



House of Commons
Select Committee on
Modernisation of the House of
Commons

**Scrutiny of the Draft
Legislative Programme:
Government Response
to the Committee's
First Report**

**First Special Report of Session
2007–08**

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The Select Committee on Modernisation of the House of Commons

The Select Committee on Modernisation of the House of Commons is appointed by the House of Commons to consider how the House operates and to make recommendations for modernisation.

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Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at <http://www.parliament.uk/modcom>.

Committee staff

The current staff of the Committee are Helen Irwin and Dr Susan Griffiths (Clerks), Susan Morrison (Committee Assistant) and Jane Cooper (Secretary).

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First Special Report

The Select Committee on Modernisation of the House of Commons published its First Report of Session 2007–08 on 23 January 2008.¹ On 14 May 2008 we received a memorandum from the Government, which contained a response to the Report. The memorandum is published as an Appendix to this Report.

¹ First Report from the Select Committee on Modernisation of the House of Commons, Session 2007–08, *Scrutiny of the Draft Legislative Programme*, HC 81

Appendix

The Government's response to the Modernisation Select Committee's First Report of Session 2007–08; HC 81, *Scrutiny of the Draft Legislative Programme*.

Introduction

1. The publication of the first Draft Legislative Programme in 2007 was a new addition to the traditional Parliamentary legislative cycle. Particularly in the light of the acknowledged time constraints on the 2007 exercise, the Government has been keen to develop proposals for future years.
2. The Government therefore warmly welcomed the Report *Scrutiny of the Draft Legislative Programme* on 23 January 2008 by the Select Committee on Modernisation of the House of Commons and is grateful to the Committee for their work. That report has informed the process for the future and is a helpful contribution to the development of the role and purpose of publishing a draft legislative programme.
3. The Government's responses to the individual recommendations in the report are set out below. The Government accepts the Committee's general conclusions and recommendations and has already taken them into account in the publication of the Draft Legislative Programme for this year.

Format

Recommendation 1

The use of plain English in the Draft Legislative Programme is clearly appropriate to a document intended for public consultation. The Modernisation Committee has consistently called for greater clarity in Government and Parliament's communication with the public. In this context, we applaud efforts to make the sometimes complex business of legislation more easily understandable. We note that plain English parallel texts have been prepared for draft Bills, including the draft Coroners Bill and the forthcoming draft Marine Bill. Early responses have been positive and the Government could now consider extending this approach to programmed Bills on a trial basis, although resource and administrative implications should be monitored and kept under review. We would expect to be consulted on the use of 'plain English' in other Parliamentary proceedings, where precision is of vital importance. (Paragraph 6)

4. The Government is grateful for the recognition from the Committee of efforts to ensure that the Draft Legislative Programme was published in plain language. The Government agrees that the use of plain language in a consultation document of this nature is very important and will continue this approach in future years.
5. The Government also agrees that we should continue, and seek to extend, the use of plain language in the legislation itself. The Government intends to use plain language parallel texts for more draft bills and is exploring the extension of the parallel text approach to Government programme bills. This will require consultation with both Houses of

Parliament and careful consideration of the impact of any change on the timetable for the management of Parliamentary business. The Government has also incorporated the use of gender neutral drafting in primary legislation (e.g. avoiding the use of the male personal pronoun such as he, him, his) and will shortly be rolling this out to all secondary legislation.

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Recommendation 2

The Draft Legislative Programme does not give details of non-legislative proposals or of any secondary legislation planned for each area. (Paragraph 8)

Recommendation 3

Whilst it would clearly be impractical to include all policy proposals, or all delegated legislation within the Draft Legislative Programme, we agree that, in many cases, non-legislative proposals can be as important as bills. We therefore recommend that the Government's main non-legislative plans should be included in the Draft Legislative Programme, alongside the list of proposed bills, in order that the full programme of government is available for scrutiny. This could be achieved through the inclusion of an expanded thematic section within the document. (Paragraph 11)

6. The Government agrees there is a case to set out the wider non-legislative work of government and will take this fully into account as it draws up its future plans. Although it is clearly not possible to include every such proposal, the Government agrees with the Committee's suggestion of selecting those proposals which are key to each of the themes identified and will concentrate especially on forthcoming Green and White Papers and policy reviews. References to significant secondary legislation could also be included.

7. As with the proposed Bills themselves, the inclusion of non-legislative proposals cannot preclude further proposals being brought forward throughout the year or existing proposals being modified. The Government must retain the ability to respond quickly and flexibly to changing priorities while being as transparent as possible with its current plans.

The Governance of Britain

Recommendation 4

Our evidence suggests that there is a benefit to be derived from the presentation of the Government's legislative programme as a whole, rather than through piecemeal consultations on individual bills. The value of this exercise is nevertheless difficult to assess without determining whether this greater transparency has had a real effect on the Government's legislative plans. This assessment was made more difficult by a lack of clarity from the Government as to the extent to which this exercise was expected to improve presentation or engagement and genuine consultation. (Paragraph 18)

8. The Government agrees the importance of being clear about the purposes of publishing the Draft Legislative Programme and the commitment to consultation on the programme

before it becomes finalised in the Queen's Speech. This will in practice be made easier this year by the fact that the Programme will be published two months earlier to allow a longer period both to seek as wide-ranging views as possible and to take them into account. As with last year, the Government will again publish a further document, around the time of the Queen's Speech, setting out the outcome of the consultation process. This document will also highlight where significant changes have been made to the Programme as a result of views expressed in the consultation period and state the reasons why other views may not have resulted in changes to the Programme. This will be in addition to, rather than instead of, individual departmental consultations on specific Bills which will continue to highlight detailed views and changes.

Timing

Recommendation 5

The time allowed for scrutiny and consultation of the Government's Draft Legislative Programme was, understandably, truncated this year. We agree with the suggestion made by the Leader of the House that the draft Programme should be published earlier in the year. We consider that publication before Easter, for a Queen's Speech delivered the following November, would provide enough time for select committees to integrate some scrutiny of the Government's legislative proposals into their Programme, as well as for public consultation to be carried out effectively. (Paragraph 22)

9. The Government accepts this recommendation and recognised that the timing of the publication last year meant that the opportunity for people to comment on proposals was limited. The Leader of the House of Commons has already stated that it would be sensible to publish the Programme earlier in the year and that is what the Government has done.

Recommendation 6

In the case of publication well in advance of the Queen's Speech, the Government should use the Draft Legislative Programme solely as a platform for policy announcements which are intended to form part of the next year's legislative agenda. To do otherwise would negate the purpose of the Draft Legislative Programme and the process of consultation and scrutiny. We therefore recommend that when drafting the Draft Legislative Programme, the Government should keep in mind the key objective of the document as a draft Queen's Speech. (Paragraph 23)

10. The Government accepts this recommendation. The intention in publishing the Draft Legislative Programme last year was to use it to indicate the Government's current proposals for legislation to be included in the Queen's Speech. This has remained the intention with the publication of the Programme this year, and in future years. Nevertheless we also take into account the Committee's views, in recommendations 2 and 3, to widen the Programme to include some relevant non-legislative proposals.

Debate

Recommendation 7

We recommend that the Draft Legislative Programme should be the subject of a separate debate, not subsumed into general end of term recess debates. It should, as far as possible, be the subject of a full day's debate. Time should be made for the Draft Programme to be debated well before the summer recess. The Government should be prepared to review arrangements in the light of further developments in this evolving process. (Paragraph 25)

11. The Government accepts this recommendation that the Draft Legislative Programme should be the subject of a full day's debate in the House of Commons before the summer recess, and intends to adopt that approach this year. The Government will review arrangements as this process continues to evolve.

Members of Parliament

Recommendation 8

We are confident that Members of Parliament have ample opportunity to inform the Government of their views on the Draft Legislative Programme. Given the short timetable for consultation this year, the scope for feedback from Members to have a real effect on the final form of the Queen's Speech remains to be seen. (Paragraph 28)

12. The Government agrees with this recommendation and greatly values the role of Members of Parliament in feeding in their views, and those of their constituents, into the process of consulting on the Draft Legislative Programme. As stated above, the significantly longer time for consultation this year should facilitate this process and enable such views to have a genuine impact upon the eventual Queen's Speech. In particular, in view of the need to consult as widely as possible, and the challenge for the Government in reaching large numbers of individual members of the public, Members of Parliament have an invaluable role to play in actively seeking the input of their constituents. The Government will help this process, as last year, by sending a copy of the green paper and a summary to all Members of Parliament.

Select Committees

Recommendation 9

Select Committees, especially Departmental Select Committees, are well placed to play a valuable role in scrutinising the Draft Legislative Programme. In many cases, scrutiny of proposals within the draft Queen's Speech will fall within the programme of work that the Committee had already planned to undertake. However, Committees must retain control over their own programmes and must be free to choose not to engage with the Programme if they feel that their priorities lie elsewhere. We agree with Mr Beith that "It is not for the Government to decide the Committee's agenda; it is for the Committee to do so." (Paragraph 35)

13. The Government accepts this recommendation. The role of Departmental Select Committees in scrutinising draft bills is an important one that the Government is actively seeking to enhance through encouraging more bills to be published in draft to improve the quality of legislation. The Government hopes that the Draft Legislative Programme will bolster that role through signposting individual departmental consultations and thereby increasing awareness of and participation in pre-legislative scrutiny. Nevertheless, the Government entirely agrees that it is for each Committee to decide its own work programme.

The Liaison Committee

Recommendation 10

We strongly support the evolving and strengthening role of the Liaison Committee as the representative body of Select Committees in the House of Commons. We agree with the Chairman of the Committee, Rt Hon Alan Williams MP, that the Liaison Committee is unlikely to be in a position to adopt a unified policy in regard to the Government's Draft Legislative Programme. It is probable, therefore, that the role of the Liaison Committee will be in co-ordinating the work of individual Select Committees and representing their interests to Ministers. However, how the Liaison Committee takes forward its role in relation to the Government's Draft Legislative Programme is essentially a matter for the Committee itself. (Paragraph 41)

14. The Government agrees that the Liaison Committee has a very important role to play in such co-ordination, especially on matters which are generic to all Select Committees. The Government entirely agrees that it is for the Liaison Committee to decide its own work programme and looks forward to working closely with the Committee as the process of scrutinising the Draft Legislative Programme develops further.

Organisations

Recommendation 11

Age Concern was cautious about the use of websites as the primary means of connecting with the public, stating that "The emphasis on online responses to the legislative programme was unhelpful as many of those who may have wanted to respond might not have had access to IT facilities or may not have confidently responded in this way." We have sympathy with this view. (Paragraph 45)

15. The Government acknowledges the comments made by the Committee about ensuring that the public can engage with the Programme and respond to it. This year, the Government has broadened the engagement programme by producing a short summary document setting out what the Draft Legislative Programme is about and inviting people to find out further information by either visiting the Leader's website or by requesting a copy in hard copy. The leaflet will also include details of how people can respond to the consultation, both online and by correspondence.

Recommendation 12

The organisations who gave evidence to this inquiry have welcomed the Draft Legislative Programme, seeing it as a helpful addition to, rather than a radical departure from previous, more fragmented consultations on individual legislative proposals. Issues of timing were clearly apparent this year and in future, the Government could be clearer about the aims and objectives of the process, including the provision of feedback on how responses have been taken into account in arriving at the final Queen's Speech. (Paragraph 47)

16. The Government accepts this recommendation and recognises that it is helpful to be clear about the aims and objectives of the publication of the Draft Legislative Programme. This year it will include specific questions on which the Government welcomes views during the consultation period. The Government again intends to publish a summary of responses received during the consultation to explain how responses have been taken into account in arriving at the final Queen's Speech.

Members of the public and 'Citizens' juries'

Recommendation 13

Given the cost to the public purse involved in holding the National Workshop event, we hope that the Government will find a good use for the findings that resulted from it. As we and our predecessors have noted in earlier Reports, more effort is needed to facilitate public participation in Parliament. In order to achieve this, engagement must be sincere and the mechanisms of consultation must be responsive to the public's needs. We hope that the Government will take note of these principles when considering how the public might best be asked to respond to the Draft Legislative Programme in future years and that it will adopt the practice of issuing a report describing the public's observations on its Programme. (Paragraph 52)

17. The Government accepts this recommendation and strives to deliver value for money in considering the use of national workshop events. Last year's event was helpful in getting people's views about the consultation process itself, as it was the first time it had been done. The views expressed at the workshop are being used to inform the consultation process going forward.

Regional Ministers

Recommendation 14

The use of Regional Ministers as one of the main channels for consultation has allowed consideration of the Draft Legislative Programme by the public to be locally tailored. Although the extent of consultation has varied between the regions, this appears to have been a generally successful strategy. (Paragraph 56)

18. The Government welcomes the Committee's recognition of the role played by Regional Ministers in the consultation on the Draft Legislative Programme last year. Regional Ministers will continue to play a similar role in the public engagement this year.

Impact on the Queen's Speech

Recommendation 15

The long term effect on the Queen's Speech of habitually producing an advance Draft Legislative Programme remains to be seen. In the time available this year, the consultation process had no realistic prospect of producing unexpected amendments or alterations to the Programme that could successfully be reflected in the Queen's Speech. Changes were the result of earlier consultations, for example with Select Committees. The experience of future years will demonstrate more clearly whether the Government is prepared to alter its plans in response to views that emerge as a result of consultation. In our view, it would be logical for the publication of a draft to indicate a genuine willingness to vary plans for the final Queen's Speech. If this does not occur, it is likely that the process will quickly lose credibility in the eyes of the public and other stakeholders. (Paragraph 62)

19. The Government accepts this recommendation and was very clear when it published the Draft Legislative Programme in 2007 that the opportunity for changes to be made following the consultation would be limited because of the time of the publication. It should be remembered however that most of the individual legislative proposals had themselves been the subject of separate public consultation. In future the draft programme will include specific questions on which the Government welcomes views during the period of consultation and will clearly set out those policy areas where decisions have already been made.

Conclusions

Recommendation 16

There is general agreement that this year's Draft Legislative Programme was somewhat experimental in nature. Elements such as the compressed timetable make it difficult to treat as a pattern for future years. We agree with the words of the Rt Hon Alan Williams MP, Chairman of the Liaison Committee: "This time it was very much a trial run at short notice and collectively, frankly, we have not been able, and would not have been able, to arrive at a conclusion, so we cannot draw any long-term lessons from this year". Nevertheless, the publication of a Draft Programme does offer the opportunity to improve public understanding of and involvement in the legislative process and represents a welcome increase in transparency. (Paragraph 63)

Recommendation 17

The Government has put forward some sensible revisions to the process of scrutiny and consultation for future years. We support the proposal to publish the Programme at Easter. This should allow an appropriate time for views to be given and amendments to be proposed which have a realistic chance of appearing in the final Queen's Speech. We also support the continued involvement of the Liaison Committee and of individual Select Committees, although the exact nature of their engagement must remain a matter for the Committees themselves to determine. (Paragraph 64)

Recommendation 18

The publication of a Draft Legislative Programme was welcomed by all those who gave evidence to this inquiry. We agree that it represents a positive addition to the Government's existing consultations on individual bills. In many cases, it will allow thematic linkages between different Bills to be elucidated and the question of balance within the Programme to be addressed. In this context, we support the inclusion of significant non-legislative proposals within the Programme. On occasion, these can be as important as legislation and, as such, deserve a place within the administration's stated programme of government. (Paragraph 65)

Recommendation 19

There is clear potential for the process surrounding the Draft Legislative Programme to evolve in future years, particularly as regards Regional Ministers and the use of events such as the recent National Workshop, which are both relatively recent innovations. We hope that the publication of a Draft Legislative Programme will lead to wider opportunities for pre-legislative scrutiny on a more systematic basis, but the realisation of this ambition will depend on the genuine commitment of all those involved, including and especially the Government itself. The impetus behind the Programme this year, as a new project from an incoming Prime Minister, must be sustained in order for the process to be seen as a genuine occasion for input and dialogue. (Paragraph 66)

20. These paragraphs summarise what has gone before and we agree with the broad sentiments of the report as indicated above. The Draft Legislative Programme is a good development and the earlier publication this year and greater opportunity for Parliament and the people to comment in advance of the Queen's Speech will further enhance its role.

21. The Government welcomes the Committee's comments on the innovation that was the publication of the Draft Legislative Programme and looks forward to continuing to develop the consultation process in future years.