



House of Commons  
Political and Constitutional  
Reform Committee

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**Ensuring standards in  
the quality of  
legislation:  
Government Response  
to the Committee's  
First Report of Session  
2013–14**

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**First Special Report of Session 2013–  
14**

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## The Political and Constitutional Reform Committee

The Political and Constitutional Reform Committee is appointed by the House of Commons to consider political and constitutional reform.

### Current membership

Mr Graham Allen MP (*Labour, Nottingham North*) (*Chair*)  
Mr Christopher Chope MP (*Conservative, Christchurch*)  
Paul Flynn (*Labour, Newport West*)  
Sheila Gilmore MP (*Labour, Edinburgh East*)  
Andrew Griffiths MP (*Conservative, Burton*)  
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### 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/pcrc](http://www.parliament.uk/pcrc). A list of Reports of the Committee in the present Parliament is at the back of this volume.

The Reports of the Committee, the formal minutes relating to that report, oral evidence taken and some or all written evidence are available in a printed volume.

Additional written evidence may be published on the internet only.

### Committee staff

The current staff of the Committee are Joanna Dodd (Clerk), Adele Brown (Senior Committee Specialist), Emma Fitzsimons (Legal Specialist), Tony Catinella (Senior Committee Assistant), Jim Lawford, (Committee Assistant) and Jessica Bridges-Palmer (Media Officer).

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# Special Report

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The Political and Constitutional Reform Committee published its First Report of Session 2013-14, *Ensuring standards in the quality of legislation* on 20 May 2013, as House of Commons Paper HC 85. The Government Response to this Report was received on 17 July 2013 and is published below.

## Appendix: Government Response

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### Introduction

1. The Government welcomes the Committee's inquiry into legislative standards. It is in the interests of the Government, Parliament and the public that legislation is of a high standard and meets policy objectives.
2. The Government is committed to ensuring that the legislation it puts before Parliament is of a high standard and to ensuring that Parliament has the necessary means by which to perform its scrutiny function. The Government is making progress on both these fronts. It launched the Good Law initiative in April 2013, designed to promote law which is effective, clear and accessible. We welcome the Committee's support for this initiative and will take into account its recommendations in taking forward the different strands of work, in consultation with Parliament. The House will shortly consider one initiative designed to improve the scrutiny process: the extension of the pilot on the use of explanatory statements on amendments.
3. Pre-legislative scrutiny has an important role to play in improving legislation and this Government has demonstrated its commitment to this scrutiny by publishing a higher proportion of bills in draft than previous governments.
4. Other methods of scrutiny can also be useful. The Government has run two public reading pilots and conducted other forms of consultation prior to the introduction of bills. The Government has also given sufficient time to allow proper scrutiny in public bill committees and has provided additional days at Commons report stage where necessary.
5. Effective post-legislative scrutiny is fundamental to driving up standards of legislation over the medium term as well as learning useful policy lessons. The Government continues to publish post-legislative scrutiny assessments and would welcome further scrutiny of these by parliamentary committees.
6. This Response addresses first the two issues to which the bulk of the Committee's recommendations relate—a draft Code of Legislative Standards and the establishment of a Joint Legislative Standards Committee—before responding to the other recommendations. In summary, whilst the Government accepts that improvements in the quality of legislation are both desirable and possible, it is not necessary to establish new mechanisms to achieve this, for the reasons which are set out.

## Code of Legislative Standards

7. We recommend that the Cabinet Office's Guide to Making Legislation should adopt and set out a Code of Legislative Standards as agreed with Parliament, and emphasise the need to work with Parliament to ensure those standards are met. (Paragraph 37)

8. Overall there is a level of consensus amongst our witnesses that part of the solution to improve legislative standards is to formulate a set of standards which legislation should meet. We do not think that legislative quality will improve without an objective set of quality standards against which to compare and judge bills and Acts, agreed between Parliament and the Government. Without such a list the decision that a piece of legislation is or is not of bad quality remains highly subjective. As a first step in the process of reaching such agreement, we have drawn up a draft Code of Legislative Standards (see Annex A), which we urge the Government to consider. (Paragraph 55)

9. We consider that the exercise of distilling what a bill does, and why (or for large multi-topic bills each part of a bill), into a short paragraph would provide clarity and assist both the Executive and Parliament; the better quality Explanatory Notes already do this. Paragraph B of our draft Code encapsulates this as a requirement. (Paragraph 63)

10. We present our draft Code of Legislative Standards as the basis for discussion and agreement between Parliament and the Government as to legislative standards. We recommend that the Government undertake work to refine the draft Code, and produce a new version for discussion and agreement with both Houses of Parliament. (Paragraph 69)

11. We recommend that information and answers required by a finalised Code of Legislative Standards are provided to Parliament in the Explanatory Notes to a bill. We think that this is the simplest and most logical place for details to be provided by the Government, rather than a further category of parliamentary document being created. It also has the advantage of firmly and clearly linking standards to the bill. We acknowledge that the best Explanatory Notes already include many of the details we suggest in our draft Code, but the quality is variable. We hope that compliance with the finalised Code of Legislative Standards will help to improve the overall quality of Explanatory Notes. (Paragraph 71)

## Government Response

12. The Government does not believe that a Code of Legislative Standards is necessary or would be effective in ensuring quality legislation. It is the responsibility of government to bring forward legislation of a high standard and it has comprehensive and regularly updated guidance to meet this objective. This is publicly available and can be used by parliamentarians in fulfilling their role of scrutinising legislation. Following a recent review, existing guidance for Parliamentary Counsel will be consolidated in the Cabinet Office's Guide to Making Legislation to further improve accessibility. We undertake annual lessons learned exercises within Government designed to capture best legislative practice and we would be happy to engage with parliamentarians on this exercise if that would be of interest. Ultimately, it is for Ministers to defend both the quality of the

legislation they introduce and the supporting material provided to Parliament to aid scrutiny.

13. As the Committee acknowledges, many of the suggestions in its draft Code are already included in Explanatory Notes. For example, it is standard practice for the Explanatory Notes to refer to any consultation documents which the Government has issued. It is also standard practice for the Government to publish the response to any consultation, whether in a White Paper accompanying a Bill or as a separate document, and to make reference in the Explanatory Notes to where that response can be found. Explanatory Notes also routinely explain what the impact of the proposed legislation on existing arrangements will be, and where it is possible to access a wider assessment of the economic impact, the impact on the third sector and business.

14. The Government is committed to ensuring that Explanatory Notes, and Impact Assessments, are as helpful as they can be in meeting the needs of users and are of a consistently high standard. In pursuit of this aim, the Office of Parliamentary Counsel has been asked, as part of the Good Law initiative, to conduct a comprehensive review of Explanatory Notes. A comprehensive survey of users is being undertaken to establish exactly what users think should be included in revised Notes and how this information should be presented. Without wishing to pre-empt this work, we are minded to agree with the Committee's view that there is logic in combining most information on a bill in one document. Members of the Committee will have an opportunity to comment on the outcome of this work and other proposals emanating from the Good Law initiative about the drafting of legislation.

15. The aim of the revised Explanatory Notes will be to provide bill documentation that contains the information that is most helpful to users, including both parliamentarians scrutinising the bill and the public seeking to understand and contribute to debate on it. Good Explanatory Notes explain why the legislation is needed and the process leading up to its introduction, as well as the meaning of each clause. But every bill is different and it is up to Government to provide the right material on a case by case basis. A Code of Legislative Standards with lists of requirements risks encouraging a tick-box mentality which does little to support effective scrutiny. Nor can a Code, as proposed by the Committee, provide the degree of objectivity it envisages: questions such as "is it understandable and accessible?" and "whether the change is politically or legally important" indicate the extent to which the quality of legislation is a subjective judgement. Similarly, whether purpose clauses or sunset clauses are required to meet the expected "standard" will always be a matter for debate on a case by case basis rather than an objective test. This underlines the difficulty any committee would have in separating the quality of legislation from the policy underlying it.

## Legislative Standards Committee

16. We recommend the creation of a Legislative Standards Committee to provide oversight of the Cabinet's Parliamentary Business and Legislation Committee's approach to and use of the finalised Code of Legislative Standards. The Committee would have the flexibility to look at individual bills before Parliament, where a failure to adhere to the Code of Legislative Standards was obvious from the Explanatory Notes,

**but would normally focus its work on a selection of Acts that had recently received Royal Assent, scrutinising those Acts for compliance with the Code. This oversight model would fit within the current parliamentary legislative timetable and would not be as resource-intensive as a committee scrutinising every bill. We think that this model answers the questions proposed by the Leader of the House. (Paragraph 98)**

### **Government Response, to this and associated consequential recommendations in paras 92 - 106**

17. The Government does not believe that a Legislative Standards Committee, as proposed by the Committee, is either necessary or would be effective in improving legislation.

18. Without a Code of Legislative Standards, the case for a Committee, part of whose remit is to monitor compliance with the Code, weakens significantly. As has been explained, revised Explanatory Notes will set out necessary information relating to the preparation and content of the bill and Ministers will account directly to Parliament for any perceived deficiencies.

19. Another proposed purpose of the Committee – to monitor the work of the Cabinet Committee on Parliamentary Business and Legislation – would not be appropriate. Paragraph 2.3 of the Ministerial Code states that the internal process through which a decision is made or the level of committee by which it was taken should not be disclosed. It is essential that time and space be allowed for Ministers to debate and stress test legislation within Government before presenting its final position. A bill when it is published is the collectively agreed view of the whole Government on how it wishes to proceed. The process by which it has arrived at that view is a matter for the Government, not for Parliament.

20. Whilst the model advocated by the Committee would meet concerns about introducing further delay to the legislative process, it has notable shortcomings. By normally examining legislation shortly after Royal Assent, its intervention would come too late to amend the bill but too early to conduct meaningful post-legislative scrutiny. Any deficiencies in legislation are unlikely to become apparent until it has been fully implemented and in use for a reasonable period: hence the 3-5 year window agreed between Government and Parliament for post-legislative scrutiny.

21. There are already opportunities for scrutiny by parliamentary committees to consider legislation on different criteria. For example the Delegated Powers and Regulatory Reform Committee in the Lords considers legislation containing Order-making powers; the Joint Committee on Human Rights considers provisions in legislation relevant to its remit. Departmental select committees, such as the PCRC, have already demonstrated that they can carry out rapid inquiries into the policy behind legislation where they judge that there has been insufficient preparation or consultation.

22. There is no need for an additional committee to improve accountability: Ministers in both Houses are required to answer on the policy and detailed drafting of the bill; the Leader of the House of Commons is expected to answer on its handling, including pre-legislative scrutiny mechanisms. Whilst there are elements in the pre-introduction stages and in the Explanatory Notes that are possible to tick off on an objective basis, these do not warrant a new committee to perform such a largely bureaucratic task, even were a

committee to find such an exercise rewarding. Any committee would be tempted to look at the policy—a task better suited to specialist committees.

## Current problems

**23. We recognise that legislation is not made in a vacuum. The parliamentary legislative process reflects the inherent constraints and negotiations present in the process of turning policy into statute, and we accept that the introduction of large multi-topic bills is, on occasion, a legitimate and appropriate use of parliamentary time. We acknowledge that the greater breadth of such bills allows greater scope for amendments by backbench MPs, and that without such bills, some “worthy” but “unglamorous” statutory sections might not become law because of lack of parliamentary time. However, multi-topic bills risk becoming simply too big to be scrutinised effectively. (Paragraph 14)**

**24. We recommend that for large multi-topic bills, the Minister in charge of the bill explain to Parliament why this large scale format has been chosen. If there is a good reason for the legislation being brought forward then Parliament can be confident that the Government has given proper consideration to the importance of parliamentary scrutiny. (Paragraph 15)**

**25. We conclude that the majority of poor quality legislation results from either inadequate policy preparation or insufficient time being allowed for the drafting process, or a combination of the two. This is not to point the finger at the Office of the Parliamentary Counsel, which neither produces policy nor determines the speed with which policy is to be transformed into legislative proposals. (Paragraph 53)**

## Government Response

26. The current legislative process is sufficiently flexible to accommodate bills of different types and sizes. Whilst we accept that large multi-topic bills are not always ideal, it would be wrong to assume that they are not capable of receiving proper scrutiny. For example, the majority of the provisions of the Children and Families Bill and the Anti-Social Behaviour, Crime and Policing Bill were published in draft and scrutinised separately by different select committees. The Government seeks to reflect the size and nature of the bill in the amount of time provided for scrutiny by public bill committee and at report stage. As the Committee acknowledges, this type of bill is sometimes the most efficient use of parliamentary time. It is up to Government to determine how legislation is presented to Parliament and up to Ministers to defend these decisions in the House during the scrutiny of the legislation or at other opportunities.

27. If, as the Committee asserts, the majority of poor quality legislation results from inadequate policy preparation or insufficient time allowed for drafting, it is difficult to see how a Code and Legislative Standards Committee would address this. Whilst the Committee recognises that “legislation is not made in a vacuum” it underplays the degree to which it is an iterative process, with policies being refined and adjusted under the light of Parliamentary scrutiny and changing circumstances. Nor is legislative scrutiny an objective, academic exercise, the sole purpose of which is deliver high quality law. Good legislative practice may be put under pressure by wider political considerations from time

to time. No Legislative Standards Committee, however formed, would be immune from such political considerations.

**28. We recommend that a week should elapse between the conclusion of Public Bill Committee evidence sessions and the start of line by line scrutiny, to allow Members enough time to consider the evidence they have heard, and for amendments to be drafted and selected for debate. (Paragraph 25)**

### **Government Response**

29. The timing of different stages of the legislative process is sufficiently flexible to allow time for proper scrutiny. It is up to the public bill committee in the Commons to agree how to divide its time between evidence taking and line by line scrutiny following discussions in the usual channels. Any such gap may affect the overall time available for scrutiny

**30. Parliament must have a stronger role as a partner with the Government in setting and monitoring standards of legislation. This will require a change of attitude by parliamentarians in asserting their role and “caring more” about legislative standards, and in using existing processes and documents, such as Impact Assessments, more effectively. It may also require the creation of new mechanisms to assist them in the performance of their legislative duties. A change in attitude by Government is also required in its work with Parliament. (Paragraph 28)**

### **Government Response**

31. The Government would welcome an enhanced focus on legislative scrutiny by parliamentarians but believes that the existing mechanisms already allow for this, as is explained in the response on the Legislative Standards Committee.

**32. Proper preparation of policy is crucial. Clear, coherent policy which has been subject to challenge and revision will aid Parliamentary Counsel in drafting comprehensive and comprehensible bills. To require a formal draft to be produced before the policy preparation process has finished is to put the cart before the horse, necessarily increasing the risk of error and need for parliamentary time to be taken up with amendments. (Paragraph 34)**

**33. Good quality preparation should begin at an early stage and include proper consultation, timetabled to conclude before a bill is introduced; such consultation may need to be targeted to avoid overloading individuals and organisations with Government consultations. Responses to consultations should be available for Parliament before first reading. (Paragraph 35)**

**34. We think that a legislative process that involves a Green Paper, followed by consideration of expert advice, a White Paper and pre-legislative scrutiny prior to introduction would produce high quality legislation. We do not think that this is**

achievable or desirable for every bill because of the time and resources required to complete all of the stages. However, we consider that, as stated in our Report on the Fixed-term Parliaments Bill, the Government should and can utilise the potential greater certainty provided by fixed terms for effective and efficient legislative planning. This would allow enough time for these preferred processes for legislation to be adopted for the majority of bills. (Paragraph 36)

### Government Response

35. The Government agrees that good quality preparation is important to the introduction of legislation to Parliament. Some form of consultation with relevant parties will usually be an element of this preparation and it is current practice for the results of such consultations to be made available at an early stage. As the Committee acknowledges, the same process is not necessarily achievable or desirable for every bill. It is important to treat each bill on its merits and provide the appropriate level of consultation and opportunity for scrutiny. The Government intends to maintain a range of scrutiny mechanisms, including online consultations, to be used as appropriate on a case by case basis.

36. We agree that there is a “good law championship role” for the Office of the Parliamentary Counsel and welcome the launch of their “Good law” initiative. Their position as specialists in the drafting of legislation and knowledge of parliamentary procedures, as well as their connection to the Law Commission, means that they are ideally placed to undertake this championship role. We look forward to working with them to take forward the recommendations in this Report, and to build upon the preliminary work of the “Good law” initiative. (Paragraph 46)

### Government Response

37. The Government welcomes the Committee’s recognition of the role the Parliamentary Counsel has in promoting high standards of legislation and its support for the Good Law initiative. The project aims to promote the continuous improvement of the drafting of legislation and a shared understanding of good law. To this end it is currently engaging with parliamentarians, officials in both Houses, the judiciary and other users of the law. Some proposals relating to the format of bills have already been generated and the approval of the relevant authorities in the House will be sought. The initiative is seeking to be open about the drafting process, partly in order to avoid confusion and unnecessary litigation. It is looking at ways of improving clarity and accessibility: both in a practical sense for online users and in revised accompanying explanatory material. Further details of this work can be found at <https://www.gov.uk/good-law> The Good Law initiative will take into account the Committee’s Report and would welcome further contributions as it progresses.

### Pre- and Post-legislative scrutiny

38. We welcome the Leader of the House’s commitment to pre-legislative scrutiny. Whilst we accept that not all bills are suitable for pre-legislative scrutiny, we note that it is still only a minority of bills that are published in draft. We consider pre-legislative scrutiny to be one of the best ways of improving legislation and ensuring that it meets

**the quality standards that Parliament and the public are entitled to expect. Our draft Code of Legislative Standards would require the Government to publish the reason why a bill has not been published in draft. (Paragraph 115)**

### **Government Response**

39. The Government's commitment to pre-legislative scrutiny has been demonstrated by the publication of a higher proportion of bills and measures in draft than under previous administrations. As the Committee acknowledges, it will not be suitable for all bills. In such cases, Ministers are rightly accountable to the House for the policy formulation process. As part of the review of Explanatory Notes, the Government is considering how information on the pre-introduction stages of a bill can best be included.

**40. We consider post-legislative scrutiny to be an important process in improving existing legislation for both the Government and Parliament; indeed this is a point on which everyone would appear to be agreed. The difficulty seems to be in translating this support for the concept into actual examination or inquiries by Select Committees. We observe that post-legislative scrutiny memoranda have been used in general oral evidence sessions, followed up with written questions, discussed informally with Ministers, or taken up as elements in the course of other inquiries. (Paragraph 120)**

41. The reasons for the seemingly low take-up of post-legislative scrutiny memoranda by elect Committees are not clear. We note that the Government intends to keep the use of post-legislative scrutiny memoranda under review. We urge the Government to continue to produce these useful memoranda. In return, we will undertake, and we take this opportunity to encourage other Select Committees to undertake, more visible post-legislative scrutiny work when opportunities arise. (Paragraph 121)

### **Government Response**

42. The Government welcomes the Committee's undertaking to encourage other select committees to undertake more visible post-legislative scrutiny work. Such studies are valuable in assessing not only whether a policy is working, but whether the legislation that gave effect to it was well drafted and clearly understood.

43. Departmental select committees are likely to have the necessary policy expertise to be well placed to conduct post-legislative scrutiny. However, in the absence of a great deal of activity in the Commons (only 12 out of 82 published have been the subject of specific scrutiny by select committees), the establishment of committees in the House of Lords to conduct post-legislative scrutiny on an ad hoc basis provides an alternative mechanism.

44. The Government intend to continue to produce post-legislative assessment memoranda within 3-5 years of the Act as a means of facilitating thorough evaluation of legislation and encouraging select committees to engage in post-legislative scrutiny activity.

## The approach of the devolved legislatures

45. We recommend that consideration is given to adopting some of the processes and procedures used by the devolved legislatures, in particular: (Paragraph 134)

46. Northern Ireland: where emergency or fast-track legislation is introduced, we recommend that the Minister in charge give an explanation to the House of the reason for the accelerated process, the consequences of the bill not being accelerated, and any steps taken to minimise recourse to this procedure. Should the House adopt our suggested draft Code of Legislative Standards, this explanation could be provided within new expanded Explanatory Notes. This would be in addition to the inclusion of sunset or review clauses as discussed above. (Paragraph 134.a)

47. Scotland: the provision of similar details within Explanatory Notes as provided within the Scottish Parliament's Policy Memorandum (although not consideration of the merits of policy), and as requested in our draft Code of Legislative Standards. Also the concept of a formal mechanism for Select Committees to introduce legislation. (Paragraph 134.b)

48. Wales: that the effective scrutiny of the general principles of a bill (or on our suggested Committee model, an Act) can and should be adopted, preferably through our draft Code of Legislative Standards and/or our model Legislative Standards Committee. (Paragraph 134.c)

## Government Response

49. The Government firmly believes that all members of both Houses are entitled to a full explanation of why a piece of legislation is being proposed for fast-tracking. Ministers remain prepared to justify the need for any expedition in the House of Commons and already do so as a matter of practice in the House of Lords. Indeed, all Explanatory Notes to fast-tracked Bills already address the key points raised in the House of Lords Constitution Committee's 2009 report on this matter. These Explanatory Notes set out the rationale for the legislation, what alternatives have been considered and why the fast-track procedure is appropriate. The Good Law Initiative is considering whether any additional information, such as that provided in the Scottish Parliament's Policy Memorandum, should be included in Explanatory Notes and will take into account the Committee's views, alongside those of other stakeholders.

50. Select Committees are able to take advantage of existing mechanisms for the introduction of legislation, as Private Members' Bills. The Procedure Committee is currently inquiring into this subject and the Government will consider any proposals about the right to initiate legislation in the context of the Committee's report.

51. Existing procedures allow for bills to be referred to committees for second reading in the Commons, where this is appropriate. Whilst it is useful to have this flexibility, the Government believes that it will normally be right for each House as a whole to be able to debate and then vote on second reading.

## Different processes for different types of legislation

52. Constitutional law is qualitatively different from other types of legislation. We agree with the House of Lords Constitution Committee that there is currently no acceptable watertight definition of what constitutes constitutional legislation. However, we consider that it can be identified through experience and commonsense, and that this is encapsulated in Lord Norton's "2Ps" test (does it affect a principal part of the constitution, and does it raise an important issue of principle), and the list of typical features of constitutional legislation suggested by Professor Sir John Baker. (Paragraph 140)

53. We have considered the Government's response to the House of Lords Constitution Committee Report, and disagree that a watertight definition is needed before making any changes to processes for preparing and legislating in the area of constitutional law. (Paragraph 141)

54. The current ad hoc process of identifying which bills to take on the Floor of the House of Commons in a Committee of the whole House lacks transparency: it is clear that differentiation is taking place in order to decide which bills are to be considered by a Committee of the whole House, but the decision-making process is unclear. We recommend that the Government adopts our suggestion and applies Lord Norton's "2Ps" test, together with the list of typical features of constitutional legislation as suggested by Professor Sir John Baker, or at the very least sets out why it does not agree with this approach. We also recommend that the Government follows our draft Code of Legislative Standards and explains whether the test has been met for each piece of legislation. (Paragraph 142)

55. We do not recommend the creation of a new joint constitutional legislation standards scrutiny committee. We consider that the processes we recommend to improve the quality of legislation as a whole, together with the application of our suggested test, will assist with the identification and improvement of constitutional legislation, and will provide an enhanced level of scrutiny. (Paragraph 146)

56. In particular, application of our draft Code of Legislative Standards would assist identification of constitutional legislation by ensuring the provision of relevant information. Thus, our Code would allow Parliament to determine whether it agrees with the Government's decision that a particular bill, or part of it, is or is not constitutional, and in doing so, scrutinise decisions as to whether particular bills should be considered by a Committee of the whole House on the Floor of the House of Commons. (Paragraph 147)

57. Once the use of our draft Code, or a final agreed Code, has been established and evaluated, the question of whether there should be more significant changes so that constitutional legislation undergoes different procedures, or requires a constitutional legislation scrutiny committee, could be re-considered. (Paragraph 148)

## Government Response

58. The Government does not accept that it would be helpful to seek to define “constitutional” legislation, nor that it should automatically be subject to a different standard of scrutiny. The tests suggested by Lord Norton and the list of characteristics suggested by Professor Sir John Baker are themselves subjective: whether something raises an important issue of principle, or represents a “substantial” alteration to the liberties of the subject, for example, are matters more for political rather than technical judgement.

59. The Government does not accept that the process of identifying bills to take on the floor of the House of Commons lacks transparency. It is up to each House to agree to what is proposed on each bill or, if not content, to propose alternatives. It is usually a matter of common sense and therefore uncontroversial, although not all bills that might be deemed constitutional are taken on the Floor in Committee. The Leader of the House of Commons answers questions on forthcoming business each week and has seldom been asked to provide an explanation of the rationale behind the type of committee stage proposed for a bill.

60. The Government does not agree with the Committee’s assertion that “constitutional law is qualitatively different from other types of legislation”. Constitutional legislation, like all legislation, varies in its importance, complexity and impact. It may form a small part of a wider and otherwise “non-constitutional” bill. In some cases, a non-constitutional bill might bring about fundamental social change, with greater impact on daily life, than what might be deemed a constitutional bill, and warrant more thorough scrutiny on this basis. Current legislative processes provide sufficient flexibility to allow an assessment to be made on the bill in question and the Government to propose the appropriate method and level of scrutiny.

## Other recommendations

**61. We think that new Members would benefit from briefing sessions by the Office of the Parliamentary Counsel, and that all Members would be assisted by presentations from the Law Commission about bills before the House which have been drafted on the basis of, or substantially influenced by, Law Commission reports. (Paragraph 7)**

## Government Response

62. The Office of the Parliamentary Counsel would welcome the opportunity to contribute to any briefings on the legislative process for new Members provided by the House, if there is demand. It also stands ready to provide informal briefings to parliamentary select committees engaged in legislative scrutiny and to increase its contacts with parliamentarians more generally. We understand that the Law Commission will be writing to you separately about this recommendation.





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