



Hansard Society Democracy Forum

‘Strengthening Parliament: reform of House of Lords procedure and governance’

Wednesday 14th July 2010

5:30pm-7:00pm

Committee Room 1, House of Lords

Chair: Peter Riddell

Speakers:

Lord Filkin, Lord Butler, Baroness Murphy

Open to all Peers, this Democracy Forum will focus on discussion of the recommendations contained in the reports from three cross-party groups of Peers who have been discussing possible reforms to the scrutiny, procedural and governance functions in the Upper House. The reports focus on:

- Improving scrutiny of primary legislation
- Non-legislative procedure
- Governance and accountability

Improving Scrutiny of Primary Legislation in the House of Lords

March 2010

Lord Filkin (Chair)
Lord Alderdice
Lord Butler
Baroness Butler Sloss
Lord Goodhart
Lord Kirkwood
Lord Norton
Lord Rooker
Baroness Shephard

The Group was assisted in its work by Peter Riddell, Chair of the Hansard Society and by Dr Ruth Fox, Director of the Hansard Society's Parliament & Government Programme.

The recommendations in relation to the standards of legislative preparation were also informed by the work of the Better Government Initiative's '*Good Government*' report.

Parliamentarians are charged with the fundamental responsibility of subjecting legislation to rigorous scrutiny. Although there have been a number of reforms in recent years that have improved Parliament's capacity to scrutinise and improve bills a number of problems remain. This paper analyses the key challenges in the consideration of primary legislation in the House of Lords and sets out six areas of reform that we believe would help improve its scrutiny.

In setting out these reforms we have sought to ensure a judicious balance between the right of the Government of the day to take forward its legislative programme in a timely manner, and the obligation on Peers to ensure that all bills are adequately scrutinised. We believe that there is scope to make more effective use of time in the House of Lords – in the Chamber and Committees - in a way that would be mutually beneficial for both the government and members of the House. An important objective of our reform proposals is more effectively to harness and deploy the expertise in the Upper House for the purposes of legislative scrutiny whilst wherever possible avoiding duplication of work already undertaken by the House of Commons. Mindful of recent and potential future reforms in House of Commons legislative procedure we believe it is an opportune moment for the Upper House to respond to these changes with the aim of rationalising the scrutiny process on a bi-cameral parliamentary basis rather than through a single chamber focus.

Good legislative scrutiny?

When considering legislation, Parliament has a right to expect that the government of the day will ensure that:

- a bill is properly prepared: that it is properly drafted and of good technical quality; that a clear statement of the Government's policy and processes is provided; and that appropriate consultation has been undertaken.
- the policy objectives are clearly set out: that the policy problem(s) it seeks to address are clear; that evidence of the nature and causes of the policy problem(s) is provided; that the range of options available and the rationale for the chosen course is explained; and the merits of the legislative route to address the problem(s) are made.
- the provisions are fit for purpose: that what constitutes success is clearly defined; that the resources, levers and structures are in place to make it probable it will achieved the desired outcome(s); and that the costs, benefits and risks are clearly identified.

In turn, it is incumbent upon Peers to ensure that when examining the government's legislative programme they are guided by core principles of scrutiny, namely that the process should:

- be evidence based, rigorous and efficient;
- explore issues of principle and detail;
- be transparent and accountable;
- be accessible to the public and allow them to engage;
- identify responsibility but engender a culture of improvement.

The legislative process often reflects the achievement of these objectives on the part of both the Government and Peers. However, there are times when the government and / or the Upper House fail to meet these objectives and the scrutiny process is consequently deficient. Our proposals for reform seek to address the deficiencies.

Scrutiny challenges facing the House of Lords

When bringing forward legislation the Government does not always set out clearly enough the policy problem that is to be addressed through the provision of supportive evidence and analysis, the options that it has considered and the reasons for the choices it has made. The social and financial costs and benefits are not always set out, how a bill is to be implemented is often not defined, and the key challenges are sometimes not described. As a consequence of inadequate description of the policy objectives and choices, current scrutiny often concentrates on the detail of the bill and gives inadequate attention to the policy objectives and whether a bill is likely to achieve them.

When these matters are not addressed scrutiny is effectively conducted in a vacuum and post legislative scrutiny is made particularly difficult as there is no objective test against which to judge the efficacy of an Act following implementation. The current dearth of post-legislative scrutiny also means that the public, Government and Parliament do not know what legislation has worked, and why, and therefore the opportunity to learn lessons from the legislative process to better inform the formulation of future bills is limited.

The process of scrutiny in the House of Lords is not as comprehensible to the public as it might be. Peers themselves sometimes struggle to assess which clauses in a bill have not yet been looked at by the Commons and which ones they might therefore prioritise. Apart from specialist lobby groups there is little public involvement in the Lords scrutiny process and media coverage is rare.

There are many pressures on the parliamentary timetable not least due to the high volume of legislation and the size of bills that have to be examined. However, the time available for scrutiny is finite and, given the way in which the legislative 'pipeline' operates, time in the Chamber is a particularly valuable commodity. If the legislative process were rationalized and prioritized it would be possible to make the approach to scrutiny both more efficient and effective. To this end, the scrutiny process should be viewed on a bi-cameral, parliamentary basis in which the work undertaken by the House of Lords should not duplicate that undertaken by the Commons. Members of the Upper House have specialist expertise and the scrutiny process should harness and deploy this to best effect. Public and media engagement with the work of the Chamber might be improved if debates were focused on more relevant / topical issues than line by line examination of often uncontroversial aspects of legislation.

Recommendations

To address these challenges we propose reforms to six areas of the legislative process. The changes should be implemented on at least a trial basis.

1) Committee on Legislative Standards

Parliament is entitled to expect good standards of legislative preparation from the Executive including that:

- documents that analyse the problems to be dealt with, the consultation carried out and explanations for the choices are made publicly available;
- a clear explanation of what the policy is seeking to achieve, the role of the bill and of the others levers and mechanisms to achieve them is set out;

- the reasons the bill is being introduced, why other measures will not achieve the objectives and why new legislation is necessary are clearly stated;
- the costs, benefits, risks and resource implications are clearly described and how these are to be addressed are clearly defined;
- how the policy and the bill will be implemented, and the timetable and resources deployed are set out;
- a clear description of the meaning and purpose of each clause is defined so that Parliament does not waste time extracting information.

Parliament should make clear that it expects Government to meet such standards before it introduces legislation.¹

A Committee on Legislative Standards should advise on whether a bill² meets these standards through a written report before Second Reading. Ideally this should be a Joint Committee of both Houses or be set up initially in the Lords.

It would act as a means to advise the House whether a bill meets objective tests of being adequately prepared. Its purpose would be purely one of process assessment not policy determination. It should address only whether criteria on legislative standards and bill preparation have been met, not whether it believes the Government is likely to achieve its objectives nor whether the policy enshrined in the legislation is appropriate.

The Committee should possess the power to summon Ministers to answer questions regarding the preparation of and technical standard of their bill. It would then be a matter for the House to decide whether to defer a bill if the preparation criteria have not been met. As such, the Committee's function in informing and advising the House in the area of its remit would be similar to that already performed by the Constitution Committee and the Delegated Powers Committee.

2) Pre legislative scrutiny

At present decisions about whether to use a draft bill lie wholly with the executive.

The Lords should comment on what type of bills ought to go for pre-legislative scrutiny. The Committee on Legislative Standards might comment on whether a specific bill might be better if it had pre-legislative scrutiny.

If established, a (Joint) Business Liaison Committee might determine whether a draft bill would be scrutinised by House of Commons Select Committees or by a Joint Committee or by the Lords. It should establish criteria to assess which bills might be best suited for pre-legislative scrutiny in the Lords, such as bills which focus on long-term policy issues rather than highly partisan matters, thus helping to ensure that the pre-legislative scrutiny work of each House compliments and augments rather than duplicates the work of the other.

¹ In Scotland, Executive Bills must be accompanied by an Explanatory Note, a Policy Memorandum, a Financial Memorandum and a Memorandum on Delegated Legislation. The Policy Memorandum sets out the Bills' objectives, what alternatives were considered, the consultation undertaken and an assessment of the effects of the Bill. The Financial Memorandum sets out the expected costs of the Bill to the Scottish Government, to local authorities, to other bodies, businesses and individuals.

² This would primarily apply to Government bills but the House may, in its terms of reference, give the Committee the freedom to examine other public bills that it deems merit consideration.

3) Flagging of clauses when a bill moves from Commons to Lords

When a bill passes from the Commons to the Lords it should be flagged to identify any clauses that have not been debated, either because there has been no amendment to a clause or no clause stand part debate. This would help the House determine how to prioritise its scrutiny.

4) Public evidence hearings for government bills

Parliamentary scrutiny should require that every bill is subject to a public evidence hearing. Legislation will be more fit for purpose if parliamentarians have an opportunity to listen to opinion from policy experts, concerned organisations and citizens with specific knowledge of or interest in the issues.

At present, public evidence hearings are part of the legislative process in the House of Commons through Public Bill Committees (PBC) and early experience of the process has generally been positive. However, bills that originate in the House of Lords have no public evidence sessions and this appears anomalous.

The House of Lords should therefore adopt a public evidence session for *those bills that originate in the Upper House*, unless they have already been subject to pre-legislative scrutiny. This will add some time to the legislative process which will need to be factored into the Government's handling plan for the legislation. However this process will only apply to the small number of bills originating in the House of Lords, between 8 and 18 in the last three parliamentary sessions. Increased time at this stage of the process will be partly offset by time savings that can be made as a result of the reforms we recommend to Committee stage (see recommendation 5).

It should therefore be the norm that a bill originating in the Lords should be referred to a temporary Select Committee established specifically to take evidence on the bill after second reading. It would be for that Select Committee to decide whether to take oral as well as written evidence.³ Appointment of members to a temporary Select Committee to look at a bill would be in accordance with the normal appointment process to committees (4:4:2:2). The Committee would elect a Chairman and would determine which witnesses they wished to call and the form and conduct of questioning. Any member of the House would be entitled to attend the evidence taking proceedings and ask a question if they so wish and this would be a matter of record in Hansard. However, as with permanent Select Committees only members of the evidence taking group would be able to deliberate and vote on any final report emerging from the evidence session on the bill. Such a report should *clearly flag up the issues* that the temporary Select Committee members wish to draw to the attention of the whole House for later stages of scrutiny. The Committee's purpose and power would be confined to capturing the views of those who give evidence to it. It would have no powers to amend or delay a bill.

The benefits from this process would be augmented if members of the temporary Select Committee – an informed core of cross party expertise on the bill - continued to consider it at Grand Committee stage.

5) Committee stage

In order to rationalise and prioritise the use of the Chamber greater use should be made of the Grand Committee process. At present, many bills are dealt with off the

³ This would primarily apply to Government bills but the House may determine that other public bills originating in the House may merit similar evidence-taking sessions.

floor of the House in Grand Committee in either the Moses Room or on the Committee corridor. It should now become the default mechanism for consideration of all bills (as was suggested by the Rippon Commission and others), unless the House formally resolves otherwise.

We believe that providing greater use of Grand Committees will be beneficial to both the Government and the House. It will help reduce the logjam in the Chamber but with no reduction in accountability or transparency as verbatim accounts of Grand Committee meetings are recorded fully in Hansard and can be televised.

On issues of importance the House would not be deprived of an opportunity for debate and Division. Indeed, we recommend that this change should be accompanied by two further linked reforms.

- **Report stage:** if most bills are dealt with in Grand Committee then more time in the Chamber can be provided for report stage deliberations. However, current convention dictates that no votes are taken after the dinner hour. Therefore, some reform of the sitting hours should be considered or the House should determine that no report stage of a bill will take place after the dinner hour.
- **Split committal of bills:** a bill does not all need to be dealt with totally in Grand Committee. The most contentious issues might be dealt with and voted on in the Chamber and the remainder of the bill scrutinised in Grand Committee. The House would decide its preferred procedure in light of the report to the House provided by the temporary Select Committee which would set out its view on whether split committal might be appropriate for particularly contentious clauses.

6) Post legislative scrutiny

The Government has accepted that Acts should be reviewed between three and five years after enactment. However, the burden of post-legislative review is expected largely to fall on House of Commons Select Committees and these are already overburdened. The expertise possessed by the Upper House might be well suited to the technical scrutiny/audit function required of post legislative scrutiny – for example, examination of departmental review memoranda, the original regulatory and environmental impact assessments.

A Joint Committee of both Houses for Post Legislative Review should be established and empowered to review any legislation that a departmental select committee declines to look at. It would sift Acts and determine which ones or which specific aspects of the legislation it would review. An essential element of that process should be to assess whether or not the Act has achieved the objectives set out by the Executive when the bill was considered by the Joint Committee on Legislative Standards at the start of the legislative process.

If there is not agreement to a Joint Committee then the House of Lords should initiate a process to choose selected Acts for post-legislative scrutiny which have not been scrutinised by Commons Select Committees.

Post legislative review has resource implications and an assessment will be needed to determine how committees can support the scrutiny demands of this process.

Summary of recommendations

The following reforms should be trialled by the House of Lords:

Committee on Legislative Standards

- R1. A Committee should be established to advise the House on whether a bill meets an agreed set of criteria on legislative standards and bill preparation.
- R2. The Committee should be empowered to summon Ministers as required.

Pre legislative scrutiny

- R3. The House of Lords should comment on what type of bills should be subject to post legislative scrutiny.
- R4. If established, a (Joint) Business Liaison Committee might determine whether a draft bill would be scrutinised by House of Commons Select Committees, or by a Joint Committee, or by the House of Lords.

Flagging of clauses

- R5. When a bill passes from the Commons to the Lords it should be flagged to identify any clauses that have not been debated.

Public evidence hearings

- R6. Public evidence hearings should be adopted for all bills that originate in the Lords unless they have already been subject to pre-legislative scrutiny.
- R7. Such bills should be referred to a temporary Select Committee after second reading which would decide whether to take oral evidence.
- R8. Appointment of members to a temporary Select Committee for a bill would be in accordance with the normal appointment process to Committees (4:4:2) and the members would appoint the Chairman and determine witnesses to be called to give evidence.
- R9. Any member of the House would be entitled to attend a meeting of the temporary Select Committee but only members of the evidence taking Group would deliberate and vote on any report emerging from the evidence session(s). Such a report would clearly flag up the issues that Committee members wish to draw to the attention of the whole House.

Committee stage

- R10. Grand Committee should become the default mechanism for consideration of all bills.

- R11. Consideration should be given to reform of sitting hours or the House should determine that no report stage will take place after the dinner hour.
- R12. The House should decide, in light of the report provided by the temporary Select Committee, whether a bill might be subject to a split committal with the more contentious clauses dealt with in the Chamber and the remainder of the bill in Grand Committee.

Post legislative scrutiny

- R13. A Joint Committee for Post Legislative Review should be established and empowered to review any legislation that a departmental select committee declines to look at.
- R14. If there is no agreement to a Joint Committee then the House of Lords should initiate a process to choose selected Acts for post legislative scrutiny which have not been scrutinised by Commons Select Committees.
- R15. An assessment of the resource implications of post legislative review should be conducted to determine how committees can support the scrutiny demands of this process.

Non-Legislative Procedure in the House of Lords

March 2010

Rt Hon the Lord Butler of Brockwell KG GCB CVO (chair)
Lord Brooke of Alverthorpe
Rt Hon the Lord Higgins KBE DL
Lord Lipsey
Professor the Lord Norton of Louth
Lord Tyler CBE

In considering what improvements we can suggest to the procedures of the House we have had in mind the following aspects, which we think it important to maintain:-

- I. The House is committed to self-regulation: this encourages a spirit of courteous compromise;
- II. Any member of the House can raise and explore amendments to legislation without being prevented by formal timetables or guillotines;
- III. Informal conventions allow all sections of the House to be fairly represented in debate.

These civilised features make it all the more important that time in the Chamber is used efficiently so that a balance is maintained between the Government's right to get its business through and the House's duty to scrutinise it effectively.

With these thoughts in mind we make the following suggestions:-

i. Committee Stages of Bills

We support the suggestion of Lord Filkin's group that all or part of the Committee Stages of Bills should take place in Grand Committee more frequently than is currently the case. This should be operated in such a way that the House's ability to vote on amendments is enhanced rather than reduced.

ii. Statements

We note that ministerial statements regularly interrupt main chamber business in prime time. We understand that statements made in the House of Commons are only repeated in the House of Lords at the Opposition's request. We suggest that, if the Opposition request or the Government wish, it should be an option for repeated statements to be made in Grand Committee.

- iii. We note that answers given in the House of Commons to Urgent Questions are repeated as statements in the Lords with 20 minutes allowed for front bench spokesmen and 20 minutes for backbenchers. We suggest that these should be given the same allocation of time as a Private Notice Question, i.e. up to 10 minutes Q & A and no formal precedence accorded to Opposition front benches.

iv. Questions

While some of us think that the Lord Speaker should call individual Members to ask supplementaries, others of us consider that it would be more acceptable to the House for the Lord Speaker to do no more than the Government front bench does at present, i.e. indicate which section of the House should have the next question and leave it to that section to decide who should give way.

- v. To ensure that a small number of Members do not dominate oral questions by being regularly first in the queue when slots become available, we suggest that oral questions on any day are chosen by ballot two weeks before that day.
- vi. We consider that there should always be time for six supplementaries after the first exchange. There should be a convention that each such subsequent question and answer should aim to be completed within a maximum of a minute by the House clock.
- vii. To speed up questions, the increasingly common practices of ministers thanking questioners for questions and of questioners thanking Ministers for answers should be dropped.

viii. Debates

To increase the topicality of balloted debates, we suggest that, after each ballot, the list for balloted debates should lapse so that members have to re-enter or replace their suggested motions.

- ix. To supplement topical questions, we suggest that there might be a ballot for a weekly topical debate, limited to one hour, to take place after oral questions on Thursdays.
- x. Since a proposal for “parallel debates” has already been put forward by the House’s Information Committee, we have not considered it further ourselves. But we do suggest that there should be a website on which the public could suggest general subjects for debate, which political parties and those entering the ballot could take into account when choosing their subjects.

xi. Planning of Business

We recognise that the scheduling of business is normally sensitive to the wishes of parties and backbenchers. However, it would increase transparency and enable members to raise issues of concern if the Leader of the House were to have a weekly time for questions, lasting 20 or 30 minutes, on the floor of the House. We recommend a trial period for this.

- xii. We commend the convention that business likely to lead to significant votes should be scheduled before the dinner hour.

xiii. Timing of Sittings

To provide more time for business while still allowing time for meetings of committees, we propose that consideration is given to starting business at 2 pm on Mondays and Tuesdays, 2.30 pm on Wednesday and 10 am on Thursdays. We do not suggest changes to times of rising.

xiv. Select Committees

We suggest that the Liaison Committee should review the structure of Select Committees at the start of a new Parliament, taking account of the suggestions in xvi below.

- xv. The issue of election of domestic Committees is being considered by Baroness Murphy's group. We propose that, as paid officers, the Chairman and Principal Deputy Chairman of Committees should be elected by the House. We do not see the same need for election of members of other Select Committees in this House, although we do propose that Chairmen are elected by the members of each committee.
- xvi. We see general advantage in the formation of joint committees with the House of Commons, both for economies of scale and to increase the awareness in each House of the work of the other. We think that joint committees might be suitable on pre-and post-legislative scrutiny, any Committee on Legislative Standards as proposed by Lord Filkin's group and on review of the effectiveness of regulations.
- xvii. We envisage that the Lisbon Treaty will require more consideration of EU documents, which would be best done by joint committees. We also propose that such committees should revisit earlier EU committee reports and report on the extent to which the executive has complied with them.
- xviii. On days when Select Committee reports are published, Chairmen should be given a slot of 5 minutes at the end of oral questions as a "trailer" for the report.

xix. Miscellaneous

We suggest that by analogy with the arrangements for the Liaison Committee to report to the House every proposal for a new Committee, the Procedure Committee should similarly report every proposal by members for changes in procedure.

- xx. We suggest that any member should have the same right as Ministers to draw attention to a document by giving notice that it has been placed in the Library of the House.
- xxi. Some of us consider that the wearing of robes at the State Opening of Parliament and for the introduction of new members makes a distinction between members of the House of Lords and members of the House of Commons which is inappropriate and unhelpful to the public's image of the work which the House of Lords does; and that it should be discontinued.

Governance and Accountability in the House of Lords

March 2010

Baroness Murphy (Chair)
Lord Kirkwood of Kirkhope
Lord Luce
Lord McIntosh of Haringey
Baroness McIntosh of Hudnall
Lord Norton of Louth
Lord Puttnam

1. Internal governance

- Our group focused on the ‘means’ by which governance and accountability systems support the House whereas Lord Butler of Brockwell’s group and Lord Filkin’s group concentrated on the ‘ends’, that is the legislative and other business of the House. The key objective was to identify areas of concern and suggest possible remedies. Throughout the discussions we kept in mind the desire to enhance and strengthen the self-governing, collaborative traditions of the House and the urgent necessity to demonstrate to the public that the House is modernising itself and able to respond to recent concerns. Our recommendations are a consequence of self-regulation. We believe the Government should welcome changes which improve the efficient governance of the House.
- The group took as its starting point a definition of governance as the processes of decision-making and decision implementation. Our analysis of governance focused on the formal and informal actors involved in making decisions and implementing them and their accountability for delivering the purposes of parliament. Underpinning our discussions was a desire to see the House adopt processes which meet the highest standards of good governance, reflecting the generally accepted desirable characteristics, participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive, standards that are rightly demanded and expected of corporate bodies in the public and independent sectors.

2. Current governance arrangements

- There are perceived lacunae in the governance of the House which need addressing urgently. Current governance arrangements are not sufficiently transparent to the public, or even to members, and as a result their fragility is too easily exposed. Current structures require considerable negotiation between players to work effectively in a crisis or when a major decision is needed.
- The ‘Usual Channels’ in effect dominates the internal governance of the House but its role is nowhere made explicit and the system is totally lacking in transparency. It represents the interests of the parties and Government but not necessarily parliament, let alone the people it serves. The Usual Channels does not appear in an organisational chart of the administration. It is neither a committee nor a named group. It is not open to scrutiny. It is acknowledged however that there needs to be some kind of a lubricating system to enable quick decisions to be taken and to enable the Government to get their business through by reaching sensible agreement with Opposition parties. But the system needs to take back benchers’ and cross benchers’ opinions and interests fully into account. At present, agreements negotiated between the party whips are rarely made explicit. There are moreover understandable reasons why the party leaders and whips should have an influence on the timetabling of business but less obvious need for them to dominate, for example, the speaker order in the Chamber, the allocation of accommodation, restaurant opening hours and so on. We recognise therefore that the Usual Channels is a necessary negotiating system but wish to see it operate in the context of a clear and effective governance system for the House.
- There needs to be a mechanism for more backbench members to assert an influence on the way the House is run and feel engaged in the decision-

making processes, probably through better election procedures to committees involving the whole House. Parliament needs to establish, or perhaps reclaim, control over its own administration and business.

- It was felt that the Lord Speaker's role needed clarification, which was felt to be unsatisfactory as conceived at present. The structures that were in place when the Lord Speaker role was created have largely remained unchanged, creating unnecessary confusion as to who does what. There is confusion about who should provide leadership for the strategic governance of the House.
- The domestic committee structure is unwieldy under the current arrangements and has no clear accountability relationship to the strategic governance structures of the House. To improve the structure's effectiveness we make some recommendations about the chairmanship of these committees.
- The names of the Management Board and the House Committee do not convey their purpose or position in the governance structures.
- The question arises whether there is an appropriate governance model on which the House of Lords could base itself, or judge itself against. Are there aspects of governance arrangements within overseas parliaments that could be usefully applied to the House of Lords? This may be worth investigating but it was agreed that the House of Lords was a unique organisation, which did not lend itself naturally to adopting governance structures from other sectors, but that it should not prevent it from adopting the fundamental principles of good governance outlined above.

3. The Management Board

- There was general acknowledgment that the Management Board structure of the Clerks and directors of services appeared to work well and had been evolving in a constructive and professional way since its inception. The structure of committees and governance arrangements of the membership however created difficulties for the Management Board rather than the reverse.
- We believe the Management Board is misnamed. In effect, headed by The Clerk of the Parliaments, the Chief Accounting Officer, it is the Executive Board of the House. The House Committee should be the strategic leadership board to which the Executive Board is accountable. We recommend that the Management Board should be renamed the Executive Board.
- It was noted that the Audit Committee now included external independent members and the question arises whether this would be of help to the Management Board too. Lords Tordoff and Hunt, in their 2007 review of the changes introduced after the Tordoff Report of 2002, concluded that the House Committee provided the 'external strategic leadership' and a truly external view was not necessary. Members of our group felt that time had moved on and that the House Committee would not now be perceived by the public to be an 'independent' source of advice and support; perhaps this question of external advisors on the Management Board should be re-opened.

4. The role and membership of the House Committee

- The House Committee exists to provide non-executive guidance to the administration and strategic leadership of the House. It is to this committee members of the House should feel confident in delegating the exercise of their self governing powers for the good of the whole House. The name of this most important committee does not indicate its function nor powers. It is in effect the strategic management board but few peers understand its role. We recommend that the House Committee should be renamed, perhaps the Supervisory Board or some other name to make clear that it is the decision making body of the House.
- At present the House Committee is dominated by politics, if not always party politics. We believe that the long term strategic leadership and future planning of the House require a longer term focus than can be achieved through the lifetime of a Government if modernisation is to be sustained. The Committee should be restructured to reflect a balance between party and parliamentary interests and give leadership and oversight to the key areas of administration, particularly the domestic, and conduct and privileges of the house. Backbench members should be elected through an open and explicit process.
- It would be good practice for the House Committee as the acknowledged strategic leadership board to introduce some external advice from outside parliament, to introduce expertise from other fields of corporate and public endeavour in order to add some external scrutiny. The Committee has no remit to appoint external members but could co-opt external advisors.
- The Chairman should have a clear leadership role. The Group were agreed that the Lord Speaker should chair the House Committee, set the agenda for the Committee and be supported in this role by Deputy Speakers who also take a leadership role in the business of the committees. This is expanded on below.
- The whole House could elect backbench members through an 'open-list' system, including an allocated number of seats according to party strength. Alternatively, parties themselves could elect members from within their own groups similar to the process used for electing hereditary members. We are conscious of the need to restrict the House Committee to a realistic size to promote swift decision making.

5. The role of the Lord Speaker

- It was felt that the Lord Speaker should have a more formalised role in internal governance and take the lead in speaking for the House on issues that directly affect the reputation of the House. The Lord Speaker role as Chairman of the House Committee should be clearly established as the leader of the governance structures of the House.
- There needs to be clear accountability structures between the Leader of the House, The Usual Channels, the Lord Speaker and the Management Board. Recent events have exposed the fragility of the current arrangements both to members of the House and to the public. In our view the Lord Speaker should be the leader of this House of Parliament. The Leader of the House and the Usual Channels play a crucial role in the management of government business but cannot provide the longer term strategic vision for the House.

6. The appointment and role of domestic, and conduct and privileges committees.

- House of Lords Committees can be divided into a number of groups but the ones we are concerned with here are the domestic committees and those governing conduct and privileges.
- The process for appointing members to domestic committees lacks transparency and results in memberships not particularly engaged with the committee's work or the administration. It was concluded that a transparent system of nomination/election would engage backbenchers more.
- Most domestic committees are reactive in nature and exist more as 'user groups'. More powers and a clarification of their lines of responsibility would allow them to look at issues strategically.
- Despite ongoing efforts to professionalise, the administration continues to adopt a deferential attitude in its relationship with domestic committees. It was felt that this could lead to one member's 'bee in the bonnet' imposing excessive demands of time on a committee. There needed to be effective leadership to intervene when appropriate.
- Conduct and Privileges (the proposed renaming of the Committee is welcome) has received insufficient scrutiny in the past, evidenced by the serious failures exposed by the media in recent months. Just as the Audit Committee has modernised itself to include external members as good practice it may be advisable for the Privileges Committee to be supplemented by external independent advisors.
- Some of the group felt that the remit of the Liaison Committee is too narrow. A body equivalent to the House of Commons Liaison Committee, where chairs of select committees come together, might also be desirable.

7. The role of the Chairman of Committees

- Nothing noted here is meant to reflect on any recent incumbent of this post. We are more concerned with the role, the method of appointment and the breadth of remit of this historical but possibly anachronistic role. A full time paid post, the Chairman of Committees chairs Committees of the whole house (often through a deputy), chairs four of the domestic committees, the Privileges Committee and the Procedures Committee and also supervises the passage of private bills. This latter task is far less onerous than formerly. Nevertheless the role of Chairman is a burdensome one which impacts on the efficient timetabling of the various committees.
- We believe the wide ranging remit of this post should be examined with a view to splitting the role between a number, perhaps three, Deputy Speakers accountable to the Lord Speaker. The three roles could be a) a responsibility for the domestic and administration committees, b) a responsibility for conduct and privileges and a third perhaps including procedures. If the leadership for these three areas were divided the three Deputy Speakers would become Deputy Chairmen of House Committee, thus providing support to the Lord Speaker in her governance role.
- The Chairman of Committees is officially appointed by the Crown. In reality the appointment process is controlled by the Usual Channels and not sufficiently transparent to stand-up to any form of contemporary public scrutiny. A procedure for appointment by election by the whole house for three new roles would ensure that the core functions of the House itself were reclaimed for the House.

- The Principal Deputy Chairman of Committees is also a full time post appointed in a manner which lacks transparency. Again we make no comment on the individual post holder but wonder whether this role should be examined in the light of its EU committee functions. Since the role carries no function to act as Deputy to the Chairman of Committees, we suggest that the title should be amended.
- We recommend that two of the Deputy Speaker roles should be remunerated posts but that the post responsible for Conduct and Privileges committees should be unremunerated.

8. Concluding remarks

- If we are to continue as a self-governing institution members must have greater confidence than now that they understand in whom they are investing their trust and how the powers exercised on their behalf are discharged by those in leadership roles. We have made some suggestions here for improving the lines of accountability and opening up the administrative processes to become more inclusive and structurally more appropriate and we believe that the roles of Parliament and the role of Government will be enhanced by an effective and transparent governance structure in the House of Lords. The current structures are complex and have developed over time in an ad hoc pragmatic fashion, so there is undoubtedly more work needed to flesh out some of the detail. We believe that the House would greatly benefit from an independent expert review of its governance and accountability systems to ensure that this House like any other publicly funded body adheres to the very best standards of public life. This final recommendation however should not be seized as an excuse for delaying the process of change. This House can do a great deal to improve our current governance and accountability structures and should take the opportunity to do so now.