



# **DEPARTMENTAL EVIDENCE AND RESPONSE TO SELECT COMMITTEES**

**Cabinet Office  
July 2005**

## Departmental Evidence and Response to Select Committees

### CONTENTS

	Paragraphs
<b>1. <u>INTRODUCTION</u></b>	
Status of the Guidance	1 - 3
Scope of the Guidance	4 - 8
Central principles	9
<b>2. <u>THE SELECT COMMITTEE SYSTEM</u></b>	
General description	10 - 20
House of Commons: Departmental-related Select Committees	21 - 24
Powers of Select Committees	25 - 31
Core tasks	32
Public and closed evidence sessions	33
Informal briefings	34
Travel overseas by Select Committee	35
Departmental Select Committee Liaison Officers	36 - 37
Provision of departmental publications	38
General Elections: Dissolution of Parliament	39
<b>3. <u>ROLE OF OFFICIALS GIVING EVIDENCE BEFORE SELECT COMMITTEES</u></b>	
General	40 - 42
Summoning of Named Officials	43 - 47
Position of Retired Officials	48
External Expert Witnesses	49
Agency Chief Executives	50
NDPBs	51
Parliamentary Privilege	52

## Paragraphs

4.	<u><a href="#">EVIDENCE TO SELECT COMMITTEES</a></u>	
4A.	<u><a href="#">PROVISION OF EVIDENCE BY OFFICIALS: CENTRAL PRINCIPLES</a></u>	
	General	53
	Accuracy of Evidence	54
	Discussion of Government policy	55 - 56
	NAO and PAC Reports	57 - 58
	Consulting Ministers on Evidence	59
	Inter-departmental Liaison	60 - 62
	Research and Surveys	63 - 64
	Ministerial Statements	65 - 66
4B.	<u><a href="#">PROVISION OF INFORMATION</a></u>	
	General	67 - 68
	Excessive Cost	69 - 70
	Matters which may be <i>sub judice</i>	71 - 72
	Conduct of Individual Officials	73 - 78
	Papers of a Previous Administration	79
4C.	<u><a href="#">STATUS AND HANDLING OF EVIDENCE</a></u>	
	Status of evidence:	
	House of Commons	80 - 82
	House of Lords	83
	Comment on evidence from other witnesses	84
	Providing sensitive information in confidence	85 - 86
	Handling of sensitive information in oral evidence	87 - 90
	Handling of sensitive information in written evidence	91 - 92
4D.	<u><a href="#">EVIDENCE FROM OTHER BODIES</a></u>	93 - 97

	<b>Paragraphs</b>
<b>5. <u>GOVERNMENT RESPONSES TO SELECT COMMITTEE REPORTS</u></b>	
Leaked Select Committee Reports	98
Publication of Committee Reports	99 - 100
Briefing No 10 and Other Departments on Forthcoming Committee Reports	101
Preparation of Press briefing	102 - 103
Immediate Comment on Committee Reports	104 - 105
Immediate Comment on NAO and PAC Reports	106 - 107
Timing of Government Response to Committee Reports	108 - 110
Form of Government Response	111 - 113
(a) Command Paper	
(b) Memorandum or letter	
(c) Oral Statement	
Responses to Reports from ad hoc Committees	114 -117

[ANNEX A House of Commons Standing Order No. 152](#)

## **SECTION 1: INTRODUCTION**

### **Status of the Guidance**

1. This memorandum gives guidance to officials from Departments and their Agencies who may be called upon to give evidence before, or prepare memoranda for submission to, Parliamentary Select Committees. It replaces the January 1997 edition.

2. Although NDPBs give evidence on their own account such bodies may nonetheless also find helpful, when preparing to give evidence, some of the general information about evidence and select committees set out in this memorandum. Further guidance for members of NDPBs invited to give evidence to select Committees is set out in the Cabinet Office publication *Guidance on Codes of Practice for Board Members of Public Bodies*. [www.publicappointments.gov.uk/publications/pdf/exec\\_adv\\_codes\\_practice\\_23oct04.pdf](http://www.publicappointments.gov.uk/publications/pdf/exec_adv_codes_practice_23oct04.pdf)

3. In providing guidance, the memorandum attempts to summarise a number of longstanding conventions that have developed in the relationship between Parliament, in the form of its Select Committees, and successive Governments. As a matter of practice, Parliament has generally recognised these conventions. It is important to note, however, that this memorandum is a Government document. Although Select Committees will be familiar with its contents, it has no formal Parliamentary standing or approval, nor does it claim to have.

### **Scope of the Guidance**

4. This guidance is intended to cover the Select Committees of both the House of Commons and the House of Lords.

5. It does not apply in every respect to the Committee of Public Accounts, because of the special position of Accounting Officers in relation to that Committee and the direct access of the Comptroller and Auditor General to departmental records. The position is set out in the HM Treasury document "The Responsibilities of an Accounting Officer". Further advice on giving evidence to the Committee of Public Accounts can be obtained from the Treasury Officer of Accounts and his staff.

6. Supplementary guidance on the procedures to be followed in respect of the House of Commons European Scrutiny Committee (and the corresponding House of Lords European Union Committee) and on the handling of European Community documents is issued separately by the Cabinet Office (European Secretariat).

7. Supplementary guidance on the procedures of the Joint Committee on Statutory Instruments, is provided in "Statutory Instrument Practice". Copies are available from HMSO (<http://www.opsi.gov.uk/advice/publishing-guidance/statutory-instrument-practice.htm>). For guidance on the Lords Delegated Powers and Regulatory Reform Committee, and the Lords Merits of SIs Committee, see their most recent Special Reports, available on [www.parliament.uk](http://www.parliament.uk).

8. Officials may occasionally be invited to give evidence to Parliamentary Committees, or their equivalents, of other countries. Before accepting, such requests should be discussed with the FCO and referred to Ministers. Supplementary guidance on appearances before Committees of the European Parliament is issued by the Cabinet Office (European Secretariat).

### **Central Principles**

9. Select Committees have a crucial role in ensuring the full and proper accountability of the Executive to Parliament. Ministers have emphasised that, when officials represent them before Select Committees, they should be as forthcoming and helpful as they can in providing information relevant to Committee inquiries. In giving evidence to Select Committees, officials should take care to ensure that no information is withheld which would not be exempted if a parallel request were made under the Freedom of Information Act.

## SECTION 2: THE SELECT COMMITTEE SYSTEM

### General Description

10. Select Committees are appointed by the House to perform a variety of functions, generally of inquiry, investigation and scrutiny and they report their findings and recommendations to the House. They are to be distinguished from Standing Committees whose function is to examine and debate certain matters such as Bills and delegated legislation.

11. Most House of Commons Select Committees have a continuing existence and their terms of reference and powers are laid down in Standing Orders of the House. Others may be established on a sessional basis for a particular purpose.

12. The House of Commons Select Committees which officials are most likely to come into contact with are:

- the departmentally-related Select Committees listed in paragraph 20 below
- the Committee of Public Accounts (the PAC)
- the Public Administration Select Committee (PASC)
- the European Scrutiny Committee.

13. The Procedure Committee may occasionally invite evidence from Departments as may, less frequently, the Committee on Standards and Privileges. The Liaison Committee carries out certain co-ordinating functions on behalf of the various House of Commons Select Committees and takes evidence twice a year from the Prime Minister. The normal Government contact with this Committee is through the Office of the Leader of the House. The Regulatory Reform Committee examines the Government's proposals for amending legislation under the terms of the Regulatory Reform Act 2001. The Environmental Audit Committee audits Departments and NDPBs' performance against environmental protection and sustainable development targets.

14. The Committee of Selection has no requirement for evidence from Departments; nor usually do the various Select Committees concerned with the finance, business and domestic affairs of the House.

15. The House of Lords has two main Select Committees - the European Union Committee and the Committee on Science and Technology - which are reappointed at the beginning of each session. Both Committees have Sub-Committees and there is power to co-opt additional members to these Sub-Committees as appropriate.

16. The Delegated Powers and Regulatory Reform Committee examines the appropriateness of the order-making powers in legislation before the House and considers legislative proposals under the Regulatory Reform Act 2001. The Constitution Committee examines the constitutional implications of Bills, and keeps under review the operation of the Constitution. The Economic Affairs Committee has a wide remit to consider economic affairs. The Merits of Statutory Instruments Committee examines the merits of all SIs subject to affirmative and negative procedure (except those laid before the Commons only) and reports to the House those of particular interest. The Merits Committee bases its consideration on the Explanatory Memorandum published on each instrument.

17. In addition, there may also be one or more ad hoc Select Committees in the House of Lords which undertake enquiries into matters of policy. Ad hoc Select Committees cease to exist once they have reported to the House and rarely last for more than one session.

18. There are also a number of Joint Committees of both Houses. These include:

- the Joint Committee on Statutory Instruments (JCSI) is responsible for scrutinising statutory instruments to ensure that they meet certain criteria and are drafted properly. The JCSI may ask departments for evidence in explanation of particular instruments
- the Joint Committee on Human Rights considers matters relating to human rights in the UK and has responsibility for scrutinising remedial orders under the Human Rights Act 1998.

19. Ad hoc Joint Committees may also be established for specific purposes for example, to examine a policy area or to conduct pre-legislative scrutiny of a draft Bill.

20. Finally, all of these Committees are to be distinguished from the Intelligence and Security Committee established under the Intelligence Services Act 1994. Although the membership of that Committee is drawn from both Houses of Parliament, it is not a Committee of the House as such, and reports to the Prime Minister under separate statutory powers and duties laid down in the Act.



## House of Commons: Departmental-related Select Committees

21. There are currently eighteen such Committees. They are as follows:

<b>SELECT COMMITTEE</b>	<b>MAIN GOVERNMENT DEPARTMENTS CONCERNED</b>
Constitutional Affairs	Department for Constitutional Affairs
Culture, Media and Sport	Department for Culture, Media and Sport
Defence	Ministry of Defence
Education and Skills	Department for Education and Skills
Environment, Food and Rural Affairs	Department for Environment, Food and Rural Affairs
Foreign Affairs	Foreign and Commonwealth Office
Health	Department of Health
Home Affairs	Home Office; Attorney General's Office, Treasury Solicitor's Department, Crown Prosecution Service, Serious Fraud Office
International Development	Department for International Development
Northern Ireland Affairs	Northern Ireland Office
Office of the Deputy Prime Minister: Housing, Planning, Local Government and the Regions	Office of the Deputy Prime Minister
Science and Technology	Office of Science and Technology (OST)
Scottish Affairs	Scotland Office, Advocate General's Office
Trade and Industry	Department of Trade and Industry (excluding OST)
Transport	Department for Transport
Treasury	Treasury, HM Revenue and Customs
Welsh Affairs	Wales Office
Work and Pensions	Department for Work and Pensions

22. The orders of reference of these Committees are contained in House of Commons Standing Order No.152 (full text at Annex A).

23. The Committees have a remit to examine the expenditure, administration and policy of the principal government Departments referred to, and also of their 'associated public bodies'. Standing Order No.152 does not define 'associated public bodies' but the Government has accepted that Select Committees should be able to look at the activities of public bodies that exercise authority of their own and over which Ministers do not have the same direct authority as they have over their own Departments.

24. The broad test is whether there is a significant degree of ultimate Ministerial accountability for the body in question. This means that, as well as Departments and their Agencies, Select Committees may, for example, examine the expenditure, administration and policy of Non-Departmental Public Bodies and NHS bodies. In practice, the remit has also extended to non-Ministerial Departments.

### **Powers of Select Committees**

25. The powers of Select Committees derive from the powers of the House and from the Standing Orders. It is for the Committees themselves, and ultimately for the House, to interpret their terms of reference. Under Standing order No.152 (3), each of the Commons Departmental Committees has power to set up a sub-Committee. Under Standing order No.137A, each Committee or sub-Committee has power to meet concurrently with any other Committee or sub-Committee of either Houses of Parliament.

26. Select Committees (and their Sub-Committees) have power to 'send for persons, papers and records' relevant to their terms of reference. The issue of an order for an individual to attend or to provide evidence can exercise these powers, formally. Enforcement of these formal powers and, in particular, the power to punish for contempt of the House, is retained by the House itself and can be exercised only by the House as a whole, not by the Select Committee.

27. A full discussion of the powers of Select Committees, and how these powers are exercised in practice, is contained in a memorandum by the then Clerk of the House of Commons which was published as Appendix C to the First Report from the Select Committee on Procedure, Session 1977-78, HC 588-I.

28. In that same 1977-78 Report (which led to the establishment of the present departmentally-related Select Committee system), the Procedure Committee emphasised the primacy of Ministerial accountability to Parliament. Officials can, of course, be summoned or invited to appear, or asked for information, under the Committees' powers but, almost invariably, this is done as part of the process of overseeing Ministerial accountability:

'The over-riding principle concerning access to government information should be that the House has power to enforce the responsibility of Ministers for the provision of information or the refusal of information. It would not, however, be appropriate for the House to seek directly or through its committees to enforce its rights to secure information from the Executive at a level below that of the ministerial head of the department concerned (normally a Cabinet Minister),

since such a practice would tend to undermine rather than strengthen the accountability of Ministers to the House."

29. Although this passage appears in the context of proposals to increase the powers of Select Committees in relation to Ministers (proposals which, in the event, were not adopted by the House) the general principle nonetheless holds good.

30. If a Select Committee sought the backing of the House in any dispute with the Government as to the exercise of its powers, Ministers would be accountable to the House for their actions and those of their officials. The Government has given a commitment that, where there is evidence of widespread general concern in the House regarding an alleged Ministerial refusal to divulge information to a Select Committee, it would seek to provide time for the House to express its view (Official Report, 16 January 1981, Column 1312). In such circumstances it would be for members of the Committee to argue why the House should exercise its powers to require the production of papers, and for Ministers to explain the reasons of public policy for withholding them.

31. In practice, Committees usually proceed on the basis of informal requests for departmental witnesses and evidence rather than through the exercise of their formal powers. It should be noted that, in pursuing their examination of the expenditure, administration and policy of Government Departments and associated public bodies, Select Committees are free to seek evidence from whoever they wish, and can send for papers and records from private bodies or individuals where these are relevant to the Committee's remit.

### **Core tasks**

32. In its 2002 Report on Select Committees, the Select Committee on Modernisation of the House of Commons (First Report, Session 2000-01, HC 224-1) recommended that there should be an agreed statement of the core tasks of the departmental select committees. On 14 May 2002, the House of Commons approved a resolution inviting the Liaison Committee to establish common objectives for Select Committees. The core tasks agreed by the Liaison Committee are set out in the Annual Report for 2002 (First report, Session 2002-03, HC 558).

### **Public and Closed Evidence Sessions**

33. Select Committees' own deliberations are held in closed session but Committees usually admit the public and the press to hearings at which they take evidence from witnesses. Departmental witnesses (and those officials who are sitting behind them in support) should bear in mind that such public

proceedings may also be televised or sound broadcast, usually in edited form and will be webcast on the Parliament website. Committees may, on request from a witness, agree to take evidence in closed session if sensitive or confidential material is likely to be discussed (see paragraphs 87 - 90).

### **Informal Briefings**

34. In addition to taking formal evidence, Committees may invite Ministers or officials to informal meetings at the start of an inquiry to brief them on the main issues or, more generally, to update them on technical and other developments within their field of responsibility. Departments may also offer such briefings or informal visits to departments if they feel it would be helpful. The guidance in Sections 3 and 4 applies in these circumstances also.

### **Travel Overseas by Select Committees**

35. Departmental Select Committees and some others have power to "adjourn from place to place" and may travel outside Westminster in connection with their Inquiries. They may also travel overseas. In relation to overseas visits, the Committee Clerk will in the first instance contact the Parliamentary Relations and Devolution Department (PRDD) in the Foreign and Commonwealth Office for advice on the timing and content of such visits. The FCO and the British Embassies and High Commissions concerned are closely involved in the organisation of these visits and a representative from the overseas post will normally accompany members of the Committee on their calls. Meetings overseas are generally conducted on an informal off-the-record basis although formal evidence is sometimes taken. The FCO will ensure that Departments are aware of any proposals for overseas travel and will be glad to offer advice.

### **Departmental Select Committee Liaison Officers (DSCLOs)**

36. Most Departments appoint a Liaison Officer as the main point of contact at official level between the Department and the Select Committee and its Clerk. Executive Agencies normally use their parent Department's Liaison Officer as their main point of contact but may also wish to nominate an agency contact point for an individual inquiry into their work.

37. Committee Clerks will generally use the Liaison Officer as the channel for requests for information and memoranda. They will usually be glad to talk informally to Liaison Officers about their Committee's work and co-operate by, for example, providing the Departments most concerned with advance copies of evidence taken by the Committee from other witnesses.

## **Provision of Departmental Publications**

38. There will be many departmental publications which will be of interest to a Committee, either in relation to a current or previous inquiry or more generally. Departments should provide the Clerk of their Committee with a copy of such relevant publications free of charge. If further copies are requested they should also be provided free of charge, though Liaison Officers should if necessary discuss with Clerks the need for multiple copies of expensive publications. (See also paragraph 113(a) on the provision of copies of Command Paper responses to Committee Reports).

## **General Elections: Dissolution of Parliament**

39. Select Committees set up by Standing Order continue in existence until that Standing Order is amended or rescinded. However, when Parliament is dissolved pending a General Election, membership of Committees lapses and work on their inquiries ceases. The point of contact for Departments continues to be the Committee Clerk who remains in post to process the basic administrative work of the Committee (including the publication after dissolution of any reports which the Committee had authorised prior to dissolution). Departments should continue to work, on a contingency basis, on any outstanding evidence requested by the outgoing Committee and on Government responses to outstanding Committee Reports. It will be for the newly appointed Committee to decide whether to continue with its predecessor's inquiries; and for the incoming administration to review the terms of existing draft responses. As it is also for the newly appointed Committee to decide whether to publish Government responses to its predecessor's Reports, an incoming Government may wish to publish such responses itself by means of a Command Paper (see paragraph 113(a)).

## **SECTION 3: ROLE OF OFFICIALS GIVING EVIDENCE TO SELECT COMMITTEES**

### **General**

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

41. This is in accordance with the principle that it is Ministers who are accountable to Parliament for the policies and actions of their Departments. Civil servants are accountable to Ministers and are subject to their instruction; but they are not directly accountable to Parliament in the same way. It is for this reason that when civil servants appear before Select Committees they do so, on behalf of their Ministers and under their directions because it is the Minister, not the civil servant, who is accountable to Parliament for the evidence given to the Committee. This does not mean, of course, that officials may not be called upon to give a full account of Government policies, or indeed of their own actions or recollections of particular events, but their purpose in doing so is to contribute to the central process of Ministerial accountability, not to offer personal views or judgements on matters of political controversy (see paragraphs 55-56), or to become involved in what would amount to disciplinary investigations which are for Departments to undertake (see paragraphs 73 -78).

42. This Guidance should therefore be seen as representing standing instructions to officials appearing before Select Committees. These instructions may be supplemented by specific Ministerial instructions on specific matters.

### **Summoning of Named Officials**

43. The line of ministerial accountability means that it is for Ministers to decide which official or officials should represent them.

44. Where a Select Committee indicates that it wishes to take evidence from a particular named official, including special advisers, the presumption should be that Ministers will agree to meet such a request. However, the final decision on who is best able to represent the Minister rests with the Minister concerned and it remains the right of a Minister to suggest an alternative civil servant to that named by the Committee if he or she feels that the former is better placed to represent them. In the unlikely event of there being no agreement about which official should most appropriately give evidence, it is open to the Minister to offer to appear personally before the Committee.

45. Where a civil servant is giving evidence to a Select Committee for the first time, Departments will wish to ensure that they provide appropriate guidance and support. Committees may be willing to consider requests for

individuals to be supported in oral evidence sessions by more experienced civil servants

46. It has also been agreed that it is not the role of Select Committees to act as disciplinary tribunals (see paragraphs 73-78). A Minister will therefore wish to consider carefully a Committee's request to take evidence from a named official where this is likely to expose the individual concerned to questioning about their personal responsibility or the allocation of blame as between them and others. This will be particularly so where the official concerned has been subject to, or may be subject to, an internal departmental inquiry or disciplinary proceedings. Ministers may, in such circumstances, wish to suggest either that he or she give evidence personally to the Committee or that a designated senior official do so on their behalf. This policy was set out in the then Government's response to a report from the Public Service Committee on Ministerial Accountability and Responsibility (First Report, Session 1996-97, HC 67).

47. If a Committee nonetheless insists on a particular official appearing before them, contrary to the Minister's wishes, the formal position remains that it could issue an order for attendance, and request the House to enforce it. In such an event the official, as any other citizen, would have to appear before the Committee but, in all circumstances, would remain subject to Ministerial instruction under the terms of this Guidance and the Civil Service Code.

### **Position of Retired Officials**

48. Given the above, it is extremely rare, but not unprecedented, for Committees to request evidence from officials who have retired. A Committee could, again, issue an order for attendance if it chose. However, retired officials cannot be said to represent the Minister and hence cannot contribute directly to his or her accountability to the House. It is primarily for these reasons, as well as for obvious practical points of having access to up to date information and thinking, that Ministers would expect evidence on Government matters to be given by themselves or by serving officials who report to them.

### **External Expert Witnesses**

49. If Departments wish to include any external experts in the team of officials giving evidence, the Clerk should be consulted with an explanation of the reasons. Most Committees are willing to agree to departmental requests of this kind but they are not obliged to do so.

## **Agency Chief Executives**

50. Where a Select Committee wishes to take evidence on matters assigned to an Agency in its Framework Document, Ministers will, normally, wish to nominate the Chief Executive as being the official best placed to represent them. While Agency Chief Executives have managerial authority to the extent set out in their Framework Documents, like other officials they give evidence on behalf of the Minister to whom they are accountable and are subject to that Minister's instruction.

## **NDPBs**

51. Departmental Select Committees have an important role in examining the expenditure, administration and policies of NDPBs. Lords Committees and other Committees may also seek evidence from NDPBs from time to time. Members of NDPBs invited to give evidence should be as helpful as possible in providing accurate, truthful and full information, taking care to ensure that no information is withheld which would not be exempted if a parallel request were made under the FOI Act. Further guidance for members of NDPBs invited to give evidence to select Committees is set out in the Cabinet Office publication *Guidance on Codes of Practice for Board Members of Public Bodies*.

## **Parliamentary Privilege**

52. Parliamentary proceedings are subject to absolute privilege, to ensure that those participating in them, including witnesses before select committees, can do so without fear of external consequences. This protection, enshrined in the Bill of Rights, is an essential element in ensuring that Parliament can exercise its powers freely on behalf of its electors. There must be no disciplinary action taken against civil servants or members of NDPBs (or anyone else) as a consequence of them giving evidence to a Select Committee. Any such action might be regarded as contempt of the House, with potentially serious consequences for those involved. [See Sixth Report of the Committee on Standards and Privileges, Session 2003-04, HC1055.]



## **SECTION 4: EVIDENCE TO SELECT COMMITTEES**

### **4A. PROVISION OF EVIDENCE BY OFFICIALS: CENTRAL PRINCIPLES**

#### **General**

53. The central principle to be followed is that it is the duty of officials to be as helpful as possible to Select Committees. Officials should be as forthcoming as they can in providing information, whether in writing or in oral evidence, to a Select Committee. Any withholding of information should be decided in accordance with the law and care should be taken to ensure that no information is withheld which would not be exempted if a parallel request were made under the FOI Act.

#### **Accuracy of Evidence**

54. Officials appearing before Select Committees are responsible for ensuring that the evidence they give is accurate. They will therefore need to be fully briefed on the main facts of the matters on which they expect to be examined. This can be a major exercise as a Committee's questions can range widely and can be expected to be testing. Should it nevertheless be discovered subsequently that the evidence unwittingly contained factual errors, these should be made known to the Committee, usually via the Clerk, at the earliest opportunity. Where appropriate, a correcting footnote will appear in the published transcript of the evidence.

#### **Discussion of Government policy**

55. Officials should as far as possible confine their evidence to questions of fact and explanation relating to government policies and actions. They should be ready to explain what those policies are; the justification and objectives of those policies as the Government sees them; the extent to which those objectives have been met; and also to explain how administrative factors may have affected both the choice of policy measures and the manner of their implementation. Any comment by officials on government policies and actions should always be consistent with the principle of civil service political impartiality. Officials should as far as possible avoid being drawn into discussion of the merits of alternative policies where this is politically contentious. If official witnesses are pressed by the Committee to go beyond these limits, they should suggest that the questioning should be referred to Ministers.

56. A Select Committee may invite specialist (as opposed to administrative) officials to comment on the professional or technical issues underlying government policies or decisions. This can require careful handling where Committees wish to take evidence from, for example, government economists or statisticians on issues which bear on controversial policy questions and which are also matters of controversy within the respective profession. Such specialists may find themselves in some difficulty if their own judgement on the professional issues has, or appears to have, implications that are critical of Government policies. It is not generally open to such witnesses to describe or comment upon the advice which they have given to Departments, or would give if asked. They should not therefore go beyond explaining the reasoning which, in the Government's judgement, supports its policy. The status of such evidence should, if necessary, be made clear to the Committee. If pressed for a professional judgement on the question the witness should, if necessary, refer to the political nature of the issue and, as above, suggest that the line of questioning be referred to Ministers.

### **NAO and PAC Reports**

57. In those areas where the National Audit Office (NAO) and the Parliamentary Commissioner for Administration (the Parliamentary Ombudsman) have direct access to departmental papers, this does not itself confer a similar right of access on the Committees which they serve. In considering any request from the Committee of Public Accounts (PAC) for such access, the Treasury should be consulted. Where the Public Administration Select Committee is taking evidence on Ombudsman issues, it may be necessary to quote from departmental papers in connection with particular Parliamentary or Health Service Commissioner cases. It is not however the practice of the Committee to require evidence which would amount to the 'retrial' of individual cases.

58. A departmentally-related Select Committee may, on occasion and with the agreement of the PAC, take up a NAO report and invite departmental evidence on it. The Government has confirmed that it has no objection to such an arrangement provided that it is not taken as implying any alteration in the Comptroller and Auditor General's remit or programme of work in support of the PAC, or in the procedures for consulting Departments on draft NAO reports. The conventions relating to departmentally-related Select Committee business, for example governing the choice of witnesses to represent Ministers and the form of the response to the Committee's report, should continue to apply in such cases. A full statement of these provisos is set out in the Government's response (Cm 1532) to recommendation (xlvi) of the Procedure Committee's 1990 Report on the Working of the Select Committee System.

## **Consulting Ministers on Evidence**

59. Because officials appear on behalf of their Ministers, written evidence and briefing material should be cleared with them as necessary. It may only be necessary for Ministers to be consulted if there is any doubt among officials on the detail of the policy to be explained to the Committee, or on what information should be disclosed. However, as Ministers are ultimately accountable for deciding what information is to be given and for defending those decisions as necessary, their views should be sought if a question arises of withholding information which a Committee has asked for.

## **Inter-departmental Liaison**

60. The subjects of inquiry by Select Committees may on occasion go beyond the responsibilities of the Department which they are responsible for monitoring. It is important in these cases that the Department with the predominant role should take the lead to ensure that the evidence given is co-ordinated and consistent. This will usually, but not invariably, be the Department which the Committee in question has a remit to "shadow". If the subject under inquiry is one under which no Department can be said to have a predominant role, it may be necessary for a central co-ordinating office, such as the Cabinet Office, to act as lead Department and, for example, to submit the Government's written evidence; that will, however, be the exception rather than the rule.

61. In such cases it is clearly desirable for all the Departments concerned, in accordance with normal working practice, to be kept in touch on the preparation of evidence and on the subsequent response to the Committee's Report. Very often there will be co-ordinating machinery in place for the subject already but Liaison Officers also have an important role here and should always be informed of requests for evidence involving other Departments.

62. Government Departments should, wherever possible, co-operate fully with inquiries on joined-up policies. For some Departments, the potential involvement is considerable; and, where a Committee's request for oral or written evidence poses a particular burden of work on a Department, this should be discussed with the Committee.

## **Research and Surveys**

63. If Departments are asked by Committees to undertake research work or surveys on their behalf, the department will try to meet the request. However, there may be circumstances where providing such information would involve significant cost and/or effort. In these cases, Departments should explore informally with the Clerk to the Committee whether the Committee's request could be met in a different way. If the request would

require substantial research it may be appropriate to suggest to the Committee that it consider commissioning independent research.

64. The information provided by officials to a Committee as part of a research project or survey is subject to the same principles as apply to direct evidence. In particular, there is a standing rule that officials should not take part in research projects or surveys designed to establish their personal views on Government policies or on matters which are politically contentious. [*Civil Service Management Code, paragraph 4.2.8*]

### **Ministerial Statements**

65. Wherever possible, Committees should be given advance notice of impending Ministerial statements on matters which are relevant to their current inquiries. A convenient method if the Minister is making the statement in Parliament is by way of notification to the Clerk at the same time as the Whips inform the Opposition, which is normally at noon on the day of the statement. This notification to the Clerk should be of the fact that the statement is to be made but should not include the text of the statement itself. If the statement is to be made other than in the House, similar arrangements should apply, and should continue to be observed during the Parliamentary Recess or after dissolution of Parliament (see paragraph 39).

66. As a courtesy, it is also helpful to Committees to have their attention drawn to Ministerial announcements which relate to their remit, even if not the subject of a current inquiry. In order to be as helpful as possible, Departments should provide Departmental Select Committees with copies of written Ministerial Statements, White Papers and consultation documents in which the Committee might be expected to have an interest.

## **4B. PROVISION OF INFORMATION**

### **General**

67. Although the powers of Select Committees to send for "persons, papers and records" relating to their field of enquiry are unqualified, there are certain long-standing conventions on the provision of information which have been observed in practice by successive administrations on grounds of public policy.

68. The Government is committed to being as open and as helpful as possible with Select Committees. The presumption is that requests for information from Select Committees will be agreed to. Where a Department feels that it cannot meet a Committee's request for information, it should make clear its reasons for doing so, if appropriate in terms similar to those in the Freedom of Information Act (without resorting to explicit reference to the

Act itself or to section numbers). If the problem lies with disclosing information in open evidence sessions or in memoranda submitted for publication, Departments will wish to consider whether the information requested could be provided on a confidential basis. These procedures are described in paragraphs 85 to 92 below.

### **Excessive Cost**

69. Although the provisions under the Code for charging applicants do not apply in the case of Select Committees, it may occasionally prove necessary to decline requests for information which would involve the Department in excessive cost or diversion of effort. Ministers should always be consulted on their priorities in such cases.

70. Requests for named officials who are serving overseas to attend to give evidence should not be refused on cost grounds alone if the official concerned is the person best placed to represent the Minister. Committees will generally be willing to arrange for such witnesses to give evidence on a mutually acceptable date. Evidence by video link is an alternative that should also be explored with the Committee.

### **Matters which may be *sub judice***

71. Committees are subject to the same rules by which the House regulates its conduct in relation to matters awaiting the adjudication of the courts (although the bar on debating such matters may be lifted if a Committee is meeting in closed session). If a matter already before the courts is likely to come up for discussion before a Committee at a public session, the Clerk will usually be aware of this and will draw the attention of the Chairman to the relevant rules of the House. Nonetheless, if a Department has reason to believe that such matters may arise, the Liaison Officer may wish to check with the Clerk that the Committee is also aware. It should be noted, however, that the Committee Chairman has an overriding discretion to determine what is appropriate in the hearing of evidence.

72. Officials should take care in discussing or giving written evidence on matters which may become the subject of litigation but which, at the time, do not strictly come under the rules precluding public discussion of sub judice questions. Such caution should be exercised whether or not the Crown is likely to be a party to such litigation. If such matters seem likely to be raised, officials should first consult their departmental legal advisers or the Treasury Solicitor on how to handle questions which might arise. In any case of doubt about the extent to which details may be disclosed of criminal cases, not currently sub judice, the Law Officers are available for consultation. Similar considerations apply in cases where a Minister has or may have a quasi-judicial or appellate function, for example in relation to planning applications and appeals.

## **Conduct of Individual Officials**

73. Occasionally questions from a Select Committee may appear to be directed to the conduct of individual officials, not just in the sense of establishing the facts about what occurred in making decisions or implementing Government policies, but with the implication of allocating individual criticism or blame.

74. In such circumstances, and in accordance with the principles of Ministerial accountability, it is for the Minister to look into the matter and if necessary to institute a formal inquiry. Such an inquiry into the conduct and behaviour of individual officials and consideration of disciplinary action is properly carried out within the Department according to established procedures designed and agreed for the purpose, and with appropriate safeguards for the individual. It is then the Minister's responsibility to inform the Committee of what has happened, and of what has been done to put the matter right and to prevent a recurrence. Evidence to a Select Committee on this should be given not by the official or officials concerned, but by the Minister or by a senior official designated by the Minister to give such evidence on the Minister's behalf.

75. In this context, Departments should adhere to the principle that disciplinary and employment matters are a matter of confidence and trust (extending in law beyond the end of employment). In such circumstances, public disclosure may damage an individual's reputation without that individual having the same "natural justice" right of response which is recognised by other forms of tribunal or inquiry. Any public information should therefore be cast as far as possible in ways which do not reveal individual or identifiable details. Where Committees need such details to discharge their responsibilities, they should be offered in closed session and on an understanding of confidentiality. Evidence on such matters should normally be given on the basis that:

- (a) information will not be given about Departmental disciplinary proceedings until the hearings are complete;
- (b) when hearings have been completed, the Department will inform the Committee of the outcome in a form which protects the identity of the individual or individuals concerned except insofar as this is already public knowledge;
- (c) where more detail is needed to enable the Committee to discharge its responsibilities, such detail will be given but on the basis of a clear understanding of its confidentiality;
- (d) the Committee will thereafter be given an account of the measures taken to put right what went wrong and to prevent a

repeat of any failures which have arisen from weaknesses in the Departmental arrangements.

76. Select Committees have agreed that it is not their task to act as disciplinary tribunals. Accordingly, if in the course of an inquiry a Select Committee were to discover evidence that called into question the conduct (in this sense) of individual named officials, the Committee should be asked not to pursue their own investigation into the conduct of the person concerned, but to take up the matter with the Minister.

77. If it is foreseen that a Select Committee's line of enquiry may involve questions about the conduct of named officials, it should be suggested to the Committee that it would be appropriate for a Minister or a senior official designated by the Minister to give evidence, rather than the named officials in question. If an official giving evidence to a Committee is unexpectedly asked questions which are directed at his or her individual conduct, or at the conduct of another named official, the official should indicate that he or she wishes to seek instructions from Ministers, and the Committee should be asked to allow time for this.

78. A recent extreme example of the House of Lords setting up a Committee with an explicit remit to inquire into the conduct of specific individuals, and to revisit the findings of a departmental tribunal, is provided by the Chinook ZD 576 inquiry in 2001. This was wholly exceptional.

### **Papers of a Previous Administration**

79. There are well established conventions which govern the withholding of policy papers of a previous Administration from an Administration of a different political complexion. These were set out in a Parliamentary answer from the Prime Minister on 24 January 1980 (Official Report, Columns 305—307). Since officials appear before Select Committees as representatives of their Ministers, and since Select Committees are themselves composed on a bipartisan basis, it follows that officials should not provide a Committee with evidence from papers of a previous Administration which they are not in a position to show to their present Ministers. If such evidence is sought, Ministers should be consulted. Where Ministers propose to make an exception, it would be necessary to consult a representative of the previous Administration before either showing the papers to present Ministers or, with Ministers' authority, releasing information from them to a Committee.

## 4C. STATUS AND HANDLING OF EVIDENCE

### Status of Evidence

#### House of Commons

80. Once information has been supplied to a Committee it becomes "evidence" and, subject to any agreement with the Committee on the non-publication of protectively marked information (paragraphs 85-92), it is entirely up to the Committee whether or not to publish it and report it to the House. Certain rules apply to the further public use of such evidence by the Government prior to its publication by the Committee. Departments should be careful to observe these rules as failure to do so could amount to a breach of Parliamentary privilege. Committees are usually helpfully flexible in applying the rules but, in cases of doubt, Departments should consult the relevant Committee Clerk for guidance.

81. The basic rule is a Commons resolution of 1837 which states that "...the evidence taken by any Select Committee of this House, and Documents presented to such Committee, and which have not been reported to the House, ought not to be published by any Member of such Committee or any person". This Resolution still stands but is now subject to important modifications which give Committees power to authorise witnesses to publish the memoranda of evidence they have submitted (Commons Standing Order No. 135) and which permit the publication of evidence given in public session before it is formally reported to the House (Commons Standing Order No. 136). Many Committees now agree to a resolution giving permission to witnesses to publish their evidence, either generally or in respect of a specific inquiry.

82. The practical implications of these rules for Departments are as follows:

Oral evidence given in public session. There is no constraint on Departments using or repeating the substance of material given in public evidence sessions but verbatim transcripts of oral evidence (advance proof copies of which will be sent by the Clerk to Departments for checking) should not be copied to third parties until they have been published by the Committee. Uncorrected transcripts are now normally published on the Parliament website within a few days of the evidence session.

Oral evidence given in closed session. Evidence given in closed sessions should not be disclosed by Departments before the evidence (sidelined as appropriate) has been published by the Committee. Departments will not, of course, want to disclose the sidelined passages of their evidence to third parties in any event.



Unclassified memoranda. Memoranda provided in advance of an oral evidence session are usually published on the internet with the transcript of the oral evidence, and in due course with the Committee's report. Once they have been published, Departments are free to make copies available to third parties. If a Department wishes to make copies of their submitted memoranda available to third parties in advance of this, they must first obtain the permission of the Committee. The Committee itself will usually make copies available to the media at the time of the evidence session but Liaison Officers may wish to check this with the Clerk and brief their Press Office accordingly.

Classified (protectively marked) memoranda. Similar rules apply, but naturally with the same caveat as for oral evidence given in closed session.

### House of Lords

83. House of Lords Committees treat evidence in a quite different way. Once received by the Committee, it is treated as being in the public domain unless other arrangements have been made. It may be reproduced freely, provided the fact that it was originally prepared for the Committee is acknowledged.

### **Comment on Evidence from other Witnesses**

84. Evidence critical of a Department may be given in public session by witnesses outside the Department. This may prompt questions to the department by the media or others. Departments can of course respond to such questions. Departments may also wish to explore with the Clerk whether it would be appropriate to submit further evidence setting out the Department's position.

### **Providing Sensitive Information in Confidence**

85. It is to the benefit of Committees in carrying out their task of scrutinising Government activities, and to Government in explaining its actions and policies, for sensitive information, including that carrying a protective security marking, to be provided from time to time on the basis that it will not be published and will be treated in confidence. Procedures have been developed to accommodate this.

86. When this arises, the Department should inform the Clerk that the information in question can be made available only on this basis, explaining

the reasons in general terms. Such information should not be made available until the Committee has agreed to handle it appropriately, either by treating it wholly in confidence or by agreeing to publish it with a reasonable degree of sidelining (i.e. with the relevant passages omitted but with the location of the omissions indicated). It is important when submitting such information to make clear that the papers are provided in confidence and are not for publication. Information provided to Committees in confidence will be covered by Parliamentary privilege, and therefore will be exempt from release under FOI, but they will eventually be considered for release under the 30 year rule. In cases of particular sensitivity, Departments may wish to register a wish to be consulted before release. It should be appreciated, however, that once evidence is given to a Committee, whether in confidence or not, it becomes the property of the Committee, to deal with as it thinks fit.

### **Handling of Sensitive Information in Oral Evidence**

87. It would clearly be inappropriate for any evidence which a Department wished to be treated as confidential to be given at a public session of the Committee. If it appears likely, therefore, that subjects to be discussed at a forthcoming public session are such that the witnesses would only be able to give substantive answers in confidence, the Department should discuss this with the Chairman or the Clerk. The Committee may then agree to take that part of the Department's evidence in closed session.

88. If, despite such an approach, a Committee questions an official witness in public session on confidential matters, or if such matters are raised unexpectedly, the official should inform the Committee that the questions could only be answered on a confidential basis. The Committee may then decide to go into closed session or request a confidential memorandum. It is not for the witness to suggest that the Committee should go into closed session as this is wholly a matter for the Committee to decide.

89. Where evidence has been given in a closed sitting, the transcript of that session is handled differently from the transcript of a public session. It will not, of course, be published on the internet in uncorrected form. Neither is it circulated to Members of the Committee or other prospective witnesses, although it will be available for inspection by Members of the Committee in the Committee Office in the same way as a classified document (see paragraph 92). A hard copy of the transcript will be provided to the Department. On it the Department should insert its corrections and indicate which passages of the evidence should be sidelined (i.e. contain sensitive information which it would not be in the public interest to publish). If any of the information is classified, the level of classification should be clearly marked. The copy should then be returned to the Committee.

90. Although Committees usually respect such requests for sidelining, they may occasionally challenge a particular request. Witnesses should therefore bear in mind when providing confidential memoranda, or in giving

evidence in private, that their evidence may be published unless there is a clear justification for sidelining. This justification will be expected to relate to the reasons given by the Department, in the first place, for holding the evidence in private. The final decision on publication rests with the Committee.

### **Handling of Sensitive Information in Written Evidence**

91. Where information is submitted to a Committee on the understanding that it will be kept confidential, this understanding should be recorded in the covering letter forwarding the evidence to the Clerk. The letter should make clear whether the whole memorandum or, as is often the case, particular sections are to be kept confidential. If the information is classified, the level of classification should be clearly marked. The confidentiality of the papers will be taken into account when the information is being considered for disposal in future years.

92. Agreement has been reached with the Liaison Committee on the conditions under which classified information may be disclosed to Select Committees. The key points are as follows:

- Classified information will be provided to Committees where the request is reasonable and relates to the work of the Committee. The release of TOP SECRET information under these arrangements is subject to the personal approval of the responsible Minister in each case. Classification is not of itself sufficient reason to withhold information from a select committee.
- All classified documents will be kept under secure conditions in the Committee Office, where they may be inspected by Members. With the agreement of the Department copies of a 'restricted' document may be circulated to Members.
- Where classified documents are required for meetings of the Committee (either deliberative or evidence in private), numbered copies may be made for each Member, but will be handed back on conclusion of the meeting.
- Additional arrangements may be agreed between a Departments and the relevant Committee.

### **4D. EVIDENCE FROM OTHER BODIES**

93. Committees may, as stated in paragraph 23-24 above, investigate and call for evidence from "associated public bodies" for which Departments have responsibility. If a Department becomes aware that one of its NDPBs (or related bodies) has been invited to give evidence, it should consider whether

it would be helpful to the body to discuss possible lines of questioning with the witnesses before the hearing. Departments must, however, be careful not to exercise undue influence over NDPBs in relation to their evidence. Any such action might be regarded as a contempt of the House, with potentially serious consequences for those involved. If the Department has already given evidence to the Committee, it may also wish to consider whether, in the light of the evidence given by the NDPB, it should seek to submit further oral or written evidence. Further oral evidence is, of course, a matter entirely at the discretion of the Committee.

94. Committees may occasionally call for evidence from commercial companies, particularly those handling Government contracts. Ministers remain accountable to Parliament and the public for the functions provided by contractors. There should be no loss of transparency as to the quality and effectiveness of services delivered. Nor should there be any relaxation in the protection of private and sensitive third party information handled by contractors. There may also be a need in the public interest to preserve commercial confidentiality to protect the business interests of competing companies and to protect the position of Departments and the public purse in current or future tendering activity.

95. Government contracts will very often specify the contractor's obligations both to provide appropriate information to the public (under the Government's policies on openness) and to give necessary protection to confidential and sensitive information. Where contractors are prohibited from providing access without written consent to the details of Government contracts. Departments may find it helpful to discuss with their contractors how they can best provide a Committee with a general picture of their work without going into the commercially sensitive details of specific contracts.

96. The normal relationships between Departments and their associated public bodies or with commercial contractors should usually be sufficient to ensure an awareness on the part of witnesses from such organisations of the need to deal with Committee's questions in accordance with the rules about protecting classified information. Departments may, however, wish to remind witnesses of these rules, and the options for providing sidelined evidence, before the hearing.

97. Where Departments and associated public bodies have consulted one another, or a commercial contractor, prior to the submission of a memorandum to a Committee, the memorandum should, in accordance with a recommendation of the Procedure Committee, include a note of the persons or organisations that have been consulted.

## **SECTION 5: GOVERNMENT RESPONSES TO SELECT COMMITTEE REPORTS**

### **Leaked Select Committee Reports**

98. If a civil servant (or a Minister) receives a copy of a leaked Select Committee report, he or she must not make any use of it or circulate it any further. The report should be returned immediately to the Clerk of the relevant Select Committee. No copies should be taken.

### **Publication of Committee Reports**

99. Select Committee Reports are made formally to the House rather than to the Government although, given their subject matter, most of the recommendations tend to be addressed to the Government.

100. Under the terms of House of Commons Standing Order No 134, interested Departments and the media will normally receive embargoed copies of Select Committee Reports up to forty-eight hours before publication. While Committees are usually helpful over this, such advance issue is at their discretion and Departments cannot insist on seeing copies. If publication of a Report is known to be imminent. Departments may wish to contact the Clerk on an informal basis to establish the likely timetable.

### **Briefing No 10 and other Departments on Forthcoming Committee Reports**

101. As soon as possible after an embargoed copy of a Committee Report is received, a short note (not more than two or three pages) should be prepared on the main points, especially difficult points, with brief lines to take where necessary (bearing in mind the guidance on immediate comments on Reports at paragraphs 104-107). This should be faxed to the Parliamentary Clerk at No 10 to arrive before publication of the Report concerned. In the event of a Department receiving the Report only on the day of publication, a short note should still be put urgently in hand to reach No 10 on the same day. Copies of the briefing should go in parallel to other Departments with an interest in the Report. This requirement stands for Reports published during the recess as well as when Parliament is sitting.

### **Preparation of Press briefing**

102. Receipt of an embargoed copy of a Select Committee report also enables Departments to prepare briefing for use by Ministers and press offices for comment on the Report as soon as it published. Such immediate comment is, however, subject to certain rules and conventions and should

avoid giving instant conclusions on recommendations in Committee Reports before there has been time to consider them carefully. The briefing may consist of a Press Notice, issued to coincide with publication of the Report, or simply of material for the Departmental Press Office to use in response to enquiries. In either case it should be borne in mind that journalists will be working on their embargoed copies to a similar timetable so that media enquiries may arise almost as soon as these copies are available. Any information provided should be subject at least to the same embargo date as that of the Committee's report.

103. Where a Select Committee Report concerns more than one Department, the Department with the major interest should co-ordinate the Press briefing, though Press enquiries may be answered by the other Departments concerned on the agreed lines.

### **Immediate Comment on Committee Reports**

104. The basic principle in giving immediate comment on Committee Reports is that Departments should be careful not to pre-empt or prejudice the Government's final and considered reply to the Committee's recommendations which must first be given to Parliament. This means that comments given to the media or in other statements, especially outside the House, on publication of the Report, or in the intervening period up to the delivery of the Government's reply, should not seem to anticipate that reply.

105. The Government's position on these conventions was set out in a letter of 5 June 1990 from the then Lord President of the Council to the Chairman of the Liaison Committee.

This:

(a) reaffirmed the convention that Departments may respond immediately in order to correct mis-statements of fact, to provide background information, or to draw attention to particular passages in the Committee's Report or in the published Government evidence the Committee;

(b) asserted the right of Ministers to respond publicly to criticisms of the Government as robustly as seemed appropriate; this would include criticisms in the Committee's Report itself, inaccuracy or mis-statement in media reporting, or public criticisms made by individual Committee members;

(c) confirmed that it was not the Government's intention that recommendations in Committee Reports should be subject to snap responses without detailed Government assessment. Nonetheless Ministers would feel free to respond immediately to certain recommendations, either positively or negatively, where the

Government's policy was established and clear, or where an early response was needed in order to influence fast-moving events.

### **Immediate Comment on NAO and PAC Reports**

106. Similar considerations apply to immediate comment on Reports from the Committee of Public Accounts (PAC). In the case of Reports to the PAC from the National Audit Office (NAO), it is important that immediate comment should not pre-empt any subsequent PAC hearing with the Department's Accounting Officer. Comment should therefore be confined to quoting or amplifying material contained in the NAO Report itself (including expressions of departmental views), providing relevant information and correcting any mis-statements of fact or interpretation in media coverage. Any comments in these circumstances should also observe the 1968 Treasury undertaking to the PAC that immediate comment would not be controversial; but this need not preclude straightforward factual correction of media reporting.

107. Departments' public comments on NAO and PAC Reports which have financial implications, or which might affect substantively the subsequent Treasury Minute, should be cleared first with the relevant Treasury expenditure division.

### **Timing of Government Response to Committee Reports**

108. Departments should aim to provide the considered Government response to both Commons and Lords Select Committee Reports within two months of their publication. Where a report is complex or technical in its nature, the response may on occasion require a little longer: the Committee should be kept informed. In the case of Joint Committees, the two month target should apply, unless a longer timetable is agreed with the Committee.

109. The two month target may not always be possible to achieve as Committee Reports tend to address issues which require consideration in depth and this may involve consultation both within and outside Government before a substantial reply can be provided. If it appears that preparing a response is going to take longer than it should, the Department should write to the Committee (at Ministerial level to the Chairman or at official level to the Clerk) explaining the reasons and indicating the likely timetable. Only in exceptional circumstances should a response be deferred for more than six months after the Report's publication. A further option is to provide an interim response within the set period and a fuller response at a later date.

110. If these deadlines mean that a response falls due in the summer recess, the Committee may prefer publication of the Government response to be held over until Parliament reconvenes. Liaison Officers should consult the Clerk on the Committee's preference.

## **Form of Government Response**

111. In considering the form which the Government's considered response to a Select Committee Report should take, it is important to remember that the response must in all circumstances be made first to Parliament, either to the House itself or to the Committee. Replies usually take one of the following forms: (a) a Command Paper presented to Parliament; (b) a Memorandum or a letter to the Chairman of the Committee; or (c) an Oral Statement.

112. Replies in the form of (a) or (b) may be made in conjunction with an oral or written ministerial statement; but the Government has agreed that formal replies to Select Committee reports will not be made by means of written PQ answers alone.

113. Where a Select Committee's recommendations concern another public body as well, that body may reply direct to the Committee or its reply may be annexed to the Government's response as appropriate.

### **(a) Command Paper**

This is the traditional form of reply on matters of substance and is addressed to Parliament as a whole, rather than directly to the Committee.

Arrangements should be made where appropriate for collective Ministerial consideration and cleared through the relevant Cabinet Committee. Collective Ministerial agreement is likely to be required if the response touches on the responsibility of other Government Departments or is otherwise likely to be politically controversial.

Where several Departments are concerned, the Command Paper may be issued either by the principal Minister concerned, or by several Ministers acting jointly. Replies to Reports of the Committee of Public Accounts are always collated and presented by the Treasury.

Advance copies of any Command Paper responding to a Select Committee Report should be made available to the Committee concerned up to forty-eight hours before publication (the counterpart of the arrangement described in paragraph 100). Committees also find it helpful to be advised informally, where possible, when a reply is imminent. Advance copies may also be made available to the media. These should normally be provided on the day of publication. Any proposal to provide copies to the media more than 24 hours in advance must be cleared with No 10.

One advance copy of the final Command Paper for each Committee member and the Clerk should be provided by the Department, free of



charge. If significantly more copies are required, the Clerk should be advised to obtain these from the publisher in the usual way (see paragraph 38).

**(b) Memorandum or Letter to the Committee**

A Memorandum by a Department to the Committee, or a letter from a Minister to the Chairman may be a more readily applicable form of response to less substantial recommendations. Unlike a Command Paper, such responses are, formally, further evidence to the Committee and are therefore subject to the usual conventions on submitted evidence (see paragraphs 80-83). The Committee will normally decide to publish such Government responses itself, either without comment or with a further commentary on the points made in the response. Alternatively, Committees may, on request, agree to publication by the Department. This is usually done by the Department placing a copy of the reply in the House Library and drawing attention to it by means of a written ministerial statement.

**(c) Oral Statement**

If the Government's response is made in an oral statement on the floor of the House, whether in a separate statement or as part of a wider Ministerial speech, the Department should write to the Committee as early as possible drawing their attention to the statement and, if appropriate, making it clear that no further written reply is envisaged.

**Responses to Reports from ad hoc Committees**

114. The existence of an ad hoc Committee may end with the making of its report. In these circumstances, the Government response should be in the form of a Command Paper. The Clerk of the former Committee should be kept informed, as for an existing Committee, and copies should be provided for the members of the former Committee.

115. There is no obligation to reply individually to every point made by a Committee: some may be general pronouncements or observations: some may be directed not to the Government but to the House itself (for example, certain recommendations of the Procedure Committee) or to other bodies; some may conveniently be dealt with in one omnibus comment. A report may also contain observations by the Committee which, while not in the form of a recommendation, may nonetheless warrant a response or statement of the Government's views.

116. In the period between publication of a Committee's Report and the formal Government reply, there need be no constraint on Departments taking action on its recommendations. However, if such action is taken the

Committee should be informed, a Parliamentary announcement should be considered, and in any event the formal Government response to the Committee should refer to the action taken (see also paragraphs 65-66 on Ministerial statements). Similarly, if a decision on a recommendation is made, or if a recommendation is implemented some time after the formal reply has been given, the Department should write to the Committee to make them aware of the fact.

117. A copy of all Government replies to Committee recommendations, in whatever form, should be sent to the Leader of the House of Commons or to the Leader of the House of Lords as appropriate.

## HOUSE OF COMMONS STANDING ORDER NO. 152

## Select Committees Related to Government Department

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

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

	<b>Name of Committee</b>	<b>Principal government departments concerned</b>	<b>Maximum members</b>
1.	<b>Constitutional Affairs</b>	Department for Constitutional Affairs (including the work of staff provided for the administrative work of courts and tribunals, but excluding consideration of individual cases and appointments, and excluding the work of the Scotland and Wales Offices and of the Advocate General for Scotland)	11
2.	<b>Culture, Media and Sport</b>	Department for Culture, Media and Sport	11
3.	<b>Defence</b>	Ministry of Defence	14
4.	<b>Education and Skills</b>	Department for Education and Skills	11
5.	<b>Environment, Food and Rural Affairs</b>	Department for Environment, Food and Rural Affairs	14
6.	<b>Foreign Affairs</b>	Foreign and Commonwealth Office	14
7.	<b>Health</b>	Department of Health	11
8.	<b>Home Affairs</b>	Home Office; and administration and expenditure of the Attorney General's Office, the Treasury Solicitor's Department, the Crown Prosecution Service and the Serious Fraud Office (but excluding individual cases and appointments and advice given within government by Law Officers)	14
9.	<b>International Development</b>	Department for International Development	11
10.	<b>Northern Ireland Affairs</b>	Northern Ireland Office; administration and expenditure of the Crown Solicitor's Office (but excluding individual cases and advice given by the Crown Solicitor); and other matters within the responsibilities of the Secretary of State for Northern Ireland (but excluding the expenditure, administration and policy of the Office of the Director of Public Prosecutions, Northern Ireland and the drafting of legislation by the Office of the Legislative Counsel).	13

	<b>Name of Committee</b>	<b>Principal government departments concerned</b>	<b>Maximum members</b>
11.	<b>Office of the Deputy Prime Minister: Housing, Planning, Local Government and the Regions</b>	Office of the Deputy Prime Minister	11
12.	<b>Science and Technology</b>	Office of Science and Technology	11
13.	<b>Scottish Affairs</b>	Scotland Office (including (i) relations with the Scottish Parliament and (ii) administration and expenditure of the offices of the Advocate General for Scotland (but excluding individual cases and advice given within government by the Advocate General))	11
14.	<b>Trade and Industry</b>	Department of Trade and Industry (but excluding the Office of Science and Technology)	14
15.	<b>Transport</b>	Department for Transport	11
16.	<b>Treasury</b>	Treasury, HM Revenue and Customs	14
17.	<b>Welsh Affairs</b>	Wales Office (including relations with the National Assembly for Wales)	11
18.	<b>Work and Pensions</b>	Department for Work and Pensions	11

(3) Each Select Committee appointed under this order shall have the power to appoint a sub-committee.

(4) Select Committees appointed under this order shall have power:

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

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

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