



House of Commons
Public Administration
and Constitutional Affairs
Committee

**The work of the
Committee during the
2015–17 Parliament**

Sixteenth Report of Session 2016–17

*Report, together with formal minutes relating
to the report*

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Public Administration and Constitutional Affairs

The Public Administration and Constitutional Affairs Committee is appointed by the House of Commons to examine the reports of the Parliamentary Commissioner for Administration and the Health Service Commissioner for England, which are laid before this House, and matters in connection therewith; to consider matters relating to the quality and standards of administration provided by civil service departments, and other matters relating to the civil service; and to consider constitutional affairs.

Current membership

[Mr Bernard Jenkin MP](#) (*Conservative, Harwich and North Essex*) (Chair)

[Ronnie Cowan MP](#) (*Scottish National Party, Inverclyde*)

[Paul Flynn MP](#) (*Labour, Newport West*)

[Marcus Fysh MP](#) (*Conservative, Yeovil*)

[Mrs Cheryl Gillan MP](#) (*Conservative, Chesham and Amersham*)

[Kate Hoey MP](#) (*Labour, Vauxhall*)

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[Dr Dan Poulter MP](#) (*Conservative, Central Suffolk and North Ipswich*)

[John Stevenson MP](#) (*Conservative Carlisle*)

[Mr Andrew Turner MP](#) (*Conservative, Isle of Wight*)

The following members were also members of the committee during the Parliament:

[Oliver Dowden MP](#) (*Conservative, Hertsmere*), [Mr David Jones MP](#) (*Conservative, Clwyd West*), [Tom Tugendhat MP](#) (*Conservative, Tonbridge and Malling*) and [Adam Holloway MP](#) (*Conservative, Gravesham*).

Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No. 146. These are available on the internet via www.parliament.uk.

Publication

Committee reports are published on the Committee's website at www.parliament.uk/pacac and in print by Order of the House.

Committee staff

The current staff of the Committee are: Dr Rebecca Davies (Clerk), Ms Rhiannon Hollis (Clerk), Dr Sean Bex (Second Clerk), Dr Patrick Thomas (Committee Specialist), Mr Jonathan Bayliss (Committee Specialist), Ms Penny McLean (Committee Specialist), Ms Rebecca Usden (Committee Specialist), Mr Alex Prior (PhD Scholar), Ana Ferreira (Senior Committee Assistant), Iwona Hankin (Committee Assistant), and Mr Alex Paterson (Media Officer).

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1 Introduction

General Election 2017

1. On Wednesday 19 June, the House of Commons voted for an early General Election.¹
2. This Report briefly highlights the main themes and focus of our work during the 2015–17 Parliament. Much of the substance of our work during this Parliament was still ongoing, and will be brought to an abrupt end upon the dissolution of Parliament on 3 May. The main focus of this report therefore is to present the emerging themes and findings of our ongoing and active programme of inquiries, which we hope will be pursued by our successor Committee. We invite our successor Committee to continue and build upon this important body of work in the next Parliament.
3. We thank all of those who have helped the Public Administrational and Constitutional Affairs Committee (PACAC) with our work during this Parliament, including those who have given written and oral evidence to the Committee and those who have provided briefing to the Committee in private. We extend particular thanks to the Committee’s advisers and staff for all their work.

¹ The [Fixed-term Parliaments Act 2011](#) removed the prerogative power to dissolve Parliament. The Act also prohibits the Crown from dissolving Parliament except in accordance with the legislation. Section 2 of the Fixed Term Parliaments Act provides for early general elections when either of the following conditions is met: if a motion for an early general election is agreed either by at least two-thirds of the whole House (including vacant seats), i.e. 434 Members out of 650, or without division; or if a motion of no confidence is passed and no alternative government is confirmed by the Commons within 14 days by means of a confidence motion.

2 The Work and Purpose of PACAC in the 2015–2017 Parliament

Remit and Purpose

4. The remit of the Public Administration and Constitutional Affairs Committee (PACAC) is set out in the House of Commons Standing Order No. 146 as follows:

to examine the reports of the Parliamentary Commissioner for Administration and the Health Service Commissioner for England, which are laid before this House, and matters in connection therewith; to consider matters relating to the quality and standards of administration provided by civil service departments, and other matters relating to the civil service; and to consider constitutional affairs.²

5. At the beginning of this Parliament, we agreed two key themes and strategic priorities for our programme of work during this Parliament:

- The UK’s changing constitution; and
- The efficacy of the civil service and machinery of government.

6. While some of our inquiries to date have been reactive and a response to events, for example, on the collapse of Kids Company,³ most have fallen within one of these two strategic priorities. We have been building a body of knowledge, learning and expertise to promote better governance, increased effectiveness and improved efficiency of the key institutions which are at the heart of government.

7. In February 2017, we agreed and published PACAC’s statement of purpose for its work in this Parliament as follows:

to conduct robust and effective scrutiny in order to help create conditions where the public can have justified confidence in public services/ government.⁴

The statement encapsulates what our main focus has been in scrutinising the work of the Cabinet Office and all the various bodies it sponsors, public appointments, the provision of information (qualitative and quantitative) to the public, the civil service, providers of public services and constitutional issues, such as the reform of the House of Lords, and the relationships between both Parliament and Whitehall, and between the UK institutions and those of the devolved Executives and Legislatures.

2 [Standing Order No. 146](#), as agreed by the House of Commons on 3 June 2015.

3 Fourth Report from the Public Administration and Constitutional Affairs Committee of Session 2015–16, [The collapse of Kids Company: lessons for charity trustees, professional firms, the Charity Commission, and Whitehall](#), HC 433, February 2016.

4 The full text of our statement can be found on the PACAC [website](#).

Engaging with the work of the Chamber: Select Committee Statements

8. The Committee launched the following eight reports through the use of the provision for select committee statements in backbench time:

2015–16 Session

- Second Report of Session 2015–16, [*Appointment of the UK's delegation to the Parliamentary Assembly of the Council of Europe*](#), HC 658, January 2016.
- Fourth Report of Session 2015–16, [*The collapse of Kids Company: lessons for charity trustees, professional firms, the Charity Commission, and Whitehall*](#), HC 433, February 2016.
- Fifth Report of Session 2015–16, [*The Future of the Union, part one: English Votes for English laws*](#), HC 523, February 2016.
- Sixth Report of Session 2015–16, [*Follow up to PHSO Report of an investigation into a complaint about HS2 Ltd*](#), HC 793, March 2016.
- Seventh Report of Session 2015–16, [*Appointment of the Commissioner for Public Appointments*](#), HC 869, April 2016.

2016–17 Session

- Seventh Report of Session 2016–17, [*Will the NHS ever learn? Follow-up to PHSO report 'Learning from Mistakes' on the NHS in England*](#), HC 743, January 2017.
- Tenth Report of Session 2016–17, [*Lessons still to be learned from the Chilcot Inquiry*](#), HC 656, March 2017.
- Twelfth Report of Session 2016–17, [*Lessons learned from the EU Referendum*](#), HC 496, April 2017.

3 The UK’s Changing Constitution

The Future of the Union

9. On 21 July 2015, PACAC launched an overarching and multi-phase inquiry entitled ‘The Future of the Union’. The Committee published two reports, the first into English Votes for English laws⁵ and the second into Inter-institutional relations in the UK.⁶ The next phase of the inquiry was due to focus on fiscal devolution and funding.

10. In light of the referendum on the UK’s membership of the EU, we also undertook inquiries, both prior to the referendum, on *Purdah and Impartiality*, and in evaluating the delivery and conduct of the referendum, *Lessons Learned from the EU Referendum*.⁷

Brexit and Devolution

11. On 8 March 2017, we launched our inquiry on Brexit and Devolution—bringing together the two central stands of the Committee’s work on constitutional issues in this Parliament. The inquiry built on the Committee’s earlier work on *The Future of the Union, part two: Inter-institutional relations in the UK*. That report identified that the quality of inter-institutional relations had lagged behind the constantly changing devolution settlement.⁸ The UK’s exit from the EU increased the importance of developing strong inter-institutional relations and “offers both risk and a fresh opportunity, and, therefore, an incentive, to develop more effective intergovernmental relations in the UK”.⁹

12. The committee held two private scoping seminars on the inquiry,¹⁰ during which several key points emerged.

- In the absence of the homogenising effect of EU law, the repatriation of competences to the different administrations within the UK carries with it the risk of the fragmentation of the UK single market on which the devolution settlements are based.

5 Fifth Report from the Public Administration and Constitutional Affairs Committee of Session 2015–16, *The Future of the Union, part one: English Votes for English laws*, HC 523, 26 January 2016.

6 Sixth Report from the Public Administration and Constitutional Affairs Committee of Session 2016–17, *The Future of the Union, part two: Inter-institutional relations in the UK*, HC 839, 8 December 2016.

7 Twelfth Report from the Public Administration and Constitutional Affairs Committee of Session 2016–17, *Lessons learned from the EU Referendum*, HC 496, April 2017. The evidence published to PACAC’s inquiry on *Purdah and Impartiality* can be found on the Committee’s [website](#).

8 Sixth Report from the Public Administration and Constitutional Affairs Committee of Session 2016–17, *The Future of the Union, part two: Inter-institutional relations in the UK*, HC 839, 8 December 2016.

9 Sixth Report from the Public Administration and Constitutional Affairs Committee of Session 2016–17, *The Future of the Union, part two: Inter-institutional relations in the UK*, HC 839, 8 December 2016, p.6.

10 The first was held in advance of launching the inquiry on 21st February. In attendance was: Professor Sionaidh Douglas-Scott (Queen Mary University of London); Dr Jo Hunt (Cardiff University); Professor Alan Page (University of Dundee); Lord Boswell of Aynho (Chair, House of Lords EU Committee); David Rees AM (Chair, National Assembly for Wales’ External Affairs and Additional Legislation Committee); John Sturrock (Specialist Advisor).

The second was held on 18th April. In attendance was: Professor Alan Page (University of Dundee); Professor Rick Rawlings (University College London); David Melding AM (Member of Welsh Assembly Constitutional and Legislative Affairs Select Committee); Alice Enders (Former WTO senior economist; Enders Analysis); John Sturrock (Specialist Advisor).

- Many of the competences that will fall to the UK Parliament, e.g. in respect of the negotiation and conclusion of trade agreements with non-EU countries, will be of direct and continuing concern to the devolved administrations.
- Chapter 4 of the Government’s White Paper *Legislating for the United Kingdom’s Withdrawal from the European Union*, sets out the interaction between central and devolved governments in the UK.¹¹ It requires detailed scrutiny, and could be a focus for a separate and distinct inquiry. Compared to other sections of the White Paper, Chapter 4 does not set out any level of detail, and includes possibly ambiguous language which could cause conflicts in interpretation. It also sets out a model for the interaction of UK and devolved institutions which is contested by the devolved governments.

13. Addressing these different considerations will represent a major challenge, not only in terms of framing the different components of the Great Repeal Bill, and other necessary legislation as the UK leaves the EU, but also in terms of efficacy and functioning of the UK’s system of inter-institutional relations.¹² The UK’s exit from the EU poses many challenges and issues for the asymmetrical devolution settlements which exist within the United Kingdom and for the very future of that United Kingdom.

The EU Referendum

Purdah and Impartiality

14. In July 2015, we launched an Inquiry into the EU referendum Bill.¹³ In the first instance we examined the proposal in the Bill to disapply Section 125 of the Political Parties and Referendums Act 2000 (PPERA 2000), which sets out the statutory rules which apply to the 28 day purdah period in the run up to the Referendum. We concluded that: “The disapplication or dilution of Section 125 would make it appear that the Government is seeking to circumvent proper processes to enable it to use the machinery of Government for campaigning activity as well as legitimate Government activity in the run up to the EU Referendum”.¹⁴

15. Our inquiry resulted in a manuscript amendment to the EU Referendum Bill, which reinstated Section 125 PERA to the Bill. A more detailed analysis of the impact of the Purdah provisions on the referendum campaigns is included in the *Lessons Learned from the EU Referendum* report, published on 12 April 2017.¹⁵

11 [Legislating for the United Kingdom’s Withdrawal from the European Union](#), Department for Exiting the European Union, Cm 9446, March 2017.

12 Sixth Report from the Public Administration and Constitutional Affairs Committee of Session 2016–17, [The Future of the Union, part two: Inter-institutional relations in the UK](#), HC 839, December 2016.

13 The details of PACAC’s inquiry on Purdah and Impartiality can be found on the Committee’s [website](#).

14 [Letter to Rt Hon David Lidington MP](#), 21 July 2015.

15 Twelfth Report from the Public Administration and Constitutional Affairs Committee of Session 2016–17, [Lessons learned from the EU Referendum](#), HC 498, March 2017, p.16–20.

House of Lords

Strathclyde review

16. In October 2015, the Government was defeated in the House of Lords on its proposed changes to Tax Credits. This prompted the Government to commission Lord Strathclyde to examine the House of Lords’ powers over Statutory Instruments, reporting in December 2015. Our May 2016 report argued that the House of Lords’ excessive size and unbalanced composition, rather than its role in Statutory Instruments, was the more pressing issue facing the Upper Chamber.¹⁶

The inquiry

17. In September 2016, we launched a new inquiry into the House of Lords, focusing specifically on its role, size, and composition. We also invited evidence on the current (and potential) role of the House of Lords Appointments Commission (HOLAC).¹⁷

18. Though a far-reaching attempt by the coalition Government at House of Lords reform (in the form of the House of Lords Reform Bill 2012–2013) failed during the last Parliament, and the current Government’s election manifesto expressly stated that a reform to introduce an elected component was “not a priority”, the manifesto did commit the Government to ensuring that “the House of Lords continues to work well by addressing issues such as the size of the chamber”. Our inquiry focused on how best the Government could fulfil this pledge, while acknowledging that a more extensive reform is unlikely in the short to medium term. In doing so this inquiry was designed to build on the work undertaken by the Political and Constitutional Reform Committee during the 2010–2015 Parliament into possible incremental reforms.¹⁸ The Committee’s central aim was to identify the “unarguable next steps” for reform of the House of Lords.¹⁹

19. As of 19 April 2017, we had published 47 pieces of written evidence, and held two oral evidence sessions.²⁰

16 The terms of reference for the inquiry are published on the Committee’s [website](#). The full report can be accessed [here](#): Eighth Report from the Public Administration and Constitutional Affairs Committee of Session 2016–17, *The Strathclyde Review: Statutory Instruments*, HC 752, May 2016.

17 The [House of Lords Appointments Commission](#) was set up in 2000 “to make nominations for membership of the House of Lords to the independent cross benches and is also responsible for the vetting for propriety of all nominations to the House, including candidates for party political membership”.

18 [Political and Constitutional Reform Committee](#), House of Commons, 2010–2015.

19 Terms of reference: [An effective Second Chamber? The House of Lords inquiry](#), Public Administration and Constitutional Affairs Committee, November 2016.

20 The [first oral evidence session](#) took place on 31 January 2017, during which the Committee took evidence from Baroness D’Souza and Baroness Hayman (former Lord Speakers), Lord Norton of Louth, and Lord Steel of Aikwood.

The [second session](#) took place on 14 March 2017. Baroness Smith of Basildon (Shadow Leader of the House of Lords), Lord Hope of Craighead (Convenor of the Crossbench Peers) and Lord Newby (Leader of the Liberal Democrats in the House of Lords) gave evidence.

All written evidence can be accessed on the [inquiry page](#) on the PACAC website.

Background

20. Since the House of Lords Act 1999, the House of Lords has grown in size from 666 members to just over 800 eligible members (840 when currently ineligible peers are included). The pace of appointments has also increased in recent years. According to research from the Constitution Unit at UCL, between May 2010 and February 2015, 187 new peers were appointed, at an average rate of 40 per year.²¹

21. While recent reforms (House of Lords Reform Act 2014) have enabled peers to retire from the House and provided for the removal of non-attending peers, the House of Lords remains by far the largest second chamber in the world. In fact, since the 2014 retirement provisions were introduced the size of the Lords has continued to grow—as the number of new appointments has outstripped deaths and retirements.

22. Concern about the growing size of the chamber has been particularly clear inside the House of Lords itself. Subsequent to the establishment of the Committee’s inquiry, the House of Lords debated a motion on 5 December 2016 “that this House believes that its size should be reduced, and methods should be explored by which this could be achieved”.²² After a six-hour debate the motion was agreed without dissent. On 20 December it was announced that a Lord Speaker’s Committee on the Size of the House was to be established, chaired by the Crossbench peer Lord Burns. That Committee began its work in the New Year.²³

Proposals for further consideration

23. Based on the evidence we received, there was widespread agreement that “reducing the size of the House by having an overall cap on numbers is the most important thing”.²⁴ Regarding the target size, proposals more typically recommended a reduction to 500–600 members. Justifications for this higher figure included the need to maintain Lords Committees and fulfil other key functions.²⁵ But at the same time the practical and symbolic importance of reducing the size of the Lords to equal, or below, that of the Commons was often emphasised.²⁶ Agreement to a cap on numbers was put forward as a measure on which the Prime Minister could provide governmental leadership, giving impetus for parties to subsequently agree a reduction.²⁷ It was also observed that “a lot can be done by the House of Lords itself and ... does not need legislation”.²⁸

24. There was significant consensus on the expansion of the responsibilities of HOLAC, to encompass vetting candidates not only for propriety, but also suitability. Former Lord Speaker Baroness D’Souza suggested that “the Appointments Commission could very usefully, in the near future, draw up a comprehensive list of criteria, which could in turn inform the party leaders, the groupings, as to what the requirements are”.²⁹ This was welcomed by Baroness Smith, Labour Opposition Leader in the House of Lords, who

21 Meg Russell and Tom Semlyen, *Enough is Enough: Regulating Prime Ministerial Appointments to the Lords*, UCL, Department of Political Science, The Constitution Unit, February 2015.

22 [HL Deb 05 December 2016 vol 777](#).

23 The terms of reference for the Burns Committee can be found on the House of Lords [website](#).

24 [Q3](#)

25 [Q112](#)

26 Professor Ian Cram ([HOL11](#))

27 [Q176](#)

28 [Q76](#)

29 [Q18](#)

suggested that with respect to party appointments “I would like to see HOLAC work on some criteria, and I think it would be a useful thing for them to do”.³⁰ It was suggested by others that HOLAC could also assume a much more proactive role in identifying ‘gaps’ in Lords’ expertise and proposing new appointees accordingly.³¹

25. The ending of by-elections for hereditary peers was a topic of particularly widespread support.³² However, it was recognised that this would have little immediate impact on the size of the House of Lords, and that moves to implement such a change had historically faced resistance in the chamber itself.³³

26. The new voluntary retirement system, which came into effect on 14 August 2014, was discussed in terms of its present effectiveness.³⁴ A key theme within the recommendations received was securing sustainable reform.

27. This emphasis on sustainability was reflected particularly in the perceived need to address the Prime Minister’s prerogative power to create new peers, to safeguard reforms against future increases in membership.³⁵ It was strongly emphasised that peers would be more likely to retire if there was certainty that party (and other group) representation would not be compromised.³⁶ The establishment of some kind of formula to govern future appointments (particularly with respect to party/group balance) was recommended in order to ensure transparency and accountability, as well as sustainability. Agreement of a transparent formula had previously been advocated by the Constitution Unit and the Public Administration Select Committee (PASC).

28. A final, widely-agreed point related to public engagement, and the importance of the House of Lords’ image, both in terms of its effectiveness and the overall reputation of Parliament. Many suggested that there was a need for greater understanding of the role of the Lords (internally and externally). This encompassed the following requirements:

- Greater clarity within the Commons as to the complementary function of the Lords.³⁷
- Greater public understanding of the role of the Lords.³⁸
- Greater clarity within the Lords as to members’ own responsibilities to deliver a ‘job of work’, rather than a peerage being a ‘reward’ for services rendered.³⁹

A broader reform of the peerage was also recommended frequently, based on “separating completely a peerage, as the summit of the honours system, and membership of the second Chamber as a parliamentarian”.⁴⁰

29. Linking these various points, it was frequently emphasised in evidence that the need to enhance, and indeed to protect, the image of Parliament was a key reason to tackle the House of Lords’ size (a point which was also repeatedly made in the House of Lords [debate on 5 December 2016](#)).

30 [Q151](#)

31 [Q74](#)

32 Lord David Blunkett ([HOL26](#))

33 [Q13](#)

34 [Q92](#)

35 Lord David Lipsey ([HOL07](#))

36 [Q176](#)

37 Rt Hon Lord Rooker ([HOL09](#))

38 Lord Godfrey Cromwell ([HOL36](#))

39 [Q64](#)

40 [Q7](#)

4 The Effectiveness of the Civil Service and Machinery of Government

30. The main focus of our work in this second strategic priority area during this Parliament, has been our major inquiry into the work and effectiveness of the civil service.⁴¹ A short report drawing out some of the key themes and questions raised by our work on this inquiry to date has been published separately.⁴²

Statistics and Open Data

Chair of the UK Statistics Authority (UKSA)

31. Following a series of reports on statistics published by the Public Administration Select Committee (PASC) between 2012 and 2015, we have continued to pursue the issue of better statistics for the public and policy makers during the 2015–17 Parliament, by making targeted interventions to help unlock new data sources within and outside government.⁴³

32. On 24 January 2017, we held a pre-appointment hearing for the Government's preferred candidate for Chair of the UK Statistics Authority, Sir David Norgrove.⁴⁴ The Committee supported Sir David's candidature and, following a debate on the floor of the House of Commons on 7 March, he took up his role at the beginning of April.⁴⁵ We wrote to Sir David outlining PACAC's main priorities. These included: an increased separation of the production and regulation roles, an improved web site, more open data, increased data sharing and transparency, and the need for an end to pre-release access. The main aim is to cost-effectively deliver more statistics to serve the public good.⁴⁶

33. Following the many recommendations of the Treasury-led Bean Review of government statistics,⁴⁷ we have been keen to strengthen the link between the UKSA non-executives and Parliament. One initiative currently being developed with UKSA is the preparation of a regular dialogue through a quarterly note to the Committee from the UKSA Chair.

34. The General Election will prove to be an early test for the UKSA Board. The monitoring and assessment team (in the new Office for Statistics Regulation), fully supported by the non-executives, should be active during the election period and free of any restraints of purdah. The Committee welcomes the clear statement of the respective roles of Office for Statistics Regulation (OSR) and the Office of National Statistics (ONS) during the election before Parliament rises and purdah begins.

41 The terms of reference for this inquiry were re-launched on 10 November 2016 to include reference to the challenge facing the civil service following the outcome of the EU referendum vote on 23 June 2016. [Leaving the EU and the Civil Service](#), Public Administration and Constitutional Affairs Committee, November 2016.

42 Fifteenth Report from the Public Administration and Constitutional Affairs Committee of Session 2016–2017, *The work of the Civil Service: emerging themes and initial findings*, HC 253, April 2017.

43 Seventh Report from the Public Administration Select Committee of Session 2014–15, [Our work in the 2010–2015 Parliament](#), HC 1152, March 2015.

44 [A transcript of the oral evidence for this session can be found on the Committee's website.](#)

45 Ninth Report from the Public Administration and Constitutional Affairs Committee of Session 2016–17, [Appointment of the Chair of the UK Statistics Authority](#), HC 941, January 2017.

46 [Letter from Chair to Sir David Norgrove](#), Chair of the UK Statistics Authority, 4 April 2017.

47 [Independent review of UK economic statistics: final report](#), Cabinet Office, March 2016.

Better administrative records

35. A major task for the next Government will be to increase the robustness of public records to ensure that the mechanisms for entitlement to public services and access to the labour market are fit for purpose. Without good records, efficient public administration will not be possible. This overlaps with other initiatives that were already underway in Government, notably: the work of the Government Digital Service to digitally transform government,⁴⁸ the introduction of gov.uk Verify,⁴⁹ data sharing implied by the Digital Economy Bill,⁵⁰ the creation of a national information infrastructure,⁵¹ access to administrative data for statistical purposes, and the Cabinet Office’s National Action Plan.⁵²

36. We hope our successor Committee continues to ensure that the various department leads work together to deliver effective, fair and efficient public administration and more accurate statistics on related economic and social affairs.

48 The [Government Digital Service](#) is part of the Cabinet Office and was set up in April 2011.

49 [Verify](#) was created by the Government Digital Service to allow “simpler and faster access to government services” by allowing people to more easily identify themselves online.

50 Lords amendments to the [Digital Economy Bill](#) were considered on the floor of the House of Commons on Wednesday 26 April 2017.

51 [National Information Infrastructure](#), Government Digital Service.

52 [UK Open Government National Action Plan 2016–18](#), Cabinet Office, May 2016.

5 The work of the Parliamentary and Health Service Ombudsman

Promoting the work of the PHSO

37. The Parliamentary and Health Service Ombudsman (PHSO) combines the two statutory roles of Parliamentary Commissioner for Administration (the Parliamentary Ombudsman) and Health Service Commissioner for England (the Health Service Ombudsman), the powers of which are set out in the Parliamentary Commissioner Act 1967 and the Health Service Commissioners Act 1993 respectively, and from time to time reports to Parliament on wider themes emerging from its casework.

38. It is a function of the Public Administration and Constitutional Affairs Committee (PACAC) to examine these reports and to use their findings to hold Government to account. In this Parliament, we have undertaken a series of inquiries that have been prompted by reports on end of life care, hospital discharge, the complaints system and investigative culture in the NHS, public engagement by HS2 Ltd., and standards and complaints handling at the Driver and Vehicle Licensing Agency (DVLA).

39. The majority of these inquiries have resulted in reports in which we have made further recommendations to drive improvement to public services. In our October 2015 Report, *Follow-up to PHSO Report: Dying without dignity*, we called on the Government to review how the effectiveness of measures to improve end of life care is monitored.⁵³ In *Follow up to PHSO Report of an investigation into a complaint about HS2 Ltd*, published in March 2016, we pressed HS2 Ltd. to develop a stronger customer focus.⁵⁴ In September 2016, we published *Follow-up to PHSO report on unsafe discharge from hospital*, which makes recommendations to remedy the incidence of unsafe discharge exposed by a PHSO report.⁵⁵

40. Additionally, in two interconnected inquiries on the complaints and investigation culture in the NHS, we investigated how a blame culture in the Health Service prevents it from learning from clinical incidents or from subsequent complaints made by affected patients and their families. In *PHSO review: Quality of NHS complaints investigations*, published in June 2016, we reviewed the Government's efforts to tackle the blame culture in a systemic way.⁵⁶

41. We returned to this issue in *Will the NHS never learn? Follow-up to PHSO report 'Learning from Mistakes' on the NHS in England*, published in January 2017. In this latest report, we recommended that further action should be taken to instigate a just culture across the NHS that would allow the health service to learn from clinical incidents as a

53 First Report from the Public Administration and Constitutional Affairs Committee of Session 2015–16, [Follow-up to PHSO Report: Dying without dignity](#), HC 432, October 2015.

54 Sixth Report from the Public Administration and Constitutional Affairs Committee of Session 2015–16, [Follow up to PHSO Report of an investigation into a complaint about HS2 Ltd](#), HC 793, March 2016.

55 Fifth Report from the Public Administration and Constitutional Affairs Committee of Session 2016–17, [Follow-up to PHSO report on unsafe discharge from hospital](#), HC 97, September 2016.

56 First Report from the Public Administration and Constitutional Affairs Committee of Session 2016–17, [PHSO Review: Quality of NHS complaints investigations](#), HC 94, June 2016.

matter of course.⁵⁷ We expect that the new Healthcare Safety Investigation Branch (HSIB), the creation of which was recommended by its predecessor Committee PASC, will play a key role in moving the NHS towards such a culture.

Driven to Despair

42. On 12 January 2017, we launched a further inquiry into the Driver and Vehicle Licensing Agency (DVLA) prompted by the PHSO's report *Driven to Despair*, which highlighted significant failings with how the DVLA makes decisions about fitness to drive.⁵⁸ We took evidence from the Department for Transport and the DVLA on 17 January 2017.⁵⁹

43. The PHSO's report was prompted by eight complaints about licensing decisions made by the Drivers Medical Group (DMG) between 2009 and 2014. The DMG is the part of the DVLA that investigates whether license holders with certain medical conditions are safe to drive. The complainants had a range of complex medical conditions and disabilities and, as a result of flawed decisions, severe delays and poor communication by the DVLA, were all left without driving licenses, sometimes for several years. Following recommendations made by the PHSO, the DVLA and Department for Transport (DfT) have remedied the injustice in the eight individual cases and have accepted that changes are necessary to some of their administrative and communication processes.

44. However, the DfT and DVLA have rejected the PHSO's recommendations on revising fitness to drive standards and putting in place arrangements for others who may be similarly affected by the issues covered in the PHSO's report. We have received 14 written submissions to this inquiry from various individuals, stakeholders, and professional organisations.⁶⁰ Our work so far has focused on why the Government have taken the unusual step of rejecting outright two of the PHSO's recommendations.

Scrutinising the work of the PHSO

45. PHSO is accountable for its finances and administration to this committee. PACAC's scrutiny of the PHSO's work is done principally by examining its reports, including through an annual scrutiny session with the Ombudsman following publication of its Annual Report and Accounts. The 2015–16 Annual Report and Accounts were laid before the House on 3 November 2016,⁶¹ and we held our annual scrutiny hearing with the then Ombudsman, Dame Julie Mellor, and the PHSO's newly appointed Chief Executive Officer (CEO), Amanda Campbell, on 13 December 2016. Before hearing from the panel with the Ombudsman and CEO, the Committee also took evidence from a panel of witnesses who had used the Ombudsman service to get their views on the quality of the PHSO's investigations. In total 29 written submissions were received from individuals, campaign groups, and professional associations.

57 Seventh Report from the Public Administration and Constitutional Affairs Committee of Session 2016–17, *Will the NHS never learn? Follow-up to PHSO report 'Learning from Mistakes' on the NHS in England*, HC 743, January 2017.

58 *Driven to despair: How drivers have been let down by the Driver and Vehicle Licensing Agency*, Parliamentary and Health Service Ombudsman, October 2016.

59 A full transcript of the oral evidence session can be found on the [inquiry page](#) on the Committee's website.

60 The full list of evidence received can be found on the [inquiry page](#) on the Committee's website.

61 *The Ombudsman's Annual Report and Accounts 2015–16*, Parliamentary and Health Service Ombudsman, November 2016.

46. PACAC receives a steady stream of complaints about the quality of the PHSO's investigations, largely complaining about a perceived bias in the investigation process, a lack of involvement of complainants, poor record keeping, and an inability to deal with complex complaints. In its evidence to the Committee, PHSO the facts, a pressure group critical of the PHSO, raised similar issues.⁶² While the then Ombudsman told us she was keen to learn the lessons from dissatisfied complainants, she also warned the Committee against "privileging potentially unrepresentative views".⁶³ We also explored a number of issues around financial and organisational management as well as poor stakeholder engagement arising from the PHSO's Annual Report and Accounts.

47. The inquiry was additionally framed by the resignations of Dame Julie Mellor and Mick Martin as Ombudsman and Deputy Ombudsman respectively,⁶⁴ the appointment of Rob Behrens as the new Ombudsman following a pre-appointment hearing conducted jointly by PACAC and the Health Committee,⁶⁵ and the draft Public Service Ombudsman legislation published by the Cabinet Office on 5 December 2016.⁶⁶ These developments have led to the Ombudsman service undergoing a significant period of change.

48. While we commend the Government for taking up PASC's call for a modernisation of Ombudsman services in England, the PASC's previous inquiry into the PHSO also underscored that it is critical for the PHSO to ensure that it is able to maintain and improve the quality of the service it provides even as it faces further structural changes.⁶⁷

62 [Q3](#)

63 [Q43](#)

64 In 2016, both the Ombudsman, Dame Julie Mellor, and the Deputy Ombudsman, Mick Martin, resigned their positions at the PHSO. This followed the way the Ombudsman handled allegations made against the former Deputy Ombudsman, Mick Martin, regarding his involvement in an Employment Tribunal at his previous place of employment, Derbyshire Healthcare NHS Foundation Trust. In September 2016, Sir Alex Allan produced a report following an independent review looking into the adequacy of the procedures and governance arrangements that the PHSO applied prior to the appointment of Mick Martin, the deputy Ombudsman, and during his employment. Prior to the publication of Sir Alex Allan's review, Dame Julie Mellor announced her resignation on 4 July 2016 in a letter to the Chair of the Public Administration and Constitutional Affairs Committee (PACAC).

65 Eighth Report from the Public Administration and Constitutional Affairs Committee of Session 2016–17, [Appointment of the Parliamentary and Health Service Ombudsman](#), HC 810, January 2017 and Fifth Report from the Health Committee of Session 2016–17, [Appointment of the Parliamentary and Health Service Ombudsman](#), HC 810, January 2017.

66 [Draft Public Service Ombudsman Bill](#), Cabinet Office, 5 December 2016.

67 Fourteenth Report from the Public Administration Select Committee of Session 2013–14, [Time for a People's Ombudsman Service](#), HC 655, April 2014, p.12.

6 Conclusion

49. This report is by no means a comprehensive account of the work of the Committee in this Parliament. It has served to highlight the emerging themes of ongoing work, which we were unable to complete as a consequence of the decision to call a snap election. It does not mention in any detail PACAC's important work on Kids Company and Charity Fundraising, which resulted in major changes in the regulation of charities and the allocation of government funding to the charity sector.⁶⁸ Nor does it highlight the major report, published last week, on the work of the Advisory Committee on Business Appointments, where both a structural change, as well as a change in attitudes and behaviours, is urgently required in order to halt the downward spiral of declining public trust in politicians and the public service more broadly.⁶⁹ Neither does it focus on a major report, published last week, on Government Accounts, which calls for a transformation in the way that government departments compile and produce government accounts, so that they are sufficiently transparent, clear and detailed to inform robust and effective scrutiny.⁷⁰

50. We urge our successor Committee in the new Parliament to continue with the important work and inquiries which were ongoing. However, we also urge them to take note of the central recommendations of the many reports we have published during this Parliament, and to continue robustly to scrutinise, challenge and monitor the responses to our recommendations, in order to pursue PACAC's central strategic priority of this Parliament—to help create conditions where the public can have justified confidence in our constitution, public services and institutions of government.

68 Fourth Report from the Public Administration and Constitutional Affairs Committee of Session 2015–16, *The collapse of Kids Company: lessons for charity trustees, professional firms, the Charity Commission, and Whitehall*, HC 433, February 2016.

69 Thirteenth Report from the Public Administration and Constitutional Affairs Committee of Session 2016–17, *Managing Ministers' and officials' conflicts of interest: time for clearer values, principles and action*, HC 252, April 2017.

70 Fourteenth Report from the Public Administration and Constitutional Affairs Committee of Session 2016–17, *Accounting for democracy: making sure Parliament, the people and ministers know how and why public money is spent*, HC 95, April 2017.

Annex 1: Members of the Committee during the Parliament

Member	Added	Discharged
Bernard Jenkin (Conservative) (Harwich and North Essex) (Chair)	18.06.15	
Ronnie Cowan (SNP) (Inverclyde)	06.07.15	
Dowden, Oliver (Conservative) (Hertsmere)	06.07.15	31.10.16
Mr Paul Flynn (Labour) (Newport West)	06.07.15	
Marcus Fysh (Conservative) (Yeovil)	31.10.16	
Mrs Cheryl Gillan (Conservative) (Chesham and Amersham)	06.07.15	
Kate Hoey (Labour) (Vauxhall)	06.07.15	
Adam Holloway (Conservative) (Gravesham)	31.10.16	19.12.16
Kelvin Hopkins (Labour) (Luton North)	06.07.15	
Gerald Jones (Labour) (Merthyr Tydfil and Rhymney)	06.07.15	
Mr David Jones (Conservative) (Clwyd West)	06.07.15	31.10.16
Dr Dan Poulter (Conservative) (Central Suffolk and North Ipswich)	31.10.16	
John Stevenson (Conservative) (Carlisle)	19.12.16	
Tom Tugendhat (Conservative) (Tonbridge and Malling)	06.07.15	31.10.16
Mr Andrew Turner (Conservative) (Isle of Wight)	06.07.15	

Annex 2: Committee Reports and Government responses

Session 2015–16

Report No	Title	Paper No
First Report	Follow-up to PHSO Report: Dying without dignity	HC 432 (HC 770)
Second Report	Appointment of the UK's delegation to the Parliamentary Assembly of the Council of Europe	HC 658
Third Report	The 2015 charity fundraising controversy: lessons for trustees, the Charity Commission, and regulators	HC 431 (HC 980)
Fourth Report	The collapse of Kids Company: lessons for charity trustees, professional firms, the Charity Commission, and Whitehall	HC 433 (HC 963)
Fifth Report	The Future of the Union, part one: English Votes for English laws	HC 523 (HC 961)
Sixth Report	Follow up to PHSO Report of an investigation into a complaint about HS2 Ltd	HC 793 (HC 258)
Seventh Report	Appointment of the Commissioner for Public Appointments	HC 869
Eighth Report	The Strathclyde Review: Statutory Instruments and the power of the House of Lords	HC 752
Ninth Report	Democracy Denied: Appointment of the UK's delegation to the Parliamentary Assembly of the Council of Europe: Government Response to the Committee's Second Report of Session 2015–16	HC 962
First Special Report	Developing Civil Service Skills: a unified approach: Government Response to the Public Administration Select Committee's Fourth Report of Session 2014–15	HC 526
Second Special Report	Lessons for Civil Service impartiality for the Scottish independence referendum: Government Response to the Public Administration Select Committee's Fifth Report of Session 2014–15	HC 725
Third Special Report	Follow-up to PHSO Report: Dying without dignity: Government response to the Committee's First Report of Session 2015–16	HC 770
Fourth Special Report	The Future of the Union, part one: English Votes for English laws: Government response to the Committee's Fifth Report of Session 2015–16	HC 961
Fifth Special Report	The collapse of Kids Company: lessons for charity trustees, professional firms, the Charity Commission, and Whitehall: Government Response to the Committee's Fourth Report of Session 2015–16	HC 963

Report No	Title	Paper No
Sixth Special Report	The 2015 charity fundraising controversy: lessons for trustees, the Charity Commission, and regulators: Government response to the Committee's Third Report of Session 2015–16	HC 980

Session 2016–17

Report No	Title	Paper No
First Report	PHSO review: Quality of NHS complaints investigations	HC 94 (HC 742)
Second Report	Appointment of the Chief Investigator of the Healthcare Safety Investigation Branch	HC 96
Third Report	Better Public Appointments?: The Grimstone Review on Public Appointments	HC 495
Fourth Report	Appointment of the First Civil Service Commissioner	HC 655
Fifth Report	Follow-up to PHSO report on unsafe discharge from hospital	HC 97 (HC 1016)
Sixth Report	The Future of the Union, part two: Inter-institutional relations in the UK	HC 839
Seventh Report	Will the NHS never learn? Follow-up to PHSO report 'Learning from Mistakes' on the NHS in England	HC 743
Eighth Report	Appointment of the Parliamentary and Health Service Ombudsman	HC 810
Ninth Report	Appointment of the Chair of the UK Statistics Authority	HC 962
Tenth Report	Lessons still to be learned from the Chilcot Inquiry	HC 656
Eleventh Report	Better Public Appointments? Follow-up and the Government Response to the Committee's Third Report, Better Public Appointments?: The Grimstone Review on Public Appointments	HC 1062
Twelfth Report	Lessons learned from the EU Referendum	HC 496
Thirteenth Report	Managing Ministers' and officials' conflicts of interest: time for clearer values, principles and action	HC 252
Fourteenth Report	Accounting for democracy: making sure Parliament, the people and ministers know how and why public money is spent	HC 95
Fifteenth Report	The work of the Civil Service: key themes and preliminary findings	HC 253
Sixteenth Report	The work of the Committee during the 2015–17 Parliament	HC 1151
First Special Report	Follow up to PHSO Report of an investigation into a complaint about HS2 Ltd: Government and HS2 Ltd responses to the Committee's Sixth Report of Session 2015–16	HC 258

Report No	Title	Paper No
Second Special Report	PHSO review: Quality of NHS complaints investigations: Government response to the Committee's First Report of Session 2016–17	HC 742
Third Special Report	Follow-up to the PHSO report on unsafe discharge from hospital: Government response to the Committee's First Report of Session 2016–17	HC 1016

Annex 3: Outstanding Government responses

Session 2015–16

Report No	Title	Paper No
Eighth Report	The Strathclyde Review: Statutory Instruments and the power of the House of Lords	HC 752

Session 2016–17

Report No	Title	Paper No
Sixth Report	The Future of the Union, part two: Inter- institutional relations in the UK	HC 839
Seventh Report	Will the NHS never learn? Follow-up to PHSO report 'Learning from Mistakes' on the NHS in England	HC 743
Tenth Report	Lessons still to be learned from the Chilcot Inquiry	HC 656
Twelfth Report	Lessons learned from the EU Referendum	HC 496
Thirteenth Report	Managing Ministers' and officials' conflicts of interest: time for clearer values, principles and action	HC 252
Fourteenth Report	Accounting for democracy: making sure Parliament, the people and ministers know how and why public money is spent	HC 95
Fifteenth Report	The work of the Civil Service: key themes and preliminary findings	HC 253

Annex 4: Debates on or associated with Committee Reports

Session 2015–16

Tagged on the Order Paper as being relevant to a debate in the House	Launched as a Report
Third Report, <i>The 2015 charity fundraising controversy: lessons for trustees, the Charity Commission and regulators</i> , HC 431; 26.1.16	Second Report, <i>Appointment of the UK's delegation to the Parliamentary Assembly of the Council of Europe</i> , HC 658; 14.1.16
	Fourth Report, <i>The collapse of Kids Company: lessons for charity trustees, professional firms, the Charity Commission, and Whitehall</i> , HC 433; 4.2.16
<p>Oral & written evidence taken</p> <p>16 July 2015: <i>EU Referendum Bill: PART ONE: Purdah and Impartiality</i>, HC 319;</p> <p>Oral evidence taken 21 July 2015: <i>EU Referendum Bill: PART ONE: Purdah and Impartiality</i>, HC 319; Written evidence taken 04/09/2015: <i>EU Referendum Bill: PART ONE: Purdah and Impartiality</i>; Written evidence taken 15/07/2015: <i>EU Referendum Bill: PART ONE: Purdah and Impartiality</i>; Written evidence taken 16/07/2015: <i>EU Referendum Bill: PART ONE: Purdah and Impartiality</i>;</p> <p>Written evidence taken 17/07/2015: <i>EU Referendum Bill: PART ONE: Purdah and Impartiality</i>;</p> <p>Written evidence taken 23/07/2015: <i>EU Referendum Bill: PART ONE: Purdah and Impartiality</i>; 7.9.15</p>	<p>Fifth Report, <i>The Future of the Union, part one: English Votes for English Laws</i>, HC 523; 11.2.16</p> <p>Sixth Report, <i>Follow up to PHSO Report of an investigation into a complaint about HS2 Ltd</i>, HC 793; 23.3.16</p>
	Seventh Report, <i>Appointment of the Commissioner for Public Appointments</i> , HC 869; 18.4.16

Session 2016–17

Subject of an Estimates Day debate	Tagged on the Order Paper as being relevant to a debate in Westminster Hall	Launched as a Report
Fifth Report, <i>Follow up to PHSO report on unsafe discharge from hospital</i> , HC 97; Third Special Report, <i>Follow-up to PHSO report on unsafe discharge from hospital: Government Response to the Committee's Fifth Report of Session 2016–17</i> , HC 1016; 27.2.17	Fifth Report, <i>Follow up to PHSO report on unsafe discharge from hospital</i> , HC 97; Third Special Report, <i>Follow-up to PHSO report on unsafe discharge from hospital: Government Response to the Committee's Fifth Report of Session 2016–17</i> , HC 1016; 14.3.17	Seventh Report, <i>Will the NHS never learn? Follow-up to PHSO report 'Learning from Mistakes' on the NHS in England</i> , HC 743; 2.2.17
		Tenth Report, <i>Lessons still to be learned from the Chilcot Inquiry</i> , HC 656; 16.3.17
		Twelfth Report, <i>Lessons learned from the EU Referendum</i> , HC 496; 20.4.17

Annex 5: Specialist Advisers appointed during the Parliament

Session 2015–16

Name	Inquiry/Topic	Appointment date
Professor Matt Qvortrup	EU Referendum Bill: PART ONE: Purdah and Civil Service Impartiality	07.07.15
Dr Gillian Stamp		15.09.15
Mr Simon Briscoe	Statistics	13.10.15
Mr John Sturrock QC	Institutional issues	13.10.15
Professor Andrew Kakabadse	The work of the Civil Service	05.01.16
Dame Janet Paraskeva	Review of the Code of Conduct	09.02.16

Session 2016–17

Name	Inquiry	Appointment date
Mr John Sturrock QC	Institutional issues	13.10.15
Professor Andrew Kakabadse	The work of the Civil Service	05.01.16
Dr Gillian Stamp		11.10.16
Mr Simon Briscoe	Statistics	11.10.16
Professor David Hine	ACoBA	26.10.16
Professor Meg Russell	House of Lords	08.11.16
Chris Donnelly	The work of the Civil Service	07.02.17
Professor Alan Page	Brexit and Devolution	28.03.17

Formal Minutes

Tuesday 25 April 2017

Members present:

Bernard Jenkin, in the Chair

Ronnie Cowan	Kelvin Hopkins
Mr Paul Flynn	Dr Dan Poulter
Marcus Fysh	John Stevenson
Mrs Cheryl Gillan	Mr Andrew Turner

Draft Report (*The work of the Committee during the 2015–17 Parliament*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 50 read and agreed to.

Annexes agreed to.

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

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

[The Committee adjourned.]

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee's website.

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2015–16

First Report	Follow-up to PHSO Report: Dying without dignity	HC 432 (HC 770)
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Fifth Special Report	The collapse of Kids Company: lessons for charity trustees, professional firms, the Charity Commission, and Whitehall: Government Response to the Committee's Fourth Report of Session 2015–16	HC 963
Sixth Special Report	The 2015 charity fundraising controversy: lessons for trustees, the Charity Commission, and regulators: Government response to the Committee's Third Report of Session 2015–16	HC 980

Session 2016–17

First Report	PHSO review: Quality of NHS complaints investigations	HC 94 (HC 742)
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Fifteenth Report	The work of the Civil Service: emerging themes and initial findings	HC 253

First Special Report	Follow up to PHSO Report of an investigation into a complaint about HS2 Ltd: Government and HS2 Ltd responses to the Committee’s Sixth Report of Session 2015–16: First Special Report of Session 2016–17	HC 258
Second Special Report	PHSO review: Quality of NHS complaints investigations: Government response to the Committee’s First Report of Session 2016–17	HC 742
Third Special Report	Follow-up to the PHSO report on unsafe discharge from hospital: Government response to the Committee’s Fifth Report of Session 2016–17	HC 1016