



House of Commons
Procedure Committee

Private Members' bills: Government response and revised proposals

Fifth Report of Session 2013–14



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to the report*

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Procedure Committee

The Procedure Committee is appointed by the House of Commons to consider the practice and procedure of the House in the conduct of public business, and to make recommendations.

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The following Members were also members of the Committee during the Parliament:

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Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at <http://www.parliament.uk/proccom>.

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Summary

This report follows our report of September 2013 on private Members' bills. Since then we have received a Government response, which is published as an appendix to this report, and discussed our recommendations further with the Leader of the House. In the light of those discussions we have revised our proposals. This report sets out a new package of recommendations for reform of the private Member's bill process. We hope the House will be given the opportunity to decide upon these recommendations in time for them to be implemented from the start of the 2014–15 session.

Our revised proposals are as follows:

- The House should agree that there should be a convention that the question on second reading of a private Member's bill should be put to the House at the end of a full day's debate, in the same way that the House expects the question to be put on second reading of a Government bill. This would enable the Chair to apply speech limits, where necessary, to prevent filibustering.
- Bills which have not been published should be clearly identified in the Future Business section of the Order Paper.
- Pages should be provided on the Parliamentary website where draft private Members' bills can be made available online for scrutiny and comment. This should be done on a pilot basis in the 2014–15 session, to be reviewed by us towards the end of this Parliament.
- A bill need not be brought in immediately after leave is granted under the ten minute rule.
- The risk of a single Member monopolising the limited opportunities for debate of private Members' bills should be reduced by providing that a private Member may present no more than one bill on any one day.
- The deadline for publishing a private Member's bill should be brought forward to the Wednesday of the week prior to the day of second reading.
- Private Members' bills should be called "backbench bills".

We intend to consider further the purpose and use of motions for the House to sit in private, as they apply to all sitting days. We include a summary of the Government response to those of our original recommendations which we are not intending to bring to the House.

Private Members' bills: Government response and revised proposals

Introduction

1. Our report *Private Members' bills* was published on 2 September 2013.¹ It set out an ambitious set of proposals for reform of private Member's bill procedures which recognised and built on the clear desire across the House for change.

2. The central aspect of our proposals was the proposition that it should be possible to timetable, or “programme”, private Members' bills. Implemented well, we said, timetabling enables appropriate debate and discussion of a bill whilst preventing the delay of a bill's passage by procedural tactics or filibustering. We recommended that the House be invited to decide whether it should be possible to programme private Members' bills, and offered two possible ways of achieving it.²

3. We also recommended a number of other reforms to the private Member's bill system designed to increase the transparency of the process so that interested parties—both inside and outside the House—understand what is happening; and to ensure that the process is a genuine opportunity for debate, scrutiny and, if it is the will of the House, passage of a backbench legislative proposition.

4. We received the Government's response to our report on 16 December 2013. It is published as an appendix to this report. The response accepted some of the Committee's recommendations, in particular those aimed at increasing transparency and understanding of the system by clearing off the Order Paper notices relating to bills which had no realistic chance of debate. It did not accept the central recommendation that it should be possible to programme a private Member's bill to ensure that it could be brought to a decision.

Our revised proposals

Programming of private Members' bills

5. Following further discussions with the Leader of the House, we have decided not to proceed with our proposals for programming of private Members' bills by putting them to the House. This is an idea whose time has not yet come. We remain concerned, however—for all the reasons we set out in our original report³—about the ease with which it is possible to defeat a private Member's bill not through a division in the House, but by talking at length so that the time for debate runs out before a decision can be reached. The effect of this inability to bring a bill to a decision is particularly pernicious at second reading, where in the case of the first bill on the Order Paper on any particular Friday up to

¹ Procedure Committee, Second Report of Session 2013–14, *Private Members' bills*, HC 188.

² Procedure Committee, *Private Members' bills*, paras 32–50.

³ Procedure Committee, *Private Members' bills*: see in particular paras 8–19.

five hours' debate is possible, during which any Member may speak for a limitless period, with no vote at its conclusion.

6. In place of programming, therefore, we propose the following. *We recommend that the House should agree that there should be a convention that the question on second reading of a private Member's bill should be put to the House at the end of a full day's debate, in the same way that the House expects the question to be put on second reading of a Government bill.* The convention would operate in respect only of the first bill on the Order Paper on any given private Members' Friday. This arrangement would enable the Chair, where necessary, to use the provisions of Standing Order No. 47 to set limits on speeches, since the timing of the end-point of the debate would be known.⁴

Listing of bills on the Order Paper and publication of private Members' bills for comment before second reading

7. In our original report, we recommended that a bill not appear on the Order Paper (including in "Future Business") until the Speaker was satisfied that the promoter of the bill had made available online an exposure draft of an actual bill. This proposal had two aims: both to encourage the dissemination of private Members' bills for comment and scrutiny; and to encourage Members to treat the process as a serious legislating procedure, not merely an advertising opportunity.⁵ Earlier in the report, we had expressed our view that it would be desirable for the House to facilitate the publication of bills in draft for comment before they are printed and debated at second reading, and we recommended that there should be sufficient flexibility in the timing of the ballot and the presentation of the ballot bills to enable the House authorities to make those bills available in draft, and the promoter of each bill to collect any comments and take them into account before finalising the text of the bill and getting it published before second reading.⁶

8. In its response the Government "agree[d], in line with the Committee's recommendation and [the Government's] response on pre-legislative scrutiny, that only bills that have been published (whether in draft or in final form) should be listed on the Order Paper as real bills". However, it added,

[...] the Committee's proposal for a shadow list of unpublished bills to be maintained in private, with the prospect of bills that are then published in draft suddenly "queue-jumping" bills already on the Order Paper, risks uncertainty and reducing transparency. It would be more transparent if those bills that were not published were listed on the Order Paper in italics, with a suitable rubric of explanation.

9. We accept the Government's view of the dangers of maintaining a "shadow" list of unpublished bills in private. *We recommend that bills which have not been published*

⁴ See Procedure Committee, *Private Members' bills*, paras 57 and 58, for an explanation of why this is not possible under current arrangements.

⁵ Procedure Committee, *Private Members' bills*, para 67

⁶ Procedure Committee, *Private Members' bills*, para 61

should be clearly identified in the Future Business section of the Order Paper. Consequently we do not intend to pursue our recommendation that a bill not appear on the Order Paper until an “exposure draft” has appeared online. Nor will we press our recommendation that Future Business should list private Members’ bills only when they have been set down for a day on which private Member’s bills have precedence.⁷ The existing practice of indicating on Future Business that the House is not expected to be sitting on such days is already in line with approach we recommend here for bills which have not been published.

10. We remain of the view that it would be desirable for the House to facilitate the dissemination of bills in draft for comment before they are published for debate at second reading. *We recommend that the House establish a means for the Member in charge of a private Member’s bill to post a draft bill online for scrutiny and comment before it is published in advance of second reading.* It would not be mandatory for a Member to make a draft bill available in this way before proceeding with it through the private Members’ bill process, but we believe that many will find it desirable to do so and that better-quality bills could result.

11. The Public Bill Office, which we consider should oversee this process, under the direction of the Speaker, has sent us a memorandum about the practicalities of its operation, which is published on our website.⁸ In line with the Public Bill Office’s proposals, *we recommend:*

- *that online pages for draft private Members’ bills be provided on the Parliamentary website on a pilot basis in the 2014–15 session, to be reviewed by us towards the end of this Parliament;*
- *that the pilot be restricted to bills being brought forward by Members successful in the ballot for private Members’ bills;*
- *that the pages serve only as a means of inviting comments on a draft of the bill, which would be passed on to the Member in charge of the bill, and not as an “online forum” which would require moderation;*
- *that a draft bill made available on the pages stay open for comments for a standard period of three weeks.*

12. It is our hope that the Government i) would ensure that any “handout” bill accepted by a Member to be piloted through the private Member’s bill route was made available for such scrutiny (if it had not already been through pre-legislative scrutiny) and ii) would respond to the invitation for comments on any draft bill made available on the webpages. The Government would need to liaise with the House authorities before tabling a motion to set the dates of the private Members’ bill Fridays to ensure that the date of the first such Friday was not set too soon for the bills debated on that day to be made available in draft for comment and scrutiny for the standard three-week period.

⁷ Procedure Committee, *Private Members’ bills*, para 70

⁸ Publications (2013–14) > Written evidence > Private Members’ bills: Government response and revised proposals > Written evidence from the Public Bill Office P79 (2013–14)

Ten minute rule bills

13. We recommended that the expectation be removed that a bill will be immediately brought in if leave is granted after a motion is passed under the ten minute rule.⁹ At present, the bill is presented immediately after leave is given, and a day named for second reading. The bill may then stay on the Order Paper for the remainder of the session, even though it stands virtually no chance of further debate or progress. Under our recommendation, it would still be possible for a Member to present a bill if desired; but we anticipated that, having taken advantage of the opportunity to raise the issue in “prime time” in the Chamber, the majority of Members would leave it at that instead of going to the trouble of continuing to put forward on successive private Members’ Fridays a bill which stands no chance of making further progress.

14. The Government “agree[d] with the Committee that the passing of a ten minute rule motion should not necessarily lead to the publication of a bill, or just the listing of a bill title on the Order Paper”, but suggested that our proposal “may not provide complete transparency”. Instead, the Government suggested

It may be more helpful to make an even clearer distinction between serious legislative proposals and declaratory or preliminary motions. This could be done by giving Members the choice of seeking leave to introduce a ten minute rule bill, as now, or of moving an alternative motion which carried with it no implication of the imminent publication of a bill. This might be called a “pre-legislative motion”, or similar. There would be no need to permit the ten minute speech to oppose such a motion, as no legislative action would follow in the session [...]

15. We are not persuaded by the Government’s suggestion that our recommendation “may not provide complete transparency” and are concerned that the introduction as an alternative to ten minute rule motions of “pre-legislative motions” would introduce unnecessary complexity to the procedure. Accordingly, ***we repeat our original recommendation that a bill need not be brought in immediately after leave is granted under the ten minute rule.***

Flooding the Order Paper with bills

16. We recommended that the possibility of a monopoly of the limited opportunities for debate of private Members’ bills by a single Member be reduced by providing that a private Member may present only a single bill on any one day. This recommendation was designed to prevent the situation where a very small number of Members—and potentially just a single Member—prepared to queue overnight in the Public Bill Office so that they are the first to present a bill, or bills, after the ballot bills have been presented can take up all the remaining slots and crowd out other Members completely.¹⁰

⁹ Procedure Committee, *Private Members’ bills*, para 72

¹⁰ Procedure Committee, *Private Members’ bills*, paras 73–76

17. The Government agreed with this recommendation, but suggested that the House might want to consider going further:

[...] To avoid the possibility of Members using the private Members' bill procedure to promote what amount to an alternative manifesto, it would be possible to limit the number of bills each Member may introduce in any one session, or to place restrictions on the number of bills a Member may have on the Order Paper at any one time. Such limits would serve both to increase the value of legislative opportunities and be less misleading than the current Order Paper, which contains large numbers of bills which have no realistic chance of making progress.

18. We do not consider it appropriate to limit the number of bills which may be presented by a Member beyond what was proposed in our original recommendation. As the Clerk of the House pointed out to us in a memorandum to an earlier inquiry, the right of individual legislative initiative has been prized over many years;¹¹ and we would be reluctant to constrain it any more than is necessary to ensure the appropriate distribution of time on private Members' Fridays. Accordingly, *we repeat our original recommendation that a private Member should be restricted to the presentation of no more than one bill on any one day. That will require a change to Standing Order No. 57 (Presentation and first reading), to add the following new paragraphs:*

“(1A) Such notice shall be given in the Public Bill Office by the Member in person or by another Member on his or her behalf, but on any one day not more than one notice shall be accepted from any one Member.

(1B) Paragraph (1A) of this order shall not apply to notices given by a Minister of the Crown.”

Deadline for publishing of bills

19. We recommended that the deadline for printing a bill—that is, producing a fully drafted piece of legislation, in place of a “long title”—be brought forward to the Wednesday of the week prior to the day of second reading.¹² Currently, a fully drafted bill does not have to be produced until the day before it appears on the effective Order Paper for debate.¹³

20. This recommendation was made in the context of our earlier recommendation that the Government be required to make a written Ministerial statement on any private Member's bill which has been printed,¹⁴ and was designed chiefly to ensure that the Government had sufficient notice of the text of a bill to enable it to prepare such a statement before second reading. As we note below, the Government has rejected that recommendation, and we have decided not to press it. Nevertheless, as we said in our original report, it would be to

¹¹ Written evidence from the Clerk of the House of Commons and Chief Executive of the House Service to the inquiry into sitting hours and the Parliamentary calendar (additional (unprinted) written evidence) (P 252, 2010–12)

¹² Procedure Committee, *Private Members' bills*, para 78

¹³ Procedure Committee, *Private Members' bills*, para 62

¹⁴ Para 77

the benefit not only of Government, in establishing its position on a bill, but to the House as a whole—as well as interested parties outside the House—for bills to be published earlier. We do not believe that it is necessary to go further, as the Government suggested, and set the deadline fourteen days prior to the date of second reading. ***We recommend that the deadline for publishing a bill be brought forward to the Wednesday of the week prior to the day of second reading. That will require a change to paragraph (14) of Standing Order No. 14 (Arrangement of public business), so that it reads:***

(14) An order appointing a day for the second reading of a private Member's bill shall lapse at the rising of the House on the Wednesday of the week prior to the day so appointed if at that time the bill has not been published and delivered to the Vote Office, and the House shall make no further order appointing a day for the second reading of the bill until it has been published;

Provided that if the House is not sitting on that Wednesday, the order appointing a day for second reading of the bill shall lapse as soon as the House meets again if the bill had not been published and delivered to the Vote Office on the preceding Friday.

Name of private Members' bills

21. Our report said

The name “private Members’ bills” is the cause of some degree of confusion, since the term “private Member” is no longer well-known. “Backbencher” is now a more familiar and widely-used term. It is also easy for the uninitiated (and sometimes even the experienced) to confuse “private Members’ bills” and “private bills”. **We recommend that, in the Standing Orders and elsewhere where reference is made to them, the term “private Members’ bills” be replaced with “backbench bills”.**¹⁵

22. The Government’s response acknowledges that this is matter for the House to decide. ***We recommend that the following changes be made to Standing Orders:***

- ***In the following places, leave out “private Member’s” or, as the case may be, “private Members” and insert “backbench”:***

SO No. 12 (House not to sit on certain Fridays), lines 2–3

SO No. 14 (Arrangement of public business), lines 73–4, 84, 87–8, 95, 113, 118 and 123

SO No. 19 (New writs), line 4

SO No. 59 (Law Commission bills), line 1

SO No. 84A (Public bill committees), lines 26 and 27–8

¹⁵ Procedure Committee, *Private Members’ bills*, para 85

SO No. 90 (Second reading committees), lines 13, 14 and 22

SO No. 97 (Scottish Grand Committee (bills in relation to their principle)), lines 41 and 53

SO No. 113 (Northern Ireland Grand Committee (bills in relation to their principle)), lines 4 and 35;

- *In SO No. 84A (Public bill committees), line 31, leave out “private Member in charge of a” and insert “Member in charge of a backbench”.*

23. For the avoidance of doubt, it may be helpful to the House for us to confirm here that we do not intend by this change for there to be any variation in the eligibility of Members to bring forward bills under this procedure. Any Member who is not a Minister of the Crown should remain able to bring forward a “backbench bill”, notwithstanding that some (for example parliamentary private secretaries or Opposition frontbenchers) may not in other contexts be considered “backbenchers”.¹⁶

Motion for the House to sit in private

24. We recommended that a motion “That the House sit in private” no longer be permitted to be moved on a private Member’s Friday.¹⁷ The Government responded as follows:

The Government believes that it is in the interests of clarity that the rules of the House governing the powers of Members should, as far possible, apply equally to all sitting days. The Committee may wish to consider further whether it is necessary to keep this rule or to provide for a sitting in private by another means.

25. *We intend to consider further the purpose and use of motions for the House to sit in private.*

Other recommendations we are not taking forward

Written Ministerial statements relating to PMBs

26. We made two recommendations designed to increase the transparency of Government involvement in the private Member’s bill process. The first was that the Government be required to make a written Ministerial statement on any private Member’s bill which had been printed, before the day on which the Bill was first set down on the effective Order Paper for second reading.¹⁸ The second was that the Government be required to make a written Ministerial statement on the reasons for the delay if a money or ways and means

¹⁶ See, for example, paragraph (5) of Standing Order No. 152J (Backbench Business Committee).

¹⁷ Procedure Committee, *Private Members’ bills*, para 83

¹⁸ Procedure Committee, *Private Members’ bills*, para 77

resolution, where required, had not been put to the House within three weeks of a bill being given a second reading.

27. The Government rejected both these recommendations. In respect of the proposal for a WMS to be made before second reading, the Government argued that such a statement would “serve to pre-empt the debate” and “may have the effect of discouraging attendance on a Friday and serve to devalue both the debate and the day itself”. It also pointed out that the Government is not expected to publish statements in respect of other business which does not succeed in finding time on the floor of the House, such as early day motions. Concerning money and ways and means motions, the Government noted that “it is the responsibility of the Member in charge of the bill to make a request to Government to table any money or ways and means motions that may be required”, and confirmed that “it is the practice of the Government to accede to such requests”. It concluded that “the Committee has not produced any clear evidence to suggest that current arrangements are not working or that a new rule is needed”.

28. We are disappointed that the Government has not accepted these recommendations, which would, in our view, have represented a significant advance in the transparency of proceedings on private Members' bills. The Government's response nonetheless holds out the promise of some increase in transparency, in two respects. First, it states that “those Members making serious attempts to get bills through the House would have the opportunity of obtaining a view from the Government during the process of consultation or pre-legislative scrutiny”. Secondly, with regard to money and ways and means motions, it notes that “there are opportunities to hold Ministers to account for any delays in tabling such motions, for example through parliamentary questions”. **We look forward to seeing the Government responding to invitations to comment on bills made available for comment on the Parliamentary website; and (where necessary) demonstrating its accountability for the timing of money and ways and means resolutions through answers to written Parliamentary questions.**

Public bill committees on private Members' bills

29. We recommended that the requirement should be abolished for a motion to be tabled by the Government before a public bill committee in respect of a private Member's bill may be nominated while proceedings in another public bill committee on a private Member's bill are still active.¹⁹ The Government rejected this recommendation, arguing that “the requirement provides a safeguard which could be useful in certain circumstances”, and stating that we had “not presented any evidence to suggest that this requirement is a problem”. **In the debate which we hope will now take place on this report, we will be looking for the Government to give a clear commitment that it would normally expect to table such a motion whenever it was needed.**

¹⁹ Procedure Committee, *Private Members' bills*, para 84

Appendix: Government Response to the Procedure Committee's Second Report of Session 2013-14, *Private Members' bills*

Introduction

The Government welcomes the Committee's inquiry into private Members' bills and notes the range of options suggested in its Report for amending the House's procedures in this area.

The Government agrees that the procedures governing private Members' bills may be difficult for outsiders to understand and that there is scope for increased clarity. Some of the problems identified arise from the unrealistic expectations that the media, outside organisations and - as the Committee notes - sometimes Members themselves, promote in relation to individual bills. Given the limited amount of time available for private Members' bills, it is unrealistic to expect that there will be opportunities for more than a handful of bills out of the 100 or so private Members' bills introduced each session to be debated and voted upon. As the Committee notes, it is right that bills introduced by backbenchers are properly scrutinised: there should be a high bar for all legislative proposals before they become law.

As the Committee observes, attendance by Members on a Friday is variable. It is the responsibility of Members themselves to make the most of the opportunities afforded by private Members' bills. If Members choose subjects that can attract widespread support on a Friday it is possible to make legislative progress. Private Members' bills that are narrowly focussed, uncontroversial and do not involve expenditure generally have a greater chance of reaching the statute book, and Members may regard this option as a better use of their, and the House's, legislative time.

The Government believes that it is in the interests of clarity and transparency that procedures on a Friday are kept broadly in line with those applying to other days. The House's procedures should not be complicated further. A clearer distinction between serious legislative proposals and more declaratory bills would be welcome, and in this context the Committee's advocacy of some form of pre-legislative scrutiny is welcome. The Government bears overall responsibility for the statute book, and therefore must seek to ensure that all legislation is both technically sound and workable.

The responses to the Committee's recommendations set out below are based upon the above considerations. The House will want to take account of all these factors before reaching decisions on the wide range of options that have been advanced.

Timing of debate

We recommend that thirteen Fridays a year continue to be appointed for consideration of private Members' bills. (Paragraph 24)

The Government agrees that thirteen Fridays per session should be devoted to the consideration of private Members' bills. The adherence to Fridays is consistent with the views of the Committee, as endorsed by votes in the House in July 2012. In the case of unusually long sessions, for example at the start of a Parliament, further consideration will be given as to how and when extra days are provided, as was done in the long 2010-12 session.

Choice of bills to be debated in private Members' time

We recommend that the House be invited to decide between retention of the ballot for the selection of bills to be brought forward for debate in private Members' time, and the introduction of a procedure for the collection of supporters to determine precedence for debate in that time. (Paragraph 31)

The Government believes that the current ballot is the better approach. It is fair to all Members, easy to understand and totally transparent. Any procedure involving the collection of supporters would favour members of large political parties at the expense of minority party members. It would lead to intensive lobbying of all Members for their one permitted signature of support, rather than the focus being on those twenty successful in the ballot. This would entail a great deal of wasted effort on the part of outside organisations and needlessly occupy the time of Members. The current ballot system is efficient, empowers backbench MPs and gives them all an equal chance of success.

Timetabling of private Members' bills

We recommend that the House be invited to decide whether it should be possible to programme private Members' bills. If it decides in favour of the principle of programming private Members' bills, we recommend that it be offered the choice between the two means of programming bills which we set out [in paragraphs 35-49]. (Paragraph 50)

The Government does not believe that it is necessary to introduce programming for private Members' bills as proposed by the Committee. To a large extent, Members already have the power to programme their bills: they choose the dates for second reading; the timing and frequency of days in committee; and the date for report and third reading. They can, if their bills are sufficiently popular with other Members, force votes on the bill by use of the closure. The requirement for 100 Members to attend on a Friday to support a bill is important in ensuring that it is difficult for poorly supported bills to achieve success; it also encourages Members to treat Friday as a proper Parliamentary day and not leave legislative scrutiny to a handful of Members. The present dissatisfaction arises from, as the Committee describes it, "the collective unwillingness of the House as a whole to attend on Friday".

Programming is designed to ensure that government legislation is able to be properly scrutinised by the opposition and works best on the basis of negotiation between political parties. The introduction of programming for private Members' bills would make it easier for poorly supported bills to be passed, without proper scrutiny. Equally, programming would provide another procedural tool for Members to use, not only to promote their own bill, but to disadvantage other bills, to which they are opposed and

against which they may be competing for time. To preclude such tactics and facilitate proper scrutiny, governments might decide, as a matter of course, to use the payroll vote to defeat any programme motions.

The evidence indicates that it is possible for Members to secure the successful passage of Private Members' Bills in the Commons. The Houses reaches a decision on most bills that that are first on the Order Paper for second reading. Only a minority are “talked out”, an outcome that can be avoided by the successful deployment of a closure motion. It is up to Members to choose subjects for bills on which they can secure widespread and active support, if they want to secure their passage.

Third reading

We recommend that the House be invited to decide whether third reading of a private Member's bill should be taken on a day other than a Friday; and if so, which of the two alternative means we propose of taking such a vote it favours. (Paragraph 53)

The Government strongly believes that the debate and vote on third reading should not be divorced from other proceedings on the bill by moving them from a Friday. It is right that those who attend on a Friday in order to help a bill through report stage should have the opportunity of voting it through if necessary at third reading. It would be a disincentive for Members to attend on a Friday if they knew that the bill they supported might subsequently be defeated on a different day when a far greater number of Members would be there to vote.

Speech limits

Acceptance of our proposals for the programming of private Members' bills would enable the Chair to invoke the powers granted by Standing Order No. 47 to impose speech limits during debate on such bills. (Paragraph 59)

The Speaker is able to impose time limits on speeches under Standing Order No.47 if he so chooses.

Pre-legislative scrutiny

We recommend that there should be sufficient flexibility in the timing of the ballot and the presentation of the ballot bills—or the votes on leave to bring in bills—to enable the House authorities to publish those bills in draft, and the promoter of each bill to collect any comments and take them into account before finalising the text of the bill and getting it printed before second reading. We consider that that period should be at least four weeks. (Paragraph 61)

The Government is very supportive of pre-legislative scrutiny and believes that it should not be the preserve of government bills only. It is also important that the distribution of sitting Fridays throughout the session provides Members with a realistic chance of getting a bill through both Houses. There is currently sufficient time between the ballot in the second week of the session and the first sitting Fridays, usually in July, for those Members who wish to conduct some form of consultation on, or scrutiny of, their ballot bills prior to second reading. For those introducing ten minute rule or presentation bills, there is an almost unlimited opportunity to do so: there is nothing to prevent Members

beginning consultation on the content of their proposed bills in the session prior to introduction. The House may wish to consider establishing dedicated pages on its website for conducting consultation, public readings or pre-legislative scrutiny on private Members' bills.

Listing of bills on the Order Paper

We consider that what appears on the Order Paper should be only actual bills which a private Member desires that the House should debate. (Paragraph 66)

We recommend that the order for second reading of a bill not appear on the Order Paper until the Speaker is satisfied that the promoter of the bill has made available for online publication an exposure draft of an actual Bill. (Paragraph 67)

This recommendation would alter only what appears on the Order Paper under "future business". We do not recommend any alteration to the rules for determining priority for debate on a private Member's Friday. The Public Bill Office would continue to maintain a list of bills set down for particular days, and a bill set down before another which was published as an exposure draft before it would regain its place ahead of that bill once it was published as an exposure draft itself. (Paragraph 68)

We recognise a danger that the result of this recommendation would not be the removal from the Order Paper of bills which are unlikely ever to be debated, but rather the publication online of exposure drafts of more bills which will never make progress. This would not be a good use of the resources of the Public Bill Office, which would be likely to bear the brunt of Members' requests to draft bills. If the evidence were to show that this was happening, we would consider the matter further. (Paragraph 69)

The Government agrees with the Committee that the listing of private Members' bills on the Order Paper could give a clearer indication to the reader as to which are serious legislative propositions with a chance of being debated. It should be made clear which bills have been printed, whether in draft or as for introduction. The Government agrees, in line with the Committee's recommendation and our response on pre-legislative scrutiny, that only bills that have been published (whether in draft or in final form) should be listed on the Order Paper as real bills.

However, the Committee's proposal for a shadow list of unpublished bills to be maintained in private, with the prospect of bills that are then published in draft suddenly "queue-jumping" bills already on the Order Paper, risks uncertainty and reducing transparency. It would be more transparent if those bills that were not published were listed on the Order Paper in italics, with a suitable rubric of explanation. To prevent Members causing unpublished bills to sit there for months, with no intention to print a bill, a deadline of, say, four weeks could be introduced, after which a bill not published in draft would be removed from the Order Paper and be incapable of being revived. This would help to "de-clutter" the Order Paper, although there are risks of Members simply requiring more draft bills to be produced. The Government agrees that such an outcome, should it transpire, would warrant further consideration.

We further recommend that Future Business list private Members' bills only when they have been set down for a day on which private Member's bills have precedence. (Paragraph 70)

Agreed.

Ten minute rule bills

We recommend that the expectation be removed that a bill will be immediately brought in if leave is granted after a motion is passed under the ten minute rule. (Paragraph 72)

The Government agrees with the Committee that the passing of a ten minute rule motion should not necessarily lead to the publication of a bill, or just the listing of a bill title on the Order Paper. The Committee's proposal goes some way in this direction, but may not provide complete transparency. For example, it may seem perplexing to the outsider for a Member to announce the supporters of a bill when no bill is subsequently presented and no further action is taken.

It may be more helpful to make an even clearer distinction between serious legislative proposals and declaratory or preliminary motions. This could be done by giving Members the choice of seeking leave to introduce a ten minute rule bill, as now, or of moving an alternative motion which carried with it no implication of the imminent publication of a bill. This might be called a "pre-legislative motion", or similar. There would be no need to permit the ten minute speech to oppose such a motion, as no legislative action would follow in the session, although Members might want to use this vehicle to launch some form of pre-legislative scrutiny. This refinement of procedure, when combined with our proposals relating to the Order Paper, above, would improve transparency by ensuring that only genuine legislative proposals remained on the Order Paper.

Flooding the Order Paper with bills

We recommend that the possibility of a monopoly of the limited opportunities for debate of private Members' bills by a single Member be reduced by providing that a private Member may present only a single bill on any one day. (Paragraph 76)

The Government agrees with this recommendation, but notes that this would have only a limited impact on the problem identified by the Committee. The House may wish to consider going further. One of the causes of dissatisfaction with the current rules, as the Committee notes, is that there are large numbers of bills listed on the Order Paper with practically no chance of being debated. To avoid the possibility of Members using the private Members' bill procedure to promote what amount to an alternative manifesto, it would be possible to limit the number of bills each Member may introduce in any one session, or to place restrictions on the number of bills a Member may have on the Order Paper at any one time. Such limits would serve both to increase the value of legislative opportunities and be less misleading than the current Order Paper, which contains large numbers of bills which have no realistic chance of making progress.

Declaring the Government position on a bill

We recommend that the Government be required to make a written Ministerial statement on any private Member's bill which has been printed, before the day on which the Bill is first set down on the effective Order Paper for second reading. (Paragraph 77)

It is the practice of the House for Members in charge of an item of business to be given the opportunity to move it, and in doing so invite other Members to support it. Other Members, including Ministers, may then respond to the arguments made in expressing their views. The early publication of a Government view via a written statement would run counter to this fundamental principle and serve to pre-empt the debate. Indeed, the premature expression of a view from Government on bills may have the effect of discouraging attendance on a Friday and serve to devalue both the debate and the day itself.

For all private Members bills that are debated, Ministers stand ready to express a view. The Government is not expected to publish statements in respect of other business which does not succeed in finding time on the floor of the House, such as early day motions. Those Members making serious attempts to get bills through the House would have the opportunity of obtaining a view from the Government during the process of consultation or pre-legislative scrutiny, as discussed in response to the recommendation on this subject.

Deadline for printing of bills

We recommend that the deadline for printing a bill—that is, producing a fully drafted piece of legislation, in place of a "long title"—be brought forward to the Wednesday of the week prior to the day of second reading. (Paragraph 78)

The Government agrees with the thrust of this recommendation. A longer period of time would assist Government and Members in reaching a considered view on a bill prior to second reading. For the sake of consistency and clarity, it may be preferable to align the publication deadline with that for an application for Queen's or Prince of Wales's Consent; namely, fourteen days prior to the date of second reading.

Money and ways and means resolutions

We recommend that the Government be required to make a written Ministerial statement on the reasons for the delay if a money or ways and means resolution, where required, has not been put to the House within three weeks of a bill being given a second reading. (Paragraph 80)

It is the responsibility of the Member in charge of the bill to make a request to Government to table any money or ways and means motions that may be required. It is the practice of the Government to accede to such requests. There are opportunities to hold Ministers to account for any delays in tabling such motions, for example through parliamentary questions. The Committee has not produced any clear evidence to suggest that current arrangements are not working or that a new rule is needed.

Motion for the House to sit in private

We recommend that a motion 'That the House sit in private' no longer be permitted to be moved on a private Member's Friday. (Paragraph 83)

The Government believes that it is in the interests of clarity that the rules of the House governing the powers of Members should, as far possible, apply equally to all sitting days. The Committee may wish to consider further whether it is necessary to keep this rule or to provide for a sitting in private by another means.

Public bill committees on private Members' bills

We recommend that the requirement be abolished for a motion to be tabled by the Government before a public bill committee in respect of a private Member's bill may be nominated while proceedings in another public bill committee on a private Member's bill are still active. (Paragraph 84)

The Committee has not presented any evidence to suggest that this requirement is a problem. Whilst it is, as the Committee notes, the Government's normal practice to provide this motion upon request, the requirement provides a safeguard which could be useful in certain circumstances. For example, if the House were to pass a large number of bills on one Friday it may prove logistically difficult for the Government and the Committee of Selection to provide the necessary Members to enable large numbers of public bill committees to meet simultaneously. For this reason the Government disagrees with this recommendation.

Name of private Members' bills

We recommend that, in the Standing Orders and elsewhere where reference is made to them, the term "private Members' bills" be replaced with "backbench bills". (Paragraph 85)

This is a matter for the House.

Formal Minutes

Monday 24 March 2014

Members present:

Charles Walker, in the Chair

Nic Dakin
Sir Roger Gale
Mr James Gray

John Hemming
Mr David Nuttall

Draft Report (*Private Members' bills: Government response and revised proposals*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 29 read and agreed to.

Summary agreed to.

The Government's response to the Committee's Second Report was appended to the Report.

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

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

A memorandum from the Public Bill Office was ordered to be reported to the House for publication on the internet.

[Adjourned till Wednesday 2 April at 3.00 pm]

Published written evidence

The following written evidence was received and can be viewed on the Committee's publications web page at www.parliament.uk/proccom.

- 1 Public Bill Office, House of Commons

List of Reports from the Committee during the current Parliament

Session 2013–14

Fourth Report	Written Parliamentary questions: monitoring report	HC 1046
Third Report	Programming	HC 767
Second Report	Private Members' bills	HC 188
First Report	Early Day Motions	HC 189

Session 2012–13

Seventh Report	Monitoring written Parliamentary questions	HC 1095
Sixth Report	Debates on Government e-Petitions in Westminster Hall	HC 1094
Fifth Report	Statements by Members who answer on behalf of statutory bodies	HC 1017
Fourth Report	Explanatory statements on amendments	HC 979
Third Special Report	Review of the Backbench Business Committee– Government Response to the Committee's Second Report of Session 2012–13	HC 978
Third Report	E-tabling of written questions	HC 775
Second Special Report	Sitting hours and the Parliamentary calendar: Government Response to the Committee's Fourth Report of Session 2010–12	HC 790
Second Report	Review of the Backbench Business Committee	HC 168
First Special Report	Reasoned opinions on subsidiarity under the Lisbon Treaty: Government Response to the Committee's Fourth Report of Session 2010–12	HC 712
First Report	Sitting hours and the Parliamentary calendar	HC 330

Session 2010–12

Ninth Report	2010 elections for positions in the House: Government Response to the Committee's Fifth Report of Session 2010–12	HC 1824
Eighth Report	E-tabling of parliamentary questions for written answer	HC 1823
Seventh Report	Debates on Government e-Petitions	HC 1706
Sixth Report	Lay membership of the Committee on Standards and Privileges	HC 1606
Fifth Report	2010 elections for positions in the House	HC 1573
Fourth Special Report	Debates on Government e-Petitions: Government Response to the Committee's Sixth Report of Session 2010–12	HC 1902
Fourth Report	Reasoned opinions on subsidiarity under the Lisbon Treaty	HC 1440
Third Special Report	Lay membership of the Committee on Standards and Privileges: Government Response to the Committee's Sixth Report of Session 2010–12	HC 1869

Third Report	Use of hand-held electronic devices in the Chamber and committees	HC 889
Second Special Report	Improving the effectiveness of parliamentary scrutiny: (a) Select committee amendments; (b) Explanatory statements on amendments; (c) Written parliamentary questions—Government Response to the Committee's Second Report of Session 2010–11	HC 1063
Second Report	Improving the effectiveness of parliamentary scrutiny: (a) Select committee amendments (b) Explanatory statements on amendments (c) Written parliamentary questions	HC 800
First Special Report	Ministerial Statements: Government Response to the Committee's First Report of Session 2010–12	HC 1062
First Report	Ministerial Statements	HC 602