



House of Commons
Political and Constitutional
Reform Committee

**Fixed-term
Parliaments: the final
year of a Parliament:
Government Response
to the Committee's
Thirteenth Report of
Session 2013–14**

**Third Special Report of Session
2014–15**

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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

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Powers

The Committee's powers are set out in House of Commons Standing Orders, principally in Temporary Standing Order (Political and Constitutional Reform Committee). These are available on the Internet via www.publications.parliament.uk/pa/cm/cmstords.htm

Publication

Committee reports are published on the Committee's website at www.parliament.uk/PCRC-publications and by The Stationary Office by Order of the House.

Evidence relating to this report is published on the Committee's website at www.parliament.uk/fixed-term-parliament-inquiry

Committee staff

The current staff of the Committee are Martyn Atkins (Clerk), Edward Faulkner (Committee Specialist), Ami Cochrane (Legal Assistant), Tony Catinella (Senior Committee Assistant), Nerys Davies (Campaign Co-ordinator) and Jessica Bridges-Palmer (Media Officer).

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Special Report

The Political and Constitutional Reform Committee published its Thirteenth Report of Session 2013-14, *Fixed term Parliaments: the final year of a Parliament*, on 7 May 2014, as House of Commons Paper HC 976. The Government Response to this Report was received on 4 December 2014 and is published below.

Appendix: Government response

Government Responses to Conclusions and Recommendations

[The Committee's conclusions and recommendations are highlighted in bold]

1. We welcome the Government's agreement that Departments should be alive to the advantages afforded by fixed-term Parliaments. It is important that these are given active consideration over the coming year, and that lessons learnt are carried forward to the next Parliament. We also welcome the statement that Permanent Secretaries are willing to meet us to discuss these issues further, and look forward to holding a seminar with Permanent Secretaries so that we can make progress on the recommendations set out in this Report. (Paragraph 9)

2. Our evidence clearly shows that the establishment of fixed-term Parliaments makes it easier for Governments to plan for the medium-term. It might also facilitate better planning over longer timeframes than a single five-year Parliament. (Paragraph 14)

3. The Government agrees with the Committee that one of the benefits of the fixed Parliamentary term is the ability to plan effectively, especially where plans depend upon legislation. While the full consequences of the move to fixed terms can only be assessed over time, the Government continues to consider how greater certainty about the date of UK Parliamentary general elections can assist with planning.

Legislative Planning

4. A number of our witnesses argued that, in light of the greater certainty about the date of the next general election, the final year of the Parliament could be spent having a constructive debate on long-term issues so as to inform policy formation. (Paragraph 21)

5. The establishment of fixed-term Parliaments means that the Government can plan its legislative programme over a full five-year term. This should mean that there is no need for legislation to be rushed through Parliament in the first year, and that Parliament is able to scrutinise legislation in the final year without being held hostage by the threat of a general election. The Minister for Government Policy told us that we would find the legislative programme for the final year of this Parliament "very serious and very full", while others witnesses predicted that the programme might be lighter. We believe that having a lighter legislative programme in the final year of the Parliament should not be considered a bad thing. If there is a lighter legislative

programme, the Government could usefully spend the time on implementation and review. (Paragraph 29)

6. Fixed Parliamentary terms enable the Government to plan a full legislative programme for the final session of the Parliament, with a reasonable degree of confidence. This has benefits for the planning and management of the final session.

7. The legislative programme announced on 4 June was a full programme that includes important Bills designed to help deliver a stronger economy and a fairer society. In formulating the programme the Government has sought to deliver important measures which are needed to fulfil existing and new commitments, but also to allow enough time for full Parliamentary scrutiny. Under this Government much more time has been allowed for the House of Commons to consider Bills at Report stage and the vast majority of Public Bill Committees have finished early.

Pre-legislative Scrutiny

8. We have previously stated that pre-legislative scrutiny should be an integral and mandatory part of the consideration of every bill, unless there is an accepted and pressing need for immediate legislation. The ability of a Government to plan its legislative programme over a full five years means that in future Parliaments there will be no excuse for not submitting legislation for pre-legislative scrutiny, unless there is an accepted and pressing need for immediate legislation. The presumption should be that legislation is published in draft for pre-legislative scrutiny, and the Standing Orders should be amended to that effect. (Paragraph 30)

9. We recommend that the Government take advantage of having a full final year in which to pursue its legislative programme by publishing new legislation in draft for pre-legislative scrutiny, and ensuring there is sufficient time in both Houses to examine in detail the legislation set out in the Queen's speech. (Paragraph 31)

10. The fixed Parliamentary term facilitates better Parliamentary scrutiny, giving more certainty about the likely time available for a bill to progress through Parliament. The Government has published more bills in draft for pre-legislative scrutiny during this Parliament than any of its predecessors.

11. Two major Bills announced in the Queen's Speech, the Modern Slavery Bill and the Recall of MPs Bill, have been published for pre-legislative scrutiny. It was also announced in the Queen's Speech that three further Bills would be published in draft in the current session. However, pre-legislative scrutiny is not the only way in which views can be sought on new legislation. The policy contained in the new Bills has been the subject of extensive public consultation, such as the measures in the Infrastructure Bill on invasive non-native species which stemmed from a Law Commission report, and the new reforms on private pensions which were subject to a public consultation. The Government believes that a flexible approach to the scrutiny of legislation best serves the interests of both the House and departments and to enshrine a presumption in Standing Orders would be both unnecessary and ineffective. Ministers and officials of course work closely with stakeholders during the development of policies prior to the introduction of legislation.

12. In the final Session, the Government continues to implement legislation from previous sessions and to facilitate post-legislative scrutiny by select committees within a three to five year period of Royal Assent. The Government believes that the focus on implementation would be enhanced by further activity from select committees on post-legislative scrutiny, particularly as the majority of post-legislative memoranda produced by the Government have not been examined by select committees.

Financial Planning

13. We continue to recommend that the Government should produce rolling five-year Spending Reviews, more closely aligned to the term of a Parliament. By this we mean that the Government should produce a firm Spending Review in the autumn following the general election, covering the next three financial years, together with an indicative spending review for the following two financial years. In the third year of the Parliament, the indicative spending review for the remaining two financial years should be replaced with a firm Spending Review. (Paragraph 36)

14. We have been told that there needs to be a secure basis for fiscal debate, especially in the final year of a Parliament. We note that the OBR currently produces biannual five-year forecasts for the economy and public finances, and annual fiscal sustainability reports. (Paragraph 40)

15. It is in everyone's interests that the policy of any party which might potentially form part of the Government is properly thought through and preferably costed. We therefore welcome the possibility of party policy being costed by an independent body ahead of general elections. This would better inform the electorate and should improve both the quality of debate in the pre-election period, and policy formation itself. We note that in the absence of a political consensus on this point, it is unlikely that arrangements will be put in place ahead of the 2015 election. (Paragraph 45)

16. The Government agrees that appropriate financial planning is vital to enable the effective implementation of policy, and has taken steps to ensure greater certainty for financial planning over the course of this Parliament. Decisions about the duration of the next and subsequent Spending Reviews will be a matter for the government of the day.

17. By providing the Office for Budget Responsibility (OBR) with a duty to produce the official economic and fiscal forecasts, the Government has addressed a key weakness of the past. However, to fulfil its role effectively the OBR must be seen as impartial and independent. The OBR is a young organisation that has yet to see an election. Requiring the OBR to cost political parties' manifesto commitments would risk it being drawn into the political debate, potentially undermining its perceived independence and, by extension, the credibility of the UK's official forecasts. Autumn Statement 2013 announced that, as required by legislation, the OBR would launch an independent, external review of its publications over the course of 2014. Following the outcome of this review, the Government will hold its own review of the OBR at the start of the next Parliament.

The Length of the Parliamentary Term & the Operation of the Fixed-term Parliaments Act 2011

18. It is likely that the benefits of greater certainty about the date of the next general election will only materialise if Parliaments do, in practice, last full five-year terms. Although it is essential that it is possible for early elections to be held in certain circumstances, it is generally desirable that early elections be avoided for this reason. (Paragraph 49)

19. We recommend that the next Government considers at an early stage how it can make most effective use of greater certainty about the length of the Parliament. This should include consideration both of the recommendations set out in this Report, and of the operation of the Fixed-term Parliaments Act 2011 in the final year of this Parliament. Such consideration could usefully inform the next Government's plans for the 2015–20 Parliament, and also serve as a prelude to the Committee the Prime Minister is required to appoint in 2020, which will be tasked with reviewing the operation of the Fixed-term Parliaments Act. (Paragraph 76)

20. The Government believes that there are advantages to having certainty about when a Parliament will end, which is why it brought forward legislation to set the duration of a Parliament. The Government agrees that there may be circumstances in which it is necessary for an early election to take place, which is why the Act provides for early elections to be called if a motion is agreed by at least two thirds of the House or without a division; or if a motion of no confidence is passed and no alternative Government is confirmed by the House of Commons within 14 days.

21. The Government believes that fixed-term Parliaments provide a number of practical advantages to both Government and Parliament as they give greater predictability and continuity, enabling better long term legislative and financial planning. To this end, the Government agrees that future governments should consider how to make best use of the fixed Parliamentary term and have regard to how the Fixed-term Parliaments Act 2011 has operated in the past. This will help inform wider considerations about the operation of the Act, including those of the Committee the Prime Minister is required to appoint to review the Act in 2020.

Pre-election Contacts between Civil Servants and the Opposition

22. Pre-election contacts between the Civil Service and Opposition are essential to ensure that both the Civil Service and any parties that might be involved in forming a Government after a general election are prepared for the possibility of a change in Government. Now that the Fixed-term Parliaments Act 2011 has abolished the Prime Minister's prerogative to call an election, there is no reason that the authority to decide when, to whom, and in what way these contacts are conducted should be retained by the Prime Minister. It is disappointing that the Prime Minister has decided to limit pre-election contacts to the final seven months of this Parliament, and that he did not wait to consider either our views, or those of the Institute for Government, before coming to this decision. (Paragraph 63)

23. In light of the greater certainty provided by the Fixed-term Parliaments Act 2011 about the date of the next general election, we recommend that the arrangements for pre-election contacts between the Civil Service and Opposition ahead of a general election be formalised. After 2015 these contacts should be permitted automatically in the last year of a Parliament, and the Cabinet Manual should be updated to this effect. Ahead of the 2015 general election, we suggest that further consideration be given to the possibility of allowing pre-election contacts to begin immediately after the European and local elections in May. (Paragraph 64)

24. Our inquiry has identified several points where the guidance on pre-election contacts is either unclear or is in need of revision as a result of both the Fixed-term Parliaments Act 2011 and coalition government. The Cabinet Manual and Civil Service Guidance should be updated in light of the points we have outlined. (Paragraph 66)

25. The constitutional position is that the civil service serves the Government of the day. The Fixed-term Parliaments Act 2011 only acted to fix the date of UK Parliamentary general elections. It did not otherwise affect the customary privileges and powers of the Prime Minister.

26. Official contacts between the civil service and the opposition parties have been authorised since 1964 and the modern convention of authorising that contacts can take place from sixteen months before the latest possible date for a General Election has been in place since 1995. That convention was applied up to the end of the 2005-2010 Parliament and reflected the need to account for early general elections. There has not been a standard length of time for pre-election contacts since its inception. The introduction of fixed term Parliaments has of course meant that the Prime Minister needed to consider what would be an appropriate length of time for effective and meaningful contact. As the Minister for Government Policy made clear in his letter to the Committee, the Prime Minister felt that seven months was an appropriate period of time, and in line with previous practice. The direction of the civil service in this regard is a matter for the Prime Minister, not for Parliament.

27. Advice is issued to permanent secretaries on the operation of pre-election contacts before each general election and will be issued again in due course. As Lord O'Donnell said in his evidence to the Committee, we have not yet seen out a full fixed-term Parliament, and it seems appropriate to wait until we have before updating the Cabinet

Manual on this issue. The Directory of Civil Service Guidance will be revised to reflect any changes in due course.

The Impacts on Parliament

28. A House Business Committee would have come into its own in the final year of a Parliament, by providing a clear forum for consideration of how best House time could be spent in the year ahead of a general election. Although the Government has gone back on its promise to establish such a Committee, if the Government could relax its control over House time in the final year of the Parliament, it would be possible for there to be a resurgence of debate in the House, led by backbenchers. We accept of course that backbenchers will want to spend time in the final year of a Parliament campaigning in their constituencies, but we believe that there would still be interest in attending debates, particularly if backbenchers were able to have greater say over the topics chosen. (Paragraph 24)

29. Greater certainty about the date of the next general election should enable Select Committees better to plan their work over the course of a Parliament, and assess their effectiveness as a Parliament comes to a close. (Paragraph 72)

30. As the final year of the current Parliament approaches, we will be considering what we have achieved to date this Parliament, and what we hope to do in the time remaining. Other Committees may wish to do the same, and also consider how their work could be passed forward to their successors in the next Parliament. (Paragraph 73)

31. The Committee accepts that backbenchers will want to spend time campaigning in their constituencies in the final session of the Parliament, but also argues for more time to be devoted to backbench business. The 2014-15 Session should see a higher proportion of time being devoted to backbench business than in previous sessions, given that the number of days is specified in Standing Orders and the dates of the start and end of the Session are now known. The choice of debates in backbench time is a matter for the Backbench Business Committee, not the Government, so the opportunity exists for debates to be focussed on the issues raised by the Committee, if it makes a convincing case. It will be for the Backbench Business Committee and others to review how effectively the time is used in the final session of Parliament in the light of experience and make recommendations for the future.

32. Whilst it is for select committees to plan their future work, the Government agrees that the final session of a Parliament presents an opportunity for them to review their effectiveness and achievements against any objectives set at the start of the Parliament and to seek to set an agenda for their successors. In particular, the final session could be used to follow up earlier inquiries and potentially conduct post- legislative scrutiny of Acts passed in the first Session.