiny committees		Domestic/admin committees		All committees	
	All meetings	<i>of which public</i> <sup>1</sup>	All meetings	<i>of which public</i> <sup>1</sup>	All meetings	<i>of which public</i> <sup>1</sup>	All meetings	<i>of which public</i> <sup>1</sup>
<b>Number</b>								
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
2004–05	359	240	153	82	65	5	577	327
2005–06	968	590	368	175	164	17	1,500	782
<b>Rate per sitting week</b> <sup>2</sup>								
1997–98R	22.3	14.3	5.6	1.9	6.5	0.6	34.4	16.8
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
2001–02R	20.0	12.4	7.3	3.0	5.5	0.4	32.8	15.7
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
2004–05	25.6	17.1	10.9	5.9	4.6	0.4	41.2	23.4
2005–06R	22.0	13.4	8.4	4.0	3.7	0.4	34.1	17.8

Notes: <sup>1</sup> Meetings at which oral evidence was taken wholly in public.

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

R - number of weeks revised to take account of time taken to nominate select committees

Source: *Sessional Returns: Session 1997–98 to 2005–06*

Figure 1: committee meetings

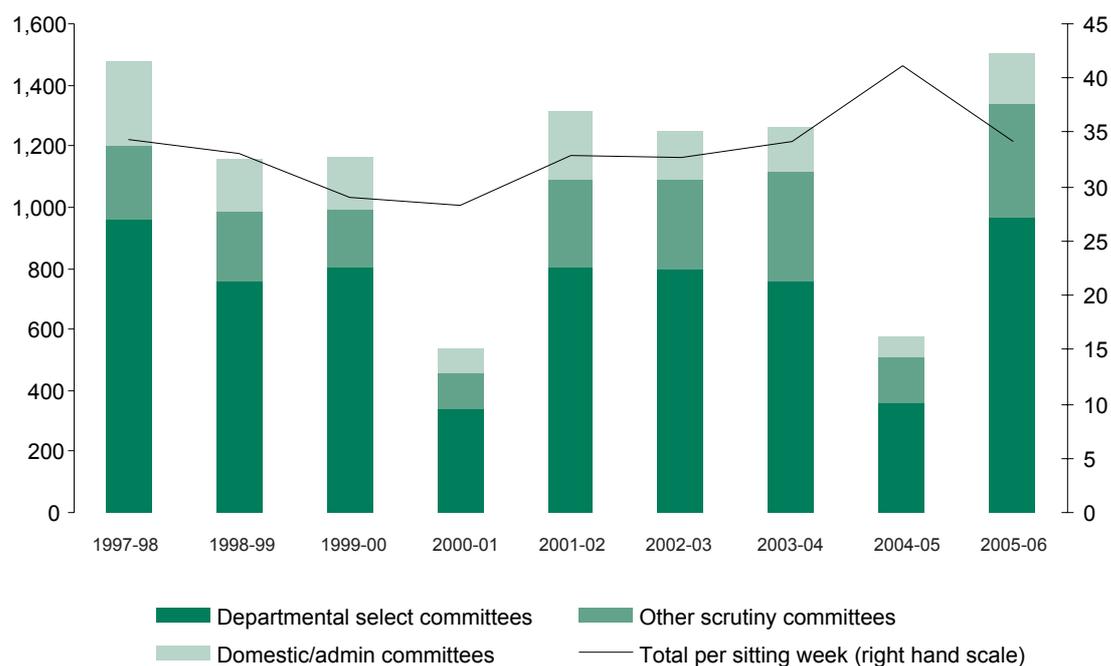


Table 12: Substantive committee reports by Session: 1997-98 to 2005-06

	Departmental select committees	Other scrutiny committees	Domestic/admin committees	All committees
<b>Number</b>				
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
2004-05	129	103	10	242
2005-06	129	211	25	365
<b>Rate per sitting week<sup>1</sup></b>				
1997-98R	2.6	4.1	0.7	7.5
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
2001-02R	3.0	5.0	0.5	8.5
2002-03	4.2	4.6	0.4	9.2
2003-04	4.1	5.4	0.4	9.9
2004-05	9.2	7.4	0.7	17.3
2005-06R	2.9	4.8	0.6	8.3

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

R - number of weeks revised to take account of time taken to nominate Select Committees

Source: *Sessional Returns: Sessions 1997-98 to 2005-06*



108. Comprehensive details of expenditure attributable to individual select committees are included in the Sessional Return for Session 2005–06 published on 26 January 2007.<sup>210</sup>

### Resources for select committees

109. In this section we note two developments relating to committee resources. The first is the increase in the complement of select committee media officers. Three media officers were in place by 2004 to assist all select committees, concentrating particularly on the departmental committees in respect of which they are considered part of each committee team. We are pleased that two additional media officers have since been recruited. The value of the media officers' work has been highlighted by committees. For instance, the EFRA Committee stated that it had worked closely with its committee media officer "to help the media to represent our work in an accurate and accessible way",<sup>211</sup> and the Treasury Committee welcomed the appointment of an additional media officer in the Committee Office, enabling the media service to devote more time to support the Treasury Committee. Of special value has been the ability of media officers to raise the profile of a particular inquiry by stimulating interest. For example, awareness of the Coastal Towns inquiry being undertaken by the Communities and Local Government Committee was raised dramatically when BBC Radio's *Today in Parliament* covered a visit to Margate and Whitstable. This led to widespread interest from regional and local media, and then from local authorities and interest groups wanting to contribute evidence. **We believe the work of the media officers has directly contributed to the increasing ability of committees to explain their work to the public and better engage with them.**

110. The second issue is the announcement of a review of Select Committee Resources. This will follow up the review initiated by the House of Commons Commission in 2002, which provided an overdue enhancement of support to our committees. The additional staff channelled to committee secretariats, both directly and via the House of Commons Library, have been a vital reinforcement for the inquiry management and administrative functions. The review also led to the creation of the media officers, whose work we describe in paragraph 109 above.

111. In its Annual Report for 2003, our predecessor committee expressed its view as follows:

We shall continue to take a close interest to ensure that adequate support is available to committees to enable them to carry out their work effectively. When the current Review has been fully implemented, there should be a system of regular review updates, to ensure that select committees are never again expected to carry out evolving duties with out-of-date resource allocations. The time gap between reports of reviews should never exceed five years.<sup>212</sup>

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210 Sessional Returns, Session 2005–06, HC 1

211 HC (2006–07) 213, para 50

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

We welcome the appointment of the updating review, which is to be led by a senior NAO official. It is right that the scale and effectiveness of committee resources should be assessed periodically. It is thanks to the secretariats which support us that our committees are able to achieve the substantial scrutiny programme reviewed in this report.

## Conclusions and recommendations

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1. We are disappointed that the Government has failed to live up to the expectations it has previously raised about the number of bills it will publish in draft. (Paragraph 14)
2. Pre-legislative scrutiny of draft bills is an area where committees can have some of their most significant impact on the work of Government, by improving texts on the basis of expert evidence. We recommend that the Government ensures that a more substantial number of draft bills are submitted for consideration in the future. (Paragraph 17)
3. The experiences of committees confirm the need for the Government to publish the draft bill in sufficient time to enable proper consideration by a committee. We recommend that the Government take account of the need for adequate time for detailed scrutiny by committees when planning publication. This could be done most suitably by informal consultation between the minister or the Leader of the House and the committee chairman. (Paragraph 21)
4. We recommend that the Government give a clear commitment that the new evidence-taking procedure by Public Bill Committees does not reduce the need for pre-legislative scrutiny, nor does it preclude select committees from examining bills during their passage through the House when they consider their expertise is needed to examine the text in more depth. (Paragraph 26)
5. The Scrutiny Unit has established itself as an integral part of the Committee Office and has added particular value to the work of committees in examining government expenditure. (Paragraph 31)
6. We are impressed by the rigour that many committees are now bringing to their financial scrutiny work, and the timely and effective way they are making use of the Scrutiny Unit's analysis and support. Most government departments can now assume that the relevant departmental select committee will examine them on the key documents of all stages of the Parliamentary resource planning and accountability framework. We welcome the fact that so many committees report to the House following their examination of Departmental Annual Reports, as this helps inform Members and can also provide valuable feedback to the departments concerned about the quality of their financial reporting to Parliament. It is vitally important those committees that do not already publish such a report take steps to do so, and it is equally important that departments ensure that timely and clear information is given to them. (Paragraph 32)
7. We congratulate the Defence Committee on its work in informing Members of the implications of specific Estimates before they are asked to vote on them, and commend the Committee's practice to other committees. (Paragraph 36)
8. The Defence Committee asks us to reconsider the way in which we choose select committee reports for debate on Estimates days, so as to give greater priority to reports which have been produced specifically on the Estimate concerned. We sympathise with the Committee's desire to reinforce the House's traditional control

over the Government's resources, but we are also conscious that there are currently only limited opportunities for debates on committee reports in the Chamber and that not all committees will be able to report on Estimates in the time available. For this reason, and despite the additional opportunities for debate now available in Westminster Hall, we would like to continue to reserve the possibility of recommending debates on a wide range of reports, albeit related to the Estimate under consideration. (Paragraph 37)

9. Committees have continued to examine closely the way Public Service Agreements have been set, and progress against them assessed and reported, since the 2004 Spending Review. The committees have in the process identified weaknesses and inconsistencies. As the Treasury and departments develop a new set of targets as part of the current Comprehensive Spending Review, we look forward to committees maintaining that critical engagement. (Paragraph 42)
10. It is unacceptable for a government department to delay its response to a committee report in order to delay or avoid a debate on the report in the House or Westminster Hall. We expect the Government, in its reply to our report, to agree to this. (Paragraph 55)
11. While the number of debates on committee reports in Westminster Hall is welcome, it has dropped from the two-thirds target recommended by the Modernisation Committee. We pay tribute to the cooperation received from the Government Whips in arranging these debates, but recommend that the allocation rise towards the recommended target in the near future. (Paragraph 56)
12. The work of various committees on the Government's Legislative and Regulatory Reform Bill represents a triumph for Parliamentary scrutiny. It is an example of Parliament, through its committees, forcing the Government to change its mind, and thus help produce a radically improved piece of legislation—good scrutiny making for good government. (Paragraph 70)
13. We greatly value the increased cooperation and support, now with more specific briefing, which committees have received from the National Audit Office, including secondments to the Scrutiny Unit and individual teams, and look forward to its continued development. (Paragraph 78)
14. We believe that an increased embargo time, used with discretion rather than routinely, would alleviate the problems we have set out and would allow for more and better quality coverage of committee reports. We are therefore grateful to the Leader of the House, with whom we discussed this issue at our meeting on 21 November, for his agreement to bring forward for decision by the House a proposal to change the Standing Orders to extend the embargo period. We hope that the House will agree to make such a change in order to assist us. (Paragraph 90)
15. As we reported above, the Leader's assistance has already brought results, and we look forward to improved provision of information by departments to committees. We also welcome Defra's decision to give the EFRA Committee confidential access to Office of Government Commerce gateway reviews, and expect the Leader of the House to recommend this helpful approach to other departments, in particular the

Department of Work and Pensions. In the same spirit of cooperation evident in our meeting with the Leader, we also look forward to a greater readiness by No. 10 to allow special advisers to give evidence to committees while in post. While we recognise the importance of the convention that the Permanent Secretary in post, as accounting officer, has sole responsibility for the work of the department, it can be very useful for former officials to give evidence to committees, as this makes it easier for the facts of a case to be established when the officials actually involved in the issue under consideration are available to question. (Paragraph 100)

16. We are glad to have developed closer links with the Law Commission and look to maintain them in the future. (Paragraph 101)
17. Like the Law Commission, we believe that Parliament has the key role to play in post-legislative scrutiny; we also believe that select committees should be at the heart of the process. There is also a strong argument for a more systematic approach to such scrutiny, to maximise the benefits of select committees' involvement in the process. However, we believe that very careful thought will be needed to establish the right mechanism for achieving this. We look forward to working with the Government on developing such a mechanism. To this end we have established a small sub-group to take this issue forward, including in the first instance an informal meeting with the Leader of the House on the best way ahead. (Paragraph 105)
18. We believe the work of the media officers has directly contributed to the increasing ability of committees to explain their work to the public and better engage with them. (Paragraph 109)

## Appendix 1: List of Annual Reports of Select Committees for 2005–06

Committee	Report reference
Communities and Local Government	First Report, HC 198: <i>The Work of the Committee in 2005–06</i>
Constitutional Affairs	Second Report, HC 259: <i>Work of the Committee in 2005–06</i>
Culture, Media and Sport	First Report, HC 234: <i>Work of the Committee in 2005–06</i>
Defence	Fifth Report, HC 233: <i>The work of the Committee in 2005 and 2006</i>
Education and Skills	First Report, HC 301: <i>The Work of the Committee in 2005–06</i>
Environmental Audit	Letter from the Chairman (Appendix 2)
Environment, Food and Rural Affairs (EFRA)	First Report, HC 213: <i>Work of the Committee in 2005–06</i>
European Scrutiny	Sixth Report, HC 38-vi: <i>The Work of the Committee in 2004</i>
Foreign Affairs	First Report, HC 206: <i>The Work of the Committee in 2005 and 2006</i>
Health	Second Report, HC 297: <i>Work of the Committee 2005–06</i>
Home Affairs	First Report, HC 296: <i>Work of the Committee in 2005–06</i>
Human Rights (Joint Committee)	Letter from the Chairman (Appendix 3)
International Development	Third Report, HC 228: <i>Work of the Committee in 2005–06</i>
Northern Ireland Affairs	Second Report, HC 294: <i>The Work of the Committee in 2006</i>
Public Administration	First Report, HC 258: <i>The Work of the Committee in 2005–06</i>
Science and Technology	First Report, HC 202: <i>Work of the Committee in 2005–06</i>
Scottish Affairs	First Report, HC 308: <i>Work of the Committee in 2006</i>
Trade and Industry	Second Report, HC 332: <i>Work of the Committee in 2005–06</i>

<b>Committee</b>	<b>Report reference</b>
Transport	First Report, HC 226: <i>Work of the Committee in 2005–06</i>
Treasury	Third Report, HC 191: <i>Work of the Committee in 2005–06</i>
Welsh Affairs	First Report, HC 291: <i>Work of the Committee in 2005–06</i>
Work and Pensions	Second Report, HC 215: <i>Work of the Committee in 2005–06</i>

*All HC numbers are of Session 2006–07.*

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

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

In line with the practice of my predecessor, I am writing to you to set out the key components of the Environmental Audit Committee's work programme during 2006 in lieu of my Committee agreeing an Annual Report. Last year was, as expected, a busy year, being the first full year since the General Election; and, despite a significant turnover in membership since that Election, the Committee kept to a fairly rigorous schedule of meetings and inquiries, principally in relation to climate change, which subject in the summer of 2005 the new Committee had set as its priority for this Parliament.

It is, I think, important to stress at the outset the cross-departmental nature of the Committee's (and Sub-committee's) remit and work programme in 2006, as it is a unique characteristic of the Committee's activity. The Committee has always endeavoured, as far as it is able, to examine the full breadth of Government activity, and to pursue inquiries with as many departments and government agencies as appropriate. Over the course of the year the Committee and Sub-committee took evidence from 2 Secretaries of State and 7 Ministers (on a total of 9 occasions) from 5 departments of state: oral evidence was taken from officials from 6 different government departments on 12 occasions. Although much Committee activity has an inevitable focus on DEFRA, those other departments involved in the EAC work programme included ODPM (as it was then), HM Treasury, DTI, DfT and DfID. A report published at the beginning of the year had also benefited from evidence from DfES in the last months of 2005. Furthermore, an inquiry was launched at the end of 2006 which will lead to evidence being taken from the FCO.

As I noted above, when the Committee met for the first time after the General Election, it adopted the subject of climate change as the focus of its work for this Parliament. This subject has informed most of the decisions taken by the Committee over 2006 in determining which inquiries it ought to pursue. It has not however neglected those streams of work which it has traditionally undertaken each year since its first Parliament (which anyway from the outset had climate change components or content), namely the Pre-Budget Report/Budget inquiry, and work on sustainable development in Government, either under the form of the Sustainable Development in Government (SDiG) initiative or under more recent forms such as sustainable development action plans (SDAPs) and sustainable development reporting in general. Given the prominence of climate change in the public debate and the clear connection between climate change and key elements of the work of every government department, this focus on climate change has not limited the scope or extent of the Committee's work but rather added clarity and intensity to its scrutiny.

Although I only became EAC Chairman in December 2005, I will begin by briefly outlining its activities since it began taking evidence in October 2005. Even in this short period before the end of 2005, the membership of the Committee experienced a 25% turnover. By the end of the Session this figure had reached 37.5%: such volatility is a function of the

large size of the Committee and a number of other unrelated factors (promotion of Members to become Government PPSs, promotion of Members by the Conservative Party leadership to front-bench or Whips positions, &c.). I am becoming more certain that the large size of the Committee and its unusual composition (having an *ex-officio* Minister as a member, in like manner to PAC) is actually not appropriate for the way in which EAC has worked since 1997, whatever the expectations were for its *modus operandi* when it was first set up. I may well be writing to you later in the year on this very issue.

The Committee's work-stream in Autumn 2005 was effectively split into two: a sizeable Sub-committee under Joan Walley's chairmanship was set up to look at issues relating to timber procurement and use: this was in part a follow-up to concerns the predecessor Committees had expressed in earlier reports about UK Government use of unsustainable and occasionally illegal timber. Our inquiry ranged further than this, however, looking into what the Government was doing internationally to increase the use of sustainable timber and to ban the use of illegally logged timber. The Report on this issue was EAC's second of the Session, and was well-received by DEFRA, the then Minister Elliot Morley MP taking a very positive view of the Committee's recommendations.

(The Committee's First Report had been a short study of the latest SDiG data provided by Government, set within the context of a review of the whole SDiG process as it had developed since it was effectively initiated by EAC shortly after its establishment in 1997: the Report benefited greatly from a thorough and helpful NAO memorandum – I will return a little later to the considerable assistance provided to the Committee by the NAO during the Session.) The Committee also began in October to take evidence on our energy inquiry, *Keeping the Lights On: Nuclear, Renewables and Climate Change*, which attracted considerable public and media attention. The inquiry was a fascinating and complex one, and the eventual Report (which was agreed under my Chairmanship in March 2006) reflected this complexity, avoiding the pitfalls of easy answers with which the whole energy field is too often strewn.

After completing its evidence on energy (with a session with Alan Johnson MP, then Secretary of State for Trade and Industry), the Committee returned to the subject of its predecessor Committee's report (from almost exactly one year before) on sustainable housing. In the light of new developments and information, the Committee launched an inquiry into particular aspects of housing (the Code for Sustainable Homes, building regulations, and water infrastructure for new sustainable communities). Almost simultaneously the Committee launched its annual inquiry into the PBR (2005): EAC is pleased to be one of the very few Committees besides the Treasury Select Committee to take regular evidence from Treasury Ministers. The Committee is only too aware that HMT is central to how Government acts and that it needs to be at the centre of rolling out policy development and change to address domestic and international concerns about the climate. Both of these reports were published just before the Easter adjournment. While these inquiries were ongoing, the Committee also agreed a report on Sustainable Procurement, which it was hoped would influence the work of the Sustainable Procurement Task Force (SPTF). Indeed, the Chairman of the Task Force, Sir Neville Simms, visited me around this time, and it was encouraging to see aspects of the Committee's report reflected in the SPTF Action Plan, when it finally emerged a month or two after EAC had published its own work. Importantly, this Report was based upon an excellent study undertaken by the National Audit Office: our inquiry had been launched to

coincide with the publication of this study, and EAC staff received a great deal of help from the NAO during our inquiry. The Committee's continuing relationship with the NAO is something I will return to later in this letter.

A number of years ago our predecessor Committee had issued a series of reports addressing the issue of the growing threat to the climate posed by the expected massive growth in aviation emissions over the next two decades. The Committee decided early in 2006 in a similar way to assess the carbon emission trends of other forms of transport (and simultaneously to reflect upon any significant changes in the sphere of aviation) and to report on the threat it posed for the climate. This major inquiry provided the Committee with an opportunity to conduct an in-depth analysis of current emissions trajectories; to assess the impact of current or planned Government policy in this area; and to ascertain what changes in policy (and public behaviour) would be required to keep emissions within safe levels. The Report which followed, issued in the first week of August, received a good deal of media coverage which was reflected in the largest ever Committee 'post-bag' on one subject. The inquiry was assisted by a successful visit to the Netherlands and to Sweden to investigate some key technological and planning solutions to the carbon problem. Valiantly, members of the Committee agreed to undertake part of this visit by bicycle.

The period during which this inquiry was undertaken was a particularly busy one. Alongside the transport inquiry, the Committee agreed a report on sustainable development reporting by government departments, based upon a document prepared for it by the National Audit Office in response to a previous Committee recommendation, and upon several submissions in response to that briefing. The Committee also sought information from the Treasury and other government departments on the work they were doing in preparation for the Comprehensive Spending Review, specifically in terms of assessing the need for changed or amended (or replacement) PSA targets in the light of the need to continue to mainstream environmental and sustainable development objectives (especially on account of the threat posed by climate change challenge). The responses we received, largely orchestrated by the Treasury, were sadly very poor. The Committee also undertook a short but illuminating inquiry into DEFRA's proposals for the draft Marine Bill, the Report on which was published shortly before the summer adjournment. The Committee also took several sets of high profile oral evidence from the Secretary of State for the Environment, David Miliband MP, from Jonathon Porritt of the SDC and from the CBI in relation to the revision of the climate change programme during which sessions a number of issues from previous EAC reports were also followed up.

The busy summer term also saw the Committee agreeing to the establishment of a Sub-committee, to be chaired by Colin Challen MP, on trade, development and environment issues, which took as its first subject for inquiry the work of DfID. It took evidence through the early summer months and its first report was agreed by the main Committee shortly before the summer recess. Since its standing order was amended in 2001 to give it the power to establish sub-committees, EAC has used this valuable mechanism to increase the range of its inquiries and in particular to 'target' departments normally outside environmental or SD scrutiny. (This was very manifest in the work of the environmental crime Sub-committee in 2004 which took evidence from DCA, and the Home Office as well as from DEFRA.) The Committee also had a short but useful visit to Woking in order to examine the praiseworthy work of the Borough Council which is the local authority at

the forefront of implementing green energy policies and improving energy efficiency across the full range of its services.

Following the recess, the Committee held a one-off evidence session with its new *ex officio* member, Ian Pearson MP from DEFRA, on UK preparations for the MOP and COP (UNFCCC) meetings in Nairobi. You also approved the sending of two of our members, Colin Challen and David Chaytor, to represent EAC at those meetings, which has been found very useful not just in connection with that inquiry, but also for the Committee's subsequent work. The Committee also initiated a long and thorough inquiry into the progress with the EU Emissions Trading Scheme (ETS), looking in particular at lessons to be learned from its first phase and possible amendments to its working for the third phase which will run from 2008 to 2012. This inquiry took the Committee on a very useful and interesting visit to meet with Commission officials in Brussels (on a range of issues of which EU ETS was the principal but not only one). The Report on the EU ETS is expected to be agreed and published this month.

The Committee also undertook, alongside this inquiry, a short investigation into the use of regulatory impact assessments by Government. This was again based upon a briefing conducted for the Committee by the NAO (proceeding out of a recommendation from a predecessor Committee Report), which also assisted the Committee's secretariat with an informal analysis of submissions. The Report founded on this inquiry is also expected to be agreed this month and published before the half-term adjournment in February. The Subcommittee on Trade, Development and Environment also continued to pursue its series of inquiries, taking evidence on the WTO and on the Millennium Ecosystem Assessment before Christmas, issuing a report on the former in October and one on the latter in the first days of 2007 (it is continuing its work this month examining the role of the FCO).

One key element in the Committee's work this year has been the growing relationship with the National Audit Office. As my predecessor wrote of how things then stood in this regard in his letter to you of February 2005 "this informal working relationship [with the NAO] 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." I can only endorse this comment and add that the relationship has been increasingly formalised—there now exists a dedicated 'EAC team' in the NAO—and is now producing more diverse outputs across a greater range of subject matters than before. There are, of course, still difficulties in assessing well in advance the nature and format of the output that the Committee will find useful and able to use substantively for one or more inquiries. The lead-in time for NAO projects can often be considerable: that, and the need for clearance, means that a certain degree of prophetic skill is required to identify topics which the Committee may have a definite use for 6 to 12 months in the future. However, in this task both I and my Clerk have been assisted by Joe Cavanagh and the EAC team within the NAO, a team which includes Eric Lewis who worked as a NAO secondee for EAC until recently.

At the moment, the Committee is considering a new inquiry for around the Easter period based upon two recently received NAO briefings; and more input from the NAO, some of it received at comparatively short notice, some of it in the form of longer projects planned well in advance, is expected throughout 2007. I cannot stress enough how useful these inputs have been, and the opportunity this relationship has provided for myself and others

to ‘pick the brains’ of NAO staff to help better define prospective inquiries or areas for investigation. NAO also usefully provided a private briefing for the Committee on options for scrutiny which members found particularly useful in guiding them through the diverse possibilities for inquiries in the following months. To some extent we are still following through ideas and trains of inquiry which that briefing helped the Committee to establish.

I would also like to add a note about the Sustainable Development Commission. As you are aware, the role of the SDC has expanded in recent years, as Government has tasked it with additional roles beyond the provision of advice to government. It plays a key role in assessing how the ‘greening government’ initiative (started originally by EAC) is progressing, through analysis of the report emanating each year from the SDiG data: and it has recently compiled an analysis of the first round of SDAPs. It is important for EAC to keep in close communication with SDC, and also for EAC to ensure the accountability of the SDC in its new role. In 2007 it is to be hoped that EAC will take evidence from SDC on its work on the SDiG and SDAPs front: the scrutiny architecture on SD issues is becoming intimate if not crowded, and it is obviously important to ensure good communication and accountability for the sake of clarity and effectiveness.

In previous submissions to the Liaison Committee my predecessors had drawn attention to the very frequent late arrival and poor quality of Government responses. I am glad to say that 2006 was an improvement on 2005 in this regard. More Government responses were on time and, when they were not, they were only just late and the delay was flagged up by a letter from the relevant minister. The only real exception to this was the Government response to our Sixth Report of Session 2005–06, *Keeping the Lights On: Nuclear, Renewables and Climate Change*. As you may recall, I wrote to you in the early summer of last year in some frustration that the Government was not intending to respond to our Report until the Autumn, notwithstanding the fact that the stated reason for delay, the Government’s Energy Review, would be made known to the House more than three weeks before the summer recess. This delay meant that we were unable to get a timely debate in Westminster Hall before the summer recess as the Committee very much wanted to do. The current prohibition on debating reports in Westminster Hall which have not yet been responded to is one which seems to permit an uncooperative government department to avoid having to respond to a substantial and important debate on a select committee report in the House within a sensible time frame. This is not satisfactory.

On a related note, I ought to add that although no EAC report has been discussed formally on the Floor of the House (or in Westminster Hall), the Committee feels that it has carried out its duty to inform Members of the House since the last General Election in many areas of high profile public and parliamentary debate, in relation to climate change generally, and in the areas of energy, housing provision and transport. EAC provided matters for tags for debate on three occasions and in the light of the Committee’s cross-departmental remit (and activity) it should be no surprise that the debates so tagged should have been led by three different departments of state—DEFRA, DTI and DfID.

In terms of quality, Government responses—the occasional wretchedness of which my Committee as has brought to the attention of the House before—were on the whole better than in the previous year. There were no contemptuous dismissals of Committee recommendations, and in most cases responses were fuller and more detailed than usual. However, the Committee remains concerned that too often these responses are drawn up

by officials who appear to have just the text of the recommendation before them (and nothing else) and who do not always therefore engage with the evidence which the Committee adduced in support of its recommendation. This can be very frustrating.

Finally, I would like to return to the issue of HM Treasury. Although EAC as a select committee benefits from the cooperation of this department in connection with our annual PBR inquiry, we are often frustrated at the stance it adopts when the Committee seeks information from it in connection with other matters. Evidently, the department simply does not agree with the Committee in many areas. However, this unhelpful spirit goes, I think, much deeper than this disagreement. I am sure that many of my Liaison Committee colleagues may also feel that the Treasury's almost supreme influence on matters not just of funding but of policy is so significant that the opportunities by my Committee and by other select committees to scrutinise its activity, and to be able better to access some of the workings of Government in which it plays such a major part, must be increased in order to improve how we scrutinise more broadly the work of Government.

Mr Tim Yeo MP  
*January 2007*

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

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

#### *Work of the JCHR in 2005–06*

The Liaison Committee has asked each of the Departmental Select Committees to produce reports on their activities in 2005–06, with particular reference to the core objectives and tasks of those Committees. Following production of those reports, the Liaison Committee will be producing its own report on the work of select committees over that period.

In the last Parliament, the JCHR did not produce such annual reports, largely because it is of a different nature to departmental committees and the core tasks for those committees are of variable relevance to us. As a joint committee of both Houses, with terms of reference “to consider matters relating to human rights in the UK”, we do not 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 are as likely to be engaged with cross-cutting issues which engage human rights as with the details of specific policy initiatives.

Despite the limited relevance of the core tasks to our work, during the last Parliament the previous JCHR Chairman, Jean Corston, wrote to you each year to provide details of the work undertaken by the Committee, relating it as appropriate to those core tasks, and her letters were published as Appendices to the Liaison Committee’s own report. This letter continues in that tradition, and I hope the information contained in it will be helpful to the Liaison Committee.

Before turning to describe the work we have done since the beginning of this Parliament, I should however refer to the final report produced by the JCHR in the last Parliament. Entitled *The Work of the Committee in the 2001–2005 Parliament*,<sup>1</sup> this comprehensive report set out the background to the initial establishment of the Committee and then gave an account of the work which the Committee had undertaken, and the principles which had guided that work. To some extent, therefore, that report served the purpose of the annual reports published by departmental select committees.

I should also explain that from the beginning of this Parliament the JCHR has not been working precisely in accordance with the pattern established by the Committee in the last Parliament. So, although in Session 2005–06 we continued to scrutinise primary legislation introduced into Parliament for its human rights implications, we did not make this our first priority, as our predecessor Committee did. We also undertook a greater volume of other work, one effect being that we did not scrutinise every Government and private bill, or any private Members’ bills. This shift of emphasis was intended to enhance the influence

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1 Nineteenth Report of Session 2004–05, HC 552

and impact of the Committee, particularly in the House of Commons, by engaging more proactively in human rights political issues arising in policy proposals or legislation.

During the course of the year we also undertook a major exercise of examining our own working practices in order to agree on how we would seek to fulfil our terms of reference over the remainder of this Parliament. We engaged an external specialist adviser, Francesca Klug from the LSE, to undertake research for us and bring forward options, and agreed our own report, based on her findings, just before the summer recess.<sup>2</sup> By and large we have started to operate in accordance with our decisions from the start of the current Session, particularly through the introduction of a new legislative scrutiny sifting system intended to ensure that we focus in our legislative scrutiny work more selectively on important human rights issues raised by bills in order to report on them in a more timely fashion for the benefit of both Houses. I will be able to provide fuller information about the implementation of our new working practices next year.

### **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.**

As mentioned above, during Session 2005–06 our scrutiny work mainly considered the human rights implications of legislation when it was introduced. However, we reported on the implications of the Schools White Paper,<sup>3</sup> work which informed our scrutiny of the Education and Inspections Bill when it was presented,<sup>4</sup> and we also examined the Police and Justice Bill in the context of the Government’s wider Respect Action Plan.<sup>5</sup> In the current Session we intend to expand our pre- and post-legislative scrutiny work.

We considered Home Office proposals to rebalance the criminal justice system and reform the Immigration and Nationality Directorate in the context of the reviews of the implementation of the Human Rights Act carried out by the DCA and the Home Office itself (see comments relating to Task 4 below).

From time to time in our scrutiny of legislation we considered the human rights implications of associated draft guidance. An example was in relation to the Safeguarding Vulnerable Groups Bill.<sup>6</sup> We often comment on the difficulties caused for our scrutiny work when draft guidance to be made under a bill is not published at the same time as the bill itself.

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2 Twenty-third Report of Session 2005–06, *The Committee’s Future Working Practices*, HC 1575

3 Ninth Report of Session 2005–06, *Schools White Paper*, HC 887

4 Eighteenth Report of Session 2005–06, *Legislative Scrutiny: Ninth Progress Report*, HC 1098

5 Twentieth Report of Session 2005–06, *Legislative Scrutiny: Tenth Progress Report*, HC 1138

6 Twenty-fifth Report of Session 2005–06, *Legislative Scrutiny: Thirteenth Progress Report*, HC 1577

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

A major strand of work for us in Session 2005–06, which will continue during the current Session and probably throughout the remainder of this Parliament, was into counter-terrorism policy and human rights. We visited France, Spain and Canada in connection with this inquiry and produced three reports on the subject. The first two focused on legislation, the Terrorism Bill<sup>7</sup> and the order renewing the control orders regime put in place by the Prevention of Terrorism Act 2005.<sup>8</sup> The third report in the series attempted to deal with the subject more pro-actively, examining ways in which the Government’s counter-terrorism strategy could be developed to ensure that it is fully compatible with human rights obligations and principles.<sup>9</sup> The report made a number of recommendations designed to facilitate prosecution of terrorist suspects and to provide alternatives to lengthy pre-charge detention of such suspects.

The previous Committee regularly inquired into the implementation of individual UN human rights treaties in the UK, on the basis of the “Concluding Observations” issued by the UN treaty bodies following their examination of the Government on its periodic reports. In Session 2005–06 we conducted a similar inquiry into the implementation of the UN Convention against Torture (UNCAT) in the UK. In this inquiry we also considered the human rights aspects of the topical issue of extraordinary renditions.

We conducted a major “thematic” inquiry into human trafficking, examining the consistency of Government policy in relation to international human rights norms, particularly those governing the treatment of victims of trafficking. In the course of this inquiry we visited Italy to see how trafficking victims were supported there. Amongst other things, our report<sup>10</sup> recommended that the Government should sign and ratify the Council of Europe Convention against Trafficking in Human Beings.

At the end of the Session we began a thematic inquiry into the treatment of asylum seekers and we also held a one-off evidence session with the UK’s four Children’s Commissioners on current matters of concern relating to children’s rights.

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

In theory all draft bills fall within our area of responsibility in relation to their human rights implications. During Session 2005–06 we did not report substantively on any draft bills, but our Legal Adviser liaised at official level as appropriate with committees conducting pre-legislative scrutiny of them.

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7 Third Report of Session 2005–06, *Counter-terrorism policy and human rights: Terrorism Bill and related matters*, HC 561-I and -II

8 Twelfth Report of Session 2005–06, *Counter-terrorism policy and human rights: Draft Prevention of Terrorism Act 2005 (Continuance in force of sections 1 to 9) Order 2006*, HC 915

9 Twenty-fourth Report of Session 2005–06, *Counter-terrorism policy and human rights: prosecution and pre-charge detention*

10 Twenty-sixth Report of Session 2005–06, *Human Trafficking*, HC 1127-I and -II

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

We have no single department to monitor, though much of our work involves the examination of documents or proposals across Government.

Overall human rights policy responsibility lies with the Department of Constitutional Affairs, and we took oral evidence in January from the then Human Rights Minister, Harriet Harman, on the Government's human rights policy.

Following debate in the spring over whether the Human Rights Act was prejudicing the protection of public safety, both the DCA and the Home Office conducted reviews of the implementation of the Act. On publication of the DCA's review we took evidence from the Lord Chancellor, alongside Baroness Scotland representing the Home Office, and published a report on those reviews, incorporating our views on associated Home Office policy proposals.<sup>11</sup>

**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 which the previous Committee reported in 2003. We have continued to follow the debate over the review of the Commission's powers, visiting the Commission in Belfast in early November 2006 to discuss this and other matters. We will be considering the matter further in the context of our examination of the Justice and Security (Northern Ireland) Bill during this Session.

We continued the work of the previous Committee on the proposals to establish a Commission for Equality and Human Rights, principally in the context of our scrutiny of the Equality Bill.<sup>12</sup> We have considered the prospective work of the Commission informally on several occasions, including in the course of Awaydays we held in the autumn of 2005 and 2006 with academics, lawyers and human rights practitioners.

We are grateful to the Liaison Committee for facilitating discussion of a change to our terms of reference to include "equalities" alongside "human rights" to make clear that, while the CEHR when established will be formally accountable to the Communities and

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11 Thirty-second Report of Session 2005–06, *The Human Rights Act: the DCA and Home Office Reviews*, HC 1716

12 Fourth Report of Session 2005–06, *Legislative Scrutiny: Equality Bill*, HC 766

Local Government Select Committee, we will be able to consider the full range of the Commission's activities and the extent to which the Commission is successful in integrating human rights principles across its work.

**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 and to establish a human rights culture in the UK (see Task 4 above for our report on the DCA and Home Office reviews of the implementation of the Act).

In Session 2005–06 we did not as a matter of course generally examine the *implementation* of other legislation, whether through delegated legislation, guidance, codes of practice or other administrative arrangements. 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 counter-terrorism legislation. We also intend to undertake increased “post-legislative scrutiny” in the future.

**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 used and cited in legislative debates in both Houses, albeit more often in the Lords than in the Commons.

Our report on counter-terrorism policy and human rights: prosecution and pre-charge detention,<sup>13</sup> was debated in Westminster Hall on 7 December 2006 together with the Home Affairs Committee's report on terrorism detention powers.

### **Other work**

Having dealt with the core tasks, I now turn to the work of the JCHR which falls largely outside these tasks.

#### *Legislative scrutiny work*

In Session 2005–06 we scrutinised 46 Government bills, commenting substantively on 27 because they raised significant human rights issues, and 5 private bills, commenting substantively on one of them. Our reports dealt principally with the compatibility of bills with Convention Rights as defined by the Human Rights Act 1998 and with other human rights instruments. We published 15 legislative scrutiny progress reports commenting on

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13 Twenty-fourth Report of Session 2005–06, *op.cit.*

more than one bill.<sup>14</sup> In addition we published two reports on individual bills of particular significance,<sup>15</sup> and, as mentioned above, we considered the Terrorism Bill in our Third Report of the Session as part of our counter-terrorism and human rights inquiry.

### *Remedial orders*

We are required by our governing Standing Order to consider and report on remedial orders laid under the Human Rights Act. In Session 2005–06 a proposal for a draft Marriage Act 1949 (Remedial) Order was laid, followed by a draft Order itself. We duly reported on the proposal<sup>16</sup> and then on the draft Order, recommending it be approved.<sup>17</sup>

### *Monitoring of Strasbourg judgments*

At the start of this Parliament we decided that we would publish regular progress reports arising from our monitoring of judgments made by the Strasbourg court against the UK, looking in particular at the speed and effectiveness with which the Government introduced legislative or other measures to remedy breaches of the Convention as identified by the Court. We have published one such report, which looks at a number of outstanding cases and at general issues arising from them. The Council of Europe Parliamentary Assembly's rapporteur on the execution of Strasbourg judgments has hailed this report as a model for other parliamentary bodies to follow.

## **Relations with the Government**

I conclude with some remarks about the cooperation we receive from the Government and its impact on our work.

As mentioned above, our closest relationship is with the DCA and we have no significant problems with their willingness to co-operate with us and to keep us informed about their human rights work.

Our legislative scrutiny and other work impinges on nearly all government departments, some, such as the Home Office, more than others. In general we are impressed by the full and reasoned way in which Ministers from all Departments respond to our requests for written and oral evidence. In the case of our legislative scrutiny work, those requests can often be detailed and technical, and require swift responses if we are to be able to take the Government's views into account in the reports which we seek to make to both Houses as early as possible in the passage of bills. Normally our deadlines are met, and we are grateful for that. Given that our remit extends across the whole of Government, on occasions we would find it helpful if Departments were more pro-active in sending us draft guidance or

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14 First, Fifth, Sixth, Seventh, Eleventh, Fourteenth, Fifteenth, Seventeenth, Eighteenth, Twentieth, Twenty-first, Twenty-second, Twenty-fifth, Twenty-eighth and Thirty-first Reports of Session 2005–06. Some bills were reported on in more than one progress report, and a full list of where each public bill was reported on is contained in the Thirty-first Report, *Legislative Scrutiny: Final Progress Report*, HC 1715, p 23

15 Fourth Report of Session 2005–06, *Legislative Scrutiny: Equality Bill*, HC 766, and Twenty-seventh Report of Session 2005–06, *Legislative Scrutiny: Corporate Manslaughter and Corporate Homicide Bill*, HC 1625

16 Sixteenth Report of Session 2005–06, *Proposal for a Draft Marriage Act 1949 (Remedial) Order 2006*, HC 1022

17 Twenty-ninth Report of Session 2003–04, *Draft Marriage Act 1949 (Remedial) Order 2006*, HC 1627

codes of practice of particular relevance to human rights, particularly when we have flagged up the significance of such documents in reports on the relevant bills.

We have one major caveat to express. For some time we have been pressing the Government, through the DCA, to improve the quality of information which they supply on the human rights implications of bills at the time they are presented. We have asked for a separate Human Rights Memorandum to be provided on presentation or, failing that, for a significant improvement in the treatment of human rights matters in Explanatory Notes, consistently across all bills and departments. This would be of great assistance to us in our legislative scrutiny work, enabling us to report in a more timely fashion on bills to both Houses. Although the Government has so far not been willing to provide a Human Rights memorandum, we understand that from the start of this Session the DCA has been making a major effort to ensure that all Departments deal adequately with human rights matters in the Explanatory Notes they produce. We will be keeping a close eye on this and at some stage we will assess whether these improvements meets our requirements.

We do not expect Government responses as a matter of course to our legislative scrutiny reports, though it is of course open to the relevant departments to send us views. In relation to our other reports, we do expect responses, in exactly the same way as other select committees do. I should record here that despite several reminders to the Home Office and latterly, following the transfer of responsibility for race equality policy, to the DCLG, we have still not received a response to the previous Committee's report from Session 2004–05 on the Convention on the Elimination of Racial Discrimination.

Mr Andrew Dismore MP  
*January 2007*

## Appendix 4: Memorandum on the work of the Scrutiny Unit

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### Work of the Scrutiny Unit in 2005–06

#### *Overview*

1. The Scrutiny Unit was established in November 2002, following the recommendations of several committees of the House. Its key aim is to maintain and improve the House's ability to perform its scrutiny function. In particular:

- it provides staff for joint committees on draft bills;
- it assists select committees and others within the House, mainly but not exclusively in the areas of government expenditure, performance reporting and pre-legislative scrutiny.

In fulfilling its role, it seeks to develop expertise and best practice and improve the quality of its work by developing relationships with relevant organisations outside the House.

2. In 2005–06 the Unit maintained a high level of activity, undertaking a wide range of tasks for select committees and in support of the wider work of the House. Much of the work carried out by the Unit concerns the scrutiny of expenditure and performance: a core activity is our regular analysis of the Government's financial reporting to Parliament. The Unit has also played an important role in supporting committees in their examination of draft Bills. However, a particular feature of the period under review, due in part to the decline in the number of draft bills, was the volume of other tasks carried out in support of committees. The breakdown of the Unit's work by broad category in figure 1 makes this clear.



Reports (DARs) of all the major government departments and agencies. The Unit's economist and statistician have also contributed their skills to a number of select committee inquiries. The finance team was, and continues to be, very active in its support of the Treasury Committee.

6. A particularly successful example of the Unit's role in helping committees improve the government's financial reporting was its work for the Communities and Local Government Committee in its inquiry into the Department for Communities and Local Government Departmental Report, which led to improvements in the Department's Estimates Memorandum.

7. Several Departments improved their financial reporting following work by the Unit in support of committees. For instance, Unit staff met staff from the Department for Work and Pensions to discuss their estimate memorandum, and DWP is now an example of best practice for Estimates Memoranda. The Unit's work on the quality of Estimates Memoranda informed the Liaison Committee's Report on the subject.<sup>19</sup>

8. The Unit's over-arching review of the 2005 DARs, based on work done for committee inquiries, resulted in recommendations to the Treasury about how they could be improved. These were presented at a series of workshops organised by the Treasury for departmental staff—one example of how we seek to fulfil our aim of identifying and sharing good practice.<sup>20</sup>

## Legislative scrutiny

### *Draft bills*

9. Draft Bills are currently considered by *ad hoc* Joint Committees of both Houses or departmental Select Committees (in pursuit of Core Task 3). The draft Legal Services Bill was the only one to be committed to a Joint Committee during 2005 and 2006. The Unit contributed three members of the committee's six staff, who with their three Lords colleagues were involved in a highly intensive period of work. The Committee held seven evidence sessions in a month and reported just two months after the Bill was published.<sup>21</sup>

10. Scrutiny Unit staff have also supported departmental select committees in their examination of draft Bills. For instance, the Unit's legal specialist conducted the Constitutional Affairs Committee's inquiry into the reform of the coroners' system and death certification, which examined the draft Coroner's Bill. The Committee's report had a significant influence on the Government's radical rethink of its proposals. A member of the Unit's core staff also acted as committee assistant for the joint inquiry by the Home Affairs and Work and Pensions Committees into the draft Corporate Manslaughter Bill.

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19 Liaison Committee, *Estimates memoranda*

20 The review is available on the Liaison Committee website at <http://www.publications.parliament.uk/pa/cm200506/cmselect/cmliaisn/review/rev02.htm>

21 See Annex for more information on numbers of draft bills in recent sessions.

### *Public Bill Committees*

11. The Modernisation Committee's Report of September 2006, *The Legislative Process*, contained proposals, agreed by the House at the end of the 2005–06 Session, to reform the process of examining legislation. A major innovation is the introduction of evidence-taking powers for nearly all Committees on Bills. This has created a significant new role for the Scrutiny Unit in co-ordinating written and oral evidence to the new Public Bill Committees. This new role is expected to increase in the future when more bills are subjected to this procedure, and a modest increase in staff has been agreed from the start of 2007 to allow for this.

### *Regulatory Reform Orders*

12. Another new area of work for Unit staff has been assisting the staff of the Regulatory Reform Committee in its scrutiny of Regulatory Reform Orders made under the Regulatory Reform Act 2001.

### **Other work for committees**

13. The Scrutiny Unit has always supported departmental select committees in areas outside its core specialisms of financial and legislative scrutiny. This is a form of “surge” capacity when committees have faced unexpected demands or temporary staff shortages. The Unit's work in this field has shown the value of being able to deploy specialists in more general analysis roles. The lack of draft Bills during the 2005–06 Session led to a substantial increase in the more general work that could be done for the Committee Office by the Unit's specialists. This included a range of support, from providing briefing for one-off evidence sessions, through managing specific inquiries, up to full-time loans of staff to committees, e.g. to the Treasury Committee and the Joint Committee on Human Rights.

14. A new practice for the Unit is the placement of administrative staff on a short-term basis elsewhere in the Committee Office. One of the Unit's office clerks spent several months as the only member of support staff for the Armed Forces Bill Committee, followed by a period acting as secretary to one of the Committee Office Principal Clerks. Another of our office clerks worked for most of 2006 as the committee assistant on the Select Committee on the Crossrail Bill.

### **Wider work**

15. The Unit prioritises its work for select committees, but has a significant role in supporting other parts of the House service. A major piece of work this year, which involved staff from all parts of the Unit, was a review of the Electoral Commission for the Speaker's Committee on the Electoral Commission. This was welcomed by the Speaker's Committee and described by the Committee on Standards in Public Life as providing extremely useful background and evidence for its inquiry into the Electoral Commission.<sup>22</sup> It has led to the Unit acquiring a continuing role in the scrutiny of the Commission's

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<sup>22</sup> Speaker's Committee on the Electoral Commission, written evidence to the Committee on Standards in Public Life, published with Eleventh Report, Cm 7006; Committee on Standards in Public Life, Eleventh Report, Cm 7006, *Review of the Electoral Commission*, para 4.13

annual draft budget, advising the Speaker's Committee and its sub-committee. The Unit has also reached beyond Westminster, providing analysis and briefing for the United Kingdom delegation to the NATO Parliamentary Assembly on the Assembly's draft 2007 budget.

16. The finance team, working in support of the Liaison Committee, has made contributions to several Treasury consultations, including:

- proposed changes to Departmental Annual Report common core and Supplementary Budget Information tables;
- proposed merging of DARs and Resource Accounts into one document;
- changes to the Public Expenditure Statistical Analyses.

Members of the finance team also commented on the Treasury's revisions to the Government Accounting handbook, and a member of Unit staff supports (and deputises for) the Parliamentary observer on the Treasury's Financial Reporting and Accounting Board (FRAB).

17. Unit staff contributed to the inquiry by the Hansard Society on financial scrutiny by Parliament that resulted in the report *The Fiscal Maze*. Subsequently, the Unit has been supporting the Liaison Committee's working group on improving financial scrutiny. The Unit contributed to the Law Commission's inquiry into post-legislative scrutiny and is now assisting the Liaison Committee's working group on the subject. Finally, the Unit submitted a paper to the Cabinet Office's consultation on regulatory impact assessments, based on our regular analysis of RIAs on draft bills.

18. Figure 2 gives a broad indication of how the Unit's work is distributed through the year.



## The future

20. The Unit has been in existence for nearly five years. Judging by the level of demand from committees and other parts of the House service, it has become accepted as an important provider of advice and support in the committee office. On current trends, it seems likely that demand for its services will be maintained, or—more probably—increase. The Liaison Committee’s work on financial scrutiny may lead to further calls by committees on our expertise. Even without an increase in the number of draft bills, the development of evidence-taking public bill committees on government bills will keep the legislative side of the operation busy, and the Law Commission’s proposals on post-legislative scrutiny envisage an enhanced role for the Unit. The ongoing review of Committee Office resources provides the ideal context in which to consider the current and future demands placed on the Unit, and the best way in which it can respond to them.

Matthew Hamlyn  
Head, Scrutiny Unit

March 2007

## Annex: Draft Bills published since Session 1997–1998

Session	Number of draft bills published	Number of Government bills published
1997–98	3	53
1998–99	6	31
1999–2000	6	40
2000–01	2	26
2001–02	7	39
2002–03	10 <sup>1</sup>	36
2003–04	12	36
2004–05	5 <sup>2</sup>	32
2005–06	3	58 <sup>3</sup>

<sup>1</sup> Includes draft clauses of the Police (Northern Ireland) Bill and the Gambling Bill

<sup>2</sup> Includes draft clauses of the Company Law Reform Bill

<sup>3</sup> Includes European Union Bill (not proceeded with)

(Source: House of Commons Library)

# Appendix 5: National Audit Office Support for House of Commons Select Committees in 2006: note by the NAO

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## Introduction

1. The National Audit Office's engagement with Parliament is based primarily on the work of the Committee of Public Accounts. But over several years, and with the support of the Public Accounts Commission, the Office has developed links with other select committees in both Houses and supported them in a variety of ways. This paper sets out the support provided to Commons select committees by the Office in 2006.

## The National Audit Office

2. The primary responsibility of the Comptroller and Auditor General and the National Audit Office is to assist Parliament in holding government to account for the use of public resources. The Office does this principally by auditing the financial statements of all central government departments, agencies and other public bodies and reporting the results to Parliament; and by presenting some 60 major value for money reports to Parliament each year on the economy, efficiency and effectiveness with which public money has been used to support the delivery of services for the public.

3. The National Audit Office also has an important role promoting beneficial change in the provision of public services drawing on the findings of its work. The Office uses conferences to promote best practice on issues of general application and to disseminate findings across sectors where services are run at the local level. At a more practical, detailed, level, the Office produces guidance to help managers across the public sector identify and tackle issues of concern. To assist with this work the Office has established centres of expertise in areas such as economics and statistics, efficiency, financial management, performance measurement, private finance, project delivery, and regulation.

## Supporting the Committee of Public Accounts

4. One of the Office's key roles is to support Parliamentary scrutiny by assisting the Committee of Public Accounts when it meets to take evidence from departments on the Comptroller and Auditor General's reports on the results of its financial audit and value for money work. The Office provides informal support to the Committee for the 50 or so meetings a year it holds on these reports and the Comptroller and Auditor General and National Audit Office staff attend each hearing.

## Supporting Select Committees

5. In addition to supporting the Committee of Public Accounts, the Office also provides support to other select committees in their scrutiny of public services and expenditure. This support can take a number of forms ranging from the provision of formal evidence for the committee, including evidence-gathering and research in response to a

Committee's request, to informal oral and written briefings and the secondment of staff with particular expertise in the area covered by a Committee. In 2006 the Office provided support to 11 other select committees (listed in table 1 below).

Table 1: The National Audit Office has supported the following Commons select committees in 2006  
Communities and Local Government Committee

Culture, Media and Sport Committee  
Defence Committee  
Environmental Audit Committee  
Environment, Food and Rural Affairs Committee  
Health Committee  
Home Affairs Committee  
Public Administration Select Committee  
Transport Committee  
Treasury Committee  
Work and Pensions Committee

6. The Office has a particularly well established relationship with the Environmental Audit Committee and provides regular support of various kinds. During 2006 the Office provided both formal and informal support to the Committee, including three published papers in support of the Committee's work:

- *Climate Change Policy: Options for Scrutiny*—a briefing intended to provide the evidence base to enable the Committee to take forward further work on climate change, including options for future Committee inquiries.
- *Regulatory Impact Assessments and Sustainable Development*—produced in response to a request from the Committee, this paper assesses the extent to which recent Regulatory Impact Assessments reflect a new requirement to consider environmental and social impacts.
- *Emissions Projections in the 2006 Climate Change Programme Review*—also produced in response to a request from the Committee, this paper examines the emissions forecasts that informed the 2006 Climate Change Programme Review.

7. The Office has also supported a number of select committees by providing oral or written briefings on the results of financial audit or value for money work where relevant to a committee's inquiry. For example, the Office briefed the Health Committee on NHS deficits in an informal meeting in July. Similarly, in November the Office briefed the Environment, Food and Rural Affairs Committee on the Comptroller and Auditor General's report on the Single Farm Payment Scheme.<sup>23</sup>

8. The National Office also assisted the Work and Pensions Committee with its inquiry into the use by the Department for Work and Pensions of a procedure set out in Section 82 of the Welfare Reform and Pensions Act 1999 to seek approval for preparatory expenditure on a new IT system for the proposed Employment and Support Allowance. This work, the

23 Report by the Comptroller and Auditor General, *Department for Environment, Food and Rural Affairs, and Rural Payments Agency: the delays in administering the 2005 Single Payments Scheme in England*, HC 1631, Session 2005–06

subject of two reports by the Committee,<sup>24</sup> included, at the request of the Committee, a report by the Comptroller and Auditor General on the cost estimates made by the Department in respect of the use of the Section 82 procedure.

9. The National Audit Office has also provided oral and written briefings to committees on specific topics, to help identify areas for committee scrutiny. For example, the National Audit Office produced a review, *The Third Sector and Public Policy—Options for Committee Scrutiny*, for the Public Administration Select Committee examining the range of interactions between government and the sector, ‘mapping the territory’ and discussing options for an inquiry or series of inquiries by the Committee.

10. Support to select committees in 2006 included longer term secondments of National Audit Office staff to the Defence and Environmental Audit Committees and a short term attachment of a specialist to the Treasury Committee for a hearing on the activities of the Debt Management Office. The Office also provides support to the Committee Office Scrutiny Unit by seconding up to three staff at a time to the Unit.

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24 Work and Pensions Committee, Fifth Report of Session 2005–06, *Power to incur expenditure under Section 82 of the Welfare Reform and Pensions Act 1999: new Employment and Support Allowance IT System*, and First Report of Session 2006–07, *Power to incur expenditure under Section 82 of the Welfare Reform and Pensions Act 1999: new Employment and Support Allowance IT System—Further Report*

## Formal minutes

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**Thursday 15 March 2007**

Members present:

Mr Alan Williams, in the Chair

Mr James Arbuthnot	Peter Luff
Mr Kevin Barron	John McFall
Mr Alan Beith	Rosemary McKenna
Malcolm Bruce	Andrew Miller
Michael Connarty	Mr Terry Rooney
Sir Patrick Cormack	Mr Mohammad Sarwar
Mr John Denham	Mr Barry Sheerman
Mrs Gwyneth Dunwoody	Dr Phyllis Starkey
Dr Hywel Francis	Mr John Whittingdale
Mike Gapes	Mr Phil Willis
Mr Michael Jack	Sir George Young

### ***Annual Report for 2005–06***

The Committee considered this matter.

Draft Report (Annual Report for 2005–06), proposed by the Chairman, brought up and read.

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

Paragraph 1 read and agreed to.

Paragraph 2 read, amended and agreed to.

Paragraphs 3 to 9 read and agreed to.

Paragraph 10 read, amended and agreed to.

Paragraphs 11 to 27 read and agreed to.

Paragraphs 28 to 31 read, amended and agreed to.

Paragraphs 32 to 44 read and agreed to.

Paragraph 45 read, amended and agreed to.

Paragraphs 46 to 49 read and agreed to.

Paragraph 50 read, amended and agreed to.

A paragraph—(*Michael Connarty*)—brought up, read the first and second time, and inserted (now paragraph 51).

Paragraphs 51 to 68 (now paragraphs 52 to 69) read and agreed to.

Paragraph 69 (now paragraph 70) read, amended and agreed to.

Paragraphs 70 to 72 (now paragraphs 71 to 73) read and agreed to.

Paragraph 73 (now paragraph 74) read, amended and agreed to.

Paragraph 74 (now paragraph 75) read and agreed to.

Paragraph 75 (now paragraph 76) read, amended and agreed to.

Paragraphs 76 to 90 (now paragraphs 77 to 91) read and agreed to.

Paragraphs 91 to 92 (now paragraphs 92 to 93) read, amended and agreed to.

Paragraphs 93 to 110 (now paragraphs 94 to 111) read and agreed to.

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

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

Several Papers were ordered to be appended to the Report.

[Adjourned till Thursday 10 May at 9.30 am.]

## Reports from the Liaison Committee since 2005

The following reports have been produced by the Committee since Session 2005–06.

### Session 2005–06

First Report	Government Reply to the Annual Report for 2004	HC 855
Second Report	A New Publication Order for Select Committee Evidence	HC 1271
Third Report	Estimates Memoranda	HC 1685