



The Governance of Britain: **Hansard Society Response to the Government's Green Paper**

1. Introduction: The Hansard Society is an independent, non-partisan organisation that works to strengthen parliamentary democracy and encourage greater public involvement in politics. We undertake research to stimulate reform of political institutions and the parliamentary process and provide a forum for discussion of these issues. We very much welcome the Government's Green Paper on constitutional reform, *The Governance of Britain*, which aims 'to forge a new relationship between the government and citizen, and begin the journey towards a new constitutional settlement – a settlement that entrusts Parliament and the people with more power.' This paper puts forward our views on how these ambitious and important aims can be realised. It refers to findings and recommendations from Hansard Society research, reports and commissions.

Many of the issues covered in the Green Paper have been central to the Hansard Society's work for many years including the promotion of an independent and effective Parliament, improving government accountability to Parliament and seeking to engage Parliament and government more closely with the public. Crucially, the Green Paper considers the central relationships at the heart of our political system, namely that between Parliament and government, and between both Parliament and government and the public that they represent and serve. Given the evident problems with elements of the political system - including falling electoral turnout and high levels of disconnection and disillusion - it is essential that the Government brings real political will and energy to addressing these issues. We welcome the publication of the Green Paper as a vital step in that process.

It is important to recognise the extent and impact of the constitutional and political changes already made in recent years. The Green Paper should be seen as a continuation of that reform process. The establishment of the Scottish Parliament and Welsh Assembly represented profound turning-points in the governance of the United Kingdom and the relationship between the constituent nations. The incorporation of the European Convention of Human Rights into British law (and its subsequent implementation in 2000), had profound effects on the parliamentary, political and legal system. Reform of the House of Lords, most notably the reduction in the number of

hereditary peers, has encouraged a greater sense of legitimacy in the second chamber, as is evident by its increasing confidence in challenging the Government and the Commons. The modernisation programme in the Commons has led to a wide range of innovations that have, for the most part, improved the efficiency of Parliament as well as sometimes improving its effectiveness.

Few would disagree that these reforms have significantly changed the way that Britain is governed. However, these changes, and others, have given rise to new and often complex issues. Take two examples. On devolution, the 'West Lothian/English Votes' question is unresolved and has the potential to cause division between different parts of the United Kingdom. The legacy of the Human Rights Act is controversial. To its supporters, it stands as a testament to human and civil rights, entrenching the freedoms of a democratic society. To its detractors, however, it has encouraged and legitimised a particular form of rights and compensation culture that has changed Britain for the worse. With such important changes already made, and with some difficult issues still far from settled, it is crucial that the Green Paper is seen, and presented, as part of a continuing process of redefining how the country is best governed.

2. Limiting the powers of the executive: The Hansard Society has consistently advocated that Parliament's powers should be strengthened and that it should achieve a more equitable and influential relationship with the executive. As the central, sovereign body at the heart of our representative democracy, Parliament's independence and effectiveness is the benchmark by which the health of our political system should be judged. The exercise of prerogative powers administered by ministers on behalf of the Crown – effectively a hangover of medieval governance – has represented a long-standing obstacle to the effective functioning of our parliamentary democracy. The limitation of this executive power and its transfer to, or sharing with, Parliament is overdue and potentially an important breakthrough. We have identified a number of themes relating to prerogative power and specific areas that require reform.

2.1 Recall of Parliament: The Hansard Society agrees that the procedure for the recall of Parliament should be reformed. The Hansard Society Commission on Parliamentary Scrutiny (2001), chaired by Lord Newton of Braintree, recommended that Parliament should be able to recall itself, especially in times of emergency. The Commission argued that 'Parliament as an institution must be able to respond to issues as they arise. If Parliament is to be an effective forum in times of crisis, and retain its significance to political debate, there must be an alternative mechanism for the recall of Parliament.'¹ The Hansard Society has proposed that the Speaker of the Commons should adjudicate the request for a recall, following instigation by a group of MPs. It is essential that an independent Parliament should be able to convene itself without having to obtain the permission of the executive.

¹ *The Challenge for Parliament; Making Government Accountable*, Report of the Hansard Society Commission on Parliamentary Scrutiny, chaired by Lord Newton of Braintree, (2001).

2.2 Scrutiny of public appointments: The Hansard Society supports increased parliamentary scrutiny of public appointments and welcomes the proposals in the Green Paper. Greater scrutiny of appointments would strengthen parliamentary accountability, provide an extra level of transparency and deliver greater legitimacy to the appointment process. There are two separate forms of appointment scrutiny outlined in the Green Paper. The most important of these methods involves the provision of pre-appointment hearings which would allow a parliamentary committee to make its views known to government before a decision is made. This form of scrutiny represents an important way to involve Parliament in the process and we hope that Parliament responds positively to such opportunities. Equally, although the committee's views would not be binding on government, we hope that the Government commits to address in detail any issues raised and respond in the most open and fullest way to the committee.

The other form of scrutiny of public appointments will take place after appointment but before the nominee takes up post. This is more akin to some existing practice, such as when the Treasury Committee takes oral evidence from appointees to the Bank of England Monetary Policy Committee. Extending the number of appointments which are subject to this form of scrutiny would also be welcome, and is more suitable for certain appointments as the Green Paper makes clear. However, the pre-appointment system promises to deliver a more exacting form of accountability and enhance the role of Parliament and so that form should be normally considered unless there is good reason not to do so. There is, however, one note of caution. The danger is that such scrutiny might become overly focused on the appointee's personal details and background, as has happened in some countries, and this approach should be avoided.

2.3 Ensuring Parliament has an effective role in the exercise of prerogative powers: A number of steps should be taken to define the relationship between Parliament and government to ensure that reforms to the exercise of prerogative powers make a difference:

- An official list of the prerogative powers should be drawn up;
- A code of practice should be developed for their exercise under the new arrangements, providing guidance for the different powers, responsibilities and duties of government and Parliament in this area;
- Where appropriate, prerogative powers should be placed on a statutory footing;
- Government should commit to provide the fullest information and co-operation to Parliament on issues relating to prerogative powers;
- A select committee (possibly ad hoc in the first instance) should be established to review the exercise of prerogative powers and should report on how the new arrangements have worked in practice.

2.4 Business Committee: The Hansard Society supports the establishment of a Business Committee responsible for managing the parliamentary timetable. This is not referred to in the Green Paper, but we believe it would give Parliament greater control over the use of parliamentary time. The establishment of a Business Committee would help to reinforce the specific culture of Parliament. Government currently dominates the proceedings in Parliament and there is little leadership or co-ordination by a

parliamentary body. The Hansard Society Commission on Parliamentary Scrutiny proposed that, in order to perform its collective functions more effectively, Parliament should have a steering committee responsible for the management of the parliamentary timetable. Such a committee would bring a greater certainty to the parliamentary timetable and involve the main political parties in the management of business and, hopefully, bring greater transparency to the way that Parliament operates.

2.5 Parliamentary commissions of inquiry: We propose the introduction of a formalised procedure for the establishment of parliamentary commissions of inquiry which would report to Parliament or a specific select committee rather than to ministers. The recently announced Speaker's Conference is one model for specific parliamentary inquiries which we welcome. However, we believe that there should be more opportunities for Parliament to establish its own inquiries on issues of concern, with powers and resources of a similar level to governmental or judicial inquiries.

3. Making the executive more accountable: The Green Paper outlines ways to ensure Government is more answerable to Parliament and the people. These include a revised Ministerial Code, the introduction of a pre-Queen's Speech consultative process and holding annual parliamentary debates on departmental plans and objectives. The Hansard Society has looked in close detail at the issue of executive accountability and called for a far greater sense of accountability of government to Parliament. Our view is that Parliament has a unique constitutional role as the only body with the democratic credentials to take overall responsibility for monitoring and scrutinising government as a whole and that improved mechanisms should be put in place to strengthen this role.

3.1 Developing a new culture: To achieve significant improvements in the quality of parliamentary scrutiny, government and Parliament need to work together to ensure the development of a new culture based around a more exacting form of accountability. Procedural reform can only achieve so much, but it may be a pre-requisite for cultural change.

Our Commission on Parliamentary Scrutiny argued that the effectiveness of Parliament relied on its members' willingness to use the powers at their disposal, which in turn required that every MP should regard the pursuit of accountability as an integral part of his or her work. The Commission found that every MP must balance a number of competing roles (representing the interests of their political party and their constituency, as well as discharging their parliamentary duties) and that the institutional structure of Parliament and the dominance of parties means that MPs have very different and often contradictory views about their own role, and that of Parliament. The Commission sought not only to redress some of the balance between the executive and Parliament but also to promote cultural change by offering MPs greater opportunities and incentives to reconcile their roles in a manner that does not lose sight of the public interest.

We believe that the recommendations in the recent report of the House of Commons Modernisation Committee, *Revitalising the Chamber: the role of the backbench Member*, provide a starting point for encouraging MPs to dedicate more of their time to

parliamentary work.² This includes changes to urgent questions and urgent debates; providing an opportunity to ask 'open' questions during oral question time; and reviewing the operation of programming.

3.2 Financial scrutiny: The Green Paper states that the Government would simplify the reporting of government expenditure to Parliament. While this commitment is positive, the entire area of financial scrutiny requires further reform. The recent Hansard Society report, *The Fiscal Maze* (2006), found that compared to other legislatures in the developed world, the UK Parliament exercises very little influence over budget and spending issues.³ The report argued that Parliament could and should do more to make an impact and secure full accountability from government. The report included the following recommendations:

- Parliamentary committees should make greater use of the time between the pre-Budget report and the main Budget to take evidence on the government's plans;
- A parliamentary committee should consider the entire Finance Bill in draft;
- Parliament should improve its scrutiny of tax legislation and administration; options include establishing a separate Tax Administration or Taxation Committee in the Commons;
- There should be more systematic follow-up of the reports of the National Audit Office and Public Accounts Committee and greater evidence that government has acted on their recommendations;
- To enable Parliament to have greater expertise and resources to do this work, a Parliamentary Finance Office, modelled along the lines of the Congressional Budget Office in the United States should be established.

3.3 The Legislative Process: On the issue of lawmaking, we welcome the introduction of parliamentary consultation on the shape of the Government's overall legislative programme, building on the success of pre-legislative scrutiny. We also welcome recent reforms such as the introduction of Public Bill Committees. We recommend that further reforms should include:

- A more uniform and thorough system of post-legislative scrutiny to assess whether laws have achieved their aims;
- Reform of Private Members' Bills procedures, to allow backbench MPs or peers more opportunities to take through legislation;
- Improved scrutiny of delegated legislation, which contains most of the real detail of legislation. One option that has been put forward is the establishment of a Merits Committee in the Commons to sift delegated legislation and draw attention to issues of particular political or legal importance.

3.4 Regional Committees: The Green Paper proposes the formation of select committees to scrutinise the work of the nine regional ministers appointed in June 2007. These committees represent a new and possibly significant departure and have the potential of bringing the parliamentary process closer to the public. Such a move would

² Modernisation Committee (2006-07), HC 337.

³ A. Brazier and V. Ram (2006) *The Fiscal Maze: Parliament, Government and Public Money* (London: Hansard Society).

be especially important within England, which is governed in a very centralised way in comparison to many other countries. It is likely that the regional committees would attract regional and local media interest and may provide a focus for raising and inquiring into regional concerns. There are clearly issues to be resolved involving the resources needed to enable the committees to function efficiently and also where the committees will sit and how frequently they will do so. There will need to be a high priority placed on select committee work by MPs to ensure that there are enough members to sit on this large number of extra committees while, at the same time, not diminishing the members available for the existing committees. It is also possible that 'turf wars' may arise with other departmental select committees. However, these committees promise to be an interesting innovation which should be tried out, perhaps on a pilot basis, with their operation evaluated by Parliament after a specified period.

3.5. The need for coherence: It is crucial that both government and Parliament are committed to ensuring that reforms work effectively. There is a danger that simply putting in place various well-meaning but piecemeal changes will have little effect. Indeed, there is some past evidence of this. Since 1997, there have been a range of reforms made under the Government's modernisation programme, most of which were, in themselves, welcome. However, the Hansard Society's report *New Politics, New Parliament* concluded that the modernisation programme raised expectations which were unmet.⁴ The various reforms had little connection with one another and there was also no clear endpoint for the modernisation process, which limited its effectiveness. In total, the report concluded that although Parliament may have become more efficient in the period between 1997 and 2005, its effectiveness in terms of securing real accountability from government, and improving its relationship with the public, remains in doubt.

In fact, the modernisation process is not yet complete. As mentioned, the Modernisation Committee report, *Revitalising the Chamber: the role of the backbench Member*, proposed a range of innovations that would give MPs further opportunities to strengthen their scrutiny role and place concerns on the parliamentary agenda. We hope that the Government will commit to implementing these proposals. Our report *New Politics, New Parliament* concluded that the motivation of the different Leaders of the House of Commons was a determining factor in the success of the modernisation process. We hope the Government, as well as the Modernisation Committee, will continue to place high priority on improving the operation and effectiveness of Parliament, concurrently with any other constitutional reforms that take place.

4. Re-invigorating our democracy and Britain's future; the citizen and the state: Many of the topics within this section of the Green Paper are more long term in their nature and require detailed consultation, consensus building and implementation. The Hansard Society has undertaken research and made proposals relating to a number of these areas.

⁴ A. Brazier, M. Flinders & D. McHugh (2005), *New Politics, New Parliament?* (London: Hansard Society).

4.1 Continue to develop reforms for a substantially or wholly elected second chamber: In February 2007, the Hansard Society published opinion poll research on the public's views on House of Lords reform.⁵ The survey revealed that 82 per cent want at least some members of the Lords to be elected. (This figure was made up of 42 per cent who favour a fully elected House plus 40 per cent who favour a mixture of elected and appointed members). Conversely, just 6 per cent want a fully appointed House.

The survey revealed that a clear majority (67 per cent) support the existence of a second chamber and think that future members of the Lords should be more independent of party politics than the House of Commons (57 per cent) and bring expertise and experience from science, business, law etc. (54 per cent). Only 5 per cent believe that future members of the Lords should represent a single constituency. The majority of people think that the key functions of the House should be holding the government to account for its policies and expenditure (65 per cent) and revising legislation (44 per cent). There is very little support for a ceremonial role for the Lords (3 per cent).

These findings – namely that the second chamber should be at least partly elected, less partisan than the Commons, and focus more explicitly on scrutiny and accountability functions – should underpin future reform proposals. However, the survey also found that a majority of people do not feel they understand how the House of Lords works (56 per cent). In addition, the most recent *Audit of Political Engagement* reported that only 9 per cent of people have discussed reform of the House of Lords with family or friends in the last year or so.⁶ Therefore it is vital that reforms to the Lords are used as a way to explain to the public the basic architecture and functions of the political system.

4.2 Consider extending the duration in which parties can use all-women shortlists for the selection of electoral candidates: The Hansard Society report *Women at the Top 2005: Changing Numbers, Changing Politics?* (2005) made a series of recommendations to deliver more representative political institutions in the UK.⁷ This included calling on the Government and political parties to actively support the extension by secondary legislation of the Sex Discrimination (Election Candidates) Act that permits the use of equality guarantees and which expires in 2015. Alongside this, it asked that the Government consider introducing prescriptive rather than permissive legislation. *Women at the Top* also recommended that the Government implement international protocols and treaties requiring equality of women's representation and provide funding for political parties to institute, operate and monitor equality selection procedures. The Hansard Society has published reports on women's representation since 1990 and we endorse any practical policies that ensure more equal representation between men and women.

⁵ 1,980 adults from across England, Scotland and Wales were surveyed by YouGov between 17 and 19 October 2006.

⁶ Hansard Society and Electoral Commission (2007), *An Audit of Political Engagement 4* (London: Hansard Society/Electoral Commission).

⁷ S. Childs, J. Lovenduski & R. Campbell (2005), *Women at the Top 2005: Changing Numbers, Changing Politics?*, (London: Hansard Society).

4.3 Launch a Youth Citizenship Commission looking at citizenship education, ceremonies and the possibility of reducing the voting age: The Hansard Society places a high priority on promoting engagement with, and education and knowledge about, the political process, particularly in relation to young people. The introduction of a Youth Citizenship Commission whose remit is to increase young people's political participation is a welcome development. However, its immediate priority must be to address the challenges faced by the citizenship curriculum five years on from its introduction. These challenges are clearly spelt out by the National Foundation for Educational Research's (NfER) longitudinal study into citizenship education as well as the Hansard Society's own experience of delivering national political literacy projects in schools.

The NfER study found that while citizenship education has flourished in some schools, it appears to be stagnating in its overall development.⁸ The responsibility for this cannot simply be placed with schools and a significant contribution is required at policy level. Challenges highlighted in the report are:

- The general lack of status and visibility of citizenship education within the curriculum as a whole;
- The paucity of trained specialist staff;
- Competing policy priorities at central government level.

These challenges require immediate attention and renewed vigour from central government.

In addition to examining the case for and against the lowering of the voting age, the Government should also look at how other political processes could adapt to increase the participation of young people. Giving young people a range of opportunities to make meaningful contributions to the policy making process would demonstrate a commitment by government to actively engaging young people as citizens, and also result in more effective policy making by making use of their views and experience. It would also give young people a greater understanding of how the democratic process works and the impact it has on their lives. These opportunities could be modelled on proposals made elsewhere in the Green Paper for engaging with adults. This would send a clear signal to young people that their input is valued.

4.4 Establish a Petitions or Engagement Committee: The Hansard Society believes that a Petitions Committee should be established in the House of Commons to assess issues of public concern and, if appropriate, to make referrals for debate or committee inquiry. We have previously drawn attention to the successful Petitions Committee at the Scottish Parliament as a model which should be considered for Westminster.

Petitions are simply one of a number of ways of connecting with the public and providing an opportunity to influence the agenda. As an alternative to a Petitions Committee, there is a case for considering the establishment of a Public Engagement Committee, with a

⁸ D. Kerr (2007), *Vision versus pragmatism: citizenship in the secondary school curriculum in England*, London: Department for Education and Skills).

broader remit for piloting engagement methods, and responding to issues of public interest in relation to other (departmental) committee programmes. Indeed, a Public Engagement Committee could liaise closely with other committees and provide them with support alongside bodies such as the House of Commons Scrutiny Unit.

4.5 Creative use of a range of consultation and engagement methods: More should be made of alternative and supplementary consultation methods, in order to lower barriers of entry, ensure a greater range of consultation respondents, encourage a richer mix of quantitative and qualitative data, and counter perceptions about the lack of value in consultation.

The common consultation methods of written submissions (postal and email), interviews/hearings and focus groups are important but represent only a small selection of methods and tools available to government consultation. Some methods are more innovative than others - citizens juries are popular and increasingly mainstream, participatory budgeting appears to have potential but has yet to undergo serious evaluation.

The Hansard Society has been assessing the value of information and communications technology (ICT) to government consultations and engagement activity through the study of 18 live consultation and engagement exercises. We looked at three types of software - blogs, forums and webchats. Blogs were observed to work best where engagement is ongoing over a long-term period, forums are good for periodic, structured deliberation with large groups, and webchats are useful as one-off real-time events. All performed best when used as an element of a 'mixed economy' approach with conventional, offline methods.

Perhaps the most important finding from our research is that online opportunities to engage have attracted those who have not been active previously in the policy process. It was the online mechanism - combined with an interest in the subject matter and the opportunity to deliberate with policy makers - that motivated engagement. In some instances, these were members of the public with passing interest and limited knowledge of the subject area, in others new participants would be regarded as technical experts.

5. The reform process: ensuring priority, maintaining momentum: A high degree of political commitment and energy will be required to address all of the various elements in the Green Paper in a timely fashion, especially those relating to reform of the second chamber, the written constitution and bill of rights. At present, there is no clear consensus that these developments should happen at all, much less the form they should take and when. Major political and constitutional changes, if they are to be successfully devised, agreed and implemented, will have to remain a high priority for both the Government and Parliament, and should be seen as a central theme of the Government's main programme and not simply an adjunct. It was therefore very important that the Green Paper was the first major announcement of the new premiership. This level of priority should be maintained.

The Hansard Society was also very encouraged that the Prime Minister followed up some of the themes in the Green Paper in his speech on 3 September 2007 on the Government's commitment to tackling political disengagement. We believe that a Speaker's Conference is a useful mechanism for deliberating on these issues and bringing together people from across the political spectrum. Without a broad and inclusive approach, reform is unlikely to be successful and long lasting.

5.1 Explanation and dissemination: It is also crucial that the proposed changes are fully and regularly explained to the public and that their views are sought. Hansard Society research has consistently shown that there is considerable disengagement with the political system and variable levels of knowledge about Parliament and politics.⁹ The next *Audit of Political Engagement* will test the public's awareness of, and views on, current proposals for constitutional reform.¹⁰ This may encompass what the public currently know about the constitution; what change they may want; and what they hope the outcome of change may be. As well as gathering the public's views on recent constitutional proposals, the *Audit* will also test the strength of public opinion.

An informed and interested population is essential for the long term health of a democracy, even though it is inevitable that many people will not wish to be actively involved. The Hansard Society therefore welcomes the Government's commitment to consult the public on its proposals. Already we have seen innovative approaches such as citizens juries being employed alongside other consultation methods, both on and offline. We hope that as many people as possible take part in the debate and the Hansard Society is working to encourage that to happen. At the same time, expectations have to be realistic and managed. Also, it is vital that the Government has a clear strategy for responding to the views of the public and then moving the debate to further, more refined stages, perhaps narrowing down this wide issue to a smaller number of tangible options. In particular, the longer term issues (Bill of Rights, British values, written constitution) will require a more detailed form of consultation, response and consensus building than is often the case with some specific areas of policy (e.g. health or transport). The Government's approach should accommodate that. The Hansard Society has a considerable amount of expertise and evidence surrounding the process of consultation – particularly in the field of eDemocracy – and how this can be used to reinvigorate our democracy.

The effective dissemination of information should also be a major part of the reform process. Government and Parliament – and indeed all those with a commitment to a healthy democratic system – should use this opportunity to inform and educate the public on the principles and operation of parliamentary democracy.

5.2 The role of Parliament: The Hansard Society shares the Government's view that Parliament should have a central role in the reform process. There is clear scope for

⁹ Hansard Society and Electoral Commission (2007), *An Audit of Political Engagement 4* (London: Hansard Society/Electoral Commission).

¹⁰ To be published by the Hansard Society in March 2008.

parliamentary committees to lead the debate and take evidence, form conclusions on a cross-party and aggregated basis, which then can form the basis of a dialogue with government. Committees such as the Constitutional Affairs Committee and Public Administration Committee in the Commons and the Constitution Committee in the Lords provide a focus for the dialogue between government, Parliament and the public.

There should be pre-legislative scrutiny of all legislation giving effect to reform proposals and a wide range of external and representative bodies should contribute to the process. Government too must commit to working closely with Parliament. It should provide Parliament with the fullest possible information and devise new ways of operating and new relationships which acknowledge and enshrine the reformed constitutional and accountability arrangements.

If the Government appears to have instigated new arrangements which do not in reality limit or transfer powers or functions, such a situation would only fuel cynicism about politics and lead to more disengagement, not less. Equally, it is also vital that individual parliamentarians and committees should respond positively to the new opportunities and place priority and effort into strengthening the role of Parliament.

6. Conclusion: A strong Parliament is the essential backbone of a healthy representative democracy. However, in our system, government is clearly dominant over Parliament; at times to an unacceptable degree. Parliament's ability to hold the executive to account is thus often very limited. We are very pleased that the Green Paper, and the accompanying announcements by ministers, recognises the need for reform and makes it clear that the fundamental principles of our representative democracy should be strengthened and protected.

The Hansard Society takes the view that representative democracy delivers the fairest and most stable form of government. While direct democracy techniques may, on occasion, strengthen the representative system, they are not a solution in themselves. What is needed is a strong, independent Parliament which has a more equal relationship with government and a more open relationship with citizens. The crucial element is not the theory; it is the outcome.

**Hansard Society
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