

House of Commons Select Committees and the UK Constitution

By Lucy Atkinson

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About the Author

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Foreword by Andrew Kennon

As select committees prepare for the challenges of the new Parliament, they will benefit hugely from this latest research into the strengths and weaknesses of their predecessors. This paper draws on the fresh perceptions of many who work with committees as well as illustrating that many current issues are not new. However important the change in 1979 to departmental select committees, Lucy Atkinson shows how lessons learned from 19th century committees and the Crossman reforms in 1968 provided the essential stepping stones for the system we have today.

The new Parliament – with a minority government and the complexity of Brexit – provides fascinating opportunities for select committees, but it also carries risks. It is possible to imagine, on individual Brexit issues, that evidence-based reports from cross-party committees may form the basis of compromises which front-benches are unable to broker themselves but are happy to accept. Even on non-Brexit issues, committees may be able to extract from a minority government the implementation of their recommendations which would otherwise be rebuffed.

As this paper shows, there are also risks. One is that, in concentrating on policy, they will neglect the other two legs of their terms of reference – expenditure and administration. It is easy to imagine – in a world where the media is swift to blame – that some failure in the public sector will be followed by questions about whether the relevant select committee was alert to the growing problem or paid sufficient attention to warning evidence it was given in the past.

Lucy Atkinson also addresses the problem about select committees and witnesses, not least in the very recent cases of Sir Philip Green of BHS and Mike Ashley of Sports Direct. It is fair to comment that in both cases the committees were extending their remit to private sector behaviour, but in the context of government policy on pensions and employment rights. There is a risk, not just to the individual committees concerned but also to the reputation of select committees as a whole, that some prominent private sector individual will simply refuse to be hauled before a committee and the theoretical power to summon persons, papers and records will be shown to be unenforceable. On the positive side, the 2015-17 Parliament saw significantly less bullying of witnesses in evidence sessions than had occurred with some committees in 2010-15.

One of the main conclusions of this research is that piecemeal development has led to inconsistencies between committees and an inchoate approach to scrutiny. A daily dilemma during my five years as Clerk of Committees was when to insist on standardisation of practice between committees and when to allow 1000 flowers to bloom. One of the interesting developments in the 2015-17 Parliament was the willingness of committee chairs to work jointly on specific inquiries – quite a shift from the silo approach which was normal previously. The paper is right to highlight the need for better coordination between chairs on the Liaison Committee, which was surprisingly inactive in 2015-17.

This thought-provoking paper is essential reading for chairs and committee members who want to make a success of the Brexit challenges – and avoid the pitfalls.

Andrew Kennon was Clerk of Committees in the House of Commons from 2011 to 2016 and is a trustee of the Constitution Society.

Executive Summary

- Select committees are a well-established part of the UK’s constitutional landscape. They are recognised for playing a key role in our parliamentary system: scrutinising government departments; influencing government work and decision-making; and, increasingly, serving as forums for public debate.
- This paper is based on an examination of qualitative responses from practitioners and historical research. Respondents identified changes they perceived as taking place in the present-day committee system. These observations were then placed within the context of the historical trajectory of parliamentary committees. The following conclusions and recommendations were made on the basis of this research.
- The traditional relationship between select committees (and by extension Parliament) and the Executive remains unaltered. The government does now accept a certain level of constructive criticism from committees, particularly in areas of political contention and controversy. Present-day committees have become much bolder in their scrutiny.
- Yet the powers afforded to committees are still limited, and the impact of their work is frequently undermined by inadequate or tardy government responses. Reliance on government cooperation ensures that select committees remain the ‘underdogs’.
- Reforms to the elections of chairs and members have improved the status of committees and perceived importance of committee membership, but changes have been incremental rather than revolutionary. Despite these advances, problems with attendance and participation from members persist.
- Flexibility has always been an established characteristic of parliamentary committee work. Yet the degree of this has shifted, seen in the confidence of select committees in the scope of their inquiries, and the extent to which select committees are now expected to stretch their terms of reference. As a result, committees have become bolder in their choices of inquiries. They are also increasingly prioritising policy ahead of their key areas of work; administration and expenditure.
- Committees have always held some interest in key organisations and individuals operating outside of government departments. Whereas past committees pushed the boundaries of their remit by investigating the public sector beyond Whitehall (an approach that met with intense hostility at the time), recently, committees have started to consider the private sector. This practice has flagged up longstanding concerns about the treatment of witnesses.
- Select committees have long understood the need to engage with stakeholders. Present-day endeavours differ in the extent of these efforts. The sheer volume and commitment to outreach work, and the expectation that committees must address public engagement as a central part of their present-day remit represents a marked change. However, the quantity and quality of engagement activities still varies hugely between committees. There is room for further improvement to representation – in respect of stakeholders and witnesses, but also in the cohort of select committee members (and members of Parliament) more generally.

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- The two-way relationship between committees and the media has been magnified over the last few decades, in response to the growth in the media outlets, technological advances, changing types of media outlets, and a growing number of people seeking another form of parliamentary representation. Committees are now expected to incorporate media relations into their remit.
 - Select committees have developed incrementally over time, and changes in practice have often been performed on an ad hoc, piecemeal basis. This has provided opportunities for experimentation and adaptation, but it has also led to inconsistencies. Committees still have an inchoate approach to particular areas of work: outreach, representation, social media, interaction with media, types and length of inquiries, and style of questioning.
 - This paper suggests that additional regulations are put in place to dissuade committees from straying too far from their core tasks, and to ensure that all areas of the standing orders are sufficiently covered. The current system could benefit from further evaluation and feedback systems, particularly in relation to the protection of witnesses and public engagement. Baseline requirements would help to ensure that levels of public engagement, stakeholder diversity and representation are met consistently across the committee system. There is also room for better communication and collaboration amongst committees, with the sharing of best and worst practice.
 - This paper also recommends a re-examination of procedural arrangements in place for witnesses, and clarification of powers afforded to select committees, specifically in terms of reacting to inadequate government responses, and calling witnesses for evidence sessions.
 - Finally, further consideration of the current system of accountability – perhaps with a greater oversight role performed by the Liaison Committee – would also be welcome. A more detailed list of conclusions, constitutional implications, and recommendations can be found in the conclusion towards the end of this paper.

Introduction

‘One of the most visible and important scrutiny parts of Parliament’¹

This paper is an assessment of contemporary House of Commons select committees. Drawing on the views of individuals with first-hand experience of their operation, it identifies a series of key themes and places them in a long-term historical perspective. This analysis is then used as a basis for proposals to guide future practice. The importance of this subject is manifest. Select committees have long been an established part of the parliamentary landscape. Responsible for overseeing the work of the executive, they have often played central roles in the UK democratic system, providing scrutiny and a forum for political debate. Several reports published over the last fifteen years have reinforced the notion that select committees are seen as a ‘key part of the constitutional framework.’² As well as their role as scrutiny bodies, commentators have praised committees for their work in influencing government policy-making and decision-making; leading political and public debates; and providing a different medium for public engagement.

In recent years, it has been widely held that the profile and impact of parliamentary committees has risen, and several factors have fuelled a renewed interest in select committee work. Select committees have been the subject of media interest and speculation amidst calls for a more transparent democratic system in the UK. As observed by three authors writing in the *Journal of Legislative Studies* in 2009, ‘Committees legitimacy in the eyes of the public, their profile in the media, and their self-confidence is growing.’³ Journalists have focused on their role as vehicles for further public engagement. This has been placed by some commentators within the context of a demise of traditional party politics, in which British citizens are increasingly looking for other platforms to voice their concerns.

Interest has also centred on the appearances of well-known witnesses at committee hearings and evidence sessions, and the use of committees in relation to matters of public outrage and controversy. This tendency is most evident recently in the questioning of Sir Philip Green over the collapse of British Home Stores, and Mike Ashley over his role in Sports Direct. Both Ashley and Green came into conflict with committees that were seeking to inquire into their activities. Highlighting the salience of this issue, the Privileges Committee recently announced an inquiry into the handling of witnesses who are not compliant with select committees. These cases have sparked renewed interest in the powers afforded to committees, with regards to the summoning of witnesses, and powers in the face of contempt.

These recent developments have prompted interest in the possibility of changes to the select committee system. In fact, over a longer period of time there has been a proliferation of reports all making strong cases for improvements to the committee system.⁴ Amidst these calls for further

1 E. Wilson, ‘In praise of select committees’, *New Statesman*, 1 Feb., 2017 [accessed via: <https://www.newstatesman.com/politics/staggers/2017/02/praise-select-committees> (17/10/17)]

2 Liaison Committee, ‘Select committee effectiveness, resources and powers’, Liaison Committee, 2008 [accessed via: <https://www.publications.parliament.uk/pa/cm201213/cmselect/cmliaisn/697/69711.htm> (25/-3/17)]

3 A. Hindmoor, P. Larkin, and A. Kennon, ‘Assessing the influence of select committees in the UK: The Educational and Skills Committee’, *Journal of Legislative Studies*, 15, 1, 2009, p. 85.

4 Reports written by the Hansard Society (2001), the Commission to Strengthen Parliament (2000), the Select Committee on Modernisation (2002), and the Liaison Committee all made strong cases for changes to the committee system to improve on their existing strengths.

reforms, it seems appropriate to reconsider the constitutional significance and position of the House of Commons committees. Based on interviews conducted with practitioners, this paper sets out to examine the premise that the in-house and public profile of committees has undergone a transformation over the last few parliamentary sessions, as speculated by commentators. It will explore the present-day trends identified by respondents, before contextualising these ideas within a broader historical trajectory of committee development.

Literature review

House of Commons select committees have been the source of renewed interest in both academic and popular circles. The last five years or so have seen a number of publications focused on measuring the ‘effectiveness’ and ‘success’ of select committees. These works have been conducted along both quantitative and qualitative lines of inquiry. The Constitution Unit produced comprehensive cross-committee analysis of the House of Commons committee system in 2011.⁵ The main authors, Meg Russell and Meghan Benton, studied seven select committees over the period 1997-2010 in order to evaluate the policy impact of select committees. Some of the conclusions reached in the present study serve to reinforce this earlier work: specifically, concerns about poor attendance and attention to detail by some committee members, and difficulties with media management.

Most recently, the Institute for Government undertook a large-scale research project on the select committee system in the 2010-2015 parliamentary session. Based on over forty interviews with practitioners involved in the committee system, Hannah White analysed the work of the Defence Committee, the Home Affairs Committee, and the Parliamentary Commission on Banking Standards over the 2010-2015 parliament. The paper sought to help committees to consider their impact and evaluation methodologies to improve overall effectiveness.⁶

Significantly, both these publications, like most others, had a designated timespan within which research was gathered and framed. While the Institute for Government work dealt with a five-year frame, the Constitution Unit paper covered a period of more than ten years. This consideration of developments over time is valuable. For instance, it enables a consideration of the extent to which particular observable tendencies are new, or are long established; and makes possible a consideration of the sequence of events, and possible cause and effect. Such analysis is vital as a guide to options for future conduct. The present paper seeks to expand substantially upon the advantages that can be obtained by such an approach, by employing a much longer trajectory of committee development.

The Constitution Unit has also approached the topic of select committees from an international comparative perspective. In 2007, it published an account of the position of UK House of Commons in relation to other democratic systems. As part of efforts to explore proposals for strengthening the autonomy of the House of Commons, the authors assessed the rules and procedures of the committee system. The paper called for the introduction of a new election system for

5 Meg Russell and Meghan Benton, ‘Selective influence: the policy impact of House of Commons Select Committees’, Constitution Unit, 2011 [accessed via: <https://www.ucl.ac.uk/constitution-unit/publications/tabs/unit-publications/153.pdf> (29/03/17)]

6 H. White, ‘Select Committees under Scrutiny: The impact of parliamentary committee inquiries on government’, *Institute for Government*, 2015 [accessed via: <https://www.instituteforgovernment.org.uk/sites/default/files/publications/Under%20scrutiny%20final.pdf> (12/04/17)]

select committee chairs.⁷ The present paper is similarly interested in these areas – as identified by respondents – and utilises some of the methods and conclusions of the 2007 report to consider the internal and external profile of present-day select committees. Unlike Russell’s paper, however, rather than deploying international comparisons, it uses a wide historical timeline.

A number of works have also focused on the impact of the reforms introduced in 2010, in response to the report of the Reform of the House of Commons Committee – more commonly known as the Wright Committee, after its chair, Tony Wright MP. The Commons Political and Constitutional Reform Committee examined the newly-revised committee system and the impact of the Wright reforms in its Third Report of Session 2013-14, entitled ‘Revisiting Rebuilding the House’. It observed that there had been ‘clear advances in the effectiveness of Commons select committees,’ though it maintained that ‘some issues remain, and they must be addressed if the momentum for reform is to be maintained.’⁸ In particular, the Committee called for further attention to be given to the representation of minority parties on select committees.

In 2014 Nat le Roux published a short piece for Democratic Audit, exploring the effects of the Wright reforms.⁹ Le Roux attributed a growth in the authority and legitimacy of committees to the introduction of the new election system. While he welcomed what he described as ‘re-invigoration’ of the system, he also called for further clarification of powers and procedural arrangements of oral evidence sessions. He argued that the impact of committees is often undermined by the lack of legal powers to compel witnesses to attend or answer questions. He also suggested that improvements could be made in cases where witnesses are unhappy with the allegations against them, and might seek legal redress. These are all issues that will be explored in this paper.

A few publications have appeared recently dealing with the role of committees in conducting evidence sessions. In 2014 Democratic Audit published a short report entitled ‘Who gives evidence?’¹⁰ which provided a quantitative approach to the topic of evidence submissions. The research, carried out by Richard Berry and Sean Kippin, provides an analysis of the nearly 600 witnesses who appeared in Parliament in a one-month period in 2013, with a particular focus on the organisational affiliations of witnesses and gender balance.¹¹ This paper aims to follow up this line of inquiry into representation of witnesses by examining representation and diversity of witnesses and those submitting evidence, but also of committee members and personnel more generally. Respondents identified representation as an area of concern; this paper supports the conclusions of Berry and Kippin, highlighting the lack of diversity as a constitutional problem with the current committee system.

However, as with the majority of reports examining select committee protocol, the 2013 study

7 M. Russell and A. Paun, ‘The House Rules? International lessons for enhancing the autonomy of the House of Commons’, University College London, The Constitution Unit, 2007 [accessed via: <http://www.ucl.ac.uk/political-science/publications/unit-publications/142.pdf> (28/07/17)]

8 House of Commons Political and Constitutional Reform Committee, ‘Revisiting Rebuilding the House: the impact of the Wright reforms’, Third Report of Session 2013-14, HC 82, 2013, p. 3 [accessed via: <https://www.publications.parliament.uk/pa/cm201314/cmselect/cmpolcon/82/82.pdf> (28/03/17)]

9 N. le Roux, ‘The Wright reforms changed Parliament, but there remains scope further reform’, Democratic Audit, 2014 [accessed via: <http://www.democraticaudit.com/2014/02/25/committees-scotland-and-the-right-of-recall-the-potential-for-parliamentary-reform/> (28/03/17)]

10 Democratic Audit, Jan., 2014 [accessed via: http://www.democraticaudit.com/wp-content/uploads/2014/01/Democratic-Audit_Who-gives-evidence_January-2014_final.pdf (27/03/17)]

11 R. Berry and S. Kippin, ‘Parliamentary select committees: who gives evidence?’, Democratic Audit UK, Jan., 2014 [accessed via: http://www.democraticaudit.com/wp-content/uploads/2014/01/Democratic-Audit_Who-gives-evidence_January-2014_final.pdf (17/10/17)]

was a quantitative analysis of committee practice. There is room for more qualitative work on the nature of evidence sessions and treatment of witnesses, taking into account developments including in the practice of committees undertaking pre-appointment hearings as part of their remits. This paper hopes to add to existing research, by examining the relationship between witnesses and committees in the context of the historical development of pre-appointment hearings.

As it stands, less attention has been given to the public engagement side of committee work. In 2015, the Liaison Committee published a report entitled ‘Building public engagement: options for developing select committee outreach’. The authors concluded that while there has been a significant shift towards incorporating public engagement within the remit of committee work, changes have not been systematic and engagement has been performed on an ad hoc basis. The report also touches upon issues involving the use of the media, evidence sessions, and briefly considers the procedural difficulties with attendance and treatment of witnesses. So far, this has been the only publication of note that has considered the growing focus of committee work on public engagement and the media, since the 2012 revisions to the ‘Core Tasks’ (the guidance document provided to committees on the types of work to carry out). It is a constantly evolving sphere of interest. The considerable advances in technology and media that have taken place in the last two years alone since this report mean that this sphere of research would benefit from further attention.

Existing literature on select committees has therefore primarily revolved around concerns about impact; specifically, the impact of the Wright reforms (including more general consideration of the autonomy of select committees), and the effectiveness of committee work. This report illuminates a number of additional areas that would benefit from further study.

Methodology

This paper addresses some of the gaps in the existing literature, and provide a different outlook – centred on both historical and contemporary observations – whilst also supplementing the aforementioned studies. First, it expands upon existing trends already highlighted by commentators. The Commons select committee system is a constantly evolving sphere of parliamentary work. It therefore demands continuous analysis and reconsideration. In terms of subject matter, this paper examines some of the same topics considered in the above publications. A number of the themes explored in this paper have already been subjected to the rigour of academic research. However, it is worth expanding existing knowledge and past recommendations – particularly in relation to public engagement – in light of recent developments.

Second, it fills in some of less developed areas that have either been overlooked by academics, or would benefit from further consideration. This paper provides a starting point for further debates about the treatment of witnesses and the ingrained problems with evidence sessions and pre-appointment hearings, in the wake of the most recent controversies surrounding inquiries by the Home Affairs Committee and Work and Pensions Committee. Despite significant media interest in this field of work, there is scope for a more comprehensive and evidence-based look at the developments in this area of committee work. This research sheds light on these areas of concern, offering the views and opinions of individuals who currently working within and alongside the House of Commons select committees. In this sense, it provides more of an ‘insider’s’ perspective to the plethora of debates.

Third, it provides a novel outlook on the topic by contextualising the present-day system against its historical backdrop. In so doing, it offers a new way of examining parliamentary select com-

mittees. Hannah White acknowledged in her 2015 study of the committee system that there is a fundamental lack of institutional memory.¹² This dearth of historical awareness amongst practitioners extends beyond current in-house knowledge. The author has taken inspiration from the outlook adopted by History & Policy, an organisation which aims to promote better public policy through a greater understanding of history.¹³ It is based on the belief that history can and should improve public policy-making. Knowledge of past practice contributes through providing essential background information and a backdrop to present-day policy debates; understanding the context in which previous decisions were made; and offering ideas for solutions.

With this in mind, this paper places the results of the contemporary interviews within the longer historical development of the committee system in the UK. It follows the premise that without a broader constitutional and historical outlook, studies are often short-sighted. It is often impossible to assess the significance of more recent shifts without consideration of the practice of past select committees. Only with this historical context can any changes – and continuities – be truly appreciated and acted upon in the most appropriate way.

This being said, the inclusion of historical analysis broadens the possible fields of inquiry, and it would be impossible to provide a comprehensive yet detailed study of all aspects of the committee system whilst simultaneously referring to all past developments. The author does not proffer to provide an exhaustive and detailed history of the parliamentary select committee system; not least because the system can be traced back to a period of history that was seldom documented and charted to the same degree as it is today. There are also too many themes and possible fields of inquiry.

This paper takes inspiration from the methodological approach adopted by the Constitution Unit and the Institute for Government. It is based on qualitative interviews conducted with a range of select committee practitioners. It outlines the opinions of present-day and past practitioners – the majority of whom were involved in the committee system before, during, and after the implementation of the 2009 recommendations. Subsequently, much of the content also considers the impact of the Wright reforms in much the same way as the existing literature. However, this report is written with the added advantage of assessing the extent of change within a longer historical trajectory of committee development to provide a more nuanced account.

- Interviews

The last few years have seen the emergence of more qualitative explorations of select committees. Both the Institute for Government's 2015 report and the Constitution Unit's 2011 report conducted interviews with a range of practitioners, drawing together the opinions of people with experience working within and alongside select committees. The Liaison Committee's 2015 report also included primary evidence from committee members and staff members working within the system at the time. In keeping with these works, this report draws heavily from the opinions of current-day practitioners. (Although unlike existing publications, this paper is based entirely on qualitative data.)

The first component of research undertaken for this report focused on semi-structured interviews.

12 H. White, 'Select Committees under Scrutiny: the impact of parliamentary committee inquiries on government', Institute for Government, 2015 [accessed via: <https://www.instituteforgovernment.org.uk/sites/default/files/publications/Under%20scrutiny%20final.pdf> (24/03/17)]

13 For more information see <http://www.historyandpolicy.org/>

The House of Commons parliamentary website was used initially as a means of identifying prospective candidates for the research. In order to include a range of persons working for, or in conjunction with, the House of Commons select committees, the author used the contact details listed on the webpages for each select committee. The number and type of committee staff and committee members listed varied across committees. Some committees have a separate media officer or more than one clerk, whereas others do not. However, this technique did ensure that the initial list of those contacted encompassed a wide range of committee personnel, spanning the entire network of parliamentary committees. Further to this, existing relevant Constitution Society contacts, including academics and specialist advisers and journalists were contacted. Once the first interviews had been carried out, respondents also suggested additional people that should be included in the interview process. All resulting respondents had either present or past involvement in the parliamentary committee system.

In order to capture a variety of perspectives, efforts were made to interview as wide a range of interviewees as possible. The group of practitioners contacted included: a committee member, a committee chair, a committee clerk, a senior clerk, a special adviser, a researcher with experience in this line of inquiry, a staff member of the House of Commons Library, a media officer, a member of the Outreach team, and an historian with experience on select committees. The final pool of interviewees included a broad range of practitioners who have experience working with select committees. Respondents included the following (current and past) practitioners: select committee members, chairs, clerks, media officers, outreach and engagement officers, press officers, House of Commons librarians, special advisers, Members of Parliament, academics, historians, and think tank researchers.

Admittedly, the selection of those contacted for interview is not a model of diversity. But imbalances in such terms as gender and ethnicity reflect patterns of recruitment in public life. The profile of the sample in itself speaks volumes for the types of people who are currently engaged with constitutional issues in society more generally. Representatives from all of the House of Commons select committees were contacted. While the majority of parliamentary committees are represented in this paper, the final group of respondents does not include practitioners from every parliamentary select committee.

It was hoped that the above array of people interviewed would help to encapsulate the diversity and variety of opinion and experience as best as possible. Care was taken to ensure that the paper reflects the first-hand accounts provided by each individual interviewee, and the main conclusions are drawn solely from this qualitative data. It is hoped that the results of the interviews ‘speak for themselves’. However, as with all forms of research, one should be aware of the methodological issues that arise when conducting interviews of any sort; this was not a wholly scientific or entirely objective exercise. Readers should be aware that the research is based on interviews with a reasonably small group, and while the group was chosen to cover a wide range of different ‘types’ of practitioners working within or for the committee system, their responses should not be taken to represent the views or experiences of their colleagues. The answers documented in this report should not be taken to reflect the views of all of those contributing to the work of the committees. Nor does the interview process used purport to offer a fully scientific means of uncovering all perceived changes and continuities in recent committee development.

The interviews were conducted in a semi-structured and semi-formal manner. Great care was taken in the designing of the interview questions, with careful consideration of the terminology

used, the phrasing of the question, and the topics addressed in the interview. However, as with all interviews, the questions chosen beforehand undoubtedly had some influence upon the types of responses and reactions given by the respondents. We were also aware of the unavoidable role played out by the interviewer, and efforts were made wherever possible to limit inadvertent bias.

Although the methodological issues discussed above should not be ignored, there are significant benefits to conducting semi-structured interviews. The process of compiling a list of questions to ask each interviewee ensured that every interview broadly followed a similar thread of discussion and directed the overarching types of issues raised in the interviews. This provided a degree of consistency in the questions asked across all interviews. At the same time, we allowed interviewees a degree of freedom and the opportunity to express their own personal perspectives. The questions were used as a starting point, and although each interviewee was asked the same set of questions, efforts were made to ensure that the direction of the interview was not constrained by this predetermined 'list'. The interview was conducted more as a conversation, and the interviewees were encouraged to elaborate – and in some cases digress – in their answers as they saw fit.

The interviewees were free to digress from the pre-set list of questions, and interviewees were asked follow-up questions when it seemed appropriate. However, the questions were chosen to encourage respondents to consider both changes and continuities to the committee system during their careers. A full list of the question put to respondents can be found in the appendix of this paper.

- Archival searches

This report is also based on historical evidence. Sources were collected using library catalogues, archival searches, and online bibliographical searches. In order to capture the piecemeal and complicated development of the House of Commons select committee system, this study explores a variety of historical source material. First, a selection of existing research texts – similar in style to this paper – were consulted. There are a number of research publications that were produced by think tank researchers and political practitioners writing throughout committee development, often at the time of change or controversy. These texts can be traced back to the early twentieth century, although the majority of those producing reports on select committee practice were published from the mid-twentieth century onwards. This was in line with the growing arguments for the establishment of a departmental committee system in the 1970s. These accounts provide insight into the opinions of those pushing for committee reforms, as well as the arguments voiced against such developments. This is helpful in assessing the current-day position of the committee system within the parliamentary set-up.

Second, national newspapers, magazines, and periodicals were examined as a means of illuminating more popular, lay commentary on parliamentary committees. Online newspaper archival resources were particularly helpful in providing a means of researching media coverage of past select committees, dating back to the seventeenth century. This study examines a range of newspapers to capture the diversity of contemporary opinions. With the recent developments in the digitisation of newspapers, it has become far easier to search specific terms online. The newspaper articles examined were found using the search terms 'select committee', 'committee', 'parliamentary', and 'House of Commons'. Although it is hoped that the use of these terms captured the proliferation of articles written throughout the centuries since the rise of the print media, this way of searching does limit the scope of enquiry, and there may be other relevant articles which

have been unintentionally overlooked. These sources, together with the primary material collected from the qualitative interviews, were used to consider the development of the committee system.

Focus and structure

This paper will look at the present House of Commons select committee system, with references to both present-day concerns and observations and examples of past practice. It is hoped that in providing the historical background to the recent observations, this paper will be able to ascertain the specifics of each development, where shifts in practice have their origins, and what this means from a constitutional point of view. Initially, it details the trends and changes perceived to have taken place by current practitioners working within or for the House of Commons committee system. It then probes these assertions, providing the historical context for each of the themes identified. Each area of interest will be investigated to establish whether the current characteristics represent continuity or change. In doing this, this paper not only provides first-hand accounts of the nature of the scrutiny work performed by select committees, but also then situates these experiences within the broader historical trajectory. Having established the extent of change, this paper then assesses the constitutional significance of these conclusions, and offers a range of recommendations and best practice models for possible improvement and further study.

In terms of structure, a historical overview sets out the long development of the select committee system, tracing the use of parliamentary committees right back to the sixteenth century through to the present-day. This provides the background and context for the contemporary observations discussed in the remainder of the paper. The report is then structured in six remaining chapters, based on the main trends identified by respondents. The internal arrangements of select committees are considered; beginning with an analysis of the in-house profile and reputation of committees, an assessment of the position of chairs and members – and by extension the impact of the Wright reforms, and then a chapter on the terms of references and core tasks. The external side of committee work will then be examined, with chapters on the scrutiny of outside organisations and the private sector, public engagement activities – and representativeness – and, finally, interaction with the media.

This work focuses on the House of Commons select committee system, as does most of the existing literature in this field. It does not include analysis of the House of Lords select committee system, nor the Joint Committees that have been growing in number over the last few decades. However, some of the key publications outlined in this section include consideration of joint committees and of House of Lords select committees, and this work has taken inspiration from the methodologies and approaches of these papers as well. While it was necessary to limit the boundaries of the research – to make it logistically feasible to base the research on qualitative semi-structured interviews in person – it is hoped that this style of inquiry might be expanded to include an assessment of other select committees. There is room for further consideration of the historical backgrounds of the House of Lords select committees and the Joint Committees, as part of more general studies of the constitutional positions of the various select committees.

Through qualitative desk research and interviews with current Members and chairs of select committees, clerks, MPs, and a myriad of other practitioners, this paper explores the constitutional implications of recent changes in expectations and work of select committees. More generally, by establishing the current roles of select committees, and their interactions with the public on a wide array of topical issues, the role of Parliament in society is considered, as well as the direction

of parliamentary interaction with the public in recent years. The following questions are broadly reflected upon:

- What is the role of a present-day select committee? Has this role changed in recent years, and if so, how does it differ from the system introduced in 1979?
- What is the relationship between the formal terms of reference and the reality of the work undertaken by select committees?
- What can select committees realistically hope to achieve?
- Can select committees legitimately claim to be representative? If so, in what sense do they reflect wider society?
- What does the perceived rising prominence of select committees in recent years mean for Parliament as a whole?
- How have recent changes to the select committee system impacted on the relationship between the public and Parliament?

The development of select committees

The establishment of the departmental select committee system in 1979 is commonly depicted as the most transformative event in the development of parliamentary select committees, and with good reason. The 1979 reforms cemented select committees as permanent fixtures within the parliamentary landscape and set out distinct parameters for their work. Each committee was afforded a specific brief – although the extent to which this was well-defined is still a source of contention. The reforms also introduced a comprehensive system for committees, to replace the previously prevailing inchoate approach.

Yet it is important to qualify the idea that 1979 was a single point of change. Since this time, important further developments have taken place which have changed the type of work undertaken by select committees, as will be explored in this paper. Moreover, committees of a sort have been an integral part of the UK's parliamentary set-up for centuries.¹⁴ They have operated under a myriad of different frameworks, but their contribution to the work of the second chamber, reporting on specific issues of concern to the plenary, has remained a constant. The present-day select committee system was not simply conjured out of nowhere at the end of the 1970s, as is all too frequently implied. There is longstanding historical precedence for the use of committees to scrutinise the work of the government (as well as for other purposes).

When considering their historical development, the label 'committee' needs to be treated carefully. Past usage of the term should not necessarily be taken to mean the same as it does today. It has been used to describe a range of different groupings of members of both Houses of Parliament; some of which are directly comparable to present-day select committees, but others are entirely different in function and make-up. At times, committees were most commonly committees of the whole House. Equally, in other periods, there were committees similar to the present-day format, yet referred to under different terms.

The grand committees that were common in the sixteenth century, for example, were appointed intermittently to address specific subjects of interest on an ad hoc basis. There are records of the local and national printed press making references to 'special' committees and 'secret' committees from the early eighteenth century onwards, using different terms interchangeably to comment on the work of specialised committees. These committees served in effect as 'select' committees. More recently, the 1950s, 1960s and 1970s witnessed a plethora of committees set up with specific remits, such as the Select Committee on Violence in Marriage (1974-5). 'Select' committees of a sort have thus been an established part of the parliamentary process for centuries. They may have operated under different names and had different types of objectives, but it is still helpful to see them as the forerunners of the present-day parliamentary select committees. There was more to the House of Commons than its plenary in the Chamber, even before 1979. This chapter outlines chronologically the historical development of the select committee system.

¹⁴ M. Russell and M. Benton, *Selective Influence: The Policy Impact of House of Commons Select Committees*, London: Constitution Unit, 2011, p. 9.

Sixteenth, seventeenth and eighteenth centuries

Committees played an important role in the sixteenth and seventeenth centuries. While there are considerable differences between these and today's select committees, they set important precedents that have carried through to present-day practice.

In the reign of Queen Elizabeth I, clerks recorded the establishment of two 'grand' committees in 1571. One was tasked with investigating ecclesiastical affairs, the other with examining election returns. These committees served as the precursors to the standing committees on privileges, elections, and religion of later centuries. They were primarily appointed to consider specific areas of interest on an ad hoc basis. By the early seventeenth century, all members of the House were invited onto these committees. By 1708, they had been taken over by committees of the whole house. At this point, what we would recognise to be select committees began to be used to examine one-off issues. It is helpful to appreciate this somewhat piecemeal and fluid nature of the development of select committees when assessing the constitutional place of select committees in the UK's present-day system of governance – particularly in relation to concerns about the relationship between parliament and the executive. This paper reveals that reforms to the committee system are often still introduced in this manner.

Nineteenth and early-twentieth centuries

By the nineteenth century, the term 'select' was attached to committees that operated along similar lines to present-day committees. Although they were not permanently established, they were frequently deployed to perform influential parliamentary work, often resulting in legislative change.¹⁵ Retrospectively, the mid-nineteenth century has been portrayed as a time at which parliamentary control over the executive reached its zenith.¹⁶ Yet developments in the use of select committees took place in the context of increasing concerns about a perceived expansion of the state and the rise of mass political parties. A view existed that Parliament lacked sufficient means to scrutinise the work of the government.¹⁷ Advocates of change argued that a new means of keeping the powers of the executive in check was required. This premise is a familiar one to the contemporary era of select committees.

There was a steady rise in the number of select committees throughout the nineteenth century. In 1819, for instance, the Whig Lord Archibald Hamilton won a vote for a select committee inquiry into the government of the Scottish royal burghs (thereby setting the precedent for the use of select committees focused on territorial governance.)¹⁸ Select committees frequently played a role with respect to constitutional change. The Reform Bill of 1831, for instance, was the subject of a Select Committee in 1831. The following year saw the establishment of a select committee responsible for considering arrangements for the parliamentary handling of public petitions.

Alongside their constitutional role, select committees play a prominent part in histories of social development. They were frequently used to promote women's issues. In July 1835, for example, Mr Grantley Berkeley MP requested that a select committee 'be set up to consider how to adapt

¹⁵ 'The Departmental Select Committee System', Research Paper 09/55, House of Commons Library, Jun., 2009, p. 2.

¹⁶ M. Flinders, 'Shifting the Balance? Parliament, the Executive and the British Constitution', *Political Studies*, 50, 2, 2002, p. 25.

¹⁷ P. Strickland and R. Winstone, 'Departmental Select Committee', Research Paper 02/35, May 2002, p. 42.

¹⁸ History of Parliament, 1964-2017, 1818 [accessed via: <http://www.historyofparliamentonline.org/volume/1790-1820/parliament/1818> (17/10/17)]

a portion of the Strangers' Gallery for a Ladies' Gallery in the new House of Commons.¹⁹ The Select Committee on Admission of Ladies to the Strangers' Gallery, and the resulting establishment of the Ladies' Gallery marked a turning point in the inclusion of women in government, and an increase in parliamentary debates about 'women's issues'. More recent developments, such as the establishment Select Committee on Women and Equalities, can be understood as part of a long-established pattern.

Committees of various kinds often figured in models for parliamentary change during this period. In the 1870s, Thomas Erskine May – then Clerk of the House – agitated for several changes to the committee system, including the establishment of standing committees to take evidence on public bills, grand committees (on different subjects between select and whole house committees), and proposals for a 'select committee' to handle public bills rather than committing them to the Committee of the Whole House. The most important development of all came in 1861 with the establishment of what has become the longest established select committee, the Committee of Public Accounts (PAC). Introduced by the then Chancellor of the Exchequer, William Gladstone, its purpose was to scrutinise government expenditure. The PAC attained great influence, and has subsequently expanded its scope. The first permanent investigatory committee to be set up, it is arguably the closest equivalent to a prototype for the contemporary select committee, and demonstrates the extent to which methods of the present are shaped by the past.

In the immediate decades after the establishment of the PAC, investigatory committees were frequently utilised in a similar format as their current equivalents, though there was a particular emphasis on legislative proposals more than policy. These committees were typically given the power to call for persons, papers and records in the same way as today – though this position was not formally recognised in the way it has been since 1979.²⁰ The use of select committees continued into the early twentieth century. In this sense they provided a clear precedent for later development, though systematised or cohesive management was lacking. Select committees of note from this time included the permanent Select Committee on Estimates (1912), the Select Committee on National Expenditure (1917), and the Select Committee on Special Rules and Orders (1944), later known as the Statutory Instruments Committee.

However, though there was significant activity, compared to the plethora of committees established in the latter half of the nineteenth century, the early twentieth century saw a decline in the use of select committees. This trend consolidated after the Second World War, when Parliament relied upon Standing Committees, and ad hoc select committees were rarely formed. Bernard Crick, an important commentator and proponent of parliamentary reform in the second half of the twentieth century, explained the decline of the select committee in the context of the use of extra-parliamentary public investigations such as Royal Commissions and Departmental Committees, and bodies operating within the scope of the *Tribunals of Inquiry (Evidence) Act 1921*. With this activity taking place outside the House, Crick argued, committees tended to focus more on internal parliamentary matters. This development suggests that the history of Commons select committees can be seen in terms of bursts of development followed by relative stagnation. Further progress would come later in the century.

19 [Accessed via: www.historyofwomen.org/ladiesgallery.html (10/03/17)]

20 M. Rush (ed.), *Parliament and Pressure Politics*, Oxford: Oxford University press, 1990, p. 142.

The 1950s and 1960s – ‘reform by instalments’²¹

By the mid-twentieth century, the early calls for a more permanent and established system of select committees voiced at the beginning of the century gathered momentum, dominating parliamentary debates. The establishment of the Select Committee on Nationalised Industries (SCNI) in 1955 was a particularly controversial and important development, as will be shown. It serves as an example of a ‘specialist’ committee that was set up in specific circumstances to deal with a matter that was proving hugely contentious. The arguments made about the powers afforded to the SCNI set the parameters of debates about subsequent committees and their responsibilities. These concerns about the boundaries of committee investigations – particularly into bodies technically operating outside of government – are still relevant to present-day constitutional issues about the scope of committee work.

The 1960s saw a rising mood of national decline, in which Britain was perceived as underperforming as a world power. In this atmosphere, the British political system came under pronounced domestic scrutiny. Many established institutions were criticised, among them Parliament. A variety of reform proposals were canvassed, including some to the Commons committee system. Partly in response to such demands, six subject specific select committees were established in the 1966-70 Parliament under Richard Crossman, then Leader of the House. Crossman saw through the establishment of select committees on Agriculture (1966), Science and Technology (1966), Education and Science (1967), Race Relations and Immigration (1968), Overseas Aid and Development (1969), and Scottish Affairs (1969). Not all these committees continued through into the next parliamentary session however. Following this, an Expenditure Committee was set up in 1971, with six sub-committees. Both of these developments were heavily criticised for lacking coherence and structure – this criticism in the following years after implementation provided the impetus for proposals for the development of a new committee system.²²

The Crossman committees faced substantial opposition, particularly from within government or from those who felt they intruded upon the remit of government. The Agriculture Committee, for instance, was discontinued following mounting concerns about its inquiries into controversial areas of policy. There were objections to the holding of public evidence sessions; to requests for information from government departments; and to the appointment of specialist advisers.²³ However, the committees and their practices were not as novel as some supposed, and objections to them on this basis were not historically well-founded.

1979, departmental select committees – ‘new labels on old bottles?’²⁴

Advocates of enhancements in the effectiveness and influence of Parliament depicted the 1960s reforms as a failing to deliver the necessary transformation. In 1968, Crick stated that although the changes were part of grander promises schemes for greater parliamentary reform, they amounted to a mere ‘tinkering’²⁵ with the existing system, ‘the thin end of a wedge, though very thin as yet,

21 B. Crick, *The Reform of Parliament: The crisis of British Government in the 1960s*, London: Weidenfeld and Nicolson, 1968, 2nd Edn., p. 214.

22 ‘The Departmental Select Committee System’, Research Paper 09/55, House of Commons Library, Jun., 2009, p. 5.

23 P. Baines, ‘History and Rationale of the 1979 Reforms’, in G. Drewry (ed.), *The New Select Committees*, Oxford: Clarendon Press, 1985, p. 21.

24 G. Drewry, ‘The 1979 Reforms – New Labels on Old Bottles?’, pp. 382-393, in G. Drewry (ed.), *The New Select Committees*, Oxford: Clarendon Press, 1985.

25 B. Crick, *The Reform of Parliament: The crisis of British Government in the 1960s*, London: Weidenfeld and Nicolson, 1968, 2nd Edn., p. xii.

to greater changes.’²⁶ According to his research, the committees ‘came up with almost nothing of real importance’ [...] limiting themselves to ‘almost ritual acts of reassurance about the ‘complex and subtle’ nature of our Parliamentary institutions.’²⁷

Dissatisfaction with the resulting patchwork of committees – a product of government expedience to political pressure for reforms rather than a concerted effort to transform the committee landscape – alongside continued concerns about the balance of power between Parliament and Government, encouraged reformers to press for further reforms and a more comprehensive system. The Labour Government of the 1970s lay the foundations for a new system of committees. A debate in February 1976 resulted in the establishment of a select committee in June 1976, ‘to consider the practice and procedure of the House in relation to public business and to make recommendations for the more effective performance of its functions.’²⁸

The resulting Procedure Committee (1976-78) set to work evaluating the committees that had been introduced under Crossman in the 1960s, and putting forward a number of recommendations for use of future committees. Amongst other reservations, the Committee concurred with the view held by many at the time that ‘the development of the system [since 1964] has been piecemeal and has resulted in a decidedly patchy coverage of the activities of government departments and agencies, and of the major areas of public policy and administration.’²⁹ The Committee cemented the pre-existing complaints of reformers that inchoate use of committees was a matter of constitutional importance: ‘The House should no longer rest content with such an ‘incomplete and unsystematic’ scrutiny of the executive.’³⁰ It recommended that the Expenditure Committee with its six sub-committees, and the other specialist committees – with the exception of the PAC – should be replaced by twelve subject committees responsible for the work of specific government departments.³¹ It was believed that this would help to redress a perceived imbalance of power between Parliament and the executive.

The Procedure Committee’s proposals met with a mixed reception. The debates surrounding whether the newly reformed committee system should be ‘departmental’ or ‘functional’ acted as ‘a rusty pin-head around which whole armies of academic angels have wheeled and squalled.’³² Advocates argued that a departmental system – rather than a subject-based one – would encourage committees to focus on the scrutiny of government ministerial responsibilities. A committee system that mirrored the set-up of government would encourage comprehensive and systematic oversight of the executive, and ensure that all facets of government work were covered. Under this system, it would follow that any subsequent changes to government components would be reflected in the committee system.

Pitched against this, opponents claimed that the establishment of specialised committees could

26 B. Crick, *The Reform of Parliament: The crisis of British Government in the 1960s*, London: Weidenfeld and Nicolson, 1968, 2nd Edn., p. x.

27 B. Crick, *The Reform of Parliament: The crisis of British Government in the 1960s*, London: Weidenfeld and Nicolson, 1968, 2nd Edn., p. 11.

28 Select Committee on Procedure, *First Report*, 17 July 1978, HC 588-I 1997-78, para 5.7, in ‘The Departmental Select Committee System’, Research Paper 09/55, House of Commons Library, Jun., 2009, p. 6.

29 Select Committee on Procedure, *First Report*, 17 July 1978, HC 588-I 1997-78, para 5.14, in ‘The Departmental Select Committee System’, Research Paper 09/55, House of Commons Library, Jun., 2009, p. 6.

30 Select Committee on Procedure, *First Report*, 17 July 1978, HC 588-I 1997-78, para 5.14, in ‘The Departmental Select Committee System’, Research Paper 09/55, House of Commons Library, Jun., 2009, p. 6.

31 Select Committee on Procedure, *First Report*, 17 July 1978, HC 588-I 1997-78, para 5. 22.

32 B. Crick, *The Reform of Parliament: The crisis of British Government in the 1960s*, 2nd Edn., London: Weidenfeld and Nicolson, 1968, p. 214.

bolster Parliament to such a degree that it would become a rival to the executive.³³ Others (most notably Enoch Powell and Michael Foot) were concerned that the new system would serve as a distraction to the Chamber, and undermine Parliament's ability to work as a Chamber, leaving two 'classes' of Members. Those who were not members of select committees would be treated as the underclass. More generally, it was argued that Members would struggle to keep on top of their existing responsibilities, and this might have a detrimental impact on the quality of constituency work as well as work in the Chamber.³⁴ Interestingly, similar arguments persist today.

In the end, while the Labour government was resistant, the Conservative Party committed to establishing a departmental select committee system in its election manifesto. After the Conservatives took office in 1979, under the new Leader of the House, Norman St John Stevas, the motion to establish the new departmental committees was passed by 248 votes to 12 on 25 June 1979.³⁵ The resulting select committee system continues to provide the basis for the present-day structure of House of Commons and House of Lords committees. Although several reforms have since taken place, the fundamentals of the arrangements established in 1979 have survived.

The extent to which these reforms marked a transformation in the practice of committee work, however, is less clear. Indeed, evidence suggests that the changes were more *evolutionary* than they were *revolutionary*.³⁶ It is important that the changes implemented in 1979 are seen as part of a longer evolutionary process than some may describe. Indeed, the idea of departmentally-related committees can be traced back to the Haldane Report, 'Machinery of Government', published in 1918, although it is likely it goes back a lot further.³⁷ This is not to say that 'the Stevas reforms were purely cosmetic – a case of relabelling old bottles whose contents had gone stale.'³⁸ As Drewry's 1985 study of the committees revealed, the select committee system has evolved in conjunction with shifts in government practice, and wider changes to societal norms and demands.

1979 – Present

A key feature of the select committee system introduced in 1979 that remains in place today is its departmental structure. As of the end of the 2015-17 Parliament, there were nineteen departmental select committees. These include committees scrutinising the work of the Scotland Office, Wales Office and Northern Ireland Office. In addition to these, there are now also committees that consider issues across a number of government departments: Environmental Audit, European Scrutiny, Liaison, Public Accounts, Public Administration, and an array of Joint Committees.³⁹ The committees all operate under Standing Orders first established in 1979. According to Standing Order No. 152, 'select committees shall be appointed to examine the expenditure, administration and policy of the principal government departments as set out in paragraph (2) of this order and associated public bodies.'⁴⁰ The Standing Orders also provide committees with the powers to:

- Appoint a sub-committee

33 P. Strickland and R. Winstone, 'Departmental Select Committee', Research Paper 02/35, May 2002, p. 42.

34 P. Strickland and R. Winstone, 'Departmental Select Committee', Research Paper 02/35, May 2002, p. 42.

35 HC Deb 25 Jun., 1979 vol. 969, cc33ff, in 'The Departmental Select Committee System', Research Paper 09/55, House of Commons Library, Jun., 2009, p. 7.

36 P. Baines, 'History and Rationale of the 1979 Reforms', in G. Drewry (ed.), *The New Select Committees*, Oxford: Clarendon Press, 1985, p. 13.

37 Cmd. 9230, 1918, para. 48, in G. Drewry (ed.), *The New Select Committees*, Oxford: Clarendon Press, 1985, p. 350.

38 G. Drewry (ed.), *The New Select Committees*, Oxford: Clarendon Press, 1985, p. 382.

39 'The Departmental Select Committee System', Research Paper 09/55, House of Commons Library, Jun., 2009, pp. 4-5.

40 Standing Order No. 152.

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- Send for persons, papers and records (that is, to demand the submission of documents or attendance to give oral evidence, though this power does not in effect apply to the government and is anyway somewhat circumscribed in practice);
 - Sit notwithstanding any adjournment of the Houses (in other words, to meet whenever they choose);
 - Adjourn from place to place
 - Report from time to time.⁴¹

However, alongside this continuity, there has been significant change.

2001-2002 – Modernisation Committee and Liaison Committee

As we have seen, the 1979 reforms came about in the context of sustained concern, dating at least to the 1960s, about an imbalance between Parliament and the executive. The select committee system introduced in 1979 was itself modified for similar reasons. In the wake of disquiet about an alleged diminution of the role of select committees and a demise in parliamentary power more generally, the Modernisation Committee undertook an inquiry in 2001 into the operation of select committees. Its subsequent report, published in 2002, contained 22 recommendations, including: the establishment of core tasks, increased resources, an alternative career structure (an additional salary for committee chairs), and greater emphasis on public engagement.⁴² This report, together with the subsequent Liaison Committee's report, *Shifting the balance: select committees and the executive*, led to the development of core tasks, the creation of a specialist scrutiny unit, and the payment of chairs.⁴³

The Modernisation Committee suggested a framework for the core tasks, putting forward eleven 'duties' of each select committee, as 'an illustration of what [the Committee] would regard as the principal objectives of departmental select committees.'⁴⁴ In June 2002, the Liaison Committee agreed a set of *Core Tasks of Select Committees*, based on this outline. The ten core tasks are detailed in the following table. It was hoped that the establishment of core tasks would encourage a more systematic approach to committee work, and help committees to 'ensure that they monitor the widest possible range of departmental activity.'⁴⁵

Alongside the core tasks, the Liaison Committee also circulated guidance on working in accordance to the core tasks, which included advice on how to prepare annual reports using the core tasks as a template.⁴⁶ This practice was advocated as a means of improving public awareness and the general profile of select committees – both in-house and outside of Westminster.⁴⁷

41 Standing Orders

42 'The Departmental Select Committee System', Research Paper 09/55, House of Commons Library, Jun., 2009, p. 3.

43 Liaison Committee, *Shifting the balance: select committees and the executive*, 1st report of 1999-2000, HC 300, Mar., 2000.; 'The Departmental Select Committee System', Research Paper 09/55, House of Commons Library, Jun., 2009, p. 3.

44 Select Committee on the Modernisation of the House of Commons, *Select Committees*, Feb., 2002, HC 224 2201-02, para. 34.

45 Liaison Committee, 'Annual report 2003, Mar., 2004, HC 446 2003-04, para. 10.

46 Liaison Committee, 'Annual report 2002, Apr., 2003, HC 558 2002-03, para. 16. More details on the amendments can be found in House of Commons library standard note SN/PC/1497.

47 Library Standard Note, SN/PC/1497, *Select Committees: Changes to standing orders*, Jul., 2001.

Table 1: Core tasks of select committees⁴⁸

Objective A: To examine and comment on the policy of the department	
Task 1	To examine policy proposals from the UK Government and the European Commission in Green Papers, White Papers, Draft Guidance etc. and to inquire further where the Committee considers it appropriate
Task 2	To identify and examine areas of emerging policy, or where existing policy is deficient, and make proposals
Task 3	To conduct scrutiny of any published draft bill within the Committee's responsibilities
Task 4	To examine specific output from the department expressed in documents or other decisions
Objective B: To examine the expenditure of the department	
Task 5	To examine the expenditure plans and out-turn of the department, its agencies, and principal NDPBs.
Objective C: To examine the administration of the department	
Task 6	To examine the department's Public Service Agreements, the associated targets, and the statistical measurements employed, and report if appropriate.
Task 7	To monitor the work of the department's Executive Agencies, NDPBs, regulators, and other associated public bodies.
Task 8	To scrutinise major appointments made by the department.
Task 9	To examine the implementation of legislation and major policy initiatives.
Objective D: To assist the House in debate and decision	
Task 10	To produce reports which are suitable for debate in the House, including Westminster Hall, or debating committees.

2003 – payment for chairs

Two years after the Modernisation Committee report recommended the payment of an additional salary for select committee chairmen, the House agreed to pay certain select committee chairs a salary of £12,500. This was in line with additional advice from the Review Body on Senior Salaries (SSRB).⁴⁹ Advocates of this reform argued that the move would establish the select committee system as an alternative career structure for Members of Parliament. In 2013, this was bolstered by a further resolution on the salaries of chairs by the House.⁵⁰

2008 – pre-appointment hearings

Further changes were introduced in 2008, when the Government agreed with the Commons Liaison Committee that select committees could conduct pre-appointment hearings for a range of public posts. Pre-appointment or 'confirmation' hearings had been examined in the Labour Government's green paper *Governance in Britain* in July 2007.⁵¹ This development represented an expansion in the remit of select committees as a whole. Yet several departmental select com-

48 'The Departmental Select Committee System', Research Paper 09/55, House of Commons Library, Jun., 2009, p. 17, Table 1. See also Liaison Committee, *Annual Report 2002*, 1 Apr., 2003, HC 558 2002-03, para. 13.

49 R. Kelly, 'Modernisation: Select Committees – pay for chairs', SN/PC/02725, House of Commons Library, Feb., 2014, p. 1.

50 R. Kelly, 'Modernisation: Select Committees – pay for chairs', SN/PC/02725, House of Commons Library, Feb., 2014, p. 1.

51 Library Standard Note SN/PC/4397, *Parliamentary Involvement in Public Appointments* and Library Standard Note SN/PC/4411, *Regional Accountability at Westminster*.

mittees had already carried out pre-appointment hearings previously. The historical precedence for this form of hearing will be considered later in this paper.

This was consolidated in November 2013 when the Government updated the guidance for departments on the pre-appointment scrutiny undertaken by House of Commons Committees.⁵² Subsequent advice was also published by the Liaison Committee on the conduct of evidence sessions.⁵³ Yet, confirmation hearings are not mandatory and are still held at the discretion of the select committee, potentially leading to uneven practice.

2009/10 – Wright Committee report and subsequent reforms

Perhaps the most significant series of reforms took place in 2010 in the wake of the proposals put forward by the Wright Committee. The Committee was established following the parliamentary expenses scandal, though it did not directly address this issue. It also took place against a background of ongoing concerns about the balance of power between Parliament and the executive. In 2009, under the chairmanship of Tony Wright, the Committee made a number of recommendations, advocating a series of changes aimed at enhancing the effectiveness of the Commons. The most remarkable of them was the demand for a new electoral process for the selection of membership and chairmanship of select committees. (Until 2010, although nominations to select committees were the responsibility of the Committee of Selection, they were, in practice, sanctioned by party whips.)⁵⁴ The Committee recommended that chairs of departmental and similar select committees be directly elected by secret ballot of the House using the alternative vote; and that members of departmental and similar committees should be elected from within party groups by secret ballot.

The Liaison Committee's report, *Rebuilding the House: Select Committee Issues* (2010), endorsed proposals to reform the select committee election system to allow for greater transparency and democracy. In response, the Government announced that it accepted 'a large number of the recommendations of the Wright Committee's report, including the election of Chairmen and members of Select Committees [...]'.⁵⁵ A number of the proposals, including the election of members and chairs of select committees by secret ballot, were confirmed by the decisions of the House made on 4 March 2010. Further elements of the Wright proposals were later implemented under the Coalition Government, following the general election of 6 May 2010. Advocates of this change hoped that it would diminish the sway of political parties over the committee system. A new Standing Order (No. 122B) was established to put it into practices.⁵⁶

2012 – Revised core tasks

The Wright Committee also recommended that the Liaison Committee should: 're-examine the current role of select committees, their resources and their tasks, and in particular how to deal with the increasing demands of time made of Members as their role grows.'⁵⁷ In 2012, following its resulting inquiry, the Liaison Committee published a report *Select committee effectiveness, resources and powers*, which included a prospective list of revised core tasks, with an overall aim: To hold Ministers and Departments to account for their policy and decision-making and to support

⁵² Cabinet Office, 'Pre-appointment scrutiny by House of Commons committees', Nov., 2013.

⁵³ Liaison Committee, 'Liaison Committee guidelines for select committees holding pre-appointment hearings, agreed by the Committee at their meeting of 27 November 2013.

⁵⁴ R. Kelly, 'Nominations to select committees', House of Commons Library, SN/PC/3719, Sept., 2011, p. 3.

⁵⁵ HC Deb 20 January 2010 c431.

⁵⁶ R. Kelly, 'Nominations to select committees', SN/PC/3719, House of Commons Library, Sept., 2011, p. 15.

⁵⁷ Select Committee on the Reform of the House of Commons, 'Rebuilding the House, HC 1117, para. 93.

the House in its control of the supply of public money and scrutiny of legislation.’⁵⁸ The revised core tasks, as agreed by the Liaison Committee, are set out in Table 3.

Table 3: Revised Core Tasks, Liaison Committee, 2012⁵⁹

Strategy	Task 1	To examine the strategy of the department, how it has identified its key objectives and priorities and whether it has the means to achieve them, in terms of plans, resources, skills, capabilities and management information
Policy	Task 2	To examine policy proposals by the department, and areas of emerging policy, or where existing policy is deficient, and make proposals
Expenditure and performance	Task 3	To examine the expenditure plans, outturn and performance of the department and its arm’s length bodies, and the relationships between spending and delivery of outcomes
Draft bills	Task 4	To conduct scrutiny of draft bills within the committee’s responsibilities
Bills and delegated legislation	Task 5	To assist the House in its consideration of bills and statutory instruments, including drafts orders under the Public Bodies Act
Post-legislative scrutiny	Task 6	To examine the implementation of legislation and scrutinise the department’s post-legislative assessments
European scrutiny	Task 7	To scrutinise policy developments at the European level and EU legislative proposals
Appointments	Task 8	To scrutinise major appointments made by the department and to hold pre-appointment hearings where appropriate
Support for the House	Task 9	To produce timely reports to inform debate in the House, including Westminster Hall, or debating committees, and to examine petitions tabled
Public engagement	Task 10	To assist the House of Commons in better engaging with the public by ensuring that the work of the committee is accessible to the public

Along with the revised core tasks, the Liaison Committee recommended that select committees formulate clear objectives before every inquiry. The Committee concluded: ‘It is important that committees should have a clear understanding amongst themselves about what they are seeking to achieve, and that they consider their objectives for the whole Parliament, rather than focusing only on the inquiry immediately ahead.’⁶⁰

Interestingly, although the Liaison Committee maintained that it remained useful to ‘define core tasks for committees’, as a means of guiding committees in deciding their programme, it accepted that the tasks were not there to ‘constrain their freedom to decide their own priorities.’⁶¹ The Committee insisted that it was not appropriate for it to impose on other committees how they

58 Liaison Committee, ‘Select committee effectiveness, resources and powers’, Nov., 2012, HC 697 2012-13

59 Liaison Committee, ‘Select committee effectiveness, resources and powers’, Nov., 2012, HC 697 2012-13, para. 20.

60 Liaison Committee, ‘Select committee effectiveness, resources and powers’, Nov., 2012, HC 697 2012-13, para. 64.

61 Liaison Committee, ‘Select committee effectiveness, resources and powers’, Nov., 2012, HC 697 2012- 13, para 16 in R. Kelly, ‘Effectiveness of select committees Standard Note: SN/PC/6499’, House of Commons Library, 2013.

should interpret their role. Instead, it made several recommendations for models of ‘best practice’. These included more cross-committee collaboration, frequent reviews of committee work, target setting, clear objectives, and evaluation of functions and responsibilities. The Liaison Committee advised that committees should have a clear idea of what they wanted to achieve with each parliamentary session, and established the infrastructure to ensure objectives were documented and reviewed accordingly.⁶²

Conclusion

This chapter has provided the historical backdrop for the rest of the paper. The author maintains that the historical development of select committees has shaped and informed all current (and prospective) procedural arrangements. The present-day select committee system should not be seen in isolation from this longer historical trajectory. Examples of existing precedent, and better and worse practice, can be utilised to help explain recent developments, and suggest ways of moving forward.

⁶² Liaison Committee, ‘Select committee effectiveness, resources and powers’, Nov., 2012, HC 697 2012-13, para. 65, in R. Kelly and A. Suchenia, ‘Select Committees – core tasks’, House of Commons Library, SN/PC/03161, Jan., 2013, pp. 6-7.

Status of select committees and their relationship with the executive

*‘Under the existing set-up the select committee is the only available siege engine [...] Most governments, like most shellfish, do not open themselves.’*⁶³ *The Spectator*, 1978.

This chapter considers the powers of select committees and their relationship with the executive. It asks whether the ways in which committees can – and do – scrutinise the work of government has changed. It also considers whether there has been development in the balance of power between committees and the executive; and assesses the authorities – formal and informal – available to committees.

The select committee system is now embedded into the UK’s constitutional landscape. According to the most recent version of Erskine May, select committee ‘scrutiny work has become the most widely recognised and public means by which Parliament holds government Ministers and their departments to account.’⁶⁴ Yet respondents interviewed for this paper were divided over the extent to which select committees have enjoyed an enhancement in their authority with respect to the executive.

On the one hand, a number of interviewees maintained that there has been a change in the status of committees. They suggested that they are now held in higher regard by the executive, making them increasingly successful in holding the government to account. A number of the senior members of the select committee staff depicted committees as having experienced improvements in the success and effectiveness of their work – something which has been considered in greater detail by other academics.⁶⁵

On the other hand, others were less convinced that there has been a noticeable shift in the overarching relationship between committees – and by extension Parliament - and the government, despite this being one of the primary motivations put forward by advocates of the establishment of the departmental select committees in the 1960s and 1970s. From this perspective, select committees are perhaps not taken as seriously as they perhaps should be, despite the growing in-house profile identified by some respondents. This chapter considers these issues.

Ability to criticise

The oral evidence supports the notion that committees are now more inclined to criticise government departments. The majority of respondents acknowledged that select committees have become more confident in their scrutiny of the executive, particularly in criticising government work and legislation. They argued that committees are now much less ‘scared’ and ‘wary’ of upsetting the government of the day, arguing that members are far more willing and able to criticise. Several recent examples of inquiries were highlighted as being particularly controversial; the media officer for the Transport Committee mentioned the recent inquiry into the Government’s handling of the serious disruptions to Southern Rail, which culminated in the Committee demand-

⁶³ ‘Eric, or Very Little’, *The Spectator*, 21 Jan., 1978, p. 4.

⁶⁴ Erskine May op. cit. at p. 799 in R. Gordon and M. Jack, ‘Parliamentary privilege: evolution or codification?’, *The Constitution Society*, 2013, p. 53.

⁶⁵ Although it is worth noting that causation is problematic, and it is difficult to attribute changes in government policy to the work of select committees. Hannah White, Meaghan and Meg Russell, UCL Constitution Unit.

ing the Government “get a grip” on monitoring rail franchise agreements.’⁶⁶ This perception fits with the claims made by political commentators that select committees are becoming increasingly independent of government.⁶⁷ Whether this has resulted in more effective scrutiny, however, is less clear.

Past examples of similarly controversial committee activity suggest that the restraints were more substantial. This is most apparent in the case of the Select Committee on Agriculture, established under Richard Crossman in the 1960s. The Committee is most commonly known for being ‘scrapped over controversy and criticism of the government of the day.’ This was recognised at the time. *The Spectator* used the incident to demand that ‘Whitehall settled down to the existence of select committees.’⁶⁸ Ten years later, an article published in 1978 in *The Times* reflected on the demise of the Agricultural Committee, concluding that ‘even the best of select committees are pretty fragile instruments for policy control.’⁶⁹

When placed in this wider historical trajectory, then, committees now have greater freedom to criticise the government. Some attributed this shift to the introduction of elections for chairs and members from 2010, which one practitioner heralded as a turning point in ‘freeing committees from the tyranny of the Whips.’ Others suggested that the increase in accessibility and openness of Parliament – with the introduction of television cameras and parliamentary broadcasting – has augmented pressure felt by members and ministers to address matters of controversy through select committees.

This study suggests that the government now accepts and expects that select committees will openly scrutinise, and, when deemed necessary, criticise government policy, marking a definite shift over time in the status of committees.

Relationship with the government and limits of powers

Some studies looking at the committee system have used their results to suggest that the relationship between the government and parliament has shifted in recent years. Certainly, as noted in the Liaison Committee’s 2012 inquiry into the relationship between the government and select committees, there have been a number of significant reforms which have arguably augmented the relative strength of committees. These changes had to overcome a view within the executive that ‘concession of an increase in parliament’s influence on, or effective scrutiny of, and thus power over the executive, would produce a concomitant diminution in the power of government bureaucracy.’⁷⁰ Fears of a re-balancing of the relationship between the government and parliament has even impacted on the success of calls to change small, subsidiary components of the committee system. In a diary entry from February 1999, the Labour politician Chris Mullin, sometime chair of the Home Affairs Committee, made references to growing discontent amongst committee practitioners in the late 1990s. Mullin wrote how the Defence Committee chair ‘Bruce George said that the relationship between select committees and the government appeared to be modelled

66 Parliament UK, 14 Oct., 2016 [accessed via: <https://www.parliament.uk/business/committees/committees-a-z/commons-select/transport-committee/news-parliament-2015/rail-passenger-experience-report-published-16-17/> (04/03/17)]

67 LSE Blog, ‘Select committees are now more independent of government but are they better informed?’, LSE Blog, 10 Jun., 2010 [accessed via: <http://blogs.lse.ac.uk/politicsandpolicy/the-house-of-commons%E2%80%99-select-committees-are-now-more-independent-of-government-but-are-they-any-better-informed/> (04/03/17)]

68 *The Spectator*, 23 Mar., 1967.

69 ‘The rise and fall of the select committee’, *The Times*, 6 Apr., 1978, p. 16.

70 P. Laugharne, ‘The Evolution of Specialist Advice to Select Committees of the House of Commons in the Twentieth Century’, *Parliamentary History*, Vol. 18, No. 2, 1999, p. 173.

on the Supreme Soviet pre-1990. The powers of Parliament, he alleged, had peaked in the reign of Edward III and it had been downhill all the way since.⁷¹ Such attitudes influenced the Liaison Committee's report (HC 300, 1999/2000) 'Shifting the Balance: Select Committees and the Executive'. Its calls for further modernisation and reform of the House of the Commons through the committee system⁷² to some extent replicated the tone of the 1978 Procedure Committee Report which led to the establishment of the new system the following year.⁷³

While a number of respondents purported to have noticed a shift in the balance of power from government to select committees, others were reluctant to do so. On the whole, the interviews revealed that current practitioners feel that more could be done to ensure that the select committee system is taken seriously. There have been several factors driving these calls for change: access to papers, records, and people; government response to reports; and powers to ensure the attendance of witnesses.

- Government responses

In the face of growing parliamentary assertiveness in recent decades, a number of complaints were made about the limited extent of committee powers. Respondents were concerned about the time it takes the government to respond to reports, and the adequacy of the eventual responses. Two committee specialists on the Environmental Audit Committee noted that insufficient government responses to committee work has always been a problem, but that it is still an issue. In fact, they suggested that there has been a marked increase in the number of late or poor responses with little or no explanation from the government in recent years. There is an increasing feeling amongst committee staff that this is a problem that is getting progressively worse and needs to be resolved. The problem has been raised by several staff members, and is currently being tracked by a committee officer.

A staff member of the Defence Committee noted that on the occasions when the Defence Committee has been unhappy with a government response, the Committee has opted to write back and ask them to 'do it again.' They have found that this has been an effective way of ensuring a more constructive and comprehensive response. Significantly, they attributed the effectiveness of this approach to the part played by the media: 'the government is more likely to respond again and take note of our complaints, because they know that if we're still unhappy, we will just go to the press complaining about the inadequate response.' The respondent admitted that while the 'Defence Committee will not be messed with [...] it does depend on how assertive the committee wants to be.'

The quality of government responses to committee reports is a longstanding problem. For example, *The Times* complained in 1978 that 'when the select committee produces a sensible and serious all-party report which is inconvenient for ministers, the Government can simply brush it aside with the tame assistance of its majority.'⁷⁴ It was hoped that the establishment of departmental select committees in 1979 would help to address some of these concerns and mark a distinct change in practice. However, as researcher Philip Giddings noted twenty years later. 'In the first ten years of operations, only thirteen reports [of 103] were the subject of either substantive motions or

71 C. Mullin, *A Walk-On Part: Diaries 1994-1999*, London: Profile Books Ltd., 2011, pp. 423-424, 25 Feb., 1999.

72 M. Flinders, 'Shifting the Balance? Parliament, the Executive and the British Constitution', *Political Studies*, 50, 2, 2002, pp. 28-29.

73 P. Giddings, 'Select committees and parliamentary scrutiny: plus ca change?', *Parliamentary Affairs*, 47, 1994, p. 678.

74 R. Butt, 'The rise and fall of the select committee', *The Times*, 6 Apr., 1978, p. 16.

adjournment debates.⁷⁵ This holds implications for government treatment of select committees. Historical sources reveal that the current concerns about government responses are longstanding. Alarming, despite past attempts to resolve this, the government continues to impede upon the ability of select committees to scrutinise government departments effectively.

- Attendance of witnesses

Second, concerns were raised in relation to the ability to force witnesses to attend evidence sessions. Under Standing Order No. 152 (4a), all departmental select committees have formal powers of summons for ‘persons, papers and records.’ Yet there have been problems getting private individuals to attend evidence sessions. In addition, there are also two exceptions to this: the attendance of civil servants and members of either House. The Osmotherly Rules – which were never formally recognised by Parliament – set out the Government’s take on this. In reality, powers of summons cannot be enforced without the consent of the Government in office.⁷⁶ As Richard Gordon and Amy Street have concluded ‘Select committees appear to possess no compulsory powers in practice. They cannot enforce their own processes. Any enforcement powers claimed by Parliament to fine or imprison have not been exercised for hundreds of years and it is doubtful whether they can properly be said to exist in current times.’⁷⁷

Over the past decade there have been prominent instances of committees having to utilise the media and gather public momentum to ‘force’ key witnesses to attend. The Select Committee on Culture, Media, and Sport struggled when the Murdochs initially refused to attend its phone-hacking inquiry in 2011.⁷⁸ The Murdoch case raised difficult questions surrounding what powers could be exercised against private individuals by the Committee if faced by failure to comply. There was also speculation that the Murdochs could have enlisted the help of the courts to protect them from having to appear as witnesses on the grounds of questioning which might breach their common law privilege against self-incrimination under the European Human Rights law.⁷⁹

More recently still, the Home Affairs Committee and the Work and Pensions Committee faced significant difficulties ensuring that the members of senior management for Sports Direct and British Home Stores appeared before committee members. This episode sparked national interest in the powers of select committees. *The Guardian*, for example, published an article entitled ‘Philip Green case shows select committees’ power – and weakness’. It posed the question, ‘Can MPs really compel recalcitrant witnesses to appear before them and accept a grilling?’⁸⁰ As one respondent – a staff member of the Hansard Society – noted in their interview, ‘at the moment there is an argument for giving them [committees] more bite’, particularly in calling on ministers to appear in front of committees, and possible consequences if they choose to ignore committees’ demands.’ They suggested that the whole system would be more effective if committees had more powers for compelling the government to listen to committees; ‘to embarrass the government if it doesn’t respond to recommendations, or doesn’t allow ministers to appear in front of a

75 P. Giddings, ‘Select committees and parliamentary scrutiny: plus ca change?’, *Parliamentary Affairs*, 47, 1994, p. 681.

76 Liaison Committee, *Scrutiny of Government: Select Committees after Hutton Note by the Clerks*, 2004, p. 2.

77 R. Gordon and A. Street, ‘Select committees and coercive powers - clarity or confusion?’, *Constitution Society*, 2012, p. 10.

78 R. Gordon and A. Street, ‘Select committees and coercive powers - clarity or confusion?’, *Constitution Society*, 2012, p. 5.

79 R. Gordon and M. Jack, ‘Parliamentary privilege – evolution or codification’, *The Constitution Society*, 2013, p. 58.; Culture, Media and Sports Committee, ‘Eleventh Report, HC 903-i, 2010-2012’, 2013, para. 4.

80 M. White, ‘Philip Green case shows select committees’ power – and weakness’, *The Guardian*, 14 Jun., 2016 [accessed via: <https://www.theguardian.com/politics/2016/jun/14/philip-green-case-shows-select-committees-power-and-weakness> (28/11/16)]

committee.’ Significantly, the Privileges Committee has just announced a new inquiry into ‘the extent of select committee powers in relation to contempt’.⁸¹

Again, similar problems were experienced by past committees. There have been several cases of contention between government and select committees over requests for evidence from specific government department officials. These have occurred despite the publication of the *Memorandum of Guidance for Civil Servants Appearing before Select Committees* – more commonly known as the ‘Osmotherly Rules’ after its author EBC (Edward) Osmotherly – which was first produced at the beginning of the 1980s.⁸² The Osmotherly Rules still serve as the main guidance document relating to the relations between departments and committees. The Rules have set the parameters for interaction between the House and Government (although the text has never been formally approved by Parliament). The text advises that committees cannot demand the attendance of named civil servants. Ministers still have the final say on representatives that are put forward to give evidence. The Defence and Treasury Committee reports into the Westland affair in the mid-1980s prompted government attempts to ensure that select committees were prevented from investigating individual civil servants and a subsequent tightening of the Osmotherly Rules.⁸³ The limits of committees’ powers to secure attendees other than officials as well were demonstrated in the initial refusal of the Health Minister, Edwina Currie, to provide evidence to an Agriculture Committee inquiry in 1988, and the failure of the Social Security Committee to obtain evidence from Kevin and Ian Maxwell in 1992.⁸⁴

Problems persisted. In the Blair era, for instance, select committees experienced difficulties in securing special advisers as witnesses, despite their perceived importance in policy formation. Another important development in the Blair period involved the Foreign Affairs Committee. In 2003 it took evidence from the government weapons expert, David Kelly, the anonymous source for a controversial BBC story about the government presentation of intelligence on weapons of mass destruction in the lead up to the invasion of Iraq. Kelly’s subsequent suicide raised questions about select committee investigations into the actions of individuals.⁸⁵ Moreover, the resulting Hutton Inquiry was an extra-parliamentary exercise. While it lacked statutory powers it was able to receive oral and written evidence from numerous senior government figures.⁸⁶ This degree of cooperation was greater than would have been provided to a parliamentary body such as a Commons select committee. In response to the Inquiry, the Liaison Committee published a report in 2004, asking, amongst other questions: ‘What is the most effective method of avoiding refusals – firm negotiation case by case or a general Government undertaking? If the latter, what elements should it contain? What form should it take?’⁸⁷ The concerns raised by respondents for this study suggest that there is scope for further clarity. These questions remain unanswered. Powers to

81 [accessed via: <http://www.parliament.uk/business/committees/committees-a-z/commons-select/privileges/news/select-committee-powers-inquiry-launch-16-17/> (23/03/17)]

82 *The Osmotherly Rules – Parliament*, House of Commons Library, SN/PC/2671, 2015 [accessed via: researchbriefings.files.parliament.uk/documents/SN02671/SN02671.pdf (15/03/17)]

83 G. Drewry, *The new select committees*, 2nd ed., 1989, p. 411-20.

84 HC 353 1991-92.; HC 108 1988-89.

85 D. Oliver and R. Austin, ‘Political and Constitutional Aspects of the Westland Affair’, *Parliamentary Affairs*, 40, 1, 1987.; R. Norton-Taylor, *Truth is a difficult concept: inside the Scott Inquiry*, London: Fourth Estate, 1995.

86 Liaison Committee, *Scrutiny of Government: Select Committees after Hutton Note by the Clerks*, 2004, p. 1.

87 Liaison Committee, *Scrutiny of Government: Select Committees after Hutton Note by the Clerks*, 2004.

secure evidence from chosen witnesses have long been a subject of debate.⁸⁸ They continue to be so.⁸⁹

- Access to papers and records

Third, respondents were unhappy about current access to papers and records. Again, this represents continuity of concerns. The present-day concerns that committees do not have enough access to all papers relevant to their inquiries were raised decades ago by advocates of reform. There was a period in the late 1970s in which commentators were hopeful select committees were finally beginning to make headway. In 1978, an article published in *The Spectator* observed that for the ‘first time in living memory, a select committee has refused to accept the customary limits under which it operates and has dared to argue that its powers to send for persons and papers must be taken literally.’⁹⁰ Clearly, the author’s optimism was premature. The calls put forward in 1979 for the powers and scope of committee inquiries to be strengthened and extended, ‘especially with regard to the provision of information, the attendance of witnesses and the production of records and papers,’⁹¹ mirror similar suggestions made by today’s practitioners. The following conclusions have therefore been established. Despite claims that the profile of select committees has improved within the Westminster estate, with the government increasingly taking notice of their work, the dynamics of the relationship between executive and committee remains unscathed. Further to this, select committees are still bound by the same constraints that prevent past committee from undertaking effective and thorough scrutiny of government. Concerns about their lack of powers are longstanding.

88 N. Ahmed, ‘The Development of the Select Committee System in the British House of Commons’, *Canadian Parliamentary Review*, Winter 1997-98, p. 33.

89 N. Ahmed, ‘The Development of the Select Committee System in the British House of Commons’, *Canadian Parliamentary Review*, Winter 1997-98, p. 31.

90 ‘Political Commentary’, *The Spectator*, 21 Jan., 1978, p. 4.

91 J. Nixon, ‘Evaluating Select Committees and Proposals for Alternating Perspective’, *Policy and Politics*, 14, 4, 1986, pp. 415-416.

Chairs and members

'A committee is only as good as its members'

Several of the recent trends identified by respondents centred around changes introduced in 2010, in light of Wright Committee's 2009 report, *Rebuilding the House*. Three developments were mentioned in particular. First was the idea that chairs have become more influential in the last seven years since the introduction of directly elected chairs. Second was the argument that select committees have become more autonomous and less subordinate to party political requirements and strict working methods since the introduction of the system of electing members by party groupings. Third was the premise that the in-house profile of House of Commons select committees has risen over the last decade as a result. Several interviewees were convinced that the select committee system is now viewed as an alternative career structure for MPs (as anticipated by the Modernisation Committee in 2002) – representing a marked departure from previous decades. This chapter considers such claims in the context of their historical trajectory.

The role and influence of individual chairs and members

There was a consensus amongst practitioners— evident in the interviews, and other published works – that the prominence of members and individual chairs more specifically has been elevated in recent years. Respondents referred to the central role performed by individuals on each committee. Interviewees maintained that there had been a marked change in the power of chairs, a trend which had allegedly already commenced in the years leading up to 2010. The introduction of payment for select committee chairs, followed by the implementation of the Wright proposal for their election by the whole House cemented their powers. Respondents referred to the importance of chairs to topic selection, in interaction with the media, in outreach work, and in the choice of committee witnesses.

Some argued that this enhanced status for individual chairs has led to increasing variation and flexibility in committee work. One respondent provided a detailed comparison between the two most recent chairs, in order to illustrate the centrality of individuals on the committee process. Arguing that the system is 'completely dependent on its chairs,' the respondent noted that in the previous parliamentary session, Dame Anne Begg (the previous chair of the Work and Pensions Committee) focused on the actual terms of reference and Standing Orders, producing reports that explored 'traditional subject areas,' and committing to long and in-depth inquiries. In stark contrast, under new chair Frank Field, the Committee took an entirely different approach, opting for short and fast inquiries, with more emphasis on press coverage and media appearances. A few respondents made a point of saying that there could be a legitimacy issue surrounding the scope and power afforded to chairs in the current system. However, generally they were not concerned by the influence of individual chairs enough to advocate a change in the way committees operate.

Individuals and their interactions with each other, then, are important to the operation of select committees, as noted by a member of the House of Commons Library. In the science and technology areas, for example, individual select committee members, committee staff, and library staff have benefited from longstanding collaboration. This has been bolstered in recent years by the move of the committee staff and House of Commons Library staff into the same building. Some committees have noticed improved opportunities for informal communication between similar

committees, leading to good and best practice sharing. Several members of committee staff intimated that the quality of scrutiny is dependent on good personal relationships being formed being departments, chairs, members, and the committee staff – in particular, the clerks.

However, a large proportion of respondents raised concerns that the reliance on individuals has resulted in ‘variations in goals, strategies and targets.’ Despite fixed terms of reference and the Standing Orders (which will be discussed in greater detail later in this paper), there is evidence that ‘committees vary in their perception of their roles and in their choice of working strategies.’ Concerns were voiced that the current system can sometimes be taken advantage of by chairs using their position to bolster their own political careers, ahead of the work of the select committee. References were also made to the dangers of ‘headline chasing’ and the ‘use of celebrity witnesses’ – the ‘products of having too much fun in their capacity as chair.’ Chairs have always potentially been able to use select committees for self-promotion, but the recent developments in the role have caused some respondents to advocate ‘the introduction of tighter rules and regulations, to reign in the focus of committees that have been allowed to be too wild in scope.’

These observations were based on the popular notion that select committee chairs and members have become noticeably more powerful and influential over the last two parliamentary sessions – with the Wright reforms consolidating an emerging trend of the 2000s. However, when viewed as part of a longer historical trajectory, it is not so clear that this is a recent development. Past examples indicate that the disposition of members and in particular chairs have long been influential to the choice of topics of inquiries, swaying the direction of the committee, and interacting with the public and media.

During the first decade following the 1979 reforms, concerns were already being raised about the reliance on individuals of chairs and members. In his 1985 assessment of the new committee system, Gavin Drewry concluded: ‘It is abundantly clear from this study just how important is the part played by the chairman in setting an individual tone of each committee [...] the chairman makes much of the initiative in key decisions about investigative strategy (for example, whom to call to give evidence), has more influence.’⁹² Researchers were already appreciating the impact this could have on the consistency of the committee system. The central role of chairs – and to lesser extent, members – is therefore not new, nor is it surprising. It could be taken as a given that the individuals involved in the process make their mark on the development of their committee. However, the importance of the elections introduced in 2010 should not be overlooked, particularly in the sense that it may have added to the legitimacy and, therefore, the informal authority of select committees. Moreover, as Drewry noted in the work cited above: ‘The unique political chemistry of each committee, compounded by the diversity of subjects covered by the committee’s terms of reference goes a long way to explaining the patchwork appearance of the ‘system’ of departmentally-related committees.’⁹³ Implicit in this passage is the notion that if individuals are given a degree of independence and freedom, there could be potential to undermine the cohesiveness of the select committee system. If this was already an issue for commentators in the 1980s, surely the same concern carries even more weight today, in the context of the growing trend towards increased autonomy of select committee chairs and members post-2010.

92 G. Drewry (ed.), *The New Select Committees*, 1st edn., Oxford: Clarendon Press, 1985, p. 359.

93 G. Drewry (ed.), *The New Select Committees*, 1st edn., Oxford: Clarendon Press, 1985, p. 357.

Select committees now provide an alternative career structure for MPs

Interviewees maintained that changes in the system have elevated the profile and status of select committees in Parliament and government, to such a degree that the position of select committee chair or member now seems more viable as a career alternative. By extension, respondents claimed that this has altered the traditional relationship between Parliament and the executive.

The Wright Committee recommended elections to committees partly as a means of raising the in-house status of select committees, and in this respect, the interviews indicate that the Committee was successful. A large number of respondents were confident that chairs now enjoy a ‘far more legitimate full-time political position,’ with many labelling 2010 as ‘a massive turning point in peoples’ perceptions of select committees and the likelihood of MPs putting themselves forward.’ This supports another respondent’s claim that ‘the Wright reforms precipitated a growing professionalism of select committees, which has taken place over the last six years.’ To some extent, this point offsets the idea that since 2010 committees have become more sporadic and likely to neglect their terms of reference.

Respondents suggested that more MPs want to serve on committees, viewing them as a means of contributing to the system of policy-making and making a difference in a way they did not before. According to interviewees, increased confidence in the committee system has resulted in a shift in the types of members applying for memberships and chairmanships. One current committee chair argued that this is demonstrated by the presence of previous front-benchers serving on select committees. The political difficulties experienced by the Labour Party have helped create a supply of potential members.

Respondents noted the quality of recent candidates; Yvette Cooper – an example of a ‘key player in the Labour Party’ – and Sarah Wollaston – someone who has reputable expertise in health policy. Prospective applicants now have to ‘actively stand’ and ‘almost campaign’ when they put themselves forward for the position of chair, one committee staff member observed. They suggested that increased interest has led to a specialisation of positions; candidates would be reluctant to put themselves forward without evidence that they are competent and experienced in the relevant policy areas. Several practitioners mentioned the ‘Brexit’ Committee as an example of this, referring to MPs such as Hilary Benn coming forward with ‘unbelievable knowledge and experience,’ who ‘most likely wouldn’t have considered putting themselves forward for the position, having previously been frontbenchers.’

Admittedly, several respondents recognised that responses to the prospect of committee positions vary – some would still rather have ministerial positions. One respondent, a member of the Committee of Selection, was more worried than most that MPs and Chairs would still abandon their positions on committees, if a ministerial position was on the cards. However, these opinions were in the minority. In fact, references were also made to instances of Members of Parliament turning down offers of a ministerial position in favour of keeping or taking up a select committee chairmanship.

Does this mark a distinct change from previous practice? Did the Wright reforms bolster select committee positions to the degree that interviewees maintained, establishing the committee system as a viable alternative career structure for the first time? Certainly, if one compares the current degree of variety in membership and applicants for committee positions in past eras, there is some evidence a shift of some kind has taken place. One of the main arguments put forward by advo-

cates of the Crossman reforms of the 1960s was that the new select committees would provide a solution to the issue of ‘having too many backbenchers and not enough for them to do.’ Towards the end of the 1960s in a debate about the Agriculture Committee, John Mackintosh asserted that ‘These Committees are the one effective agency out of the whole gamut of Parliamentary Reform left to back benchers.’⁹⁴ In the same 1968 debate, Mr David Wood reinforced the link between select committees and backbenchers, referring to the ‘popular argument that [...] the Executive set them a pointless job to keep them out of mischief.’⁹⁵ A decade later, a rather more scathing account was published in *The Spectator*: ‘Ministers let it be known that their backbench colleagues on the Select Committee are disappointed men, second-raters who never made office and are now only out to catch the headlines.’⁹⁶

However, the notion that select committees might be able to provide individuals with a different path into political recognition and advancement has been present in various forms for several decades – well before the 2010 changes, and, arguably, before the introduction of the committee system as we know it in 1979. There were claims after the 1979 reforms that the newly-established committees offered a viable alternative career opportunity for ambitious MPs. The idea was there that committees might at some point be considered as of a similar standing to ministerial positions. However, it is clear at this time that this was still a hypothetical proposition. Writing in 1985, Drewry concluded that ‘predictably, chairmanship of a committee is still not regarded as any real substitute for front-bench office, and most committees lost good members through promotion to the front benches.’⁹⁷

By the late 1990s, however, there is reason to believe a shift had begun to take place. The second instalment of the diaries of Chris Mullin documented his move from the position of chairman of the Home Affairs Select Committee to Parliamentary Under-Secretary of State, Department of Environment, Transport and the Regions (DETR) in 1999, and later Parliamentary Under-Secretary, Department for International Development in 2001. On 31 July 1999, after the announcement of his post in the DETR, Mullin noted: ‘most of the congratulations seems to come from people who know nothing about politics. Those who do [...] are more cautious. They know I had a better job in my last incarnation [...] As chairman of the Home Affairs Select Committee.’⁹⁸ In the next entry, 1 August 1999, Mullin worried that he had ‘traded my self-respect and the respect of others for the lowliest rung on the political ladder – and one which has not the slightest influence over anything that matters.’⁹⁹ But while this observation may have been true of the Home Affairs Select Committee, it may not have been extended to the lesser known committees.

Therefore, while it may be going too far to say that present-day accounts of select committee positions represent a ‘whole different ball game,’ as one respondent summated, the profile of committee chairmanship – and membership – has seemingly shifted over roughly the last two decades. Accounts from the mid-twentieth century reveal that ministerial positions were definitely placed in higher regard than select committee positions. This is arguably probably still true for the majority of politicians and MPs today. However, whereas it would have been very unlikely that any MP would have even considered select committee work over a ministerial position, in the last twenty years the value attached to the former relative to the latter has increased. As interviewees

94 HC Deb 14 May 1968 vol 764 cc1117-74

95 HC Deb 14 May 1968 vol 764 cc1117-74

96 F. Mount, ‘Political Commentary: Beyond the threshold of pain’, *The Spectator*, 4 Mar., 1978, p. 4.

97 G. Drewry (ed.), *The New Select Committees*, 1st edn., Oxford: Clarendon Press, 1985, p. 386.

98 C. Mullin, *A View from the Foothills*, London: Profile Books Ltd., 2009, p. 6.

99 C. Mullin, *A View from the Foothills*, London: Profile Books Ltd., 2009, p. 7.

intimated, this represents a significant shift. Yet it did not take place as recently as many assume. Instead, it is perhaps more helpful to conclude that the 2010 Wright reforms reinforced an existing trend that had already been gradually gaining currency within Westminster.

In-house reputation

It is surprising, then, that respondents challenged the premise that membership is now taken more seriously as a result. According to the interviewees, there are still mixed levels of commitment, irrespective of the elevated in-house profile of select committees. Significantly, results from the interviews mirrored claims made before the Wright reforms. In 2009, for example, *The Times* published figures that ‘at least 60 of the 220 members on the most influential Commons committees examining public services and government spending missed more than half their meetings last year.’¹⁰⁰ Hopes that the Wright reforms would improve these figures seem to have been short-lived. Indeed, several respondents voiced concerns that ‘members don’t seem bothered about exercising the full extent of their powers,’ referring to lack of attendance at key meetings, evidence sessions, and pre-appointment hearings. One respondent suggested that all too often members just don’t have the expertise required to take full advantage of their positions. (On this point, though, others argued that this can sometimes be a positive, leading to members asking questions that the public would like to see answered). One problem that interviewees agreed on was the fact that most select committee members don’t dedicate enough *time* to their committee work – whether this is the result of commitments elsewhere in Parliament and constituencies, or a decision not to make the effort.

Historical evidence reinforces this trend identified by interviewees. Concerns that members do not take their select committee responsibilities seriously enough have a long historical trajectory. A journalist writing in 1857, for instance, held similar complaints to those voiced by present-day commentators, noting that ‘The plea for this evasion [of responsibilities] usually is want of time [...] Another plea is want of capacity in the Chairman or the ruling Members for the particular work.’¹⁰¹ More than a century later, political researchers in 1968 noted that ‘the experience of the Crossman committees was not very encouraging [...] Attendance in the House was low [...] in May 1968, for example, only 17 MPs were present for a debate on a report from the Science and Technology committee, including eleven members of the committee and two ministers.’¹⁰²

The election of members and committee autonomy

Respondents also associated the Wright reforms with a more independent and non-partisan system. The 2010 reforms to the election system undoubtedly changed the ways in which members and chairs are selected. The House of Commons Reform Committee recommended that chairs be directly elected by secret ballot of the House using the alternative vote, and for members to be elected from within party groups by secret ballot as a means of providing for a more ‘democratic and transparent’ system. In the first elections held after 2010, some noted that ‘the changes in voting system and paid positions had led to the largest turnover of MPs in a long time,’ prompting fears at the time that the reforms would ‘transform’ the system beyond recognition. Seven years on, however, there is now a general consensus that the changes to the elections of chairs and members have made for a more democratic, ‘fair’, and independent select committee system – though by no means ‘revolutionary’ or transformative on the scale some may have anticipated.

100 ‘It’s the new Commons routine – I’ll turn up if I can find the time’, *The Times*, 8 Apr., 2009.

101 ‘Mr Gladstone on Select Committees’, *The Spectator*, 7 Feb., 1857, p. 15.

102 P. Giddings, ‘Select committees and parliamentary scrutiny: plus ça change?’, *Parliamentary Affairs*, 47, 1994.

Has the introduction of a new voting system made for a more independent and impartial committee system? Opinion was divided. For a few respondents, the types of MPs elected has remained largely the same. On the whole, though, this was a minority view. Most recalled a noticeable upheaval of members for that parliamentary session. They claimed that it is not always ‘the usual suspects as much as it was before,’ citing the mid-term election of Rory Stewart to the Defence Committee as an example of an ‘outsider who used the new system to lobby and beat the usual suspects.’ They argued that the adoption of the new system of elections had a knock-on effect on how select committees function, particularly in relation to the position of chair.

The majority of interviewees supported the premise that there has been a recent shift in the relationship between the political parties and select committee system. In this sense, then, the reforms have lived up to expectations; the introduction of a new voting system that required whole House elections for select committee chairman positions was intended to diminish the influence of Whips in the selection process, and create a more independent and democratic system. Whilst most acknowledged the continued role played by the Whips – ‘they wouldn’t be doing their job if they didn’t try to influence the elections in some way’ – respondents argued that ‘ultimately the new election system has created a far more collegiate approach to the House of Commons.’ There seems to be no escaping the fact that ‘applicants [for chair] now have to reach out to colleagues on both sides of the political spectrum in order to be elected,’ marking a change from the ‘previously wholly partisan election process.’

Since the Wright reforms, it has become far more difficult for ‘staunch party-political members to get elected,’ so much so that ‘generally, the House doesn’t get people known for their party politics putting themselves forward in the first place.’ A member of the Committee of Selection (Commons) said there is a sense in the government Whips office that this is ‘unfair.’ Respondents spoke of a new era of select committees ‘suddenly freed from the tyranny of the Whips.’ They saw this as a major change in select committee culture, maintaining that whereas in the past, committee members who had contributed to reports that criticised government policy would be ‘shot down by the Whips’, or would be ‘too scared and wary of upsetting the government of the day in the first place,’ members now feel like there is ‘far more freedom to criticise’ and, significantly, ‘a willingness to do so.’ Others described this shift as a move towards a more democratic system; a more *independent* system capable of making bigger steps to improving scrutiny of government work.

There is good reason to suppose that recent reforms have produced a definite break with past practice in terms of the independence of select committees. Writing in the 1980s, Drewry argued that ‘It must always be tempting for the whips of both parties to use committee nominations (the role of the Committee of Selection notwithstanding) as an extended form of patronage, to reward past loyalty, to encourage future loyalty, or to minimise mischief born of the aimlessness of backbench life.’¹⁰³ Some respondents, as we have seen, voiced similar thoughts in relation to the present-day system. However, the ability of whips to influence the elections has surely been diminished. In as far as providing for (an even) more democratic and independent structure, then, the Wright reforms paved the way for a significant development in the select committee system.

103 G. Drewry (ed.), *The New Select Committees*, 1st edn., Oxford: Clarendon Press, 1985, p. 399.

Non-partisanship

Respondents also suggested that there has been a greater emphasis on consensus-building since 2010. Of course, select committees have long been associated with non-partisanship. Past accounts of select committee work indicates that there has been an underlying pressure on select committee members to reach a consensus that extends far further back than the last decade. An article published in *The Spectator* in 1969 praised select committee members for working together: ‘You would have to travel a long way round the corridors of Westminster to find a more improbable pair of allies. But allies, in this instance, they were.’¹⁰⁴ The potential of select committees to work in this way has thus long been realised.

However, an exploration of past literature also suggests that a shift may have taken place more recently in the *ability* of select committees to become more non-partisan. In 1985, Drewry encouraged readers not to ‘exaggerate the extent to which the new committees exhibited independence from party pressures [...] Though the Committee of Selection did act as a buffer, [...] The whips were never far away.’¹⁰⁵ In this sense, then, respondents were correct in suggesting that there has finally been a shift in practice. It would seem that the power of the Whips over select committee work is now noticeably diminished from that of previous decades.

There is evidence to suggest that select committees have also become more confident in speaking against their party line and investigating contentious policy areas. Whereas in 1985, it was noted that members and chairs proceeded towards ‘that goal [of consensus and agreement] by carefully avoiding topics of inquiry that might be expected to foment discord,’¹⁰⁶ select committees now appear to be confident enough to question and query government policy. This was exactly what opponents of the 1979 reforms were concerned about; the idea that select committee members might take advantage of the new system to contradict party lines.

Thus, whereas in the first two decades after the 1979 committees were established, select committees may have expected (in the words of one respondent) to be ‘shot down’ if ‘they went too far in criticising a government policy,’ select committees seem far more confident in tackling controversial topics now, irrespective of party positions. In fact, it could be argued that is not only accepted, but even expected and encouraged, that part of the role of committees is to explore more controversial topics and actively to seek the more contentious issues that the public want to see addressed. In sum, the following points have been established. There has been a change in the types of members putting themselves forward for chairmanship and membership. Select committees are no longer the domain of the backbenchers, and this is accepted by the majority of present-day practitioners. Furthermore, although the idea that committees offer an alternative career path to ambitious MPs has a much longer historical currency than many assume, the Wright reforms undoubtedly consolidated this shift. However, continuity is found in concerns that members still do not take their positions seriously enough. Difficulties with attendance and not having enough time to commit to responsibilities have long been identified with the committee system. It seems that little has been done to rectify this.

104 J. Bruce-Gardyne MP, ‘Political Commentary: Fred puts the clock back’, *The Spectator*, 14 Mar., 1969

105 G. Drewry (ed.), *The New Select Committees*, 1st edn., Oxford: Clarendon Press, 1985, p. 386.

106 G. Drewry (ed.), *The New Select Committees*, 1st edn., Oxford: Clarendon Press, 1985, p. 364.

Terms of reference

'The terms of reference just aren't taken as seriously anymore'

Select committees derive their terms of reference principally from the Standing Orders, with supplementary guidance contained in the Core Tasks. Respondents claimed that there has been an increasing degree of freedom has been afforded to select committees in recent years – most notably reflected in the choice of inquiries. As one senior member of the committee team summated, 'select committees are now left completely to their own devices when it comes to topic selection. This in itself doesn't represent that much of a change. What does is the extent of this flexibility. Interpretation of their terms of references has been getting bolder and bolder, and further and further removed from their original remits.'

In fact, respondents referred to a widening of scope in topic selection as one of the most significant changes to select committee work in recent institutional memory. There was an overwhelming consensus that select committees have been stretching their terms of references more and more – according to a few, beyond recognition. This is not necessarily a negative development, some hastened to add. Select committees were set up to scrutinise the work of government departments (as of 1979) as they saw fit. Room for manoeuvrability allows committees to prioritise areas which are in need of greater attention. However, in recent years, respondents suggested that this may be being taken 'too far. Terms of reference are now completely irrelevant. They mean nothing,' denounced a former committee clerk. According to another respondent, although terms of reference should remain relevant throughout an inquiry, and must be the base guideline for all points of interest, 'there is occasionally tension between adhering closely to the terms whilst maintaining flexibility in responses to unforeseeable events that might develop spontaneously.' This is an interesting point – the notion that the scope of the inquiry itself could suddenly shift in emphasis and direction to a point which takes the inquiry outside the terms of reference. In this way, it makes sense that committees are given flexible and adaptive remits.

Select committees continue to adhere to their standing orders. Yet the terms of reference are easily moulded. The only real restraint on the terms that was claimed to be upheld is ensuring that committees do not 'tread on the toes of other committees' (something that is taken seriously by committee clerks.) Aside from this, however, according to the interviewees, the balance between the three main areas of scrutiny has shifted in recent years, with an increasing prioritisation of policy-based inquiries, over expenditure and administrative scrutiny (see below for a more detailed consideration of this issues). Most respondents argued that the terms of reference are still used at the initiation of an inquiry, but 'from that point onwards, the committee takes the remit and runs with it.' Significantly, they took this to represent a recent shift in practice. They implied that past committees operated along far more rigid lines.

The newly-established Women and Equalities Committee was one of a number of examples offered to illustrate how committees have increasingly been setting their own agendas with very loose applications of their terms. Although technically a departmental committee of the Government Equalities Office (which only has 47 workers) with a 'very narrow remit in that respect,' it is an example of a 'highly creative use of a committee.' Though not a regular House of Commons select committee, the Joint Committee on Human Rights (JCHR) was provided evidence of a change

in Parliament with respect to the interpretation of briefs by committees. A special advisor to the JCHR noted that it ‘has increasingly taken advantage of its incredibly broad remit.’ For example, when the committee chosen to examine the human rights situation in Iraq in 2004, members who didn’t want to look at UK policy in Iraq used the argument that it wasn’t within the committee’s remit to veto an inquiry into it. Yet when the committee chose to investigate the drone strike in Syria – which could be justified in respect of the legal framework, but which was not strictly a UK policy area – ‘no one batted any eyelid, despite being out of the terms of reference.’

This ‘change’ in approach to topic selection was attributed to several factors. First, several mentioned that the increasing power and influence of individual chairs (identified in the first chapter of this report) has seen chairs choosing ‘topics that take their fancy.’ While ‘it is common for committees to have periodic discussions about the direction and content of their forward programmes,’ the chair plays a prominent role – in conjunction with the clerks, members, and media staff. Second, a few key events set a precedence for shifting priorities. Responses to the financial crisis, for example, undertaken by the Treasury Committee, and the Banking Standards Commission were highlighted as key turning points that altered the types of inquiries subsequently undertaken. Third, respondents referred to the mounting influence of the press and media on the choice of topics selected. All these factors have allegedly led to a shift in prioritisation of topics and greater flexibility in the scope of committee work.

Placed within a broader historical trajectory, though, does this represent a significant change to the select committee system? Past examples of select committee work do suggest that terms of reference were more finite, at least in the years up until the 1979 reforms. In the first session of the Select Committee on Nationalised Industries (SCNI), established in 1955, concerns were raised by committee staff and members that ‘its terms of reference were so limited that its continuance could serve no useful purpose.’¹⁰⁷ The government responded by revising the committee’s terms of reference.¹⁰⁸ This implies that the terms of reference could seriously constrain the type of work carried out by the select committee.

Yet the idea of flexibility has long been associated with the select committee system. In the decades before the 1979 reforms, there was dissension between advocates and critics of the Crossman committees about committee remits. Advocates were in favour of the relatively ‘wide’ terms of reference; for example, Mr Palmer, then Chairman of the newly-established Science and Technology Committee praised the provisions for greater scope and flexibility. In contrast, those opposed to the Crossman committees were concerned that ‘these specialised committees were not specialised enough, since their remit [is] too wide’¹⁰⁹ – as announced by Selwyn Lloyd at a Commons debate. Lloyd’s argument resonated amongst the majority at this time. Academic N. Johnson, writing in 1970, argued that there was no coherence in the committee system, alluding to ‘a pattern of committees determined largely by political expediency and with the terms of reference so vague as to exclude in some cases any possibility of defining the functions of committees with tolerable precision.’¹¹⁰ Contemporaries observed that ‘none of the [Crossman] committees were strictly faithful to the ‘departmental’ principle.’¹¹¹

107 M. Rush (ed.), *Parliament and Pressure Politics*, Oxford: Oxford University Press, 1990, p. 143.

108 M. Rush (ed.), *Parliament and Pressure Politics*, Oxford: Oxford University Press, 1990, pp. 143-144.

109 H. V. Wiseman, ‘The New Specialised Committees’, in A. H. Hanson and B. Crick (eds.), *The Commons in Transition*, Study of Parliament Group, London: Fontana, 1970, p. 202.

110 N. Johnson, ‘Select Committees as Tools of Parliamentary Reform’, in A. H. Hanson and B. Crick (eds.), *The Commons in Transition*, Study of Parliament Group, London: Fontana, 1970, p. 243.

111 G. Drewry (ed.), *The New Select Committees*, 1st Edn., Oxford: Clarendon Press, 1985, p. 351.

The tendency to ‘interpret the order of reference with considerable latitude’¹¹² was welcomed by advocates. In the Procedure Committee’s final report of 1978, it recommended that the ‘order of reference of the new committees should [...] be widely drawn and should be permissive rather than mandatory in character.’ Concerns remained long after the overhaul of the system in 1979. Select committees continued to operate with a degree of flexibility, with some looking at issues that arguably deviated substantially from their literal terms of reference.

When placed within the context of these past concerns, then, the premise put forward by respondents that select committees have been increasingly stretching their terms of reference in recent years – in some cases to the point of disregard – does not carry much weight. It is clear that current practitioners believe that committees have ‘considerable latitude and flexibility.’ But this trend has a much longer historical currency than many assume. Over the last sixty years at least, there has been a growing tendency to take the terms with ‘a pinch of salt [...] or in some cases a whole tablespoonful,’ in the words of one respondent. Change lies in the extent to which this flexibility has now become an *expected*, and more often than not, *accepted* part of the present-day system.

‘Policies and the public are now the priorities; expenditure and administration, the afterthoughts’

The observation made by respondents that committees are increasingly prioritising policy was noted above. They argued it is more than the fact that the ‘media tends to capitalise on policy issues and doesn’t bother documenting all the behind the scenes scrutiny of administration and expenditure.’ Even those who were adamant that all committees do undertake all three main areas of scrutiny were also in agreement that committees are increasingly prioritising policy-centric inquiries. A member of the Education Committee maintained that ‘Select committees are increasingly a law unto themselves, but this has enabled them to be more innovative and creative in their approach, and that’s surely a good thing.’

Yet the emphasis on policy could at times be suggestive not of increased independence, but of executive influence on the work of select committees. Three respondents referred to incidents in which Ministers have played a part in the selection of topics. Committee staff of two committees mentioned recent examples in the last parliament of Ministers from their committee’s department approaching the chair and clerks to suggest policy areas which they were keen to see the committee investigate. Responses to these incidents varied amongst respondents. Some argued that while this should not be common practice, advice from departments is helpful, allowing the committee to explore areas which would benefit from further scrutiny and maximise the impact of committee work on future policy-making. Such cases are also often the product of strong working relationships between the committee and the department, which leads to a more responsive department and a more effective scrutiny role. However, the majority of interviewees were wary of admitting to these episodes, maintaining that suggestions for topic selection undermined the non-partisanship nature of their work, and threatened to jeopardise the scrutiny role of the committee system. They also alluded to more general concerns over the diversity of factors and players instrumental in the selection of inquiries. Similar issues were raised in a case in 1967. The influence of Ministers in the scrutiny process raises questions of constitutional legitimacy.

Is there any historical precedence for the idea that select committees prioritise policy issues ahead of their own core tasks and perform the bare minimum – if that – of scrutiny of departmental administration and expenditure?

112 G. Drewry (ed.), *The New Select Committees*, 1st Edn., Oxford: Clarendon Press, 1985, p. 353.

The eventual introduction of policy scrutiny as part of the terms of reference was the result of decades of contention and heated debates. To many, the notion that select committees should be allowed to scrutinise ‘policy’ threatened to destabilise the traditional relationship between the Commons and the Executive. In this sense, the premise that committees are now increasingly likely to favour policy scrutiny ahead of administrative or expenditure enquiries seems specific to present-day practice.

Yet evidence reveals that inquiries have long dabbled in areas of policy on an ad hoc basis, despite refusal to include provisions for this in committees’ terms of reference. Crick’s historical overview of select committee development reveals that in the second half of the nineteenth century, it was calculated that out of the average 33 select committees sitting each session, ‘about three-fifths sat to consider matters of general public interest.’¹¹³ In the following century, a former Chairman of the Procedure Committee, Sir Osbert Peake, when giving evidence to the Committee in 1945, referred to the difficulties of avoiding matters of policy, intimating that committees did occasionally find themselves looking at policy issues. Peake explained that ‘In theory we are not supposed to concern ourselves with policy, but policy and economy merge into each other with such subtle gradations that it is quite impossible to decide a clear-cut line between what is policy and what is not.’¹¹⁴ Similarly, in his 1966 publication on the Select Committee on Nationalised Industries, the academic Coombes observed that ‘force of circumstances has led to each of the financial committees to deal with broader matters than its terms of reference have allowed.’¹¹⁵ Despite attempts to address this discrepancy between formal terms of reference and scrutiny of policy performed by committees were made throughout the twentieth century, there was no change until the eventual reforms at the end of the 1970s.¹¹⁶

Current concerns that select committees take this scrutiny of policy ‘too far’ – at the expense of their other responsibilities – are longstanding, and can be traced back to well before 1979. Coombes’ account of select committee work included a critique of the Public Accounts Committee for ‘becoming less and less concerned with detailed and former accounting procedure, and more and more concerned with important issues’ to the extent that ‘it is extremely difficult to determine whether, in doing so, it is dealing with policy or with ‘pure administration’.’¹¹⁷ Thirty years later the same concerns were still being voiced by academics and practitioners. An account written in 1993 relayed that despite ‘repeated encouragement from the Liaison Committee, and even draft model questions from the Treasury Committee, expenditure has been largely neglected.’ It concluded that ‘committees as a whole have not provided the systematic and comprehensive review of public expenditure that some had hoped to see.’¹¹⁸ There have since been several attempts to address the imbalance of scrutiny. In 2002, the Scrutiny Unit was created following recommendations by the Modernisation Committee, part of the purpose of which was to provide committees with expertise and guidance on financial matters. Several pilot schemes have since been introduced as part of efforts to address these claims.¹¹⁹ Yet the Liaison Committee report of 2008 still concluded that

113 B. Crick, *The Reform of Parliament: The crisis of British Government in the 1960s*, 2nd Edn., London: Weidenfeld and Nicolson, 1968, p. 99.

114 House of Commons Petition 189 (1945-6), q. 4008, in D. Coombes, *The Member of Parliament and the Administration: The Case of the Select Committee on Nationalised Industries*, London: Allen & Unwin, 1966, p. 30.

115 D. Coombes, *The Member of Parliament and the Administration: The Case of the Select Committee on Nationalised Industries*, London: Allen & Unwin, 1966, p. 30.

116 P. Giddings, ‘Select committees and parliamentary scrutiny: plus ca change?’, *Parliamentary Affairs*, 47, 1994, p. 672.

117 D. Coombes, *The Member of Parliament and the Administration: The Case of the Select Committee on Nationalised Industries*, London: Allen & Unwin, 1966, p. 30.

118 P. Giddings, ‘Select committees and parliamentary scrutiny: plus ca change?’, *Parliamentary Affairs*, 47, 1994, p. 672.

119 Hansard Society, *Fiscal Maze*, 2006.; Treasury, *Alignment Project*.

‘parliamentary scrutiny of the Government’s finances needs to be improved.’¹²⁰ Current deviation from the strict terms of reference does not represent a recent change in select committee work, nor does the premise that policy issues are frequently prioritised ahead of expenditure and administration. Policy has, though, become a more accepted part of scrutiny work, taking centre stage in a way that would not have been considered appropriate until fairly recently.

‘Select committees are now more confident to plough into politically divisive issues’

Respondents also noted that select committees have become ‘bolder and bolder over the last few parliaments,’ tackling areas of contention which committees would have been ‘wary of broaching’ before. They referred to the Work and Pensions Committee’s inquiry into British Home Stores as well as projects such as the Shared Parental Leave inquiry undertaken by the Women and Equalities Committee as examples of the growing confidence of present-day select committees to embark into areas of contention and question established government policy.

To some extent, an exploration of the historical trajectory of select committee development supports this premise. There has long been a tendency to avoid politically controversial topics. Local and national newspaper reports of select committee work prior to the 1979 reforms reveal that committees faced criticism from the government and political commentators when they ‘trespassed into areas that the government did not want investigated.’ (In some cases resulting in the demise of the committee). An article published in *The Spectator* on 12th November 1942, for example, observed that the Select Committee on National Expenditure had ‘acquir[ed] an authority and a competence never contemplated at the time when it was first established.’¹²¹ It warned that in choosing to ‘keep a watchful and a benevolent eye upon the ways in which the credits which they voted were actually spent,’ the committee risked straying from its terms of reference.¹²² It concluded that committee members ‘may well have exceeded their brief’ and advised that they should ‘trespass wisely’ in the future.¹²³

Though the potential for committees to explore controversial topics was clearly acknowledged at this time, it wasn’t encouraged or accepted. This is reinforced by the demise of the Agricultural Committee – one of the experimental Crossman committees set up in the 1960s. An article published in 1967 noted how the Agricultural Committee had begun ‘to tackle topics of real moment and uncovered the crucial arguments that underlay policy-making.’¹²⁴ In particular, the Committee’s examination of the structure and activities of the Ministry, and the ‘effects of entry into the European Economic Community on agriculture, fisheries and food,’¹²⁵ was criticised. When questioned about the choice of this inquiry, the Chair of the Committee, Dr Dunwoody, admitted that it was ‘deliberately chosen as being to some extent provocative and in the mainstream of politics.’¹²⁶ The Agricultural Committee was discontinued after one session, and this is

120 Liaison Committee, *Parliament and Government Finance: Recreating Financial Scrutiny*, 21 Apr., 2008, HC 426 2007-98, para. 1.

121 H. Nicholson, ‘Marginal Comment’, *The Spectator*, 12 Nov., 1942, p. 10.

122 H. Nicholson, ‘Marginal Comment’, *The Spectator*, 12 Nov., 1942, p. 10.

123 H. Nicholson, ‘Marginal Comment’, *The Spectator*, 12 Nov., 1942, p. 10.

124 J. P. Mackintosh, ‘Heads they win, tails we lose – parliamentary reform’, *The Spectator*, 11 May 1967, p. 4.

125 H. Wiseman, ‘The new specialised committees’, in A. H. Hanson and B. Crick (ed.), *The Commons in Transition*, Study of Parliament Group, London: Fontana, 1970, p. 206.

126 H. Wiseman, ‘The new specialised committees’, in A. H. Hanson and B. Crick (ed.), *The Commons in Transition*, Study of Parliament Group, London: Fontana, 1970, p. 206.

commonly attributed to its examination of controversial issues. The Agricultural Committee is now known as the Committee that overstepped the mark and paid the price.

The Agriculture Committee was an exception to the rule that committees were generally reluctant to address areas of contention, even by the late 1990s. Political scientist and researcher N. Ahmed observed in 1997 that members still tended to ‘avoid issues that are potentially divisive and controversial [...] [as part of a] growing realisation that the more a committee selects a politically contentious issue, the less is the prospect of producing a consensual report.’¹²⁷ (This also highlights the perceived importance of non-partisanship associated with select committee work, as part of an alleged shift towards greater bipartisan work and consensus-building, explored in greater detail in Chapter One). Again, this supports the premise that there has been a change in the ‘boldness and determination of committees to seek out divisive issues if necessary.’ The evidence suggests that there has also been a change in expectations. It is now accepted that committees will investigate politically tricky topics.

Seen in the context of this historical trajectory, then, recent efforts to explore issues of significant political controversies and areas of public debate mark a distinct departure from previous select committee work. The tendency to look at politically divisive issues has gradually built momentum over the last fifty or so years, but it has only recently been accepted that committees might explore politically divisive issues, regardless of government reluctance to engage in such topics. (Though it is worth speculating that this may, in part, be because recently the number of issues on which there is a clear division between the political parties has declined.) The Government is now more inclined to accept that such investigation and perhaps consequent criticism is part of the work of committees; it would be difficult for it to justify scrapping a committee over controversy and criticism, as was the case with the Agricultural Committee in the late 1960s. In conclusion, then, select committees are operating with greater flexibility, by stretching their terms of reference. Committees are now more likely to prioritise policy scrutiny ahead of expenditure and administration and, on occasion, this tendency has had a detrimental effect on the quality of work undertaken. The types of inquiries chosen have also been increasingly controversial. Select committees have become bolder in their choices of topics, and less afraid of exploring areas that are politically divisive.

Scrutiny beyond government

One of the main changes identified by practitioners was a shift in the types of inquiries that are now deemed acceptable. They highlighted a move towards holding people to account in a way that has ‘set a precedent and opened up a new and different field and line of select committee work.’ Most predicted that select committees will now continue to embark on more ‘BHS-style inquiries and expand select committee reach.’ This is unsurprising, when placed in the context of growing acceptance over the last decade that the scope of committee interest might fall outside the immediate business of the executive. In 2013, the Liaison Committee acknowledged that while committees should prioritise scrutiny of government work, as a ‘forum for discussion and informed debate’ [...] ‘it is sometimes in the public interest for them to extend their scrutiny to other organisations.’¹²⁸

127 N. Ahmed, ‘The Development of the Select Committee System in the British House of Commons’, *Canadian Parliamentary Review*, Winter 1997-98, p. 32.

128 Liaison Committee, ‘Select committee effectiveness, resources and powers’, 2012, HC 697 2012- 13, paras 12-14 in R. Kelly, ‘Effectiveness of select committees Standard Note: SN/PC/6499’, House of Commons Library, 2013.

There was consensus amongst interviewees that there has been a noticeable change in the scope of committee inquiries has taken place over the last few years; a change that represents a marked departure in expectation and protocol. Specifically, references were made to the Work and Pensions Select Committee (WPSC) inquiry into the pension scheme of the British Home Stores (BHS), and the Business, Energy and Industrial Strategy Committee (BEISC) on the management of Sports Direct. The Social Security Committee also held a similar inquiry into the Mirror Group pension fund in the early 1990s, after the death of Robert Maxwell in 1991.¹²⁹ These inquiries focused on the scrutiny of a few key individuals. Indeed, the WPSC's final report, published in 2016, concluded explicit remarks on Sir Philip Green, stating that he: 'adopted a scattergun approach, liberally firing blame to all angles except his own, though he began his evidence by saying he would do the opposite [...] Sir Philip Green, Dominic Chappell and their respective directors, advisers and hangers-on are all culpable.'¹³⁰ Following suit, the BEISC's report also concluded 'Mike Ashley, Deputy Executive Chairman, founder of, and majority shareholder in Sports Direct must be held accountable for the appalling working conditions and practices and the retailer's shops.'¹³¹ Interviewees attributed this tendency to the BHS case for setting a precedent for this style of inquiry, 'making it a select committee space.' Irrespective of whether or not this should be part of the select committee remit, 'there is no turning back the clock.'

A number of 'key events' were mentioned as catalysts for this new style of committee scrutiny. One senior member of the committee team referred to the scrutiny of aspects of the financial crisis by the Treasury Committee, and the subsequent inquiries into banking standards, phone-hacking, and the Murdoch/News International case. Another noted the impact of the suicide of the government weapons expert David Kelly – who appeared as a witness in front of the Foreign Affairs Select Committee in 2003 and the subsequent judicial inquiry chaired by Lord Hutton in 2003. References were also made to Margaret Hodge's approach to the chairmanship of the Public Accounts Committee, particularly in forcing the issues of corporate tax avoidance and the failings of HM Revenue.¹³²

Despite accepting that a new trend had manifested itself, respondents failed to agree on the significance of this development. There was also dissension over whether this style of inquiry fell within or outside the boundaries of the existing standing orders. Those in favour suggested that inquiries on specific individuals are 'justifiable on the basis that they have some level of public accountability,' in the words of a staff member of the Defence Committee. This member also maintained that in the case of Philip Green, this approach was necessary – regardless of whether it was 'completely legitimate' – 'simply because no one else would be looking at it.' Similarly, a senior member of the committee team argued that 'although it was definitely stretching the terms of reference by looking at private individuals, there are no other provisions in the parliamentary system currently that would hold such BHS examples to account. Select committees are filling

129 Select Committee on Communications, 1st Report of Session 2007-08, 'The Ownership of the News: Report', London: Parliament: House of Lords, Jun., 2008, p. 98.

130 House of Commons Work and Pensions and Business, Innovation and Skills Committees, 'BHS', First Report of the Work and Pensions Committee and Fourth Report of the Business, Innovation and Skills Committee of Session 2016-17, HC 54, Jul., 2016, para. 168 [accessed via: https://www.publications.parliament.uk/pa/cm201617/cmselect/cmworpen/54/5409.htm#_idTextAnchor052 (17/10/17)]

131 House of Commons Work and Pensions and Business, Innovation and Skills Committees, 'BHS', First Report of the Work and Pensions Committee and Fourth Report of the Business, Innovation and Skills Committee of Session 2016-17, HC 54, Jul., 2016 [accessed via: https://www.publications.parliament.uk/pa/cm201617/cmselect/cmworpen/54/5409.htm#_idTextAnchor052 (17/10/17)]

132 The Guardian, 'Margaret Hodge stands aside as head of spending watchdog', 20 May 2015, <https://www.theguardian.com/politics/2015/may/20/margaret-hodge-stands-aside-public-accounts-committee>

a gap; doing something that no one else is doing and thus doing their job in addressing a public need.’

Others maintained that ‘since taxes and pensions are public issues, the Philip Green case was justifiable in that instance.’ This point was followed by a general observation that adopting more responsibility for awareness-raising and, in this instance, ‘looking at the unaccountably effects of capitalism.’ Official reports of the WPSC and the BIESC supported these observations.¹³³ Respondents referred to the BHS as an example of why ‘the terms of reference are not supposed to be hard or fast. They are intended to be ‘launch-pads’. The fact that select committees are allowed to be flexible – and not always strictly adhere to the terms of reference – is a massive asset.’ In this sense, then, the scrutiny of outside bodies and individuals reaffirms the conclusions of the previous chapter, that terms of reference have been – and continue to be – stretched and moulded as members see fit. (Though a few hastened to add that although ‘these cases dominate headlines, in reality they are few and far between and not representative of the majority of select committee work.’)

Those who disliked this trend referred to a ‘definitive tension with the terms that is not really satisfactory.’ A few respondents were adamant that these recent cases are ‘definitely not within the standing orders’ and instead just products of ‘a growing trend in select committees chasing headlines and choosing topics that they think will captivate the public and attract media attention.’ Although they admitted that the Philip Green case led to a broader consideration of pensions, which is more clearly within the WPC’s remit, they were concerned that that came after ‘a protracted attack on a businessman’; something they deemed to be ‘unconstitutional.’ These concerns were reinforced when Sir Philip Green publicly criticised the WPSC, claiming that the chairman, Frank Field, had created a ‘false narrative’. In a letter to Field, Green accused the committee of conducting an inquiry that was ‘little more than a kangaroo court.’¹³⁴ Green commissioned a legal opinion, which dismissed the conclusions of the parliamentary inquiry on the grounds that the committee had chosen to ‘blame’ the individual before gathering sufficient evidence.¹³⁵ Green later threatened to sue Field for speaking without parliamentary privilege, when Field described him as a ‘Napoleon figure’ floating around on his yacht,¹³⁶ during an interview on BBC Radio 4’s *Today*.

It was also noted that ‘alarmingly, there doesn’t seem any oversight body willing to step in and say ‘this has been taken too far.’ The Liaison Committee does play a role in overseeing the committee system, but very rarely have there been cases where it has administered sanctions. While respondents acknowledged that the House itself has powers to stop committees and chairs if it wants to, they said that in practice this would never happen, simply because of public interest and pressure. To them, it seemed paradoxical that select committees ‘were established to examine

133 House of Commons Work and Pensions and Business, Innovation and Skills Committees, ‘BHS’, First Report of the Work and Pensions Committee and Fourth Report of the Business, Innovation and Skills Committee of Session 2016-17, HC 54, Jul., 2016 [accessed via: https://www.publications.parliament.uk/pa/cm201617/cmselect/cmworpen/54/5409.htm#_idTextAnchor052 (17/10/17)]

134 Press Association, ‘Philip Green blasts Frank Field for turning inquiry into kangaroo court, *The Guardian*, 30 Jul., 2016, [accessed via: <https://www.theguardian.com/business/2016/jul/30/philip-green-blasts-frank-field-for-turning-inquiry-into-kangaroo-court> (28/11/16)]

135 M. Vandevelde, ‘Philip Green hits back at MPs over BHS demise’, *Financial Times*, 18 Oct., 2016 [accessed via: <https://www.ft.com/content/706ff310-9481-11e6-a1dc-bdf38d484582?mhq5j=e1> (14/07/17)]

136 Press Association, ‘Philip Green blasts Frank Field for turning inquiry into kangaroo court, *The Guardian*, 30 Jul., 2016, [accessed via: <https://www.theguardian.com/business/2016/jul/30/philip-green-blasts-frank-field-for-turning-inquiry-into-kangaroo-court> (28/11/16)]

policy, administration and expenditure of the government departments, and yet if one had to name the ten biggest select committee events of the last ten years, at least seven or eight of the ten would no doubt relate to the private sector and individual people. (With perhaps the exception of the Public Accounts Committee (PAC)). Little to no mention would be given to policy change or questioning of ministerial actions.’

Placed within a wider historical trajectory, it is reasonable to conclude that the BHS and Sports Direct-style inquiries mark a departure from earlier committee practice. However, historical sources demonstrate how these cases have come out of a more gradual shift in this direction; a culmination of the precedents set by past committees. There are numerous instances of past committees pushing the boundaries of their remits, to consider the actions and behaviours of certain individuals – some with rather tenuous links to the committee’s official terms of reference. These episodes left contemporaries at the time questioning the role of committees in the scrutiny of, first, public organisations, then individuals involved in public communities, and, later, private organisations – in much the same way that political commentators have recently published accounts of the 2016 inquiries.

There are a number of precedents for using select committee to investigate persons and individuals. In 1820, the *Yorkshire Gazette* raised concerns about a suggestion put forward by committee member Alderman Wood – ‘the Worthy Alderman’ – that he was ‘entitled to call for a Select Committee of the House, to inquiry into the conduct of *George Edwards* [...] with no better grounds than the depositions of such persons.’¹³⁷ Thirty years later, in February 1857, the national press was again concerned by the actions of select committee – this time, the committee had ‘degenerated into a scene of [...] partisan contest [...] with striking instances of idle cross-questioning, not to elicit fact, but to ‘badger’ witnesses.’¹³⁸

Throughout the twentieth century, there were similar cases of select committees investigating key individuals. In 1941, the Select Committee of the House of Commons on the actions of Mr Robert Boothby, Member of Parliament for East Aberdeenshire and Parliamentary Secretary of the Minister of Food, was set up.¹³⁹ In 1957, the case of Mr John Junor, editor of the *Sunday Express*, raised concerns that ‘the line between a legitimate partisan attack on Members and mere derogatory vilification is not easy to draw.’¹⁴⁰

There is also historical precedence for the scrutiny of both public and private organisations – some only tenuously linked to the department or government office in question. The establishment of the Select Committee on Nationalised Industries (SCNI) was a contentious moment that divided contemporaries at the time, amidst concerns that select committees were overstepping their remits and undermining the independence of the public sector, and had the potential to undermine the power of the executive. Those against claimed that the public corporations – although associated with the government – were ‘established as independent entities [...] constituted on different lines from the usual civil departments.’ Their activities also ‘involved commercial transactions on a large scale [...] and thus should not be unduly hampered by external inference.’¹⁴¹ Advocates, in

137 ‘Case of the Worthy Alderman’, *Yorkshire Gazette*, 13 May 1820.

138 ‘Mr Gladstone on Select Committee’, *The Spectator*, 7 Feb., 1857, p. 15.

139 ‘The Case of Mr. Boothby’, *The Spectator*, 23 Jan., 1941, p. 2.

140 *Illustrated London News*, 4 July 1964.

141 HCP 332-I (1951-2), paras. 14-16 in D. Coombes, *The Member of Parliament and the Administration: The Case of the Select Committee on Nationalised Industries*, London: Allen & Unwin, 1966, p. 46.

turn, remarked that ‘the nation had become the owners of the enormous assets involved in the industries, and it was ‘widely felt’ that there should be means of inquiry and criticism.’¹⁴²

Perhaps the case with the most parallels is the inquiry into the British Steel Corporation in the 1977-78 Session by the SCNI. Just as Sir Philip Green protested at being at the mercy of a ‘campaign barracking and insulting me and my family’ during the WPC BHS inquiry, Sir Charles Villiers, chairman of the British Steel Corporation, and Mr Eric Varley, Industry Minister, complained of being personally attacked by the SCNI.¹⁴³ The press capitalised on these claims, and – significantly – appreciated that this case marked a change in select committee protocol. *The Spectator* described the examination of witnesses as follows: ‘At what seems like a single jump, it has moved from excavating the dead past to striking into quivering flesh. The cry of anguish from the victims is heartfelt.’¹⁴⁴ Several Members of Parliament were equally outraged. Mr Geoffrey Robinson spoke in a debate claiming that ‘The select committee had acted as judge, jury and prosecuting counsel with no rules of evidence. The procedures recalled those of the Star Chamber, abolished in 1641.’¹⁴⁵ There are parallels between this case and the recent controversy involving the DWPC and BIESC. However, a key difference exists. This style of scrutiny has now been extended to include *private* individuals and organisations. Such corporations – and their representatives – arguably fall even further outside the more literally interpreted remit of parliamentary select committees.

The following conclusions have been reached. There is a long history of select committees investigating the practice of organisations and individuals operating outside central and local government. The real change has come in committee interest in the private sector – as in the case of British Home Stores. Evidence also suggests that present-day committees are more likely to ‘stretch’ their remit, and there is more scope for flexibility in the choice of topics. This development is now not only largely accepted, but also expected.

142 HCP 332-I (1951-2), paras. 14-16 in D. Coombes, *The Member of Parliament and the Administration: The Case of the Select Committee on Nationalised Industries*, London: Allen & Unwin, 1966, pp. 46-47.

143 F. Mount, ‘Political Commentary - Beyond the threshold of pain’, *The Spectator*, 4 Mar., 1978, p. 4.

144 F. Mount, ‘Political Commentary - Beyond the threshold of pain’, *The Spectator*, 4 Mar., 1978, p. 4.

145 ‘Chairman defends role of select committee: no accusation of villainy’, *The Times*, 10 Mar., 1978, p. 6.

Public engagement and representation

*'The most important public forum:'*¹⁴⁶ *Increased public profile of select committees*

Respondents purported that there has been an increase in the public profile of select committees. According to this premise, there has been a noticeable surge in the expectations and pressure placed upon select committees to perform as 'public forums'. By extension, it was argued that there is a greater public awareness of the work of select committees, and with this, rising demands for further evidence of influence. This is supported by developments in the formal guidance of committee work. In 2012, Task 10 of the revised core tasks formally recognised the part played by committees in public interaction: 'Public Engagement – To assist the House of Commons in better engaging with the public by ensuring that the work of the committee is accessible to the public.'¹⁴⁷

Interviewees agreed that there has been a shift in public awareness of their role, although the extent of this change and the factors that have influenced changing perceptions were disputed. One senior member of the committee team referred to a 'huge public profile change that has taken place very suddenly in recent years.' Those who agreed referred to the information collected by the Hansard Audit of Democratic Engagement, and the introduction of technological advances, such as the use of web-casting in 2010, and the televising of select committee sessions – an extension of the broadcasting of the Chamber in 1989. In marked contrast, others were less convinced that there has been a sudden change in practice and perception. A significant proportion concurred with a clerk who argued that 'An increase in the public profile of select committees has happened, but it has been incremental, developing over time – there hasn't been a sudden leap in profile by any means.'

Some traced the tendency of the committees to prioritise public engagement to 'an overwhelming surge and crisis of confidence after the expenses scandal, in which Parliament lost the trust of the people.' Respondents held that there has been a decline in the sway of party politics and party loyalty – with public engagement put forward as a 'magical remedy.' Others referred specifically to high-profile select committee inquiries, such as the PAC sessions on tax avoidances, and the WPC inquiry into the collapse of BHS, as marking important changes in approach.

The extent of pressure felt by committee staff and members to engage with the public – and the origins of said pressure – was also a source of contention; pressure from the public and media, or felt internally within Parliament. For some committee staff members there has been a definite rise in the pressure felt on them to engage with the public. One respondent argued that 'As a body of elected representatives, committees can collectively be seen as a representation of public interest both as a means of holding government to account and investigating matters of public interest [...]' Although public engagement has not been included in the standing orders, it is now provided for in the revised core tasks, introduced by the Liaison Committee in 2012. The above statements support the premise that there has been at least some consideration of these revised tasks by select committees.

Others, however, felt that there has been too much pressure in this respect – particularly in the context of added expectations on select committees to investigate an ever-expanding remit of

146 A. Hill and A. Whichelow (eds.), *What's Wrong with Parliament?*, Middlesex: Penguin Books Ltd., 1964, p. 88.

147 Liaison Committee, 'Select committee effectiveness, resources and powers', Nov., 2012, HC 697 2012-13, para. 20.

topics. They argued that practitioners should be wary of viewing public engagement as a silver bullet: ‘Select committees are at risk of being expected to be doing too much going forward.’

A few respondents made historical claims to support their arguments, referring to the 1960s and 1970s as a period when ‘there weren’t any public engagement ideas at all. Instead it was all about the expertise and scrutiny.’ Consideration of a longer history of select committees in relation to public engagement paints a more nuanced picture. The concept of select committees serving as vehicles for public debate and representation dates back well before the establishment of the departmental select committees in 1979. In his 1934 work *Parliamentary Reform*, Ivor Jennings, wrote: ‘The purpose of Parliament is to keep them [Government] in touch with public opinion, and to keep public opinion in touch with the problems of Government.’¹⁴⁸ The idea that select committees could be used as a means of facilitating this relationship was well voiced. Select committees were commonly called for as a means of ‘making for stronger and more democratic government.’¹⁴⁹ Jennings argued that they would ‘bring the Government more closely into touch with public opinion without weakening its power to govern.’¹⁵⁰ Forty years later, Hill and Whichelow also observed that ‘Those who believe in a parliamentary system of Government accept as a basic truth that Parliament should be the most important public forum in which the affairs of the nation are discussed.’¹⁵¹ The idea that select committees could be instrumental in establishing a relationship between parliament and the people – with the aim of improving the overall relationship between Government and the people – was thus firmly established in the academic circles throughout the twentieth century.

However, this principle did not necessarily translate well into practice. The fact that public engagement was one of the main arguments put forward by advocates in the 1970s for the introduction of a new departmental select committee system suggests that committees still had a way to go. In *The Reform of Parliament*, published in 1968, B. Crick framed the argument for specialised select committees – later known as departmental committees – in terms of public interaction with Parliament. Crick pitched the new committees against a backdrop of faltering engagement, arguing that Parliament’s main responsibility was to represent the public. Yet, during the 1960s and early 1970s, commentators were critical of its ability to perform this key function. Departmental select committees were advocated to take on this role and improve public engagement.

In this sense, there has not been a massive change; the difference has perhaps been more in emphasis, extent of engagement, and types of communication. Since the 1970s there has been a ‘widening of the public policy debate’ as a result of ‘committees giving new opportunities to those outside the House of Commons to contribute formally to it, to take part, as it were, in the grant inquest of the nation.’¹⁵² Speaking of her experience on the Treasury Committee in the 1980s, Ann Robinson was quoted describing the main role of the [Treasury] Committee ‘to be the major public forum in which all of those interested in improving the quality of economic policy-making can state their case.’¹⁵³ Developments such as the implementation of the *Freedom of Information Act 2000* have arguably made for a more open and transparent UK government, providing public access to information held by public authorities. Developments in the public usage of technol-

148 W. I. Jennings, *Parliamentary Reform*, London and Southampton: The Camelot Press Ltd., 1934, p. 19.

149 W. I. Jennings, *Parliamentary Reform*, London and Southampton: The Camelot Press Ltd., 1934, p. 160.

150 W. I. Jennings, *Parliamentary Reform*, London and Southampton: The Camelot Press Ltd., 1934, p. 160.

151 A. Hill and A. Whichelow (eds.), *What’s Wrong with Parliament?*, Middlesex: Penguin Books Ltd., 1964, p. 88.

152 P. Giddings, ‘Select committees and parliamentary scrutiny: plus ca change?’, *Parliamentary Affairs*, 47, 1994, p. 680.

153 P. Giddings, ‘What Has Been Achieved?’, in G. Drewry (ed.), *The New Select Committees*, 1st Edition, Oxford: Clarendon Press, 1985, p. 278.

ogies, especially the Internet and social media, have also facilitated direct modes of interaction with the legislature, discussed in more detail below.

In sum, the idea that select committees have responsibilities as public vehicles is not ‘new’. The trend identified by respondents that there has been a sudden and dramatic increase in the public profile and pressure on committees to engage more with stakeholders is not as unprecedented as some have maintained. However, change can be identified in the extent of the popularity and magnitude of this concept. The notion that select committees should include public engagement as part of their remits is no longer a minority suggestion put forward by academics and liberal practitioners. It has become widespread. Pressure to interact and represent the public comes from both inside and outside the parliamentary domain. Demands are thus multi-faceted; part of an overall increase in pressures and expectations placed on select committees in recent years.

Increased outreach and engagement activities

Growing pressures have been realised in a surge of outreach and engagement activities. Interviewees claimed that there has been a marked increase in the number and type of outreach and engagement activities undertaken by select committees in the last few parliamentary sessions.

Committees have begun to seek new ways of interacting with stakeholders as a response to the rising expectations and demands from parliament and from members of the public. Equally, heightened public expectations are in part the product of increased outreach and engagement activities from select committees. For example, during the Treasury Committee’s inquiry into the banking crisis, committee members were surprised by ‘the profound public interest in the committee’s work. Despite the technical processes and language barriers – that members of the committee had struggled to understand – the committee had been surprised to find that ‘people all over the country came forward with suggestions, intimating that they had read the online material and publications, and were interested in the inquiry.’

There has also been a change in the types of engagement. In the words of one committee specialist, ‘making sure the committee is in touch with the needs of the people sometimes requires innovative thinking and experimentation on the part of the members and staff.’ Committees have increasingly ‘turned to public forums and websites in their efforts to gather evidence outside of the more traditional and formal evidence sessions.’ Several referred to the significance of the establishment of the House of Commons Outreach and Engagement team, set up specifically to improve the ways in which select committees involve the public their work. Established in May 2016, it currently consists of two (and a half) full-time staff members – although the team has recently secured two additional positions. The Outreach team works to facilitate face-to-face engagement for both the House of Commons and House of Lords committees. In addition to this, committees have separate media teams, there to manage the websites and digital engagement. Since its establishment, the Outreach team has been responsible for running a university programme, working in conjunction with the media team and community engagement officers, and running workshops with civil societies and engagement projects.

These efforts have also been made possible by the myriad of technological advances – specifically, the rise of social media. The last two or three years have witnessed a concerted effort to broaden the range of engagement mediums used. Most committees now ‘have a social media presence of some kind, and many among these are quite prolific in their use of Twitter, Facebook, and even Instagram.’ Respondents agreed that social media has had a significant impact on the ability of

select committees that have been ‘going out of their ways to talk to more people.’ Chairs and clerks were particularly keen to relay examples of said activities. This once again reaffirms the premise that committee staff and members feel a pressure (whether consciously or unconsciously) to appear to be engaging with stakeholders. Members of the Communities and Local Government Select Committee (CLGSC) referred to the current public inquiry into public parks. The committee has had a press release appealing for evidence from the public which resulted in over 400 formal written submissions. An online survey held through House of Commons’ Outreach service also generated 13,000 responses. Committee staff were also eager to note that the CLGSC was the first committee to get a ‘blue tick on twitter’; the Committee started an #askpickles Twitter campaign when Eric Pickles was the Secretary of State. The clerk made it known that the Committee ‘prides itself on its ability to interact with the public and reach out to its stakeholders in new and innovative ways.’ The chair of Education Committee gave similar examples of how the Committee has ‘reached out in recent years to ensure stakeholders are taken seriously.’

Significantly, a number of interviewees believed that these outreach and engagement activities represent a completely new facet of select committee work; something that was not previously included in the remit or scope of the House of Commons select committee system. Yet, this is not necessarily the case. Evidence from past political and press coverage of committee activity reveals similar such examples of public engagement; albeit not on the same level, or with the same commitment. Published in 1970, Wiseman reflected on practice in the 1960s with the newly-established Crossman ‘experimental committees’. He drew upon references to the first inquiry of the Select Committee on Race Relations and Immigration (1968) which considered ‘the problems of coloured school leavers.’¹⁵⁴ According to Wiseman, ‘the Committee took a great deal of evidence at local level from teachers, employers, trade unionists, local authorities and above all from coloured parents and youngsters.’¹⁵⁵ However, the Race Relations Committee had gone against the grain in seeking the opinions of its stakeholders in a way that its predecessors had not. In doing so, it had fuelled a number of questions relating to the legitimacy of such practice. Consulting such a diverse range of stakeholders went against committee precedence at this time. It was not accepted practice at this point.

By the 1990s, similar practices were beginning to be adopted by other committees. Engagement was still not a priority or concern for the majority of committees, but a large enough minority were undertaking such practice for a few commentators to raise concerns about representation and diversity of committee witnesses and interaction with the public. The Select Committee on Procedure commented on a growing unease surrounding the relationship between pressure groups and House of Commons select committees in its Second Report of 1989-90: the Working of the Select Committee System.¹⁵⁶ Practitioners were worried that in accepting a growing amount of evidence from pressure groups, select committee reports were being swayed, dominated by a certain type of witness, leaving others woefully overlooked and underrepresented.¹⁵⁷

Select committees increasingly sought to include stakeholders in collections of evidence – demon-

154 H. V. Wiseman, ‘The New Specialised Committees’ in A. H. Hanson and B. Crick (eds.), *The Commons in Transition*, Study of Parliament Group, London: Fontana, 1970, p. 214.

155 H. V. Wiseman, ‘The New Specialised Committees’ in A. H. Hanson and B. Crick (eds.), *The Commons in Transition*, Study of Parliament Group, London: Fontana, 1970, p. 214.

156 Select Committee on Procedure, *Second Report: the Working of the Select Committee System*, HC 19, 1989-90, p. 18.

157 P. Giddings, ‘Select committees and parliamentary scrutiny: plus ca change?’, *Parliamentary Affairs*, 47, 1994, p. 680. p. 680.; T. Higgins, ‘Select Committees – A Quiet Revolution’, *The House Magazine*, 26 Oct., 1992 in P. Giddings, ‘Select committees and parliamentary scrutiny: plus ca change?’, *Parliamentary Affairs*, 47, 1994, pp. 680-681.

strated in the lists of evidence-givers contained in publications in the 1990s. The recent emphasis on public engagement has thus come out of a developing trend in this direction. It is the culmination of these efforts, helped by a proliferation of technological advances in methods of communication – transport, facilities, social media, digital forums etc. But a distinction should be made between these sporadic – though not unsuccessful or insignificant – efforts by past committees of the 1960s onwards to consult a wider selection of stakeholders, and the more comprehensive, accepted – and expected – procedures put in place by present-day committees to ensure a more extensive dialogue. There has been a noticeable consensus that select committees have a part to play in public representation, made possible by advances in social media and digital resources.

Present-day practitioners are therefore right to distinguish the recent upswing in engagement undertaken by the majority of committees over the last five to ten years from these examples of past activities – which are, admittedly, not too dissimilar from contemporary ‘outreach and engagement’ exercises. The latter were isolated attempts by advocates of change seeking to pave the way for new methods of public engagement and representation. The recent trend towards increased outreach and engagement services identified by respondents can be traced further back than some interviewees supposed, but this does not diminish the extent of the change and shift in this area of committee work. The wide range of outreach activities now undertaken by select committees in their efforts to engage with stakeholders marks a new and distinct era in committee engagement.

Representation of stakeholders

There have been concerted efforts to reach ‘new’ audiences. As one member of staff on the Defence Committee summated, ‘select committees have become increasingly aware of a responsibility to represent the whole population. Respondents agreed with members of the newly-established Outreach team that attempts to ‘go beyond talking to the usual suspects’ are a very new development. According to Outreach staff, the impetus came five years ago in response to pressure from the Liaison Committee, and the establishment of a steering group on political and public engagement, as well as greater demand from the committee office. The Outreach team has since worked alongside the media team, social media staff, and enquiry managers, adopting a holistic approach to tailor outreach and engagement for committee’s specific requirements. They maintained that ‘there is now a more direct approach to outreach work as a result.’

This ties into other claims. The Liaison Committee had found that ‘most people engage best on an issue by issue basis;’ the idea that select committees lend themselves well to this approach was mentioned by several respondents as another reason to prioritise diversification. The establishment of ‘new’ types of select committees – such as the Women and Equalities Committee (WEC), and the Petitions Committee – has also helped; these new committees ‘lend themselves to this particular approach to evidence from a very wide and diverse range of witnesses.’ Others also mentioned the significance of the WikiLeaks and Freedom of Information Act 2000 in precipitating changing attitudes towards diversity and rising expectations of greater transparency and inclusion. (Another example of select committees as reflections of general trends).

For all respondents, becoming more ‘representative’ involved ‘reaching out to new stakeholders instead of just relying on the “usual suspects”.’ The definition of ‘usual suspects’ varied across committees. However, one member of the Outreach team made references to specific ‘target groups,’ that have been pinpointed by the team as groups that are often ‘less engaged than others,

and yet are just as likely – if not more so – to be affected by some of the topics and legislative proposals being discussed.’ When committee representatives speak of ‘diversifying the list of witnesses,’ they are interested in ‘hearing from stakeholders who don’t usually get in contact with us.’ It is not usually a question of having enough witnesses, but whether there are other groups of people out there who are equally as qualified as existing witnesses – if not more so – but are unlikely to come forward on their own as witnesses.’

Despite recognising that select committees have become more involved in seeking ‘a more representative selection of stakeholders,’ respondents agreed that, so far, attempts at including different members of the public has not resulted in a ‘representative’ system. In some cases, it was argued, this was not necessarily a ‘failure,’ as a specialist attached to the Joint Committee on Human Rights (JCHR) argued, ‘and can actually be a good thing. The Committee needs the opinions of well-respected lawyers and human rights activists; people who are at the forefront of the human rights sector. It would be counter-productive to seek the opinions of others ahead of these kinds of specialists.’ However, as the JCHR staff member observed, a committee was still likely to consult the ‘same sort of people it always has. There is a tendency to fall into the pattern of using the same suspects again and again.’ Others admitted that there is still often an over-reliance in inquiries on ‘individuals and organisations who are recognised as leading authorities who are continually sought for evidence at the expense of the wider public.’ ‘It would be beneficial to cast the net wider and try and get a more representative sample of views.’

There are various factors hindering new efforts to engage with a more representative system. Two staff members of the Communities and Local Government Committee referred to how the Committee noted that ‘large organisations continue to send delegates that just aren’t representative!’ Whether it is the case that organisations such as the Local Government Association (LGA) and local councils simply do not have a diverse workforce [a range of age, gender, religion, ethnicities, sexualities etc.] or they choose to send ‘middle-aged, middle-class, white male,’ the result is still the Committee ‘trying to get diverse witnesses from a pool of witnesses that was never diverse to begin with.’

Similarly, a staff member of the Defence Committee accepted that ‘written evidence in particular is not often diverse, particularly in relation to gender. On average, between 10 and 12 per cent of witnesses to the Committee are female, although this partly depends on the subject matter.’ Even members of the Outreach staff acknowledged that ‘the team still struggles with having to rely on existing contacts to publicise outreach activities.’ So much so, that they have stopped hosting ‘open’ events, because they largely attracted the ‘same people.’ Presently, they said that the team uses a database ‘of people (which was only set up a few years ago) who have been to events before, but there still isn’t really a system. Witness diversity is only as strong as the database of existing contacts.’

These remarks echo past concerns raised by commentators after the introduction of the 1979 departmental committees. Writing in the 1980s, researcher Jaqi Nixon observed that committee practitioners believed that ‘too little attention has been paid to other bodies or groups to whom either Select Committee recommendations are specifically directed or who may be indirectly affected by a Committee’s report.’¹⁵⁸ Her article offered the example of the Social Services Committee’s *Children in Care* Report as an illustration of an inquiry that had failed properly to consult with those directly involved in its area of interest. The Report contained a ‘total of 108 recommen-

158 J. Nixon, ‘Evaluating Select Committees and Proposals for Alternating Perspective’, *Policy and Politics*, 14, 4, 1986, p. 422.

dations of which about one quarter were addressed either to local authorities or to professional groups.¹⁵⁹ Nixon argued that recommendations should reflect the interest and concerns of local authorities and professional groups, seeing as they were the stakeholders that were most affected by committee's proposals.

Present-day awareness of the need to consult people and reach beyond organisations and usual suspects can thus be traced back to at least the 1980s. The problem identified here that committees should be involving those that are directly affected by the issues and recommendations of a committee's report (in this case, local authorities, care facility staff for children in care), can still be applied to committee work of today. Nonetheless, there has, indeed, been a new development in the extent of improved efforts to address the acknowledged lack of diversity amongst select committee witnesses. Although some attempts were made during the latter half of the twentieth century to improve stakeholder involvement, the last five years has witnessed a demonstrable shift in the prioritisation of this trend. Where the continuity lies, however, is in the difficulties involved in reaching beyond the 'usual suspects', even when there is a will to do so.

In-house diversity

Calls for better representation also extend to demands for a more diverse range of committee members, in respect of their profile, ability and expertise. Some members maintained that they are representative in the sense that membership is based on party strength and elected by party groups. Committees usually also have a variety of members who have expertise (such as Sarah Wollaston, Chair of the Health Committee) and members who are new to the topics. This results in 'an array of questions, including those that might be asked by members of the public.' However, they admitted that 'committees are less likely to be representative of the people in terms of demographics.' These remarks tie into longstanding discussions about the types of members – and the range of expertise – that been regularly made throughout the past development of select committees. Representation of membership varies across the committee system. For example, one respondent observed that some committees are far less representative than others: The Transport Committee was cited for having only one female member.

As others noted, though, this is symptomatic of a wider problem with representation in the House as a whole. The select committee system 'can only be as representative as the House allows.' A number of respondents suggested that the parties are partly responsible for the make-up of select committees – a result of the current election process for membership. Are the current mechanisms and rules in place regarding select committee membership sufficient? Evidence suggests that improvements could be made to encourage more widespread representation across the committee system. However, until the intake of Members of Parliament changes to reflect the diverse balance of race, gender, ethnicity, age, and sex of the UK society, the House – and by extension, the select committee system – will never be truly representative.

There is a longstanding expectation that select committees and their members should be representative and reflect the opinions of the public; the notion of representation that is prominent in the select committee discourse of today is not as new as often assumed. Representation is, however, now framed in different ways, with a larger selection of opportunities and forums for public engagement. Understandings of stakeholder engagement have shifted in recent years, and representativeness has come to reflect significant developments in expectations regarding groups

159 J. Nixon, 'Evaluating Select Committees and Proposals for Alternating Perspective', *Policy and Politics*, 14, 4, 1986, p. 422.

such as the BAME and LGBT communities. These changes, together with developments in the media, have meant that select committees have a new criterion against which to judge public engagement responsibilities. Public engagement has taken on a new meaning.

The same observations can be applied to the make-up of witnesses. In-house and academic research has shown that just one-quarter of witnesses to select committees are women. Sarah Childs' report found that some select committee, notable the Treasury, have witness compositions that are 90 per cent male.¹⁶⁰ Since these figures were published in 2015, a number of committee chairs have committed to ensuring that every panel of witnesses includes at least one woman.

Inchoate engagement

Despite the demonstrable efforts to include a wider variety of stakeholders in the work of select committees, respondents remained concerned that engagement is varied, inchoate, and unsatisfactory. The results of the interviews show that commitment to public engagement differs from committee to committee. Some committees were praised for best practice. The Communities and Local Government Committee recently held informal meetings to collect evidence from young people who were just out of the care system, and are now currently homeless.¹⁶¹ The Committee understood the need for greater flexibility in the current infrastructure, and acknowledged that 'the formal select committee structure would not have been the best option in this instance.' Similarly, the Science and Technology Committee was cited for holding evidence sessions as a 'roundtable discussion, instead of the usual horseshoe-set up, specifically to help break down formal barriers.' However, these practices have not been adopted by other committees. A member of the Outreach team admitted that 'at the moment, as it stands, outreach engagement and representation is not comprehensive. It very much depends on the committee.' Respondents alluded to 'general trends in the types of committees who are more engaged.' Several referred to 'new brand of committees' that have been established in recent years. The Women and Equalities Committee, and the Exiting the European Union Committee, have both approached the Outreach team in their endeavours to be proactive and responsive.

As one senior member of committee staff suggested, differences in practice in part reflect the differences in subject matter and scope of the committee. They referred to a recent event held by the Defence Committee, which gathered an audience of 44 people, as an example of how some committees have an unavoidably 'very small and limited wider interest due simply to the topics and matters they consider.' This, they compared to the Health Committee 'which has well over 50 million stakeholders and obviously has a lot of public interest. These committees are at the very opposite ends of the spectrum, but it demonstrates the acute differences between committees.'

However, while some respondents agreed that 'this is just an inevitable part of the committee system,' others cited scope for improvement. As with so many aspects of committee work, there was a consensus that this is another product of the power of individual chairs and clerks. The majority of respondents agreed that 'the extent to which diversity and engagement is prioritised is almost wholly dependent on the chairs and clerks.' Lack of set procedure has led to chairs taking on this part of the committee's work on a 'case by case basis'. The benefit of this arrangement has

160 S. Childs, 'The Good Parliament', Bristol: University of Bristol, ESRC, 2015, p. 26.; www.psa.ac.uk/conference/2016-conference-0/paper/taking-evidence-rolewitnesses-evidence-gathering-process-select; eprints.lse.ac.uk/55425/1/Democratic%20Audit_Who%20gives%20evidence_January%202014.pdf.

161 House of Commons Communities and Local Government Committee, 'Homelessness, Third Report of Session 2016-17', HC 40, House of Commons, Aug., 2016 [accessed via: <https://publications.parliament.uk/pa/cm201617/cmselect/cmcomloc/40/40.pdf> (30/08/17)]

been that different inquiries can be treated in different ways; chairs are able to be more responsive to specific situations, and prioritise different aspects of their engagement activities as they see fit. However, it has also created a system that is inchoate, inconsistent, and – in the words of one respondent – ‘unapproachable, unsuitable, and not receptive.’

One member of the Outreach team supported this with the example of the Home Affairs Committee. They argued that ‘it was clear up until the resignation of the most recent chair of the Home Affairs Committee that the committee would never be able to do anything with the Outreach team.’ Two clerks for the Communities and Local Government Committee cited similar examples. They concurred that problems with diversity ‘were completely answerable to the staff and their willingness to do their research properly.’ According to them, responsibility for engaging with different stakeholders – being wary of pressure groups, for example, and the extent to which they are representative and helpful in the examination process – lies with committee staff, committee specialists and advisers in particular.

The Outreach team has published pamphlets outlining best practice suggestions and offering the team’s services, referring to their work as ‘internal selling.’ Yet, without any targets or comprehensive evaluation, ‘it is completely up to the select committees whether they take it up or not.’ Despite the Liaison Committee report, published in 2015, which concluded that ‘committee members and particularly Chairs must embrace public engagement,’¹⁶² then, public engagement has continued to be treated as an additional feature of committee work. It is not yet mandatory – it does not feature in the standing orders. With a few exceptions, select committee personnel still have to be encouraged and persuaded to improve their public engagement activities.¹⁶³ Members of the Outreach team and media team were steadfast in their argument that the ‘initiative doesn’t come from committees themselves most of the time.’

These concerns echo the arguments made in the 1970s and 1980s. Nixon’s study revealed that engagement was consistently pushed off committee agendas. Ian Marsh also observed in 1986 that ‘engagement with interest groups is not a routine aspect of committee work,’ concluding that ‘it is [instead] an ancillary, *ad hoc* aspect of each inquiry.’¹⁶⁴ Although his work highlighted efforts to engage from a few committees – the Education Committee in particular – Marsh argued that despite this, ‘outreach [...] has been *ad hoc* and unsystematic.’ In the instances that interest groups were engaged in inquiries, it was through their own initiative.¹⁶⁵

However, although the same concerns have been around for over forty years, the establishment of the Outreach team does suggest the committee system may be entering a new era of successful engagement. It is, admittedly, early days, and the impact of this shift may not yet be perceptible. Respondents were also keen to note that the more the team has worked with committees, the more interest has been shown, and there has been a gradual increase in the uptake of their work. ‘Committee staff are slowly becoming more proactive in this respect.’ Without set guidelines or targets in place, however, committees are still free to engage in – or neglect – participation work when and how it suits them. Despite an increase in engagement activities over the last five to ten

162 Liaison Committee, ‘Building public engagement: Options for developing outreach’, First Special Report of Session 2015-16, HC 470, Nov., 2015 [accessed via: <https://publications.parliament.uk/pa/cm201516/cmsselect/cmliain/470/470.pdf> (17/10/17)]

163 One notable exception to this was in the suicide prevention inquiry, conducted by the Health Committee, when the Chair Sarah Wollaston contacted the Outreach team for help and guidance in contacting different types of witnesses.

164 I. Marsh, *Policy Making in a Three Party System: Committees, Coalitions and Parliament*, London: Methuen, 1986, p. 165.

165 I. Marsh, *Policy Making in a Three Party System: Committees, Coalitions and Parliament*, London: Methuen, 1986, p. 177.

years, public participation and representation still remains amorphous, performed on an *ad hoc* basis.

Accessibility of the select committee system

Respondents were divided over the question of accessibility. A few highlighted improvements to accessibility as a recent development to the select committee system. The chair of the Education Committee was confident that it reached out to vulnerable peoples, providing instances of adaptations of the processes. In the Committee's recent work into foster care, for instance, it arranged private witness evidence sessions where necessary, based on an understanding that the 'horseshoe public room arrangements are not always the most appropriate.' This example was cited to challenge the recent criticisms made by academics, who have maintained that the environment is not always suitable for witnesses. However, they did acknowledge that practice 'is presumably dependent on the specific select committees,' and 'practice varies.' (Again, this demonstrates the lack of consistency between committees, and supports the idea of a need for better communication and sharing of best practice).

Several references were also made to rising numbers of evidence sessions held off the parliamentary estate. The Outreach team has focused its efforts on improving the dependency on formal evidence sessions. As part of its work with a growing number of select committees, it 'has thought carefully about the types of venues used for events and sessions.' As a result, committees have started to experiment more with location. The Women and Equalities Committee (WEC) has been particularly receptive to this approach; in a recent evidence session, members of the WEC sat alternating with witnesses around an informal table.

Yet, these instances were provided as exceptions. Members of the Outreach team admitted that despite evidence of best practice in recent months, 'a lot more could still be done to improve in this area.' They supported the claims made by other respondents that 'the formal setting often presents a huge barrier, and more improvements could be made to evidence sessions.'

These concerns echo the conclusions of those looking at the select committees of the 1960s, 1970s and 1980s. Writing retrospectively in 1970, H. V. Wiseman purported that the 1960s had witnessed the establishment of a new type of select committee (i.e. the Race Relations and Immigration Committee) that had started using different types of witness. In light of this, Wiseman questioned the suitability of the methodology and existing procedural arrangements of the committee system, suggesting that attention needed to be given to finding more suitable ways of gathering evidence.¹⁶⁶ Similarly, Nixon used her study of committees in the early 1980s to suggest that 'the very formality of the Select Committee procedure inhibits rather than encourages contributions from practitioners in the field.'¹⁶⁷ Therefore, criticism of these shortcomings were already being voiced less than a decade after the 1979 reforms. Yet, nearly forty years later, similar reservations continue to be held.

166 H. V. Wiseman, 'The New Specialised Committees', in A. H. Hanson and B. Crick (eds.), *The Commons in Transition*, Study of Parliament Group, London: Fontana, 1970, p. 214.

167 J. Nixon, 'Evaluation Select Committees and Proposals for Alternating Perspective,' *Policy and Politics*, 14, 4, 1986, p. 427.

‘Making a splash:’¹⁶⁸ The role of the media

Respondents referred to media interaction as another area of committee work that has transformed in the last few years. The media has made possible advances in public engagement and representation. They are now an ingrained and accepted part of committee work. Respondents identified three main roles undertaken by the media: to help inform the public of the work of select committees; to put pressure on the government to respond to select committee work; and to educate the public on the role of the government.

It is clear that committee personnel now incorporate media considerations into their decision-making processes, particularly when planning possible inquiries. As detailed by two select committee media officers, for each topic suggestion, a media strategy is created. This involves consideration of opportunities for outreach, the types of people and stakeholders affected, those that might be hard to reach, and the most useful types of media forums and techniques to be utilised and aware of.

The idea of an important relationship existing between select committees and the media, however, is not entirely new. An exploration of past select committees reveals a longstanding relationship between select committees and the press. Online newspaper archives show evidence of press coverage in the mid-eighteenth century (and such references to parliamentary committees most likely stretch back further still). Select committee work was covered in both national and local publications, indicating that there was public interest in the work undertaken in committees at the time. This is not to say that there was widespread knowledge or understanding of the committee system, but that there was enough interest to justify such coverage.¹⁶⁹ The notion that select committees play a part in the public dissemination of knowledge of government work can also be traced back. In the 1960s, Bernard Crick advocated the establishment of departmental committees in the context of parliamentary commitment to public engagement and knowledge. His study *The Reform of Parliament* of 1968 reinforced the role of Parliament in ‘airing and clarifying matters on which the public are concerned and [...] in anticipating the matters on which the public are likely to become concerned.’¹⁷⁰ In the 1980s, media coverage was seen as a means of providing for a more ‘open government’.¹⁷¹

Increase in the use of the media; a shift in the relationship between select committees and the media

The interviewees identified a recent growth in the use of the media by select committees, and the media coverage of committee work. They maintained that the environment has become ‘far more information and media focused’ – especially those who had worked within the committee system for longer than fifteen years. This shift has manifested in the establishment and expansion of the media department. Respondents put this down partly to the nature of issues and work undertaken in recent years. Several referred to the more controversial cases involving private corporations. Another member of the media team also suggested that the absence of strong opposition in the Chambers in the last Parliament has also resulted in greater interest from the media. Select com-

168 *The Telegraph*, 25 Jul., 2016.

169 See eg: ‘London’, *The Caledonian Mercury*, Edinburgh, May 29, 1769.

170 B. Crick, *The Reform of Parliament: The crisis of British Government in the 1960s*, 2nd edition, London: Weidenfeld and Nicolson, 1968, p. 239.

171 R. Thomas, ‘The Secrecy and Freedom of Information Debates in Britain’, *Government and Opposition*, 17, 1982, pp. 293-311.

mittees have also benefited from technological advances in much the same way as other public and private organisations and corporations. Going further back, the scrutiny of the financial crisis and banking standards were also mentioned as examples of select committees seeking to reflect and develop on public outrage at public scandals.

The present-day relationship between the media (taken broadly to encompass newspapers, magazines, printed press, online blogs, articles, websites, and social media forums) and select committees works both ways. Select committees appeal to the media, and media sources are equally as pro-active in documenting committee work and encouraging committees to engage. Respondents referred to the media as a ‘promotional device’. Numerous examples were provided of instances in which committee members have initiated contact with the media, consciously aware of the resulting media interest in their work. In Chris Mullin’s diary *A View from the Foothills*, Mullin commented on the first few sessions he oversaw as chair of the Home Affairs Committee (HAC). On Tuesday 17 September, 2002, Mullin wrote: ‘The great thing about conducting hearings when Parliament is not sitting is that we have everyone’s full attention. [...] Also, the media tend to take more interest.’¹⁷² The media response factored into Mullin’s decision to hold sittings in September. This serves as an example of how select committee practice can be altered in line with predicted responses of the press. Mullin’s account also implies that the media plays a part in the success and profile of a committee’s work.

A shift has taken place in the relationship between the media and the committee system. A look at the longer historical development of select committees reveals a more turbulent relationship between the press and select committees. Initial interaction with the media – which was dominated by the printed press until the latter half of the twentieth century – was typically one-sided: committees largely determined the terms of engagement. There were periods in which the press demanded greater access to committees. During the 1950s, arguments were made for greater transparency of select committee work. Articles published in national newspapers at the time complained that members of the press were increasingly being treated as ‘strangers’. In an article published in *The Times* in May 1958, for example, a journalist criticised the lack of freedom afforded to the press: ‘newspapers had to wait more than nine moments before they could inform their readers of the testimony that had been given on a matter of extreme interest and considerable and social importance [...] by the Select Committee on the Obscene Publications Bill.’¹⁷³ Central to the argument for greater access was the notion that select committees were not sufficiently transparent. The press appealed to the needs of the public to be better informed.

Between the mid-twentieth century and turn of the twenty-first century, relations between the media and committees shifted. Press research reveals that the media was interested in reporting the work of select committees, but not how committees responded to this. At some point during the development of the committee system, committee practitioners became increasingly interested in this coverage. Political commentary of the 1980s recognised the importance of attracting the attention of the media. Writing in Gavin Drewry’s comprehensive study, *The New Select Committees*, Philip Giddings accepted that ‘Publicity is one of the few levers that committees have in the process of policy-making and administration.’¹⁷⁴

172 C. Mullin, *A View from the Foothills: The Diaries of Chris Mullin*, London: Profile Books Ltd., 2009, p. 310, Tues., 17 Sept., 2002.

173 *The Times*, 29 May 1958.

174 P. Giddings, ‘What has been achieved?’ in G. Drewry (ed.), *The New Select Committees*, 1st edn., Oxford: Clarendon Press, 1985, p. 379.

Significantly, Giddings noted ‘The concern of the committees about lack of coverage in the national media.’¹⁷⁵ At the time of publication, in 1985, academics still hoped that committees would begin to develop their existing relationships with the media, and capitalise upon the potential for maximising publicity and – ultimately – elevate their in-house and public profiles. Almost ten years after the establishment of the departmental committees, press interest in the select committee system was by no means as comprehensive or elaborate as it is in the present-day. Past examples of committee work therefore reinforce the premise put forward by respondents that coverage has become far more extensive during their current periods of employment.

Placed within the context of past interactions between the press and select committees, then, it is clear that there has been a rise in the use of the media by select committees. The increased use of the media has of course been made possible by recent technological advances. Yet this trend is more than just a response to the proliferation of media outlets and online resources now available. There has always been media interest in the committee system, but this relationship has become reciprocal; committees frequently encourage media attention. It is not only an accepted way of informing the public, but also a recognised means of engaging with stakeholders, and putting pressure on the government to respond to committee work.

Headline-grabbing

Respondents also suggested that there has been a noticeable rise in the number of ‘headline-grabbing’ cases in the last parliamentary session. They referred to inquiries ‘intentionally chosen for being controversial so that they would get maximum attention from the media and captivate the public.’ Further to this, they argued that committees have been using the media ‘more and more’ to put pressure on the government ‘to respond to divisive and contentious topics that the government wouldn’t otherwise want to get involved in.’ Inquiries into tax avoidance, energy supplies and businesses such as British Home Stores and Sports Direct were cited as examples of committees ‘taking on vested interests that many members of the public feel are abusing their position or acting unfairly.’ Incidents recognised as evidence of a growing trend in committees seeking an enhanced public profile, making it more difficult to be ignored by the government (and increasingly outside public and private bodies). This argument raises questions about the adequacy of government response to the work of committees, a subject considered in more detail elsewhere in this report.

The premise that committees have increasingly sought controversial topics with the intention of raising public profile and ‘forcing the government to listen’ is well-documented. Opinions on the merits of attention seeking differ. Writing at the time of extensive media interest in the Sir Philip Green case in 2016, a journalist for *The Telegraph* criticised the ‘Noise generated by the launch of the report.’¹⁷⁶ They described it as ‘full of sound and fury, signifying nothing. That’s what you see if you watch enough select committees – it’s grandstanding. MPs who think that it is all about them and the splash they make on the day; their aim is not to get it right but to get on the news.’¹⁷⁷ Doubts have thus been raised about the extent to which controversial inquiries that appeal to the media are as effective in their contributions to the scrutiny of the government and inciting reflection and change, as they are in prompting media responses. Similar concerns were raised by

175 P. Giddings, ‘What has been achieved?’ in G. Drewry (ed.), *The New Select Committees*, 1st edn., Oxford: Clarendon Press, 1985, p. 378.

176 *The Telegraph*, 25 Jul., 2016.

177 *The Telegraph*, 25 Jul., 2016.

Giddings in 1985. He correctly prophesied that growing attention to press reactions ‘is bound to mean that the froth rather than the substance of committee work is what is generally reported.’¹⁷⁸

Conversely, Nick Goodway of the *Evening Standard* welcomed instances of committee ‘showboating’ as a sign of ‘welcome maturity:’ ‘At last, our Parliamentary select committees are [...] gaining the gravitas and hopefully the teeth of their equivalent House committees in the US Senate.’¹⁷⁹ Like Goodway, Dame Margaret Hodge – former chair of the Public Accounts Committee and Labour Member of Parliament – looked upon publicity seeking favourably, though she saw it more as a response to weakness than a sign of strength. She was quoted in *The Financial Times* in 2016 reflecting on her position as chair, stating that ‘Grandstanding is one of our weapons.’¹⁸⁰ Significantly, she had made this observation to support her wider concerns about the ‘terribly limited’ power of select committees. Hodge maintained that committee personnel are forced to ‘use the theatre of the committee to draw attention to the issues we investigate – we are not grandstanding for its own sake.’¹⁸¹ These arguments extend to the use of the media more generally.

No such examples of ‘grandstanding’ stand out in the historical sources – at least not to this extent. It appears to mark a distinct shift in committee rhetoric. Some see this partly as a reflection of a general societal trend; the media and technology has a firmly established role in all sectors of modern-day Britain. In this sense, select committees have simply ‘jumped on the bandwagon of a media-frenzied age,’ as one respondent summated. The use of the media has become more socially acceptable and expected. Second, captivating the attention of the ‘media’ (and the public) has become easier in many respects, thanks to developments in technology. Third, several respondents claimed that the ability of select committee chairs to prioritise inquiries that appeal to the mainstream media audiences has been ‘bolstered by the new authority of chairs elected by the whole House, since Wright reforms in 2010.’ It can be argued, thus, that it has not only become easier for committees to appeal to media interest, but that doing so has also become an institutionalised part of committee work.

Different types of media

One of the most obvious developments in the media output and input of committees has been in the types of media utilised. The use of social media in recent years clearly marks a distinct departure from previous practice. Advances in technology – and the widespread use and accessibility of these forums - have transformed the modes of communication available. A number of respondents cited several examples of the use of social media by select committees over the last parliamentary session.

In a growing number of cases, the impetus for social media initiatives has come from committees themselves. Liaising with their designated media officers, committees have initiated contact with stakeholders through social media forums. The Education Committee, for instance, took advantage of its Twitter followers to encourage members of the public to ask questions to be answered by Iain Duncan Smith. This form of ‘crowdsourcing’ is just one of many ways in which social media is increasingly being used as a tool of public engagement and interaction. As part of its inquiry into ‘The future of rail: Improving the Rail Passenger Experience’, the Transport

178 P. Giddings, ‘What has been achieved?’ in G. Drewry (ed.), *The New Select Committees*, 1st edn., Oxford: Clarendon Press, 1985, p. 379.

179 *Evening Standard*, 21 Jun., 2016

180 *The Financial Times*, 10 May, 2016.

181 *The Financial Times*, 10 May, 2016.

Committee also encouraged stakeholders to get involved using the Committee’s Twitter account. According to the Committee’s media officer, thousands wrote in, ‘and not just to complain about the Southern rail crisis. The Twitter account also produced lots of helpful interactions with those affected.’ Of course, written submissions have always provided similar engagement from stakeholders, but the use of forums such as Twitter provides a ‘far more accessible and easy way of sending in submissions. The Committee has subsequently heard from far more people, probably from a wider net of people than they normally would do.’ This supports the conclusions put forward in the Reuters Institute Digital News Report 2016, published by the Reuters Institute for the Study of Journalism.¹⁸² Committee use of social media indicates an awareness of how the majority of people now access the news, relying on smartphones and websites as well – or instead of – the printed press. Indeed, the media officer for the Education Committee argued that the BBC news online website, the Mail online and the Guardian online are currently amongst the most effective websites for select committee coverage. The BBC News online and the Guardian online both live-tweeted the appearance of David Cameron – at the time speaking in his capacity as Prime Minister – in front of the Liaison Committee. The use of social media forums thus works in diverse ways.

There is a big difference between national media coverage and parliamentary coverage. ‘Success’ in terms of numbers and online hits on the parliamentary website does not necessarily translate on a national scale. The Education, Transport and Communities and Local Government Committees, for example, are probably the most successful committees on their Twitter accounts in terms of the number of followers and responses, but activity on these accounts are still limited when compared to the more mainstream national accounts. However, the use of social media is still relatively new. The results of the interviews suggest that committee time and resources are being allocated to social media development; this area of committee work is set to expand in coming years.

As well as the establishment and expansion of social media, select committees have also begun to utilise data from other sources. There are several new committees and bodies that committees can work with to secure even more evidence for inquiries. In particular, the newly-established Petitions Committee has been a useful source of information, and a number of select committees have taken advantage of the Petitions Committee’s data. Signatories of petitions provide contact details, from which a database of existing contacts of people engaged in and potentially affected by a number of committee topics of interest can be created. Lists of contacts and witnesses approached by the Outreach team also provide committees with additional sources that can be used for upcoming inquiries and calls for evidence. Yet, there is scope for further development. Although these tools and data sets now exist, one respondent called for greater efforts at coordination ‘to ensure that committees really make the most out of social media and new outward-facing bodies and take advantage of these opportunities.’

Historically speaking, the use of social media represents a new era of committee engagement. Social media has improved committee interaction with the public. Past committees were aware of the need to find new modes of communication. An article published in *The Spectator* in 1856 raised concerns about the accessibility of committee publications. The author described the report of a select committee as ‘prolix, entangled, incoherent, crude – the absurd mingled with the rational [...]’ The author criticised this style of committee report for ‘deter[ing] all but the very

¹⁸² Reuters Institute for the Study of Journalism, ‘Reuters Institute Digital News Report 2016’, Oxford: University of Oxford, 2016 [accessed via: <https://reutersinstitute.politics.ox.ac.uk/sites/default/files/Digital-News-Report-2016.pdf> (20/02/17)]

few most deeply interested from reading it.’¹⁸³ Another article written a year later in February 1857 called for a reform of the reports published by committees: ‘The Select Committee acts as the deputy of the Grand Inquest of the Nation, encl. in that capacity its duty is twofold – it should collect information, and it should supply to Parliament and the public that information in an available and useful form.’¹⁸⁴ Over a century later, in the 1980s, similar complaints were made by political commentators writing about the coverage of select committee work. Nixon observed that ‘centralist assumptions that knowledge about the work of Select Committees [...] ripples out *de facto* towards the periphery and reaches all levels must be questioned.’¹⁸⁵ She concluded that ‘the dissemination of information differed widely.’¹⁸⁶ The recent increase in the use of different media forms has widened the net of committee influence, particularly in relation to geographical reach, thus addressing past concerns about limited knowledge of committee work at local levels.¹⁸⁷

The use of social media in recent years has arguably gone some way in addressing these long-standing concerns about the accessibility of committee communications. There is undoubtedly scope for further improvements, but the use of forums such as Twitter and Facebook represents a change and trend towards greater accessibility and public appeal of committees.

Differences between committees

Just as reservations have been made in relation to public engagement activities, similar arguments have been voiced concerning the varying degrees of social media coverage amongst select committees. While some committees ‘do particularly well with media coverage, choosing inquiries that impact on the public consciousness, there are others that don’t bother to engage in this way,’ as observed by a committee media officer.

Several respondents referred to specific committees known for media engagement. The Home Affairs Committee (HAC) under its former chairmanship in particular was mentioned for prioritising media outreach work. In contrast, the Welsh Affairs Committee, for instance, was noted for ‘its preference for steady reports instead of media-hogging.’ The variety of different approaches to media is partly explained by the fact that some committees tend to focus on subject matters that do not lend themselves as well to media coverage. According to its media officer, the International Development Committee (IDC) concentrates on country-specific reports which don’t appeal to mainstream politics in the same way as more universal issues such as education, and are thus more difficult issues to place in the media. On the other hand, cases such as the Volkswagen inquiry undertaken by the Transport Committee have huge popular appeal.

The select committee system operates on a case by case individual basis – use of the media depends in part on the type of topic selected, and the expected degree of public and press interest. However, some committees are more inclined to use social media than others irrespective of subject. This approach to the use of the media illustrates the scope for freedom and room for manoeuvrability in the current committee system. Significantly, this is a freedom that one respondent argued ‘doesn’t tend to exist to the same degree in other parts of government or parliament. It is specific to committees, and is key to them bringing different perspectives on issues of the day.’

183 ‘Parliamentary Inquiries’, *The Spectator*, 11 Oct., 1856, p. 11.

184 ‘Mr Gladstone on Select Committees’, *The Spectator*, 7 Feb., 1857, p. 15.

185 J. Nixon, ‘Evaluating Select Committees and Proposals for Alternating Perspective’, *Policy and Politics*, 14, 14, 1986, p. 434.

186 J. Nixon, ‘Evaluating Select Committees and Proposals for Alternating Perspective’, *Policy and Politics*, 14, 14, 1986, p. 434.

187 J. Nixon, ‘Evaluating Select Committees and Proposals for Alternating Perspective’, *Policy and Politics*, 14, 14, 1986, p. 426.

This degree of flexibility has arguably set in motion a trend into looking at media-friendly cases. Respondents referred to growing concerns about the use of companies like ASOS and Uber, for example. It enables them to pinpoint areas of contention that might warrant further investigation.

To conclude, select committees have always maintained some form of interaction with the media. Previously, the relationship was mainly one-sided. Recently, the media has been incorporated into the core work of committees. Admittedly, for some more than others; degrees of media interaction vary between committees. Committees are also now more likely to initiate and encourage contact with the media, as a means of appealing for information, disseminating information, and engaging with 'hard-to-reach' stakeholders.

Conclusion

Conclusions and recommendations

House of Commons select committees are crucial to the fulfilment of a key aspect of the United Kingdom (UK) constitution: the holding to account of the executive by Parliament. Since they are part of the elected component of Parliament, they have a special part to play in ensuring that democratic standards are adhered to. Select committees also play a prominent role in public political discourse. Changes and challenges to the system are therefore of manifest constitutional significance.

Relationship with the executive

Present-day concerns about the status and power of select committees in their relationship with the executive are longstanding, but there has been a change in government attitudes to committee scrutiny. Criticism is not necessarily encouraged, but it has been accepted that select committees will probe into more controversial issues.

Recurring complaints over issues of timeliness and quality of government responses to committee reports signify room for improvement.¹⁸⁸ Some respondents suggested that select committees might be more effective if they had greater powers for compelling government to respond appropriately, particularly in instances where the government chooses not to follow through with committee recommendations.

Pre-appointment hearings for major public appointments are a source of concern. Although committees now have the right to hold such hearings, and evidence indicates committees have some say in the decision-making process, they still do not have the ability to veto a candidate they deem unsuitable.¹⁸⁹

Several interviewees suggested Commons committees could take an enhanced role in the legislative process, particularly in pre-legislative scrutiny. They maintained that committees cannot purport to hold the government to account without increasing the amount of legislative scrutiny undertaken. Citing the example of the European Union (EU) referendum of 23 June 2016, it was argued that committees should have had a greater say in the ensuring the government had effective contingency plans in place. Despite similar proposals being put forward by the Modernisation Committee in 2002, and endorsed by the Liaison Committee, little has been done in this area.¹⁹⁰

Select committees still lack a coherent framework that could be utilised in uncertain circumstances – such as failure to comply, or failure to deliver satisfactory evidence. A number of attempts have already been made to rectify this. In response to calls for further action, the Committee of Privileges announced its inquiry into the Conduct of Witnesses before a Select Committee before the last election that is now being resumed. It is hoped that the Committee considers the

188 Liaison Committee, 'The work of select committees in 2007-08', Liaison Committee, 2008 [accessed via: <https://www.publications.parliament.uk/pa/cm200809/cmselect/cmliaisn/291/29106.htm#a32> (25/03/17)]

189 R. Hazell, M. Chalmers, and M. Russell, 'Pre-appointment scrutiny hearings in the British House of Commons: All bark, or some bite?', *Journal of Legislative Studies*, 18, 2, 2012, p. 222.

190 Liaison Committee, 'Select Committees: Modernisation Proposals', HC 692, 2001-02, paras 8-9.

suggestions put forward in existing literature – for example, the three models proposed by Gordon and Street in 2012.¹⁹¹

Proposals intended to facilitate a better working relationship between select committees and government have already been made. They include the idea of increasing the number of formal and informal meetings between committee personnel and government representatives. In 2015, Hannah White suggested that committee chairs could take on greater responsibility for establishing new channels with government officials, through the Leader of the House, which would also help to establish feedback mechanisms.

The current system could also be improved by considering the international framework. In New Zealand, the processes for treatment of witnesses are set out in Standing Orders. In Australia, both Houses can fine or imprison individuals who have committed contempt, under the Parliamentary Privileges Act of 1987.

Ability to compel witnesses

Although select committees have powers to send for persons, papers and records,¹⁹² there are barriers to their realising these powers with respect to the government.¹⁹³ The ability of the House to enforce its powers in the face of reluctant witnesses, has been questioned in the wake of rare – but significant – occasions where witnesses have declined invitations to evidence sessions, or failed to give truthful evidence. Calls for changes to Standing Orders to clarify parliamentary powers have been made on several occasions recently.¹⁹⁴

The ‘Memorandum from the Clerk of the House’, published by the Privileges Committee in February 2017, considers a number of solutions.¹⁹⁵ Amy Street and Richard Gordon have also suggested a number of possible reforms.¹⁹⁶ However, these models for change carry the risk of altering the relationship between select committees and Parliament, affecting parliamentary privilege, not to mention Parliament’s relationship with the courts. Prospective changes to the Standing Orders – perhaps to impose penalties for contempt – risk contravening the European Convention on Human Rights and Article 9 of the UK Bill of Rights.¹⁹⁷ It could be that previous concerns raised in the late 1950s and 1960s that more formalised powers to force the attendance of witnesses would usurp the powers of the government, and ‘impede rather than aid the basic political function of Parliament’ still stand.¹⁹⁸

Status of committees and of chairs

The premise that committees now offer an alternative career focus actually has a much longer historical currency than many assume, but the standing of committees and members has undoubt-

191 R. Gordon and A. Street, ‘Select committees and coercive powers - clarity or confusion?’, Constitution Society, 2012, p. 74.

192 Erskine May, *Parliamentary Practice*, 23rd ed., p. 758.

193 See eg: Liaison Committee, ‘Select committee effectiveness, resources and powers’, Liaison Committee, 2008 [accessed via: <https://www.publications.parliament.uk/pa/cm201213/cmselect/cmliaisn/697/69711.htm> (25/-3/17)]

194 Joint Committee on Parliamentary Privilege, 2013.; Chris Bryant, Business Questions, HC Deb 5 May 2016, cc310-311; c312, in SN06208, House of Commons Library, p. 26.

195 Joint Committee, Cm 8318, 2013, in ‘Written evidence from the Clerk of the House of Commons (SEL0001), Feb., 2017 [accessed via: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/committee-of-privileges/select-committee-powers/written/48435.html> (24/03/17)]

196 R. Gordon and A. Street, ‘Select committees and coercive powers - clarity or confusion?’, Constitution Society, 2012, p. 74.

197 For more detailed consideration of these points, see R. Gordon and A. Street, ‘Select committees and coercive powers - clarity or confusion?’, Constitution Society, 2012, p. 10.

198 Procedure Committee, HC 92, 1958-59, para 47.; R. Butt, *The Power of Parliament*, 2nd ed., 1969, p. 350.

edly been elevated since the Wright reforms of 2010. However, concerns about attendance and the notion that some select committee members do not take their positions seriously enough persist. This is particularly problematic when placed within the context of ever-increasing demands placed on MPs.

Respondents also suggested there has been an increase in the influence and power of chairs since 2010. Respondents felt that, more than ever, the success of select committee work hinges on the personalities of chairs and members, and their personal commitments to the future of the committee. Some argued that committee chairs are offered ‘too much power’ – though they were unsure where constraints should and could come from. In many ways, this scope for manoeuvrability is welcome. It enables chairs to follow topical issues and provides committees to be responsive. However, there are potential legitimacy issues with dangers of ‘headline chasing’ and the use of celebrity witnesses.

Is the current system ‘too reliant on individuals,’ as some suggested? Should there be some kind of restrictions set in place to police committees and prevent problems from arising? It is potentially problematic that there are no measures in place safeguarding the limits of chairs. To address this, the Liaison Committee could play a greater role in overseeing the consistency of select committees and the conduct of their personnel.

Committee terms of reference

Arguments were put forward that select committees are stretching their terms of reference; prioritising policy scrutiny ahead of expenditure and administration. In addition, evidence suggests that the types of inquiries held over the last few parliaments have been more controversial. Select committees have become bolder in their choice of topic, and less afraid of exploring areas that are politically divisive.

Room for manoeuvrability allows committees to prioritise areas which are in need of greater attention. However, concerns were raised that this variability has affected committees’ abilities to undertake their main responsibilities: ‘Select committees are now taking on too many issues, and as a result often forgetting that their main role is government accountability.’ Interviewees referred to a lack of clear focus on the details of policies, and a disconnection from both pre-legislative and post-legislative scrutiny – in part, a result of a lack of expertise and ability in these areas. (This is in spite of the 2012 revisions to the core tasks, which were made ‘in order to make scrutiny more systematic.’)¹⁹⁹

There is a tension between those who claim committee workload is ‘too large’ – to the detriment of fulfilling their core tasks – and those who think they should be doing more, particularly in post-legislative and delegated legislative scrutiny. A further defence of committee ‘malleability’ is that it has enabled committees to ‘take on the jobs that need doing, picking up the slack and filling in the gaps.’ A common justification offered for the investigation into Sir Philip Green was the idea that ‘no other body or organisation would have been able to look into this and nothing would have been done about it.’ While there is historical precedence for committees taking on issues on an ad hoc basis, it is constitutionally problematic that the current standing orders do not fully reflect the reality of work being undertaken by select committees.

¹⁹⁹ Hansard Society Commission on Parliamentary Scrutiny, *The Challenge for Parliament: Making Government Accountable*, Hansard Society, Jun., 2001, para. 3.25.

Select committees are now more confident in dealing with politically contentious and divisive issues. Some saw committees taking on an agenda-setting role, in the context of an alleged demise of public trust and loyalty in the party system. They saw select committees as vehicles for new issues to get through to government. If this is happening, should this be better reflected in the Standing Orders?

Despite a recent focus on policy-based scrutiny and matters that attract public attention, the public holds no definite place in the process of topic selection. As part of its 2012 inquiry, the Liaison Committee suggested that the selection of committee topics could be better utilised for public engagement. There are isolated yet rare precedents for this. It encouraged committees to incorporate public engagement as part of agenda setting, to provide much-needed orientation and strategic planning.

The debate about the balance between flexibility and consistency has provenance. The Modernisation Committee stated in 2002 that committees ‘should retain the freedom to initiate inquiries according to the interests of the committee or to respond to emerging issues.’ As it stands, committees are urged to prepare their annual reports in line with the revised core tasks,²⁰⁰ and set out clear objectives at the beginning of each inquiry. At the end of the 2010-15 Parliament, committees were encouraged either to produce their own legacy reports – as done in the Scottish Parliament – or submit a memorandum to be included with the Liaison Committee’s own legacy report. However, past calls for further guidelines have been rejected. The Liaison Committee has concluded that it is not its task to impose on other committees how they should interpret their role.²⁰¹

Should there be better safeguards in place to prevent committees ‘from overstepping the mark?’ As observed by respondents, this would help to prevent committees from taking on ‘issues that are favoured by the public but are more often than not too broad, too technical and just not suitable.

To address some of these issues, committees would benefit from a more comprehensive and detailed method of evaluation. A new system, dependent upon an initial set of clear aims and objectives for each parliamentary session, would hopefully ensure annual reports become more than a ‘ticking boxes’ exercise. The Liaison Committee has recently reiterated its 2012 recommendation that committees need to be clearer about their objectives,²⁰² encouraging committees to set agendas for each parliamentary session. This paper supports this proposal.

Though impact evaluation has become more advanced, there is still an emphasis on immediate output and impact, rather than on longer-time outcomes.²⁰³ A focus on broader aims and objectives would be advisable. A few committees have already adopted a new approach to topic selection, establishing an overarching ‘theme’ from which all inquiries of the coming Parliament are then chosen. More committees should take the advice of the Liaison Committee on board.

In terms of topic selection, very few committees have embraced the Liaison Committee’s 2012

200 Liaison Committee, *Annual Report 2002*, 1 Apr., 2003, HC 558 2002-03, para. 16, in ‘The Departmental Select Committee System’, Research Paper 09/55, House of Commons Library, Jun., 2009, pp. 17-18.

201 Liaison Committee, *Select committee effectiveness, resources and powers*, 8 November 2012, HC 697 2012- 13, para 65 in SN03161

202 Liaison Committee, ‘Select committee effectiveness, resources and powers’, Liaison Committee, 2008 [accessed via: <https://www.publications.parliament.uk/pa/cm201213/cmselect/cmliaisn/697/69711.htm> (25/-3/17)]

203 H. White, ‘Select Committees under Scrutiny: the impact of parliamentary committee inquiries on government’, Institute for Government, 2015, pp. 32-33 [accessed via: <https://www.instituteforgovernment.org.uk/sites/default/files/publications/Under%20scrutiny%20final.pdf> (24/03/17)]

recommendation for stakeholder involvement. One respondent referred to a public survey conducted by the National Assembly for Wales encouraging members of the public to put forward ideas for prospective topics of inquiries. Greater emphasis could be placed on ensuring that more committees use similar approaches.

Scrutiny beyond the Whitehall core

Evidence suggests that committees have extended their spheres of interest outside of the core governmental departments and agencies. While there is historical precedence for such activities, there has been a definite shift in the *types* of individuals and organisations that have been held to account. Cases such as the British Home Stores and Sports Direct inquiries have marked a new era of select committee scrutiny.

Constraining or altering the terms of reference could not be done without ‘losing the strengths of the flexibility afforded to the select committees.’ A flexibility which, they maintained, is a ‘massive asset’ to the current system.

Other suggestions included more comprehensive oversight and leadership to be undertaken by the Liaison Committee, to ‘reign committees in and ensure cases like the Philip Green one aren’t taken too far.’ Alarming, some respondents admitted they could not answer to whom and how select committees are held accountable. There is clearly scope for more comprehensive safeguarding mechanisms.

More specific guidelines could be introduced in response to the move towards scrutiny of the private sector. Best practice examples include the guidelines and restrictions that were retrospectively introduced in response to the establishment of the Select Committee on Nationalised Industries (SCNI) in the 1950s, when it was agreed that the SCNI would inform Parliament ‘not about the general policy and practice of the nationalised industries’, as was proposed, but about their ‘current policy and practice.’ Having established that a change has recently taken place with the increased interest in the private sector, it is reasonable for a more systematic approach to be devised.

Proposals from respondents also included further guidelines on the treatment and protection of witnesses. References were made to witnesses personally hurt by references to them in committee reports. This relates to concerns about a general lack of training in the questioning of witnesses by select committee members. Regrettably, remarks made about the treatment of select committee witnesses documented in *The Spectator* in 1898,²⁰⁴ and more vehemently during discussions about the work of the SCNI in the mid-1950s, still resonate.

The Hutton Inquiry of 2003 examined the way in which committees conduct their questioning; the effect of the media on witnesses, the use of questioning techniques, and the effect of cameras on public sessions. Some of the questions put forward in its subsequent report remain unanswered and are worth considering: ‘could Members plan more, or make use of guidance or forensic training? Use of Counsel for part of the questioning? Removal of cameras for some public sessions – but in what circumstances? Would it damage the principle of transparency? Should the practice of reporting evidence in private be reviewed?’ Present-day committees would do well to re-consider these questions.

Select committees and the public

The public profile of select committees has risen over the last few parliamentary sessions, though historical evidence challenges the premise that recent public engagement marks a completely new venture. Change is not found in the fact that select committees are now undertaking public engagement activities, but rather in the proliferation of channels currently available to them, and the level of pressure felt by committees to perform such tasks. This is part of a general parliamentary trend in being more representative.

However, on the whole, the types of people currently consulted have remained the same. There is still considerable room for improvement for committees to reach beyond the ‘usual suspects’. Efforts to improve public engagement are inchoate and inconsistent. The establishment of the Outreach team has provided a newfound impetus to address provisions for more effective engagement activities, but as of yet, more work needs to be done to ensure there is comprehensive commitment to engagement across the select committee system.

The accessibility of select committees and the provisions currently in place for evidence sessions and witness participation have also been criticised. There is scope for further changes in this area, if the reservations held by commentators nearly forty years ago are to be addressed.

It is worth asking whether the recent efforts and plans to continue improving public engagement have a positive impact on scrutiny work. Practitioners today are still wary of attaching great importance to the use of select committees as forums for public discussions. As with all committee work, there are difficulties in analysing the tangible difference made by shifts in practice, partly because of the overarching problems with what ‘success’ in the role of scrutiny looks like.

Responses to the question were mixed. Some argued it has improved the level of scrutiny performed by committee members and encourages a more diverse range of future stakeholders. Yet the majority of respondents were more hesitant in attributing any significant improvement to scrutiny through engagement exercises. As it stands, many regretted that ‘public engagement is still probably seen more as a ticking off exercise than actually a useful activity for committees.’ A few suggested that the recent emphasis on engagement has actually hindered the scrutiny process, serving to distract rather than compliment committee responsibilities.

Concerns were also extended to the reliability and accuracy of evidence. The risk that select committees could be used by pressure groups as a means of advancing their own agendas is a longstanding concern.²⁰⁴ Are there safeguards in place to ensure that pressure groups are not taking advantage of the select committee system to push their own agendas? There is nothing to stop select committees turning to existing contacts – particularly in light of the dearth of comprehensive witness lists and databases – and a reliance on ‘known and reputable’ witnesses. Does this undermine the representativeness of select committees? (As some pointed out, in prioritising the diversity of witnesses, the committee might be overlooking the most helpful and informative participants.)

Questions must also be raised about the accessibility of the current committee system, in terms of location, the formality of procedures, the types of questions asked, the format of evidence sessions etc. Are the procedural arrangements currently in place dissuading certain types of witnesses from engaging in committee activities? Evidence suggests that some committees are providing better

204 I. Marsh, *Policy Making in a Three Party System: Committees, Coalitions and Parliament*, London: Methuen, 1986, p. 179.

opportunities for their stakeholders to be involved in the select committee work than others. Lack of current guidelines or baseline requirements for public engagement activities means that some committees might not be gaining access to the quality of evidence that others are, potentially undermining the overall quality of committee scrutiny.

There is clearly scope for greater consistency. Despite renewed efforts to improve engagement – formally recognised in the 2012 core tasks, establishment of the Outreach Team, and the 2015 Liaison Committee report – public engagement is still performed on an *ad hoc* basis. Guidelines could be helpful in ensuring that all select committees participate at a baseline level of engagement with stakeholders.

The only existing form of evaluation mentioned by interviewees was in relation to the evaluation forms recently created by the Outreach team, to be distributed to participants in its organised engagement activities. More emphasis on evaluation would address the fact that committees are currently unchallenged on their levels of output in respect of engagement. An evaluation process would also ensure that engagement does not detract from attention to government scrutiny.

There is also scope for a more comprehensive evaluation on the representativeness of witnesses and of committee members. As it stands, committees are not expected to collect any information on the ethnicity of witnesses, for instance. One member of staff for the Defence Committee did mention that a trial on self-declaration rates and diversity was being undertaken. Better communication between select committees would also help to promote best practice models, and improve the overall quality of engagement work undertaken, addressing the current inconsistencies in practice.

Improvements could be made to the ways in which existing and prospective contacts and witnesses are categorised and recorded. The Outreach team have already made headway in this respect – the team has recently started to categorise existing contacts by ‘interest and topics’. More concerted efforts to categorise existing contacts, sorting contacts by geography, location, general interests, and other demographics – would develop a more comprehensive and workable system, and encourage committees to look further afield and move away from a reliance on the ‘usual suspects’.

A more established way of recording evidence is also in need of being updated. ‘Informal’ evidence sessions conducted off the parliamentary estate and sometimes off-the-record were praised for ‘providing members with invaluable insight,’ but it is unclear how these informal evidence sessions should be treated. There have been problems translating the ‘discussions that are not recorded or made public’ into reports.

The success of evidence sessions is dependent on the ability of members to facilitate discussions. It is recommended that committees are offered further training, to equip members with better skills for dealing with vulnerable people and ensure that suitable questions are asked and witnesses are listened to. Reliance on the attendance of committee members sometimes undermines the efforts of the Outreach team to facilitate engagement activities; select committee members are at the mercy of party Whips, and last-minute votes in Parliament often derail committee plans to hold evidence sessions outside the parliamentary estate. If the committee system provided for sessions that could run without the presence of committee members, a more coherent and extensive engagement programme could be delivered. It could be modelled along similar lines to the system currently working in the Welsh Assembly.

Select committees and the media

The media has always been seen as a means of engaging more people, educating and informing, but increasingly it is used as a way of raising the profile of committees (and in some cases individual members of select committees) and applying greater pressure to the government with regard to select committee recommendations.

The media plays a central role in how present-day select committees are perceived. This has encouraged some committees to become more media-orientated when choosing topics and subject areas to investigate. Although ‘headline-grabbing’ is not a new phenomenon, committees have become increasingly successful in gauging media appeal and using the interests of the press to their advantage.

Committees are taking on a more pro-active role in initiating contact with media outlets than previously. Should this be part of committee work? Should the terms of reference, which do not include this aspect of committee work, be changed accordingly? Would this help to ensure that committees take this responsibility seriously, or would it inhibit creativity and flexibility and undermine the ability of committees to engage with the media as they see fit?

Moving forward, should all committees be expected to work with the Outreach team? Do committees have the resources to maintain contact with the ever-expanding media outlets? The use of social media is particularly time-consuming. If select committees are committed to being representative, then they will have to ensure that they are up to date with technological developments, getting the most out of all possible forums for public communication. There is scope for an improvement of media oversight to ensure that there is a more concerted and effective system.

Media use among committees varies, and this poses certain challenges. It risks some committees being more ‘representative’ than others, providing certain types of stakeholder groups with additional layers of representation, and leaving other members of the public further scope for being as involved in the scrutiny process. There is thus room for more extensive communication between committees.

In terms of impact, are committees that encourage media attention as a means of ‘grabbing the attention of the government in office’ doing any more than fulfilling their role in holding the government to account? If this is their primary motive, then should more be done to ensure that all committees do more to incorporate media outlets as part of their scrutiny work? However, adhering to the interests of the media can also result in the elevation of some topics. Are there some inquiries that should be looked at ahead of others? Are sufficient measures in place to ensure that if a committee chooses topics that will attract media attention instead of topics that would provide better scrutiny of the government department, action is taken?

It is also constitutionally problematic that without media coverage, respondents thought committees might struggle to be taken seriously by government. If the government is more likely to take notice of committee work backed by media attention, there would seem to be a problem with the way in which government regards select committees in their own right.

However, the relationship between the media and select committees has the potential to undermine and hinder the scrutiny of the government. For instance, the portrayal of the relationship between Sir Philip Green and chair of the Work and Pensions Committee, Frank Field, arguably hindered

the progress of the committee by focusing on the hostile showdowns instead of the fundamental policy issues surrounding private pensions schemes.

Media interest can also distort and misrepresent committee work. This phenomenon is not new, as the diaries of Chris Mullin demonstrate. In an entry from 1996, he recounted how a select committee evidence session had failed to yield sufficient evidence on trip to HMP Holloway due to media presence: ‘Unfortunately, the TV crew followed us so it was difficult to strike up much of a dialogue with inmates.’²⁰⁵

A number of recommendations might be considered. Since the oversight of media outlets already takes up a proportion of present-day committee work, it is worth asking whether this relationship should be formally recognised in the terms of reference. It might also be worth considering the introduction of further rules and guidelines to safeguard against the misuse of the media, and tighten security of committee work – particularly in relation to social media. In addition, if select committees are committed to social media ventures, then there is room for further resources to be allocated to this part of committee work. The current social media unit is exceptionally small, with very few staff members.

Despite improvements and changes in the relationship between the media and committees, more could be done to ensure that the relationship is entirely reciprocal, for example, utilising the media resources already available to outside campaigning organisations like 38 Degrees. The use of Twitter by the Scottish Affairs Select Committee in the selection of inquiry choices is an instance of practice that could be more universally adopted across the committee system. The Hansard Society is currently developing a tool for analysis and text ranking, hoped to provide a policy modelling tool for social media. Representatives of the Society argued that tools such as this could help to improve the capacity and encourage committees to take full advantage of existing resources.

In the context of supposed public disaffection and lack of interest in party politics (as identified by a number of respondents, admittedly before the 2017 General Election had taken place), there is scope for using committees as a means of bridging the perceived gap. Whereas the Chamber serves as a debating forum that takes on a more rhetorical, political and adversarial style, select committees are less adversarial and more collaborative in approach, lending themselves well to public engagement. The public role of committees could be further examined.

205 C. Mullin, *A Walk-On Part: Diaries 1994-1999*, London: Profile Books Ltd., 2011, p. 199, Wed., 27 Nov., 1996

Areas for improvement

Piecemeal development

The present-day select committee system is the product of the gradual implementation of reforms over a long period of time. It is anticipated that some of the trends identified in this paper, such as the scrutiny of outside organisations and individuals, might soon become accepted additions of committee work. There are undoubtedly benefits to this gradual extension of scope. It provides opportunities for experimentation and adaptation, and allows for more responsive and reactive work.

However, piecemeal development has also led to concerns about committees taking on too much work. As one respondent warned, commentators should be careful not to view select committees as a panacea, particularly amidst calls for committees to have a greater say in pre-legislative scrutiny work.

In order to avoid the ever-expanding repertoire of committee responsibilities, the Liaison Committee could re-evaluate the current core tasks. Although substantial revisions were made in 2012, subsequent changes to committee practice – such as the increased focus on media and the scrutiny of individuals and private sector organisations – mean that the core tasks no longer reflect the reality of committee work.

Inconsistency

This paper has identified examples of continuing inconsistency and a sometimes inchoate approach to particular areas: outreach; representation; social media; interaction with the media; types of inquiries; length of inquiries; and style of interviewing. This is a longstanding issue.

The ‘sheer diversity of its [government’s] component parts’²⁰⁶ goes some way to explaining the heterogeneous approach to select committee work. Yet the incoherent application of committee work is also the result of ambiguity surrounding their terms of reference and overall remit, and difficulties defining committee ‘success’ and ‘effectiveness’. It is arguably also the product of an over-reliance on individual members and chairs.

Past reforms have clearly failed in providing for a more coherent and structured system. Indeed, lack of consistency in the select committee system was one of the main arguments put forward by advocates of the 1979 reforms. It is high time, then, that efforts to overcome this are rejuvenated.

Collaboration

Greater emphasis on collaboration between committees would provide a means of addressing problems with inconsistency. Though no evidence was found of the silo mentality identified by other researchers,²⁰⁷ examples of committees working collaboratively are sparse.

One respondent mentioned an isolated case of cross-committee collaboration. The signatories of

206 G. Drewry (ed.), ‘Scenes from Committee Life – The New Committees in Action’, in *The New Select Committees*, 1st edn., Oxford: Clarendon Press, 1985, p. 350.

207 H. White, ‘Select Committees under Scrutiny: the impact of parliamentary committee inquiries on government’, Institute for Government, 2015, p. 37 [accessed via: <https://www.instituteforgovernment.org.uk/sites/default/files/publications/Under%20scrutiny%20final.pdf> (24/03/17)]

petitions that were monitored by the Petitions Committee have been recorded and then used by the Education Committee as a foundation for a list of prospective witnesses who could contribute to a relevant inquiry. The author hopes that such collaboration will become more common practice.

Committees lack the internal infrastructure for efficient information exchange. This paper supports the recommendations put forward by the Institute for Government,²⁰⁹ and hopes that the Liaison Committee gives them further consideration. In addition to the 2015 recommendations, current inconsistency in practice could also be improved through the introduction of additional regulations. For example, if included in the Standing Orders – or similar such rules – committees could be obliged to produce a report detailing how they had fulfilled the requirement to perform cross-committee work; sharing and exchanging information and best practice ideas. Alternatively, committees could be encouraged to include a section on joint working in their annual reports.

Handling of witnesses

Historical concerns that the system lacks sufficient safeguards to protect witnesses are still present. There is a clear need to re-examine the procedural arrangements and rules in place surrounding the treatment of witnesses. This paper supports Hannah White's recommendations that MPs continue to accept the growing opportunities for training. Possible improvements could be introduced in the form of additional inductions and training sessions on scrutiny techniques. These could be available for all committee personnel, with equal emphasis placed on the involvement of new and old members. Alternatively, committees could be given the option of attending planned training on scrutiny techniques, or to hold committee away-days or sessions dedicated to developing skills-based training on stakeholder questioning and treatment.

A few respondents suggested that the Liaison Committee could be more instrumental in intervening in cases of unsatisfactory practice. How this would translate in practice is debatable, but it is clear that there is a need for a firmer framework of some kind in this area. This paper recommends new protections for witnesses to avoid committee allegations against an individual without due course or evidence. As it stands, in this scenario, the select committee member is protected by parliamentary privilege, whereas the witness is not. The current practice could easily result in a legal intervention. This paper recommends that these issues are addressed by statute, before the courts become involved in providing judicial action.

Powers

This paper identifies a need for a re-examination and clarification of the powers afforded to present-day select committees. There are doubts about the powers of select committees in the face of inadequate government responses to their reports and recommendations. Under the Osmotherly rules, the Government can also still say 'no' to requests for named officials and determine the evidence that officials provide to committees. (Although Parliament never accepted the Rules, the Government still operates by them.) This causes tension in instances of officials and ministers giving oral evidence. Observations made by the Liaison Committee in 2008 surrounding lack of government cooperation and constraints put on committees' access to information and witnesses are, regrettably, still relevant.²⁰⁸

There are also issues with the power to call witnesses to evidence sessions. In theory, British

²⁰⁸ Liaison Committee, 'Select committee effectiveness, resources and powers', Liaison Committee, 2008, para. 135 [accessed via: <https://www.publications.parliament.uk/pa/cm201213/cmselect/cmliaisn/697/69711.htm> (25/-3/17)]

parliamentary select committees have the right to call for persons, papers and records and, importantly, ‘those who refuse could be guilty of contempt of parliament and punished.’²⁰⁹ In reality, though, committees no longer utilise this power, and many would argue that it no longer exists. Indeed, the last fine for contempt was levied in 1866. It is hoped that the Government will consider clarification of the powers of select committees regarding witnesses.

Evaluation and feedback

Together with better cross-committee collaboration, one of the key ways in which committees could advance their existing commitment to reform is to establish consistent and comprehensive evaluation and feedback mechanisms. Select committees are currently expected to produce annual reports. The Liaison Committee suggested that committees could use the twelve revised core tasks as the basis for these reports. Aside from this guidance, it is all too easy for committees to become complacent.

Stricter regulations would ensure that all committees structure their annual reports in line with the core tasks. This would provide for a more comprehensive and easily comparable means of assessing progress and best or worst practice year on year. All committees would be clearer in their primary objectives, the use of their time, and their fulfilment of the core tasks, working strictly to overarching themes that drive the committee forward throughout each parliamentary session.

Greater attention to feedback mechanisms would also resolve some of the more general concerns surrounding the accountability of select committees. The recent examination of Sir Philip Green raised a number of questions: does Parliament take its role seriously enough as the oversight body for parliamentary select committees? Are sufficient mechanisms in place to ensure that if a select committee did ‘overstep the mark’, the House would intervene as necessary? While on paper, select committees are accountable to Parliament, and any suspect behaviour could be questioned and addressed by the House, in practice, respondents were unconvinced that this would happen. This paper calls for further consideration of the current system of accountability.

209 M. White, ‘Philip Green shows select committees’ power – and weakness’, *The Guardian*, 14 Jun., 2016 [accessed via: <https://www.theguardian.com/politics/2016/jun/14/philip-green-case-shows-select-committees-power-and-weakness> (28/11/16)]

Excerpts from key documents

Core Tasks, 31 January 2013

Overall aim: To hold Ministers and Departments to account for their policy and decision-making and to support the House in its control of the supply of public money and scrutiny of legislation

Strategy: Examine the strategy of the department, how it has identified its key objectives and priorities and whether it has the means to achieve them, in terms of plans, resources, skills, capabilities and management information

Policy: Examine policy proposals by the department, and areas of emerging policy, or where existing policy is deficient, and make proposals

Expenditure and Performance: Examine the expenditure plans, outturn and performance of the department and its arm's length bodies, and the relationships between spending and delivery of outcomes

Draft Bills: Conduct scrutiny of draft bills within the committee's responsibilities

Bills and Delegated Legislation: Assist the House in its consideration of bills and statutory instruments, including draft orders under the Public Bodies Act

Post-Legislative Scrutiny: Examine the implementation of legislation and scrutinise the department's post-legislative assessments

European Scrutiny: Scrutinise policy developments at the European level and EU legislative proposals

Appointments: Scrutinise major appointments made by the department and to hold pre-appointment hearings where appropriate

Support for the House: Produce timely reports to inform debate in the House, including Westminster Hall, or debating committees, and to examine petitions tabled

Public Engagement: Assist the House of Commons in better engaging with the public by ensuring that the work of the committee is accessible to the public

Excerpts from Standing Orders of the House of Commons, 2015

Select committees, &c.

Nomination of select committees

121.—

(1) Any Member intending to propose that certain Members be members of a select committee, or be discharged from a select committee, shall give notice of the names of Members whom he intends so to propose, shall endeavour to ascertain previously whether each such Member will

give his attendance on the committee, and shall endeavour to give notice to any Member whom he proposes to be discharged from the committee.

(2) No motion shall be made for the nomination of members of select committees appointed under the standing orders of this House (with the exception of the Liaison Committee, the Committee of Selection, the Committee on Standards, the Committee of Privileges and any Committee established under a temporary standing order), or for their discharge, unless

- (a) notice of the motion has been given at least two sitting days previously, and
- (b)
 - (i) in the case of a motion to agree with a report from the Liaison Committee to appoint and nominate Members to a National Policy Statement Committee under Standing Order No. 152H (Planning: national policy statements) the motion is made on behalf of the Liaison Committee by the chair or another member of the committee; or
 - (ii) in other cases the motion is made on behalf of the Committee of Selection by the chair or another member of the committee.

Lists of Members serving on select committees.

122.—

Lists shall be fixed in some conspicuous place in the Committee Office and in the lobby of the House of all Members serving on each select committee.

Term limits for chairs of select committees.

122A.—

Unless the House otherwise orders, no select committee may have as its chair any Member who has served as chair of that committee for the two previous Parliaments or a continuous period of eight years, whichever is the greater period.

Election of select committee chairs.

122B.—

(1) The chairs of the following select committees shall be elected by the House in accordance with paragraphs (2) to (14) below:

- (a) select committees appointed under Standing Order No. 152 (Select committees related to government departments);
- (b) the Environmental Audit Committee;
- (c) the Petitions Committee;
- (d) the Select Committee on Public Administration;
- (e) the Committee of Public Accounts;
- (f) the Procedure Committee; and
- (g) the Committee on Standards.

(2) The day following his election at the start of a new Parliament, the Speaker shall communicate to the leaders of each party represented in the House the proportion of chairs of select committees to be elected under this order falling to each such party which would reflect the composition of the House.

(3) If, within a week of the Queen's Speech, a motion in the name of the leaders of all the parties entitled to one or more chairs of select committees subject to election under this order specifying to which party each such chair is allocated is moved, the questions necessary to dispose of proceedings on the motion shall be put not later than one hour after their commencement, proceedings on the motion shall be exempted business and Standing Order No. 41A (Deferred divisions) shall not apply.

(4) If a motion to which paragraph (3) above applies also makes changes to Standing Order No. 152 (Select committees related to government departments) which are consequential on changes to the machinery of government, then the questions necessary to dispose of proceedings on the motion shall be put not later than one and a half hours after their commencement; proceedings on the motion shall be exempted business; and Standing Order No. 41A (Deferred divisions) shall not apply.

(5) If, on the expiry of two weeks after the Queen's Speech, no motion in the name of the leaders of all the parties entitled to one or more chairs of select committees subject to election under this order specifying to which party each said chair is allocated has been tabled, on the following sitting day the Speaker shall give precedence to a motion tabled thereafter by any Member to allocate chairs under this order and the provisions of paragraphs(3) and (4) shall apply to proceedings on such a motion.

(6) If the House has agreed a motion allocating chairs to parties the election of the chairs shall take place in accordance with the remaining provisions of this order.

(7) The ballots shall take place fourteen days after the approval of the motion allocating chairs to parties.

(8) (a) Nominations of candidates shall be in writing and shall be received by the Clerk of the House by 5.00 pm on the day before the ballot.

(b) Each nomination shall consist of a signed statement made by the candidate declaring his willingness to stand for election, accompanied by the signatures of fifteen Members elected to the House as members of the same party as the candidate or ten per cent. of the Members elected to the House as members of that party, whichever is the lower.

(c) Statements may be accompanied by signatures of up to five Members elected to the House as members of any party other than that to which the candidate belongs, or members of no party.

(d) No Member may sign the statement of more than one candidate for chair of the same select committee.

(e) No Member may be a candidate for the chair of a select committee which has not been allocated to his party under paragraph (3) of this order or otherwise, or for which he is ineligible under Standing Order No. 122A (Term limits for chairs of select committees).

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- (f) No Member may be a candidate for the chair of the Committee of Public Accounts or the Committee on Standards unless his party is that of the official Opposition.
- (g) No Member may be a candidate for more than one chair elected under this order.
- (h) As soon as practicable following the close of nominations, lists of the candidates and their accompanying signatories shall be published.
- (9) Election of chairs of select committees under this order shall be by secret ballot.
- (10) Preparatory arrangements for the ballots shall be made under the supervision of the Clerk of the House.
- (11)
- (a) If there is only one candidate for the chair of a select committee, that candidate shall be declared elected without a ballot.
- (b) The ballot shall take place in a place appointed by the Speaker.
- (c) Each Member intending to vote shall be provided with a ballot paper for each select committee bearing the names of the candidates listed in alphabetical order.
- (d) Members will vote by ranking as many candidates as they wish in order of preference, marking 1 by the name of their first preference, 2 by the name of their second preference, and so on. Any candidate who receives more than half the first preferences shall be elected. If no candidate is so elected, the candidate or candidates with the lowest number of first preferences shall be eliminated and their votes distributed among the remaining candidates according to the preferences on them. If no candidate has more than half the votes, the process of elimination and distribution is repeated, until one candidate has more than half the votes.
- (e) The ballot shall be open between 10.00 am and 5.00pm and counting shall take place under arrangements made by the Clerk of the House.
- (12) The Speaker shall have power to give directions on any matter of doubt arising from the conduct of a ballot or from an individual ballot paper and to vary the timings given in paragraphs (6) to (11) of this order.
- (13) As soon as practicable after the closing of the ballot the results shall be published under the direction of the Speaker.
- (14) A chair elected under this order is a member of the committee of which he is elected chair.

Resignation or removal of chairs of select committees

122C.—

(1) In the case of a select committee to which the provisions of Standing Order No. 122B (Election of select committee chairs) applies, where

- (a) the chair has ceased to be a member of the House, or
- (b) the chair has given written notice to the Speaker of a wish to resign from the chair, or

(c) the committee has reported a resolution that it has no confidence in the chair in accordance with the terms of paragraphs (3) and (4) of this order the Speaker shall declare the chair vacant and, as soon as practicable, announce the date of the election for the position of chair of that committee which shall be not fewer than ten sitting days after that announcement.

(2) The election shall be held according to the provisions of paragraphs (2) to (13) of Standing Order No. 122B (Election of select committee chairs), save that nominations shall be submitted by 12 noon on the day before the ballot.

(3) No motion expressing no confidence in its chair may be made in a committee unless notice of the motion has been circulated to the chair and all members of the committee at least ten sitting days in advance of the meeting at which the motion is made.

(4) A resolution by a committee expressing no confidence in its chair shall not have effect for the purposes of paragraph (1) above unless either

(a) it is agreed by the committee without a division or

(b) the majority of the membership of the committee, including at least two members from the largest party represented on the committee and at least one member from another party, vote in favour of the resolution.

(5) A motion expressing no confidence in the chair may not be made in a committee in the six months following the election of a chair by the House or in the year following a vote on such a motion on that chair.

[...]

Select committees related to government departments.

152.—

(1) Select committees shall be appointed to examine the expenditure, administration and policy of the principal government departments as set out in paragraph (2) of this order and associated public bodies.

(2) The committees appointed under paragraph (1) of this order, the principal departments of government with which they are concerned and the maximum numbers of each committee shall be as follows:

Name of Committee	Principal government departments concerned	Maximum members
1. Business, Innovation and Skills	Department for Business, Innovation and Skills	11
2. Communities and Local Government	Department for Communities and Local Government	11
3. Culture, Media and Sport	Department for Culture, Media and Sport	11
4. Defence	Ministry of Defence	11
5. Education	Department for Education	11
6. Energy and Climate Change	Department of Energy and Climate Change	11
7. Environment, Food and Rural Affairs	Department for Environment, Food and Rural Affairs	11

8. Foreign Affairs	Foreign and Commonwealth Office	11
9. Health	Department of Health	11
10. Home Affairs	Home Office	11
11. International Development	Department for International Development	11
12. Justice	Ministry of Justice (including the work of staff provided for the administrative work of courts and tribunals, but excluding consideration of individual cases and appointments, and excluding the work of the Scotland and Wales Offices and of the Advocate General for Scotland); and administration and expenditure of the Attorney General's Office, the Treasury Solicitor's Department, the Crown Prosecution Service and the Serious Fraud Office (but excluding individual cases and appointments and advice given within government by Law Officers)	11
13. Northern Ireland Affairs	Northern Ireland Office; administration and expenditure of the Crown Solicitor's Office (but excluding individual cases and advice given by the Crown Solicitor); and other matters within the responsibilities of the Secretary of State for Northern Ireland (but excluding the expenditure, administration and policy of the Office of the Director of Public Prosecutions, Northern Ireland and the drafting of legislation by the Office of the Legislative Counsel)	13
14. Science and Technology	Government Office for Science	11
15. Scottish Affairs	Scotland Office (including (i) relations with the Scottish Parliament and (ii) administration and expenditure of the offices of the Advocate General for Scotland (but excluding individual cases and advice given within government by the Advocate General)	11
16. Transport	Department for Transport	11
17. Treasury	Treasury, HM Revenue & Customs	11
18. Welsh Affairs	Wales Office (including relations with the National Assembly for Wales)	11
19. Work and Pensions	Department for Work and Pensions	11

(3) Each select committee appointed under this order shall have the power to appoint a subcommittee.

(4) Select committees appointed under this order shall have power

- (a) to send for persons, papers and records, to sit notwithstanding any adjournment of the House, to adjourn from place to place, and to report from time to time;
- (b) to appoint specialist advisers either to supply information which is not readily available or to elucidate matters of complexity within the committee's order of reference; and
- (c) to report from time to time the evidence taken before subcommittees, and the formal minutes of subcommittees;

and the subcommittees appointed under this order shall have power to send for persons, papers and records, to sit notwithstanding any adjournment of the House, to adjourn from place to place, to report from time to time their formal minutes, and shall have a quorum of three.

(5) Unless the House otherwise orders, all Members nominated to a committee appointed under this order shall continue to be members of that committee for the remainder of the Parliament.

***Excerpts from Giving Evidence to Select Committees: Guidance for Civil Servants
Cabinet Office, October 2014***

CIVIL SERVANTS' EVIDENCE TO SELECT COMMITTEES

General Principles

4. The Civil Service Code makes clear that civil servants are accountable to Ministers who in turn are accountable to Parliament. It therefore follows that when civil servants give evidence to a Select Committee they are doing so, not in a personal capacity, but as representatives of their Ministers.

5. This does not mean that officials may not be called upon to give a full account of government policies, or the justification, objectives and effects of these policies, but their purpose in doing so is to contribute to the process of ministerial accountability not to offer personal views or judgements on matters of government policy - to do so could undermine their political impartiality.

6. Accounting Officers: [...]

Accounting Officers have a personal responsibility to account to Parliament (through the Public Accounts Committee) for the compliance of their departments with the principles set out in Managing Public Money[...] Senior Responsible Owners of major projects can also be asked to account for the implementation and delivery of major projects for which they are responsible[...]

9. Civil servants who give evidence to Select Committees do so on behalf of their Ministers and under their directions[...]

12. When a Select Committee indicates that it wishes to take evidence from any particular named official, including special advisers, the presumption is that Ministers will seek to agree such a request. However, the decision on who is best able to represent the Minister rests with the Minister concerned. It remains the right of a Minister to suggest an alternative civil servant, or additional civil servant(s), to the person named by the Committee if he or she feels that would be a better way to represent them. If there is no agreement about which official should most appropriately give evidence, the Minister can offer to appear personally before the Committee.

13. If a Committee nonetheless insists on a named official appearing before them, contrary to the Minister's wishes, the formal position remains that it could issue an order for attendance, and request the House to enforce it. In such an event the official, as any other individual would have to appear before the Committee but, in all circumstances, would remain subject to Ministerial instruction and the Civil Service Code. This would be a very exceptional action[...]

15. Committees can request evidence from officials who have left Civil Service employment. However, former officials cannot be said to represent the Minister and hence cannot contribute directly to the line of ministerial accountability to the House. It is primarily for these reasons, as well as for obvious practical points of having access to up to date information and thinking, that Ministers would expect evidence on Government matters to be given by themselves or by serving

officials who report to them. Former officials are covered by the same rules on attendance as others and a Committee could issue an order for attendance if it chooses. Former Officials giving evidence about their role in Government should give evidence in accordance with the Civil Service Code and this Guidance [...]

18. Non-ministerial departments are not headed by Ministers. Select Committees may call civil servants in NMDs to give evidence and account for their decisions and actions on issues and money for which they have responsibility and on their implementation of the guidelines or laws within which they operate. Accountability for policy decisions will normally be for sponsor Ministers [...]

19. Parliamentary proceedings are subject to absolute privilege, to ensure that those participating in them, including witnesses before Select Committees, can do so without fear of external consequences. This protection, enshrined in the Bill of Rights, is an essential element in ensuring that Parliament can exercise its powers freely on behalf of its electors. Departments must not take disciplinary action against civil servants or members of NDPBs (or anyone else) as a consequence of them giving evidence to a Select Committee. Such action might be regarded as contempt of the House, with potentially serious consequences for those involved [...]

Timing of Government Response to Committee Reports

68. Departments should aim to provide [a] considered Government response to both Commons and Lords Select Committee Reports within two months of their publication. Where a report is complex or technical in its nature, or is dependent on other reports and / or external events, the response may require longer. In such cases, the Committee should be kept informed on the response timetable, through the measures set out below.

Excerpts from Guide for Select Committee Members, April 2015

[p.14]

Powers

The formal powers of committees to require written and oral evidence are extensive, but are rarely used. Most requests for information or a witness appearance are met without any need to resort to them. Committees may call for 'persons, papers or records' from anyone except the Government or Members of the Commons or of the Lords.

Excerpts from Paper by the Clerk of the House: Powers of Select Committees, 16 July 2012

12. Recent events have shown to a wider audience what all insiders always knew; that there were considerable doubts about whether the House could really impose its will on those whom a Committee wished to summon, or punish those who gave (unsworn) false or misleading evidence to a Committee. I deal separately with evidence given on oath.

13. It is sometimes alleged that the process is unclear. It is not. What is unclear is how far it can be taken.

14. If a Select Committee wishes to require the attendance of a witness, an informal request is issued. If the witness is unwilling, a period of negotiation usually follows. If it is clear that the witness is not willing to attend, and the Committee wishes to insist, an order for attendance is

made by the Committee, signed by the Chair, and then served upon the witness by the Serjeant at Arms or the Serjeant's representative.

15. Provided the witness is “within the jurisdiction”—that is, within the UK or the Dependent Territories (or, in strict theory, on UK diplomatic premises)—the order can be effectively served. If the witness does not comply, the Committee can report the matter to the House, and can ask the Speaker to give the matter precedence over the scheduled business. A motion may thereby be debated which either immediately expresses a view about the witness's conduct, or which refers the matter to the Committee on Standards and Privileges. (The House has agreed that a separate Committee of Privileges shall once again be appointed after lay members have been added to a separate Committee on Standards.) The Committee inquires into the matter, and reports its view to the House. The House considers the report on a debatable (and amendable) motion, and may at that stage decide that a contempt has been committed.

16. False evidence is treated in broadly the same way (most recently in the phone-hacking case). A Committee reports that it believes that it has been lied to or deliberately misled, seeks reference to the Committee on Standards and Privileges, and that Committee's judgement is considered by the House, which may decide that a contempt has been committed.

Excerpts from Rebuilding the House, House of Commons Reform Committee, First Report of Session 2008-09, HC 1117, 24 November 2009

Conclusions and recommendations

C SELECT COMMITTEES: CHAIRS AND MEMBERS

[...]

Principles

4. (a) It should be for the House and not for the Executive to choose which of its Members should scrutinise the Executive: the House should also have a strong if not decisive influence on the identity of the Chair.
- (b) The system by which parties select names to put forward to the Committee of Selection, and by which the whips divide up chairmanships between the parties, is very far from transparent.
- (c) The credibility of select committees could be enhanced by a greater and more visible element of democracy in the election of members and Chairs.

(Paragraphs 72–74)

Conclusion

5. We recommend an initial system of election by the whole House of Chairs of departmental and similar select committees, and thereafter the election by secret ballot of members of those committees by each political party, according to their level of representation in the House, and using transparent and democratic means. The committees within this system should be those appointed under SO No 152 [the departmental select committees] together with the Environmental Audit Committee, the Public Administration Committee and the Committee of Public Accounts. We have concluded that of the four options we considered this is the system most likely to demonstrate the determination of the House more effectively to hold the executive to account, to give more authority to the scrutiny function of Parliament and at the same time to preserve the effective functioning of select committees. (Paragraph 80)

Election of members

6. We propose that in the new Parliament members of departmental and similar select committees should be elected by secret ballot within party groups, by transparent and democratic processes, with the outcome reported to and endorsed by the House. Party groups would in effect be acting on behalf of the House as electoral colleges. They would therefore expect to act under some constraints as to the methods used to elect committee members. We do not think it necessary that the House should interfere so far as to lay down one particular method of election rather than another. But the method chosen

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should be one approved by the Speaker, following independent advice, as transparent and democratic: “kite-marked” as legitimate in effect. Officers nominated by the Speaker would be obliged to assure themselves that the processes followed by each party, as notified by its Leader, were indeed in accordance with these norms. And each party would be obliged to publish the method it had adopted. (Paragraphs 87–88)

Distribution of chairs

7. For the first running of a new system we recognise that the House may prefer to rely, as it has for many years, on the party managers coming to an agreement on distribution of chairs on the basis of established conventions. But we do recommend a greater degree of transparency. We recommend that the House return to examination of this and other options for distribution of the chairs when the rest of our recommendations and conclusions are reviewed two years into a new Parliament. (Paragraphs 82–83)

Appointment

8. We consider that under any system the principal select committees should be nominated within no more than six weeks of the Queen’s Speech and that this should be laid down in Standing Orders and capable of being enforced by the Speaker. (Paragraph 56)

Size, number and attendance

9. We propose that the new House of Commons reduce the size of its standard departmental committees to not more than 11; Members in individual cases can be added to specific committees to accommodate the legitimate demands of the smaller parties. We also recommend that the practice of appointing parliamentary private secretaries and front bench Official Opposition spokesmen should cease. We believe there should be clear consequences for unreasonable absence from select committees. The House must also seek to reduce the numbers of committees, ending overlapping or duplicate remits and rationing the scarce resource of Members time and commitment. (Paragraph 55)

Intelligence and Security Committee

10. It is unsatisfactory that any reforms we recommend to the system of election of members and Chairs of the House’s select committees cannot be applied at the same time to the Intelligence and Security Committee. We recommend that the Committee be regarded as one whose chair is held by convention by a Member from the majority party; that candidates wishing to stand for election by the House to the chair of the Committee should be obliged to seek in advance of the ballot the formal consent of the Prime Minister for their candidature, to be

notified in writing; and that thereafter the procedure should be as for other departmental and similar select committee chairs. (Paragraph 59)

Role, resources and tasks of select committees

11. We consider that the Liaison Committee should re-examine the current role of select committees, their resources and their tasks, and in particular how to deal with the increasing demands of time made of Members as their role grows.

(Paragraph 93)

[...]

Select Committees

22. Select committees, including those concerned with the House's own affairs, deserve greater access to the agenda, so that they can have their reports debated and decided upon a substantive motion, at a time which best suits them and the House. (Paragraph 191)

[...]

E PUBLIC INVOLVEMENT

Public Participation

41. There are varying views about the prospects for greater public participation. But none of these doubts should rule out making further and better opportunities available for public participation and engagement. The primary focus of the House's overall agenda for engagement with the public must now be shifted beyond the giving of information towards actively assisting the achievement of a greater degree of public participation. (Paragraph 230–232)

Legislation

42. Opening up the process of legislation and giving a real opportunity to the public to influence the content of draft laws should be a priority for consideration in the next Parliament. That is an issue for the House and not for Government.

(Paragraph 276)

Agenda initiative

43. We recommend that the House commission an investigation of the practicalities

of applying at a national level the procedures applied to local authorities for “petitions requiring debate”, drawing on local and international experience, including the appropriate thresholds to be applied. (Paragraph 286)

e-Petitions

44. We recommend urgent discussions among all those involved in the e-petitions scheme, with a view to bringing to the House in the early part of 2010 a costed scheme which enjoys the support of the Member bodies engaged: that is, the Finance and Services and Procedure Committees, and the House of Commons Commission. (Paragraph 254)

45. It is important that the focus on an e-petitions scheme does not displace concern with “standard” petitions, which are of equal validity. (Paragraph 259)

Petitions committee role

46. The House cannot be satisfied with its current procedures for petitions. We are cautious about recommending a full-scale free-standing Petitions Committee at this time. We recommend that the Procedure Committee’s terms of reference be
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broadened, and its title changed to Procedure and Petitions Committee, so as to enable it to exercise scrutiny of the petitions process, on an experimental basis from January 2010 until the end of the Parliament; and that it make a report of its experience before the end of the Parliament so that this can be available to a new Parliament. (Paragraphs 260–263)

Debate

47. We recommend a trial in 2009–10 in advance of e-petitions of debates on petitions, subject to the presentation of petitions of sufficient significance. (Paragraph 264)

Information for petitioners

48. We recommend that the House authorities ensure that petitioners are informed of recent relevant House proceedings. (Paragraph 265)

Proceedings in House

49. It would give petitions a slightly enhanced status if notice was required and

when given if it appeared on the House's Order Paper at the appropriate place.

We consider that it would be more dignified if, as is the case with Bills presented to the House by backbench Members, the front sheet of the petition was taken to the Table, and an appropriate announcement read by the Clerk. (Paragraphs 266–267)

Motion for House debate

50. We recommend that a scheme to this effect [Motions for House debate] be worked up by the House authorities for piloting in the new Parliament. (Paragraph 272)