PARLIAMENT AT THE APEX
Parliamentary scrutiny and regulatory bodies

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1. Introduction: The Hansard Society Commission on Parliamentary Scrutiny

The Commission on Parliamentary Scrutiny was established by the Hansard Society in September 1999, under the chairmanship of Lord Newton of Braintree, to examine "how Parliament carries out its role as scrutineer of the words and actions of the Executive and assess whether the structure and processes are in need of change". The Commission published its report, The Challenge for Parliament: Making Government Accountable, in June 2001. Since the report's publication, the Hansard Society has organised a number of events and produced supplementary papers to disseminate the report's findings. These have included a major conference in London in July 2001 and meetings for MPs and members of the public in the House of Commons and at party conferences. Commission members also gave oral and written evidence to the House of Commons Modernisation Committee inquiry into select committees. The influence of the Commission's proposals was evident in the recent reports of the Modernisation and Liaison Committees. Additionally, the Hansard Society produced three briefing papers based on themes identified by the Commission. This report, which looks at ways in which the work of independent regulatory bodies and inspectorates could help to strengthen parliamentary scrutiny, is the final publication based on the Commission on Parliamentary Scrutiny.

2. The Commission's Approach: Seven Principles for Reform

The Challenge for Parliament set out a vision of a reformed Parliament and advocated the adoption of more effective methods to hold the Government to account. The Commission's proposals were based on seven key principles as well as more than 50 specific recommendations. The Commission's seven central principles for improving scrutiny were:

(i) Parliament at the apex: Politicians do not have the time, resources or expertise to keep a close watch on anything as large, fragmented or complicated as modern government. However, an array of independent regulators, commissions and inspectors responsible for monitoring the delivery of government services now exists outside Parliament. Parliament should be at the apex of this system of scrutiny and use their investigations as the basis on which to hold ministers to account.

(ii) Parliament must develop a culture of scrutiny: Changes in the attitudes and behaviour of politicians themselves are as important as changes in the workings of Parliament. Parliament lacks a corporate ethos which promotes collective functions such as accountability. MPs have to balance a number of competing roles - representing the interests of their political party and constituency as well as performing their parliamentary duties. Parliament should provide the means and opportunity for MPs to reconcile these diverse and conflicting roles. Party loyalties need to be balanced with holding government to account. Scrutiny should be
an integral part of the work of every MP.

(iii) **Committees should play a more influential role within Parliament:** The Commission regards select committees as the principal vehicle for promoting a culture of scrutiny and improving parliamentary effectiveness. Committees provide a means for monitoring and keeping a permanent eye on the work of government departments and agencies. Select committees can filter, and highlight, the work of external scrutiny bodies. The select committee system should be extended and developed so that committees make a more significant contribution to parliamentary business and to the work of every MP.

(iv) **The chamber should remain central to accountability:** The chamber should remain the forum where ministers are held to account for the most important issues of the day. The chamber is the public face of the Commons and the main means of informing the wider electorate. Reforms should aim to improve public interest, attendance and the influence of the floor of the Commons.

(v) **Financial scrutiny should be central to accountability:** MPs have a responsibility to ensure that government spending provides value for money and is spent wisely. The Commons fails to perform this role in either a systematic or an effective manner. Financial scrutiny underpins all other forms of accountability. Commons procedures should be adapted to ensure that all committees, and hence all MPs, have the scope and resources to ensure proper financial accountability.

(vi) **The House of Lords should complement the Commons:** At the time of the report’s publication, the future composition and role of the House of Lords was uncertain. Whatever its future structure, the Commission believes the Lords has a unique role to play in holding the Government to account. The Lords is likely to adopt a less adversarial approach to many issues, take a longer view of policy and administration and should play a significant role in cross-departmental scrutiny.

(vii) **Parliament must communicate more effectively with the public:** Parliament is at its strongest when it articulates public opinion but it needs to improve communication with, and responsiveness to, the public. Whereas the Government, political parties and many MPs are attuned to media requirements, Parliament is not. Parliament must improve its ability to respond to the electorate.

This report looks at Principle 1, Parliament at the Apex, and considers how it could be put into practice.
3. The changed nature of government

The late 1980s and 1990s saw massive changes in the shape and nature of government, most notably the development of executive agencies which now cover about three quarters of all central government activity. Another significant change was the growth of independent regulators, many of which were established by statute to regulate former public utilities such as electricity, telecommunications and water, following privatisation. Other regulatory bodies, such as Ofsted or Postcomm, undertake regulatory functions over government controlled public services. Some have become firmly established in the public mind as wielding considerable power and influence over crucial areas of public services and the economy. The Hansard Society Commission believed that the growth of regulatory bodies represented a challenge for Parliament. If Parliament failed to engage with such bodies it risked ceding its accountability functions. Instead the Commission believed that Parliament should actively utilise the evidence and expertise that these bodies could provide and use it to strengthen the parliamentary process.

This paper will use the term ‘regulatory bodies’ to describe a range of statutory bodies charged with regulating or inspecting specific areas of the public sector, privatised utilities or commercial activity. The Commission recognised that these bodies varied in their relationship with Parliament and in their degree of independence from government, and that the work they carried out was equally varied. Nonetheless, the same principle applied; that the relationships between these bodies and Parliament could be more effective and their evidence could help Parliament achieve more effective accountability of government. The Commission also considered how the work of the Parliamentary Commissioner for Administration and other Ombudsmen might further strengthen parliamentary scrutiny. Although Ombudsmen have a very different statutory basis from regulators and deal with specific complaints, the Commission believed that similar issues applied and that the work of Ombudsmen could also be better utilised by Parliament. A list of the main regulators and inspectorates is shown in Appendix 1.

4. Parliament and the work of regulatory bodies

Parliament’s relationship with regulatory bodies and their role in parliamentary accountability has two dimensions. The first is the extent to which the regulators are accountable to Parliament, so that their internal administration and activity is scrutinised by politicians. The second is the extent to which Parliament uses the technical investigations and evidence of these bodies as the basis on which to hold government to account. It is the second dimension that has the potential to make a real difference to parliamentary scrutiny.

The ‘extra-parliamentary’ scrutiny of the various regulatory bodies and inspectorates has challenged the traditional role of Parliament, providing new forms and more extensive scrutiny beyond the capacity of Westminster. At a time when Parliament can no longer claim to have privileged access to information on the activity of government and the public sector, the
The growth of external scrutiny mechanisms has contributed to the impression that Parliament has been marginalised. Peter Riddell in Parliament under Blair commented:

My real worry ... is that Parliament has failed to cope with the growth of alternative centres of power. The formation of Next Steps executive agencies, the creation of regulators for the privatised utilities ... all have far reaching implications for accountability. The official line that these bodies are still accountable, via ministers, to Parliament is an unconvincing and inadequate description of the real position.5

Despite their close relationship with Government there are few formal links between the regulatory bodies and Parliament. The main relationships involve those between the regulatory bodies and the sector involved, the government, the media and, to a lesser extent, other stakeholders such as consumer groups. An earlier Hansard Society Commission on the regulation of privatised utilities showed that the relationship of these new bodies with Westminster was tenuous and poorly-defined, stating:

Parliament has very few specific powers directly over the operation of the regulatory system, particularly over the industry regulators. Its two main specific powers are to vote appropriations to pay for the industry regulatory bodies and to overturn ministerial decisions which are in the form of Orders (for instance, the designation of public telecommunications operators) by passing a Resolution in the House of Commons. In addition, it can use its general scrutiny powers, notably via the National Audit Office and select committees.6

More recently however, the issue of accountability to Parliament was considered in the Act establishing the Financial Services Authority (FSA). The Government accepted proposals that the Treasury Committee should have a role in holding the regulator accountable. However, the Government rejected proposals that the National Audit Office (NAO) should have access to the FSA and so, the FSA is not held accountable through the NAO to the Public Accounts Committee. (A case study on the Financial Services Authority is contained in Appendix 2).

5. Scrutiny and regulatory bodies: Evidence to the Hansard Society Commission

In evidence to the Commission a number of regulatory bodies highlighted the fact that the lack of formal links and engagement between Parliament and regulatory bodies compromised the parliamentary scrutiny process. The danger for Parliament, as noted by OFTEL’s Director General, David Edmonds, was that accountability to other bodies, especially stakeholders, is increasingly seen as important and this acts to ensure efficient and effective regulatory action. The then Director General of OFWAT, Sir Ian Byatt,7 drew attention to the powerful influence of the media and pressure groups and stated that ‘increasingly it is these who are leading the process of scrutiny and challenging the accountability of government’. In other words, for as
long as Parliament's oversight is patchy and other mechanisms remain in place, the role of MPs and Peers will be further marginalised.

The submission from Elizabeth France, then the Data Protection Commissioner, drew attention to the fact that departmental committees do not engage systematically enough with the work of regulators and commissioners. Since the creation of the office of Data Protection Commissioner in 1984 the Commissioner has given evidence to the Home Affairs select committees on only one occasion to discuss the content of the annual report. Sir Ian Byatt also drew attention to the limited engagement with Parliament:

The complexity and sophistication of modern society, the economy and technology may make it increasingly difficult for Parliament to fully grasp the impact and outcome of the work of government. We have been keen to brief and educate MPs on the role of OFWAT and the major issues affecting the water industry. We have, however, been disappointed by the results. 8

6. Strengthening Accountability

Parliament has a unique role in holding ministers to account on behalf of the public, but the Commission believed that it displayed numerous shortcomings in its monitoring of government. It argued that Parliament's role is not to attempt to scrutinise systematically every aspect of government itself. Government is too large and complex for Parliament to do the job alone. Its role, and the role of individual parliamentarians, needs to be refined and clarified according to the context in which it operates. Crucially, the effective oversight of government relies on Parliament keeping pace with changes to its structure and operation.

The growth of interrogatory, scrutiny and regulatory bodies which are better equipped, in terms of resources and expertise, to monitor government provides opportunities for Parliament. Through the annual reports and performance assessments of such independent bodies there exists an array of indicators by which government can be judged. However, the effectiveness of this work relies on such information being used for a purpose. By challenging ministers on the basis of independent analysis it not only strengthens Parliament but also gives added value to the original work. Parliament needs to use the work of these other bodies in a more rigorous and systematic fashion. The Hansard Society Commission also proposed that the House of Commons should maintain a central list of all those organisations obliged to report to Parliament and ensure that every departmental select committee is aware of organisations which come within its remit.

In addition, there is the distinct issue of the extent to which the regulatory bodies are themselves accountable to Parliament. The National Audit Office and the Public Accounts Committee hold most regulatory bodies accountable to Parliament. Some of these inquiries consider how effectively the regulatory bodies carry out their work within the sector.9 Others focus on the regulatory bodies’ own administration and expenditure. Select committees have
a role to play in complementing the role of the Public Accounts Committee in this area.

7. Enhancing the work of select committees

The Commission believed that Parliament should urgently engage with all bodies that have a role in overseeing government activity. The Commission saw a specific role for select committees in mediating between the investigations of the regulatory bodies and the work of Parliament. Alone among Parliament’s scrutiny mechanisms, select committees have the ability to conduct detailed inquiries and utilise complex evidence. The Commission identified some good practice from select committees but nonetheless believed that work on issues relating to regulatory bodies came fairly low down their list of priorities. A survey of select committee inquiries undertaken for the Commission found around 13 per cent dealt with the work of independent regulatory bodies and inspectorates, and this figure would be lower if inquiries relating to the Parliamentary Commissioner for Administration and other Ombudsmen were excluded from the overall total.10

To address this somewhat inconsistent scrutiny, the Commission proposed that select committees should adopt a set of core functions and duties that should guide its work over the course of a session or full Parliament. In February 2002 the Modernisation Committee made a similar recommendation and in May 2002 the House of Commons agreed to adopt principal objectives for select committees. One of the objectives adopted was ‘to take evidence from independent regulators and inspectorates’.11

8. Using external evidence

The Parliamentary Commissioner for Administration (The Ombudsman) provides an example of how Parliament is strengthened by the investigative work of an independent office. The Ombudsman reports to the Public Administration Select Committee and this formal structure guarantees that its work is used effectively. The Ombudsman’s work investigating individual cases of maladministration often illuminates much broader issues of policy and practice. The example of the Child Support Agency showed how the work of the Ombudsman and its parliamentary committee complemented the work of the Social Security Select Committee. (Appendix 2 outlines a case study on scrutiny of the Child Support Agency).

The Government-initiated Review of Audit and Accountability for Central Government under the chairmanship of Lord Sharman, which reported in 2001, stressed the potential benefits of greater use by Parliament of available external evidence.12 The report’s theme was that there already exists considerable, high quality evidence from a range of external mechanisms and that Parliament, and specifically its committees, should engage with and utilise their evidence in a more systematic manner. The Hansard Society Commission on Parliamentary Scrutiny built upon the themes in Lord Sharman’s review.
9. Parliament at the Apex: A Seminar

In June 2002 the Hansard Society held a seminar, Parliament at the Apex, to discuss how Parliament might engage more effectively with regulatory bodies. The seminar, held at the National Audit Office, brought together Members of Parliament, representatives from regulatory and supervisory bodies, parliamentary staff and members of the Hansard Society Commission on Parliamentary Scrutiny. The seminar was held under Chatham House rules and the issues raised have been placed under three connected headings: (i) existing practice; (ii) outstanding issues; (iii) improving parliamentary scrutiny. These points are intended to stimulate further discussion and identify ways in which the relationship between Parliament and the regulatory bodies could be made more effective.

(i) Existing Practice:

Parliament and regulatory bodies: varied relationships

It was noted that the form and extent of parliamentary scrutiny of regulatory bodies varies considerably. Regulatory bodies work within a range of different statutory frameworks. For example, some regulators have a statutory duty to make their work plans and budget publicly available but are not legally required to submit them to Parliament. In particular a different type of regulation is needed for public services (e.g. OFSTED) than is required for private companies (e.g. OFWAT, OFGEM). Ombudsmen have an entirely different statutory basis and their work is primarily concerned with adjudication and redress in individual cases.

A wide range of scrutiny

Some select committees frequently take formal evidence from regulatory bodies, while others usually hold informal meetings; some carry out a mixture of both. The range of relationships between regulatory bodies and Parliament included:

- Formal submission of regulatory bodies’ annual reports to Parliament;
- The Chief Executive making regular appearances before the relevant departmental select committee, including giving evidence on the annual report;
- Contributing evidence on specific subjects to select committee inquiries;
- Oral answers and ministerial statements on regulatory bodies’ activities;
- Written answers on the work of regulatory bodies;
- Private briefings between select committees and regulatory bodies;
- Debates in Westminster Hall on regulatory bodies’ work (although these debates generally have a very poor attendance);
- Furthermore, most regulatory bodies are answerable to Parliament through the National Audit Office and the Public Accounts Committee.
It was pointed out that just because activity does not appear formally on parliamentary timetables does not mean that work is not taking place. Despite the many instances of good practice, the view was expressed that engagement between Parliament, and select committees in particular, and regulatory bodies was rather sporadic and inconsistent.

**Contacts in the Commons (other than select committees)**

A number of different ways of placing the work of regulatory bodies on the parliamentary agenda were discussed, including:

- All Party Parliamentary Groups can be an important link to MPs, especially if the issue is topical or high profile;
- Meetings and information exchange with Opposition Spokesmen can also be useful;
- Informal contacts between parliamentary staff and regulatory bodies.

**MPs' roles and awareness of regulatory issues**

It was thought that some MPs have developed a better understanding of the work of regulatory bodies because of the number of letters and contacts from their constituents complaining about local issues, for example post offices shutting down or the quality of railway services. Conversely the view was put forward that few MPs are actually asked questions by the public about issues relating to regulatory bodies. This partly reflected a decrease in political participation, but more specifically because the vast majority of public concerns addressed to MPs were on subjects such as pensions, benefits and housing.

It was pointed out that in many instances an individual’s first port of call should be the utility company or public body in question if they have a problem rather than contacting the local MP. Members of the public often have an unrealistic idea about what MPs do and the extent of the influence they have over individual cases. Nonetheless wider lessons can be learnt from individual cases and MPs can draw out policy issues to form the basis of political campaigns or questioning to ministers.

Generally it was thought important for committees, and individual MPs, to know more about the work of regulatory bodies, what they could and could not do and how they carry out their work. For example, some regulators have departments specifically devoted to responding to parliamentary queries, while others do not. Although some regulators produced leaflets explaining their work, there is no central point of information on regulatory bodies as a whole. A leaflet or website would help inform the public about what regulators do and their relationship with the government, public, MPs and Parliament. If such a website were devised, it should be listed as a Useful Link on Government, Parliament and consumer group websites.

**Relationships with the House of Lords**

A very uneven picture was described of the relationship between the House of Lords and some regulatory bodies. Some bodies stated that they have no real contact with the Lords committees or individual peers. Others described good relations with individual peers,
especially those with specialised knowledge or background in the subject. It was pointed out that the lack of formal links between the Commons and Lords means that it is often difficult for MPs to pick up issues arising in the Lords (or vice-versa). Lords committees can be useful for looking at technical or cross-cutting issues. This might include consideration of the overall functioning of the regulatory regime.

It was pointed out that while the Comptroller and Auditor General lays his reports before the House of Commons, his work is presented for the benefit of both Houses and Members of the House of Lords frequently draw upon his reports.

(ii) Outstanding Issues:

Relationship between Parliament and the regulatory bodies

One view put forward was that the development of regulatory bodies had challenged Parliament’s traditional role and put it in competition with other scrutiny bodies. If this is the case, this new reality makes it even more imperative that Parliament and regulatory bodies develop constructive and effective relationships so that their efforts jointly improve government accountability.

It was suggested that the work of the regulatory bodies could potentially marginalise Parliament. For example, the relationships between government, the regulatory bodies, the regulated sector or company, the media, pressure groups and the citizen could in theory be conducted entirely without any direct reference to Parliament or its committees. In some cases this had already occurred. It was up to Parliament to ensure that it was fully linked to the process.

Balancing scrutiny procedures and regulators’ independence

It was considered essential that any improved scrutiny procedures found the balance between seeking accountability and the requirement for regulatory bodies to maintain their independence. This would be particularly important where private sector investment and issues of commercial confidentiality were involved. The view was expressed that the growth of private finance in the public sector and the ensuing issues of commercial confidentiality, might compromise scrutiny procedures and could sideline Parliament.

The role of the Ombudsman

The technical boundaries of the Parliamentary Ombudsman were discussed. The Parliamentary Ombudsman receives many complaints that are simply not within his correct remit. Ombudsmen cannot take up a complaint unless forwarded by an MP (this process is known as the MPs’ filter). The current caseload is running at about 2000 each year. It was suggested that the MPs’ filter has a control function and keeps MPs informed.
Responses to Annual Reports

There was general discussion about the lack of response from Parliament to regulatory bodies’ annual reports. One view was that if there was no response it indicated that MPs and committees had no concerns or comments. This view held that if there were a problem in an annual report it would be brought to the attention of the relevant regulatory body. It would therefore be pointless to hold a formal meeting just to say that there were no comments on an annual report.

An alternative view was that the absence of any feedback whatsoever to an annual report might mean that it had been unread or otherwise ignored by the parliamentary process. Without a formal response, there would be no way of knowing. Therefore all regulators would benefit from some response on their annual report. It was agreed that the process of producing the report, regardless of the response, helped clarify issues and problems and often identified areas that required further consideration. All annual reports should be widely disseminated.

Select committees; a full mix of work needed

It was thought inevitable that select committees would want to concentrate on the most interesting, high-profile policy inquiries but that the more prosaic administrative inquiries were also essential to achieve full accountability. Following the adoption of core duties and objectives for select committees including ‘to take evidence from independent regulators and inspectorates’, it was unclear how this would work in practice. It was suggested that monitoring and evaluation would be required to determine whether the adoption of core duties had indeed improved select committee performance. It was however pointed out that even with the adoption of core duties, the work of select committees would still have significant limitations. This was mainly due to the demands on MPs’ time, the relative lack of staff resources and limited access to technical expertise, especially financial and audit expertise.

Many regulatory issues cut across departmental boundaries but Parliament’s response to this issue has been limited. Select committees now have greater powers to meet jointly. There are ‘anti-poaching’ arrangements and informal contacts between Chairman and Clerks which are designed to prevent conflicts about jurisdiction. There are however sometimes difficulties in agreeing an inquiry’s terms of reference especially if the two committees in question approach the issue with different interests and perspectives. There are also practical difficulties about getting over 20 MPs together or devising appropriate sub-committees.

A distinction should be drawn between looking at the administration, expenditure, and performance of a regulatory body and examining the evidence they produce, or decisions they make, about the sector they regulate. It was agreed that there is an important role for departmental select committees to scrutinise the ways in which regulatory bodies carry out their work and manage their operations.
Devolution
Some of the responsibility for scrutiny of regulatory issues has passed to the devolved bodies in Scotland, Wales and Northern Ireland, although some responsibility remains at Westminster. It was suggested that post-devolution there might be confusion about where responsibility and accountability for some regulatory issues may lie. Ensuring that information and good practice is exchanged would help Westminster, the devolved institutions and the regulatory bodies.

(iii) Improving Parliamentary Scrutiny:
Parliament’s proper scrutiny functions
Parliament and regulatory bodies do different jobs. Regulatory bodies have powers and duties within their given area to ensure that the sector performs effectively, to take decisions on the level of services and charges and to protect the public interest. Parliament must ensure that regulatory bodies are free to do their work. But Parliament has a role and duty to check and monitor the work and outcomes of regulatory bodies. Parliament should allow MPs opportunities to debate and stimulate media interest on issues arising from the work of the regulatory bodies. Most importantly, it should use the information obtained to inform and represent the electorate and hold government to account on its behalf. MPs should distil the salient political points that reflect constituents’ concerns.

Select committees and scrutiny of regulatory bodies
A balance should be found between making scrutiny more consistent and ensuring that the processes do not become too formal. The danger is that scrutiny might become a mechanistic checklist rather than a useful inquiry. This could become onerous for all concerned with little value added. On the other hand, there is another danger, namely, that Parliament might engage with regulatory bodies solely when there is a crisis or headline news. Neither extreme would be desirable.

Avoiding overload; getting the scrutiny balance right
Some regulatory bodies would welcome more frequent scrutiny and appearances before select committees. Some regulatory bodies stated that there were times when they had expected to be called before committees to explain new developments but in fact had not been called. It was universally recognised that considerable work is involved in preparing for a select committee hearing but the preparation itself can be beneficial in clarifying issues and unearthng information.

Select committees: different ways of working
There was a discussion about how select committees could extend the range and scope of their work. One view was that sub-committees and rapporteurs should be introduced to do extra work. A contrary view was that such innovations weaken committee focus and are unwieldy to manage.
Parliamentary scrutiny outside select committees

Other suggestions for improving scrutiny included:

- an annual debate in the Commons on each of the major regulatory bodies;
- more debates in Westminster Hall;
- more statements and oral questions on the regulator’s activities;
- greater emphasis on cross-cutting regulatory issues.

Drawing wider lessons

Some regulators (e.g. OFWAT, OFTEL) have individual consumer complaints departments which produce considerable detailed material. Such material if presented appropriately to Parliament can highlight wider issues of law and policy. In a similar way the various Ombudsmen look at individual cases and wider lessons can be drawn from this work. Indeed the Committee on Public Administration has published reports based on the individual cases of the Parliamentary Commissioner for Administration (Parliamentary Ombudsman). This showed an effective model whereby individual concerns were able to shape Parliament’s policy agenda.

Utilising external groups

A number of consumer, advice and pressure groups have specific interest in regulatory issues. The regulatory bodies themselves often have good contact with these bodies. It is not clear whether Parliament also makes the best use of the work of such groups. Pressure groups are often able to highlight particular points of concerns and uncover detailed evidence that could help strengthen Parliament’s scrutiny function.

10. Conclusion

The Hansard Society Commission believed that Parliament had not responded adequately to far-reaching changes to the constitution, government and society in the past two decades. Despite some improvements in the handling of legislation and much positive work by individual select committees, the central question of how Parliament should pursue scrutiny and accountability of government had not been fully addressed. A number of reforms were identified to change the way that scrutiny and accountability functions were undertaken by select committees, in the chambers and by MPs and Peers, both individually and collectively.

A central theme was that Parliament should place itself at the apex of systems of accountability. It should draw more effectively on the investigations and evidence of outside regulatory bodies, ombudsmen and inspectorates to enhance its own performance and give added value to this external work. This report has highlighted ideas and methods to put this theme into practice. There is no single way forward, nor would a prescriptive approach be helpful. The regulatory bodies work in different ways on varied issues. Parliament’s scrutiny
activities can be equally diverse. Therefore the various parties involved should devise their own strategies to improve engagement and parliamentary scrutiny and ultimately protect and promote the public interest.

**Appendix 1:**
**List of main utility and public service regulators**

**Utility regulators**
- OFTEL (Office of Telecommunications)
- OFGEM (combined Office of Gas and Electricity Regulation)
- OFWAT (Office of Water Regulation)
- ORR (Office of the Rail Regulator)

**Other UK regulators**
- Civil Aviation Authority (CAA)
- Data Protection Commission
- Drinking Water Inspectorate
- Electoral Commission
- Financial Services Authority
- Food Standards Authority
- Health and Safety Executive
- Independent Television Commission (ITC)
- National Lottery Commission
- Office for Standards in Education (Ofsted)
- Office of the International Rail Regulator
- Occupational Pensions Regulatory Authority (OPRA)
- Postal Services Commission (Postcomm)
- Radio Authority

**Appendix 2:**
**Parliament and External Scrutiny: Case Studies**

(i) **The Child Support Agency**

The Child Support Agency (CSA) was established in 1993 to ensure that parents made sufficient financial contributions to their children's maintenance. Policy controversy, compounded by administrative problems, meant that the CSA became a significant feature of every MP's work. This level of concern could not be ignored by Parliament and the CSA was the subject of successive inquiries by a variety of select committees, including the social security committee, adjournment debates and parliamentary questions. The range of parliamentary scrutiny was buttressed by the work of the Ombudsman and the Committee on the Parliamentary Commissioner for Administration (PCA) to which the Ombudsman reported. The extent of the CSA's problems was reflected in the fact that by the end of 1994
complaints against the CSA accounted for more than one third of the total of all complaints being referred to the Ombudsman. As well as reporting on individual cases, the Ombudsman used his powers to lay two special reports to Parliament, in January 1995 and March 1996, summarising his investigations into individual complaints. In March 1995 the Select Committee on the PCA also published a report based on the Ombudsman's findings and concluded that the committee was in no doubt that maladministration within the CSA could not be divorced from the responsibility of ministers for the framework within which it operated. In addition, the Public Accounts Committee published two reports in this period on the CSA's finances.

The Government introduced legislation to amend the working of the CSA in 1995. This was partly a response to parliamentary pressure from individual MPs and committees, and the Government acknowledged the merit of many of the committees' recommendations. The experience of the CSA showed how the departmental select committee, the Ombudsman (and its parliamentary committee) and the Public Accounts Committee (PAC) can work effectively together. Whilst the Ombudsman dealt with cases of maladministration and the PAC with finance, the Social Security Select Committee could effectively bring together the various strands of their work, and channel public concern into specific policy recommendations.

(ii) The Financial Services Authority

The issues surrounding regulator accountability were considered in the establishment of the Financial Services Authority. The Financial Services and Markets Act 2000 recast financial regulation in the UK, creating the Financial Services Authority (FSA) as solely responsible for regulating the finance industry. The original Bill was published in draft and examined by the Treasury Select Committee which highlighted the need for the FSA to be accountable and efficient. In response the Treasury acknowledged these concerns, and stressed that it was "fully committed to ensuring that the FSA operates in a fair, open and accountable way" and promised to make several amendments to the Bill before its introduction. Although these amendments placed various public obligations on the FSA, they did not include accountability to Parliament. The accountability of the body was thus also an issue for the joint committee, chaired by Lord Burns, which scrutinised the draft bill. Its first report stated that:

Proper Parliamentary accountability is essential. We believe that this can best be achieved by asking a parliamentary committee to review the FSA’s annual report and to take regular evidence from a broad range of consumers and practitioners.

(Joint Committee on the Financial Services and Markets (1998-99), Draft Financial and Market Bill, HC 328)

This recommendation was welcomed by the Government and has since been put into practice. However the Government rejected proposals that the National Audit Office (NAO) should have access to the FSA and so the FSA is not held accountable through the NAO to the Public Accounts Committee. The FSA is audited by the private sector.
Appendix 3:
Parliament at the Apex; Seminar Attendance, 12 June 2002

John Ashcroft, Director of Economic Regulation, National Audit Office
Philip Aylett, Committee Clerk, Public Administration Select Committee
Alex Brazier, Senior Researcher, Parliament and Government Programme, Hansard Society
Sir Michael Buckley, Parliamentary Commissioner for Administration
David Corner, Director of Corporate Policy, National Audit Office
Shelagh Diplock, Director, Hansard Society
Gwyneth Dunwoody MP, Chairman, Transport Sub Committee, Transport, Local Government 
& Regions Committee
Clare Ettinghausen, Director, Parliament & Government Programme, Hansard Society
Mark Fisher MP
Philip Fletcher, Director General, OFWAT
Elizabeth Flood, Committee Clerk, Trade & Industry Select Committee
Oonagh Gay, Honorary Senior Research Fellow, The Constitution Unit
Prof Robert Hazell, Director, The Constitution Unit
David Laverick, The Pensions Ombudsman
Guy Lodge, Researcher, Brian Wight MP
Deborah Lunn, Head of Separations, OFGEM
Stephen Luxford, Parliamentary Liaison Officer, National Audit Office
Caroline Mawhood, Assistant Auditor General, National Audit Office
Elizabeth Passmore, Director of Inspection, OFSTED
Prof Colin Seymour-Ure, Department of Politics, University of Kent
Tom Winsor, Rail Regulator, ORR

Appendix 4:
Hansard Society Commission on Parliamentary Scrutiny; Further Information

Membership of the Commission:

Chair: Rt. Hon Lord Newton of Braintree
Zeinab Badawi; Rt. Hon Alan Beith MP; Professor Alice Brown; Lord Burns, GCB; Anna Coote;
Professor Robert Hazell (vice-chair); Robert Jackson MP; Kate Jenkins; Margaret Moran MP;
Greg Power (secretary); Steve Richards; Peter Riddell (vice-chair); Dr Ann Robinson; Jill
Rutter; Professor Colin Seymour-Ure; Lord Sawyer.

Clerk to the Commission: Alex Brazier

The Commission’s Report: The Challenge for Parliament: Making Government Accountable,
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Endnotes and References:

1. The membership of the Commission on Parliamentary Scrutiny and further information about its report are contained in Appendix 4.
2. Select Committee on the Modernisation of the House of Commons, (Session 2001-02), Modernisation of the House of Commons: A Reform Programme, HC 1168-I, Select Committees, HC 224-I, Liaison Committee, (Session 2001-02), Select Committees: Modernisation Proposals, HC 692.
3. Briefing Paper 1: The Culture of Scrutiny; Briefing Paper 2: Scrutiny and the Commons Chamber; Briefing Paper 3: Reforming the Select Committees.
7. The current Director General of OFWAT is Philip Fletcher.
9. See for example, Pipes and Wires, National Audit Office, HC 723, April 2002.
13. A list of participants is shown in Appendix 3.
14. The exceptions include the Financial Services Authority and the Civil Aviation Authority which are not answerable to the National Audit Office and the Public Accounts Committee and are instead audited by the private sector.
16. See Appendix 2.
The views expressed in this report are those of the author and the Hansard Society, as an independent non-party organisation, is neither for nor against. The Society is, however, happy to publish these views and to invite analysis and discussion of them.

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