



House of Commons
Political and Constitutional
Reform Committee

**Role and powers of the
Prime Minister**

First Report of Session 2014–15

*Report, together with formal minutes relating
to the report*

*Ordered by the House of Commons
to be printed 19 June 2014*

The Political and Constitutional Reform Committee

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Committee staff

The current staff of the Committee are Joanna Dodd (Clerk), Edward Faulkner (Committee Specialist), Ami Cochrane (Legal Assistant), Tony Catinella (Senior Committee Assistant), Jim Lawford, (Committee Assistant) and Jessica Bridges-Palmer (Media Officer).

Contacts

All correspondence should be addressed to the Clerk of the Political and Constitutional Reform Committee, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 6287; the Committee's email address is pccr@parliament.uk.

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1 Introduction

Background to the inquiry

1. The Prime Minister is the chief of the executive and the holder of the highest political office in the United Kingdom. To complement our long-running inquiry into codifying, or not codifying, the United Kingdom's constitution, we set out to explore whether there is adequate public understanding and clarity about the Prime Minister's role and powers, and whether the checks and balances on those powers are sufficient.

2. This was an unusually long-running inquiry. We decided to conduct an inquiry into the role and powers of the Prime Minister on 20 January 2011 and issued a call for written evidence the next day. The terms of reference are appended to this report. We issued a further call for written evidence on 6 December 2012, including among the additional topics in which we were interested the impact of transferring to a statutory footing the prerogative power to dissolve Parliament. We held an evidence session purely on this aspect of the inquiry on 20 June 2013, and published a report, also purely on this aspect of the inquiry, on 25 July 2013.¹ As well as the evidence session on the prerogative power to dissolve Parliament, we held four oral evidence sessions on the broader questions raised by the inquiry and received 28 pieces of written evidence. We are grateful to all who contributed to the inquiry.

¹ [The role and powers of the Prime Minister: the impact of the Fixed-term Parliaments Act 2011 on Government](#), Fourth Report of Session 2013-14, HC 440

2 Clarity about role and powers

Origins and sources

3. When Lord Hennessy gave evidence to us, he commented: “the role of the Prime Minister is like the British constitution as a whole—you think you are getting close and it disappears into the mists.”² With the role itself difficult to define, it is not surprising that the powers of the person who fulfils the role are similarly problematic to outline definitively. Most powers exercised by the Prime Minister are not defined in statute and cannot be found in one place. In his book *The Prime Minister: The office and its holders since 1945*, Lord Hennessy stated: “Arguments have raged around the powers of the British Prime Minister for nearly 300 years.”³

4. Without a clear definition of the role of Prime Minister, the powers associated with the office have been able to evolve and accumulate, unhindered by statute, over hundreds of years. It is impossible to point to a single point in history when the post was created, or even a decision to create it. Sir Robert Walpole, who became First Lord of the Treasury—a post which is now traditionally held by the Prime Minister—in 1721, is often thought of as the first Prime Minister. However, formal acknowledgement of the post’s existence was a lengthy and gradual process.

5. Professor George Jones, of the London School of Economics and Political Science, lists the following examples of the recognition of the post and institution of the premiership:

- The Times began regularly referring to this specific title in the early nineteenth century;
- The list of ministers printed in Hansard began using the title ‘Prime Minister’ in 1885;
- In the minutes for the first meeting of the Committee of Imperial Defence in 1902, the ‘Prime Minister’ was referred to as being present;
- The Imperial Calendar (the predecessor to the Civil Service Yearbook) referred to the ‘Prime Minister’ for the first time in its 1904 edition;
- The Prime Minister was given a position in the order of precedence in 1905;
- The first mention of the Prime Minister in statute came with the Chequers Estate Act 1917;

2 Q293

3 Peter Hennessy, *The Prime Minister: the office and its holders since 1945*, (London, 2000), p 4

- Reference to an explicitly labelled ‘Prime Minister’s Office’ in the Civil Service Yearbook did not take place until the appearance of the 1977 edition.⁴

The Ministers of the Crown Act 1937 specified how much the Prime Minister and First Lord of the Treasury was to be paid.

6. Just as it is impossible to point to a single moment when the role of Prime Minister officially came into existence, there is no single authoritative source for what the role involves and the powers the Prime Minister can exercise. Professor Kevin Theakston and Dr Timothy Heppell, of the University of Leeds, commented:

There is no constitutional definition of the British Prime Minister’s role or any authoritative specification of the office’s functions, powers and responsibilities. They are a matter of convention and usage, not statute, and are thus to a large degree flexible and subject to variation and change over time.⁵

Professor Jones stated in his written evidence:

At present much of the prime-ministerial role, including being the most senior adviser to the monarch and chair of Cabinet, remains defined in convention and is often exercised under the Royal Prerogative. While some of the powers of the office—mainly about public appointments—exist under statute, the premiership has a slimmer statutory existence than many other offices of state. As of 2010, there were 92 pieces of primary legislation and 422 of secondary legislation referring specifically to the Prime Minister (there are other references to the ‘First Lord of the Treasury’ and the ‘Minister for the Civil Service’). By contrast, the respective totals for the Secretary of State for Health were 662 and 7,205; and for the Business Secretary 577 and 2,221.⁶

Cabinet Manual

7. In February 2010, the then Prime Minister, Rt Hon Gordon Brown MP, announced that he had asked the Cabinet Secretary “to lead work to consolidate the existing unwritten, piecemeal conventions that govern much of the way central government operates under our existing constitution into a single written document.”⁷ The first chapter of a draft Cabinet Manual—on elections and Government formation—was published in February 2010. A full draft was published for consultation in December 2010. The final version of the *Cabinet Manual* was published in October 2011. It is described on the Government’s website as “a guide for members of Cabinet, other Ministers and civil servants in the carrying out of government business”, and contains arguably the most comprehensive

4 [Professor George Jones written evidence](#) citing Andrew Blick and George Jones, *Premiership: the development, nature and power of the office of the British Prime Minister*

5 [Professor Kevin Theakston and Dr Timothy Heppell written evidence](#)

6 [Professor George Jones written evidence](#)

7 Speech to Institute for Public Policy Research, 2 February 2010, text available at: <http://labourlist.org/2010/02/speech-by-gordon-brown-towards-a-new-politics/>

official account to date of the role and powers of the Prime Minister.⁸ It was therefore not until October 2011, following calls by us and others, that the public saw for the first time the Whitehall view of the office of Prime Minister.

8. The Cabinet Manual begins by setting out how the Prime Minister acquires office:

3.1 The Prime Minister is the head of the Government and holds that position by virtue of his or her ability to command the confidence of the House of Commons, which in turn commands the confidence of the electorate, as expressed through a general election. The Prime Minister's unique position of authority also comes from support in the House of Commons. By modern convention, the Prime Minister always sits in the House of Commons. The Prime Minister will normally be the accepted leader of a political party that commands the majority of the House of Commons....

3.2 The Prime Minister accepts office at a private audience with the Sovereign, at which time the appointment takes effect. The Prime Minister is, by tradition, the First Lord of the Treasury...In his or her capacity as First Lord of the Treasury, the Prime Minister takes oaths of office under the Promissory Oaths Act 1868.

Then it goes on to outline in broad terms the Prime Minister's functions:

3.3 The Prime Minister has few statutory functions but will usually take the lead on significant matters of state. The Prime Minister has certain prerogatives, for example recommending the appointment of ministers and determining the membership of Cabinet and Cabinet Committees. However, in some circumstances the Prime Minister may agree to consult others before exercising those prerogatives. The *Ministerial Code* states: 'the Prime Minister is responsible for the overall organisation of the Executive and the allocation of functions between Ministers in charge of departments.'

3.4 It is for the Prime Minister to advise the Sovereign on the exercise of the Royal Prerogative powers in relation to government, such as the appointment, dismissal and acceptance of resignation of other ministers and certain other statutory powers, such as the calling of elections where there is an early election or a deferred election under the Fixed-term Parliaments Act 2011....

3.5 At regular meetings with the Sovereign, the Prime Minister informs him or her of the general business of the government. The Prime Minister's other responsibilities include recommending a number of appointments to the Sovereign. These include high-ranking members of the Church of England, senior judges and certain civil appointments. He or she also recommends

8 www.gov.uk/government/publications/cabinet-manual

appointments to several public boards and institutions, as well as to various Royal and statutory commissions.

3.6 The Prime Minister has held the office of Minister for the Civil Service since that office was created in 1968, in which capacity he or she has overall responsibility for the management of most of the Civil Service...The Prime Minister is the minister responsible for National Security and matters affecting the Secret Intelligence Service, Security Service and GCHQ collectively, in addition to which the Home and Foreign Secretaries of State and the Secretary of State for Northern Ireland have powers granted in legislation to authorise specific operations. The Prime Minister is also sworn as a member of the Privy Council.⁹

9. Professor Sue Pryce, of the University of Nottingham, writing about the draft *Cabinet Manual*, stated: “The Cabinet Manual probably amounts to the most detailed official attempt yet to define the role of the Prime Minister, whose powers are spread across various statutes, conventions and codes. Yet it mainly serves to demonstrate just how imprecise the position is.”¹⁰

Prerogative powers

10. As the *Cabinet Manual* notes, the Prime Minister’s powers include prerogative powers, which are exercised by the Prime Minister on behalf of the monarch. There is no one agreed definition of what constitutes a prerogative power and no one definitive list of the powers themselves. The previous Government’s *Review of the Executive Royal Prerogative Powers*, published in 2009, represents the most comprehensive and authoritative recent attempt to list prerogative powers. The *Review* states:

The scope of the Royal prerogative power is notoriously difficult to determine. It is clear that the existence and extent of the power is a matter of common law, making the courts the final arbiter of whether or not a particular type of prerogative power exists. The difficulty is that there are many prerogative powers for which there is no recent judicial authority and sometimes no judicial authority at all. In such circumstances, the Government, Parliament and the wider public are left relying on statements of previous Government practice and legal textbooks, the most comprehensive of which is now nearly 200 years old [Joseph Chitty, *A Treatise on the Law of the Prerogatives of the Crown*, 1820].¹¹

11. Since the Government published its list of prerogative powers in 2009, a number of the powers have been placed on a statutory footing. The Constitutional Reform and Governance Act 2010 introduced a statutory basis for the management of the civil service, and a new parliamentary process for the ratification of treaties. The Fixed-term

9 [The Cabinet Manual](#), 2011, paras 3.1 to 3.6

10 [Professor Sue Pryce written evidence](#)

11 Ministry of Justice, [The Governance of Britain: Review of the Executive Royal Prerogative Powers: Final Report](#), 2009, para 27

Parliaments Act 2011 abolished the prerogative power to dissolve Parliament. The Act set the date of the next general election as 7 May 2015 and as the first Thursday in May in every fifth year thereafter, and provided that early elections could be held only if a motion for an early general election was agreed either by at least two-thirds of the total membership of the House of Commons or without division, or if a motion of no confidence was passed and no alternative Government was confirmed by the Commons within 14 days. Professor Robert Hazell, of University College London, described the Fixed-term Parliaments Act as “a very significant surrender of prime ministerial power.”¹²

12. These instances of placing prerogative powers on a statutory footing followed the publication in 2004 of a Public Administration Select Committee report, *Taming the Prerogative: Strengthening Ministerial Accountability to Parliament*, and in 2007 of *The Governance of Britain* Green Paper, which discussed transferring a number of prerogative powers to statute, or making them subject to greater parliamentary oversight. The principal remaining prerogative powers that are candidates for such treatment are the prerogative power to deploy armed forces abroad and the prerogative power to issue, refuse to issue, revoke, or withdraw passports. We recently published a report about the Prime Minister’s prerogative power to commit armed forces to conflict abroad and called for a House resolution clarifying and formalising the role of Parliament in conflict decisions, as an interim step to enshrining in law the need for the Prime Minister to consult the House of Commons on the use of armed force abroad.¹³ Other prerogative powers that are discussed in the Government’s 2009 *Review* are the prerogative power to grant pardons and remission to prisoners, the prerogative power to call an inquiry, and the prerogative power to keep the peace where no emergency exists.

13. Dr Mark Bennister, of Canterbury Christ Church University, stated in his written evidence: “There is a strong case for more of the prerogative powers to be transferred to statute, giving greater reference to parliament on matters of national significance (such as war making powers).”¹⁴ The Green Party’s written evidence called for all prerogative powers to “be transferred to statute or extinguished.”¹⁵ Professor Hazell, however, commented: “The prerogative powers, I would suggest, are not as unusual as we suppose that they are. In all political systems, you have to have some kind of system of reserve power.”¹⁶

14. The office of Prime Minister has evolved over nearly three centuries. It is both a cause and a consequence of that evolution that there is no single authoritative source of information on the Prime Minister’s role and powers. The Cabinet Manual, published in October 2011, contains arguably the most comprehensive official account to date of the Prime Minister’s role and powers, but it is aimed at Ministers and civil servants, rather than the public, and it has no statutory force.

12 Q82

13 [Parliament’s role in conflict decisions: a way forward](#), Twelfth Report of Session 2013-14, HC 892, para 49

14 [Dr Mark Bennister written evidence](#)

15 [Green party written evidence](#)

16 Q79

15. We request that the Government explore in a Green Paper the arguments for and against placing the Prime Minister's role as outlined in the Cabinet Manual on a statutory footing, so that the next Parliament can decide the issue.

16. Many of the Prime Minister's powers are exercised under the prerogative. These powers in particular are difficult to define and are therefore hard to scrutinise effectively, and confusing to many people. We welcome the recent moves to place some prerogative powers on a statutory footing, and we also accept that there is a need for the Prime Minister to retain some reserve powers that are not codified in statute for use in an emergency. However, the process of transferring prerogative powers to statute, and making them subject to greater parliamentary oversight, must continue.

3 Codification

17. Our witnesses expressed a range of views on whether the Prime Minister’s role and powers as a whole—as opposed to individual prerogative powers—should be codified in statute.

18. Professor Pryce commented: “There is a clear need to codify the role and powers of the Prime Minister, preferably in statute, both to ensure democratic transparency, and to recognise how the office has changed in recent decades”. She continued:

This statute would set out:

(a) How the Prime Minister is appointed, and the respective roles of Parliament and the electorate in this process.

(b) The term of office served by the Prime Minister.

(c) The functions of the Prime Minister, including those presently often exercised in practice by the premier under the Royal Prerogative, which would be placed on a statutory basis for the first time, and placed under full parliamentary control, including measures for their exercise to be subject to votes on substantive motions in the Commons. They include:

—the ability to enter into armed conflict;

—the right to appoint ministers;

—the right to make Orders in Council;

—the right to sign or ratify treaties (though some degree of statutory provision for parliamentary oversight has been introduced here, there remains scope for improvement); and

—to recognise foreign governments.

(d) It would provide the Prime Minister with support for a publicly funded team of staff sufficient for his/ her needs.¹⁷

Professor Michael Foley, of the University of Aberystwyth, also argued in favour of codification. He said: “I just think that where you get to areas of significance, it would help to inform debate and also provide the traction of debate if you had it somewhere codified what the Prime Minister’s powers are.”¹⁸

19. However, Dr Michael Pinto-Duschinsky, of Policy Exchange, commented:

So often we have seen that codification and change for its own sake throws up many unanticipated problems. Unless there is some disease that you need

17 [Professor Sue Pryce written evidence](#)

18 Q104

to cure, you do not want to give strong and uncertain medicine in pills whose effect you do not know.¹⁹

Dr Nicholas Allen, of Royal Holloway, University of London, stated in his written evidence: “I am against detailed statutory codification because there needs to be some flexibility in the Prime Minister’s role and powers.”²⁰

20. Professor Theakston and Dr Heppell compared the position in Westminster with the devolved Administrations and with international examples:

In contrast to the position in Westminster, the offices of the Scottish, Welsh and Northern Ireland First Ministers do have a statutory basis but the relevant legislation deals mainly with procedures for their nomination and appointment, and with their own role in appointing ministers in their administrations, rather than with their policy and administrative roles. The German Basic Law states that the Federal Chancellor “shall determine and be responsible for the general guidelines of policy”, while Japan’s Cabinet Law describes the PM there as the head of the Cabinet, with the power to “propose items including the basic principles concerning the important policies of the Cabinet”, and as exercising “control and supervision over the administrative branches” of the government.²¹

21. Dr Eoin O’Malley, of Dublin City University, cautioned against assuming that the role and powers of Prime Ministers in other countries are defined in detail in statute. Dr O’Malley stated:

While in most countries the powers of the Prime Minister are set out in the constitution, it is comparatively unusual to have the role codified in statute. In most countries these powers are codified in the constitution or some basic laws and further limits are placed or powers granted in different statutes. These tend to deal with the architecture of government, which affects how the day-to-day job of Prime Minister is run, but they do not set out what a Prime Minister will do in his or her day-to-day life.²²

This point was supported by Professor Hazell, who commented: “on the whole they [Prime Minister’s powers] are defined in very brief and sketchy terms.” He continued:

To give you an illustration from the post-war constitution of Japan, it says in Article 68, “The Prime Minister shall appoint the Ministers of State. The Prime Minister may remove the Ministers of State as he chooses” and then in terms of his functions, jumping to Article 72, “The Prime Minister, representing the Cabinet, submits Bills, reports on general national affairs and foreign relations to the Diet” that is the Japanese Parliament, “and exercises control and supervision over various administrative branches”. It is

19 Q194

20 [Dr Nicholas Allen written evidence](#)

21 [Professor Kevin Theakston and Dr Timothy Heppell written evidence](#)

22 [Dr Eoin O’Malley written evidence](#)

pretty terse. From the written constitutions I have looked at, that is not untypical in terms of a general description of the functions of the Prime Minister. There may be other clauses in the constitution relating to specific matters that add a bit but, on the whole, the powers of Prime Ministers in written constitutions are not as extensively defined as they are, for example, in our new Cabinet Manual.²³

Dr Bennister stated:

There is a difference between what we think the Prime Minister should do and what the Prime Minister actually does. Codification of the role of the Prime Minister would need to distinguish between the two and would not in itself limit or constrain a Prime Minister. Codification in statute would need to relate to the executive functions as separate from the leadership functions...Codifying all aspects of the prime ministerial role would be problematic.²⁴

22. The Chair of our Committee, Graham Allen MP, introduced a Private Member's Bill in 2001, to outline the office, role and functions of the Prime Minister. An updated version of this Bill is included in Appendix B to this report as an example of what an attempt to codify the Prime Minister's role and powers could look like. The Bill sets out how the Prime Minister is to be appointed, his or her term of office, the functions of the Prime Minister in broad terms, the power to delegate, powers of appointment, the use of prerogative powers, and a duty to account to Parliament.

23. More recently, the former Home Secretary Rt Hon Jack Straw MP, in his 2012 book *Last Man Standing*, recommended that there should be a "Cabinet Government Act". He stated:

This would prescribe the duties of the prime minister and the Chancellor, and the role of the Cabinet; provide for a National Security Council and a National Economic Council, whose approval would be needed for national security and Budget and public spending decisions respectively; and require the Cabinet Secretary to report to Parliament each year as to whether Cabinet government was operating effectively.²⁵

24. There are a variety of views on whether it would be desirable to codify the role and powers of the Prime Minister in statute. Opponents of codification argue that it would reduce flexibility; proponents that it would bring clarity. While it would be difficult, if not impossible, to codify all the Prime Minister's powers in statute, international examples, and the examples of the First Ministers in the devolved Administrations, demonstrate that setting out the basic architecture of how the Prime Minister is appointed and, in broad terms, his or her executive functions, is an achievable goal. We have included as an Appendix to this report an example Bill. We believe this and future

23 Q72

24 [Dr Mark Bennister written evidence](#)

25 Jack Straw, *Last Man Standing*, 2012, p 548

Governments should consider consolidating the existing Prime Ministerial powers in one place.

4 Changes to the role

25. There has been a steady accretion of power to Whitehall and No. 10 over the years, leading to one of the most over-centralised of modern democratic states.

26. Many of those who gave evidence to us pointed to a shift in the Prime Minister's role in recent decades, although Dr Nicholas Allen commented: "The role of the prime minister has always been plastic and the extent of change should not be overstated."²⁶

Nature of the change

27. In his book, *The Prime Minister: The office and its holders since 1945*, Lord Hennessy included an unpublished Cabinet Office paper from 1947 outlining the functions of the Prime Minister. He updated this list of functions in 1995, and again in 2011. Lord Hennessy told us:

The first thing to note about the pattern throughout is that the number of functions has increased very dramatically since 1947, indicating that within our system of government the Prime Minister has accrued—if you convert functions into powers—a considerable chunk of extra power in each generation. It very rarely goes back when he or she acquires a function... Our clout in the world has much diminished since 1947 in relative terms, but the power of the British Prime Minister within the British system of government has waxed mightily.²⁷

Professor Foley said of Lord Hennessy's lists of functions:

There is not anything that you could contest about the enumeration of the functions; I just feel that there is an accretion of roles building up with the Prime Minister, again through constitutional means, by custom and convention. There does come a point where it becomes qualitative shift.²⁸

28. Among the additions to the list of functions is the Prime Minister's role in policy making. There is no mention of any policy role for the Prime Minister in the 1947 paper, but in 2011 Lord Hennessy listed:

Keeper, with the Deputy Prime Minister, of the Coalition's overall Political Strategy.

Oversight of No 10 Communications Strategy and work of the Government Communication Network.

26 [Dr Nicholas Allen written evidence](#)

27 Q293

28 Q98s

Pursuit and promulgation of special overarching policies particularly associated with the Prime Minister e.g. the ‘Big Society’.²⁹

Professor Martin Smith and Professor David Richards also pointed to the development of the Prime Minister’s role in policy making. They commented:

The period since 1979 in particular has seen the growing development of prime ministerial capacity. Margaret Thatcher increased the number of personal advisers and increased the size of the Policy Unit. However it has been the period since 1997 that has seen a real growth in the Prime Minister’s policy capacity.³⁰

29. Among the new constitutional functions Lord Hennessy included in 2011 is: “Managing the relationships between UK Central Government and devolved administrations in Scotland, Wales and Northern Ireland.”³¹ Written evidence from the First Minister of Wales, Rt Hon Carwyn Jones AM, stated: “Devolution within the UK has added a new dimension to the role of Prime Minister of ensuring the effective management of the territorial structure and the positive relationships between administrations across the UK.”³²

30. Scrutiny of Lord Hennessy’s lists emphasises that the Prime Minister has undoubtedly acquired more functions since 1947, but our evidence suggests that the nature of the shift is about more than simply an increase in functions; it is also about a change in the way the Prime Minister performs those functions. Several of our witnesses used the concept of the “presidentialisation” of the premiership when describing this change. Professor Ludger Helms, of the University of Innsbruck, commented:

In Britain the relationship between prime ministers and their parties has traditionally been exceptionally close. Still, even in the UK, there have been signs of what some scholars have labelled “presidentialisation”: more recent prime ministers (such as Tony Blair in particular) have tried to govern “past their parties” rather than “through their parties”. From that perspective, it would appear that the prime minister’s role as party leader has changed, and probably become somewhat less central than it has been in the past.³³

Professor Pryce expressed a similar view: “The office of Prime Minister, particularly since the time of Harold Wilson in the 1960s, had developed to take on ‘presidential’ characteristics, with the premier behaving more like the single head of government than the collegiate chair of Cabinet.”³⁴

29 [Lord Hennessy written evidence](#)

30 [Professor Martin Smith and Professor David Richards written evidence](#)

31 [Lord Hennessy written evidence](#)

32 [Rt Hon Carwyn Jones AM written evidence](#)

33 [Professor Ludger Helms written evidence](#)

34 [Professor Sue Pryce written evidence](#)

31. Professor Foley commented that recent studies of “presidentialisation” show “that the properties and concepts associated with the US presidency in particular have a deep associative and explanatory resonance with the contemporary evolution of the British premiership.” He added: “In essence, both offices can be seen to be moving along parallel lines of development.”³⁵ In oral evidence, he told us that there were “positives and negatives to this.” He commented:

There has traditionally been a reluctance to specify prime ministerial powers and rules within a constitutional order. If we add to this mix the underlying presence of prerogative powers, the new sources and arenas of power, and juxtapose the cited decline of parts of what used to be a confining landscape such as the widely cited erosion of the Cabinet, the marginalisation of Parliament, the decline of parties, the forces of electoral de-alignment, the persistence of distrust in Government and the increasingly opaque nature of policy formation and delivery, then prime ministerial pre-eminence may be said to signify a far more seismic shift than first meets the eye.³⁶

32. Dr Richard Heffernan, of the Open University, also discussed the idea of the “presidentialisation” of the role of the Prime Minister, which he said “usefully illuminates many functional changes in the Prime Minister’s political environment” but “ultimately misleads”. He commented:

It was forever undone by the confirmation in recent ministerial (and Prime Ministerial) memoirs that infighting between Blair and Gordon Brown meant Brown often prevented Blair from pursuing his chosen agenda. No US president, it need not be said, would have to tolerate such disloyalty from his clearly subordinate Treasury Secretary. The fact remains that Prime Ministers are more powerful than presidents; no US president, unlike the Prime Minister, can use a partisan majority to successfully lead their legislature; however no prime minister ever has the total control the US president has over his or her executive.³⁷

Causes of the change

33. Our witnesses cited several reasons for the way in which the role of the Prime Minister has changed in recent years. Dr O’Malley stated:

It is commonly asserted that Prime Ministers have become more prominent in the last number of decades. This is probably most pronounced in the UK, which since the 1960s has seen the Prime Minister become the principal spokesperson for the party and government (though this is not sufficiently established empirically). The causes given are usually that TV and newer media allow the party leader to reach much further into the electorate, and

35 [Professor Michael Foley written evidence](#)

36 Q95

37 [Dr Richard Heffernan written evidence](#)

that a core decision in selecting a party leader (who can then become Prime Minister) is that s/he will be an effective communicator.

The second issue thought to have contributed to the dominance of the Prime Minister is the increased importance of international decision-making bodies. This ‘summitry’ means that decision-making functions are necessarily delegated to leaders, allowing them to return to their country with the ‘deal’ negotiated and offering it as a ‘take-it-or-leave-it’ proposal.

He added, however:

The problem with the assertion that these factors have led to increased prominence and increased power of Prime Ministers is that it has happened throughout Europe, yet many Prime Ministers are still very weak figures.³⁸

34. Professor Helms also pointed to the role of the media in shaping the role of the Prime Minister. He cited institutional changes, such as “the introduction of the Prime Minister’s regularly held press conferences in 2002”, commenting: “In the course of these developments, the mass media have gained much of the power to check the executive that has traditionally rested with Parliament, and recent prime ministers have responded to this challenge by a host of media-related activities.”³⁹ When Lord Hennessy discussed the changes in the role of the Prime Minister, he commented on the paralysing effect of “twenty-four hour media”. He also referred to accession to the European Community, in 1973.⁴⁰

35. There is widespread agreement that the number of functions performed by the Prime Minister has increased in recent decades—including, in particular, an increased role in policy making—and some agreement that Prime Ministers have become progressively less collegiate and more “presidential”, although the extent of this change is disputed. Three factors emerged as driving these changes to the role of the Prime Minister: the development of 24-hour mass media, the increased importance of international bodies, and the lack of clear statutory constraints on executive power. As the concentration of Prime Ministerial power over the decades intensifies the need for Parliament and the people to be clear about the extent and legitimacy of that power, it will make an open, transparent statement of those powers in law more necessary, not less.

38 [Dr Eoin O'Malley written evidence](#)

39 [Professor Ludger Helms written evidence](#)

40 Q294

5 Impact of coalition government

36. Under the *Coalition Agreement for Stability and Reform*, published in May 2010, the Prime Minister, Rt Hon David Cameron MP, agreed that a number of his powers, including the appointment of Ministers, would be exercised only after consultation with the Deputy Prime Minister, Rt Hon Nick Clegg MP. Professor Jones listed the following examples:

- allocations of ministerial posts must be in proportion to the parliamentary representation of the two Coalition parties [1.2].
- The Prime Minister will make nominations for the appointment of ministers ‘following consultation with the Deputy Prime Minister’ [1.2].
- The Prime Minister will nominate Conservative Party Ministers and the Deputy Prime Minister will nominate Liberal Democrat Ministers [1.2].
- Any changes to the allocation of portfolios between the Parliamentary Parties during the lifetime of the Coalition will be agreed between the Prime Minister and the Deputy Prime Minister [1.3].
- No Liberal Democrat Minister or Whip may be removed on the recommendation of the Prime Minister without full consultation with the Deputy Prime Minister [1.4].
- The establishment of Cabinet Committees, appointment of members and determination of their terms of reference by the Prime Minister has been and will continue to be agreed with the Deputy Prime Minister. The Deputy Prime Minister will serve, or nominate another member of the administration to serve, on each Cabinet Committee and sub-committee. The existence and composition of Cabinet Committees and sub-committees will be published [3.1].
- The general principle will be that the Prime Minister and Deputy Prime Minister should have a full and contemporaneous overview of the business of Government. Each will have the power to commission papers from the Cabinet Secretariat [3.3].
- The Prime Minister, with the agreement of the Deputy Prime Minister, has established a Coalition Committee which will oversee the operation of the Coalition, supported by the Cabinet Secretariat. It will be co-chaired by the Prime Minister and the Deputy Prime

Minister, with equal numbers of members drawn from the two Coalition Parties [3.4].⁴¹

37. Not all our witnesses thought that coalition was a substantial restriction on the powers of the Prime Minister. Dr Bennister, writing in 2011, commented: “It is not obvious that a Prime Minister is greatly constrained by coalition arrangements...Coalition government may shape the behaviour of the Prime Minister, but he remains the resource-rich actor and merely has another relationship to manage.”⁴² Giving oral evidence on 7 March 2013, he said: “It may be useful for the Prime Minister having a coalition partner to be able to manage the broader party.”⁴³ Professor Helms, writing in 2011, commented that “consensus-building...has always been one of the key tasks of many British Prime Ministers.” He continued: “In fact, dealing with intra-party quarrels may to some extent be considered a functional equivalent to leading a coalition government.”⁴⁴

38. Most witnesses, however, thought that coalition government was a significant constraint. Dr O’Malley, also in written evidence from 2011, stated:

Coalition government probably will have a greater impact on the position of the Prime Minister than any other factor or event. While Prime Ministers always have had to be mindful of what could pass in the Commons, Prime Ministers in single party governments had important levers to keep the party in check (patronage powers, institutional (agenda setting) powers, informational powers). In a coalition government there is a more formal need to get the approval of the other party which is almost by definition organised and capable of delivering a Commons defeat.⁴⁵

Professor Hazell, giving oral evidence on 7 February 2013, said that the coalition “had quite a severely constraining effect.” He commented:

Critically, it [the Coalition Agreement] constrained the power of the Prime Minister in relation to the way that Cabinet and Cabinet committees would operate, because no Cabinet committee can be established, or its terms of reference set, or its membership set, without the consent of the Deputy Prime Minister; and no ministerial appointments can be made without the consent of the Deputy Prime Minister, nor can Ministers be dismissed without his consent.⁴⁶

39. Dr Heffernan, giving oral evidence on 27 March 2014, illustrated how coalition acted as a constraint in a different way to managing party relationships, using the example of the role played by the Quad in the current coalition:

41 [Professor George Jones written evidence](#) (references in square brackets are to the Coalition Agreement)

42 [Dr Mark Bennister written evidence](#)

43 Q181

44 [Professor Ludger Helms written evidence](#)

45 [Dr Eoin O’Malley written evidence](#)

46 Q67

The Quad is a power-sharing arrangement within the Government in which the Liberal Democrats and the Conservatives have equal power and say. It is run on two votes, two votes....The Prime Minister does not have a majority in the Quad and Clegg and Alexander have a veto. Could you imagine having a Quad when the Blair Government was in its pomp, if you had Brownites and Blairites and the occasional non-aligned person meeting with equal voices and votes in a private committee deciding policy? Blair would have lost every time, but he did not have such a thing because single party Government empowers Prime Ministers, largely because of political reasons and institutional ones, and Coalition Government significantly disempowers them.⁴⁷

40. When we asked whether the coalition's constraining effect on the powers of the Prime Minister could be regarded as a positive, and if so how the positive effect could be maintained under a single-party government, Professor Hazell said:

Whether you regard it as a positive or negative depends on an individual's perception of whether the Government and the powers of the Prime Minister need constraining, whether we need more of a brake, more of a collective brake, on the way in which the Prime Minister operates and runs the Government. There probably has been, among academics certainly, a majority view that we do need a stronger collective brake.⁴⁸

He added:

If this Committee wanted to recommend that the more collegiate style of cabinet government that has undoubtedly been practised under the coalition were to become a norm for future governments, including single party governments, I think the most promising vehicle in which to express that new norm would be a Cabinet Manual.⁴⁹

Dr Heffernan suggested "formalising the role of a Deputy Prime Minister" as a way of capturing some of the benefits of the more collegiate style of Cabinet government that has been operating under the coalition, but acknowledged that the role of the Deputy Prime Minister would be very different under a single-party government.⁵⁰

41. Coalition government has to some extent constrained the powers of the Prime Minister and made a more collegiate style of government necessary. This does not mean that this more collegiate style would persist under a single-party government.

47 Q299 [Dr Heffernan]

48 Q69

49 Q70

50 Q300 [Dr Heffernan]

6 Checks and balances

42. We asked our witnesses whether there were sufficient checks and balances on the Prime Minister's powers and, if not, how they could be improved. By checks and balances, we meant mechanisms to prevent too much power from being concentrated in the hands of one individual. Dr Nicholas Allen commented: "Whether you think there are sufficient checks and balances on the powers of the Prime Minister depends on whether you think the Prime Minister is too powerful or not." He himself stated: "There is little evidence that the Prime Minister is too powerful."⁵¹

43. Others emphasised that the unwritten nature of the Prime Minister's role meant that there were relatively few formal checks and balances on his or her powers, and that Prime Ministers were constrained instead by political factors. Professor Hazell commented:

compared with most other heads of Government, the British Prime Minister has, in large part thanks to our unwritten constitution, a relatively free hand. In our system, the Prime Minister's powers are very extensive and they are constrained largely by political constraints, in particular the size of the Prime Minister's majority in Parliament, the Prime Minister's standing in his party and his standing in the country. So the Prime Minister's power and authority waxes and wanes depending on those political factors.⁵²

Support of MPs

44. Professor Pryce was sceptical about the extent to which the need to retain the support of MPs in their party constrained Prime Ministers in practice, pointing to the Prime Minister's powers of patronage:

I accept that Prime Ministers have to keep their parties onside but, let's face it, Prime Ministers can keep their parties onside. How many appointed Under-Secretaries are there, or Parliamentary Secretaries, spokespersons and all the way down? Is it about 120 now? So you have 120 people who are somehow placemen. Of the people who are left, you probably have at least 70 or 80 who want to be placemen and have no further hope, except preferment to the House of Lords.⁵³

Professor Pryce was of the view that the media, because of its role in influencing public opinion, was a more significant check than any of the political constraints. She commented: "The media is not democratically elected but that probably is our only check on power in this country. We may not like that but that is the way it is."⁵⁴ She acknowledged, however, that if a large number of MPs in the Prime Minister's party

51 [Dr Nicholas Allen written evidence](#)

52 Q68

53 Q25

54 Q4

wanted a change of leadership, they could bring that about: “Certainly I think the ongoing day-to-day power of Parliament is limited, but I do think when it comes to a crisis it perhaps is important. I think Margaret Thatcher demonstrated that.”⁵⁵

45. Dr Pinto-Duschinsky placed more emphasis on the significance of the need to retain the support of MPs. He answered the question of whether there were sufficient checks and balances on Prime Ministerial powers by stating:

I would go back quite simply to the thesis of R.T. McKenzie in *British Political Parties*, that as long as a Prime Minister has a majority in Parliament and the support of MPs the Prime Minister is powerful, but there is plenty of precedent for that support being withdrawn, and the threat of that withdrawal does act as a very strong brake on the power of the Prime Minister.⁵⁶

Support of the Cabinet

46. The extent to which Cabinet Government functions as a check and a balance on Prime Ministerial power was the subject of some debate among our witnesses. Professor Pryce stated: “Constitutional checks and balances in the UK are designed around the Prime Minister as chair of a Cabinet of equals; not a government that is in practice a presidency. Under such circumstances, the existing checks and balances would seem to be inadequate.”⁵⁷

47. However, others took a more positive view of the extent to which the Cabinet functions as an effective check. Professor Smith and Professor Richards stated: “Whilst...formal Cabinet Government may not in practice be the effective site of decision-making, the Prime Minister remains severely constrained if she/he does not have the support of key Cabinet Ministers.” They quoted Lord Wilson of Dinton, a former Cabinet Secretary, who in evidence to the House of Lords Constitution Committee said: “Prime ministers are only as powerful as their colleagues allow them to be...We are always fundamentally in a position where if cabinet ministers wish to assert themselves then the power of the prime minister will be checked and balanced in that way.”⁵⁸

48. Dan Corry, who from 2007 to 2010 worked as Head of the Policy Unit in Downing Street and then as Senior Adviser on the Economy, commented:

My experience suggests that the Cabinet do act as a sort of accountability check on the power of the PM...

In short, and depending on the PM’s personal position in the Party and Government at the time, the PM has to keep a close eye on what the Cabinet will and will not wash. That does not mean that issues are brought forward

55 Q50

56 Q188

57 [Professor Sue Pryce written evidence](#)

58 [Professor Martin Smith and Professor David Richards written evidence](#)

for a bold and open discussion and a vote at Cabinet. This occurred rarely in the days when I worked at Number 10 and I suspect rarely ever happens. But it does mean that the PM does not in any way have untrammelled powers.⁵⁹

Improvements

49. When it came to how to improve political checks and balances, our witnesses cited several possibilities, including the provision of better information for those in a position to exert a check on prime ministerial power. Dr O'Malley, who warned of the need to get the correct balance between putting checks on excessive power and imposing a system liable to deadlock, stated: "A more effective system might be to ensure that those who can exercise checks on executive power can act from a position of full information."⁶⁰ This point was supported by Dan Corry, who stated that one of the weaknesses of the Cabinet system was "papers being put out too late so Secretaries of State were often not that well briefed."⁶¹ He commented:

The Cabinet Office does produce and commission papers for Cabinet Committees to give background, pros and cons and so on. Perhaps these could be fuller—and perhaps there could be better papers for Cabinet itself. That in turn would be aided if agendas for Cabinet were decided well in advance and people were alerted to them. But life often moves too fast at the centre to allow this and circulating papers showing massive difference amongst colleagues is—I fear—a recipe for leaks.⁶²

50. There was also an acknowledgement that the operation of effective checks and balances required not simply more information, but a change of political culture. Dan Corry told us: "Ultimately the Cabinet is only as powerful as its members and the way they choose to exercise their power."⁶³ He added: "At the end of the day, if you have members of the Cabinet who are weak and won't stand up and say what they think, then of course it will be a weaker check, just like any accountability structure."⁶⁴

51. Dr Heffernan spelt out the factors that prevent Cabinet Ministers acting as an effective check and balance on Prime Ministerial power:

In terms of within the Cabinet and within the Government more generally, people are not likely to want to throw away their political career that they have fought hard for by disagreeing with the Prime Minister on an issue. It is much easier to paddle your own canoe privately and to agree publicly. I think

59 [Dan Corry written evidence](#)

60 [Dr Eoin O'Malley written evidence](#)

61 Q145

62 [Dan Corry written evidence](#)

63 Q145

64 Q148

that is a fact of life. Very few people resign...on matters of public policy disputation.⁶⁵

He stated in written evidence:

Only a set of radical changes in political culture—for example (1) the assertion by ministers of their existing individual rights and the collective rights of the cabinet or (2) the refusal of the Prime Minister’s parliamentary majority to endlessly prefer to supply and support the government rather than check and balance it—could significantly clip the Prime Minister’s wings in between elections.⁶⁶

He suggested that some form of codification could help to empower those in a position to act as a check to do so more effectively:

codifying in some part further institutional developments is important because, after all, Lilliput temporarily kept Gulliver down with 1,000 ropes or whatever it was. One way in which Parliament and one way in which politicians can constrain the Prime Minister is by empowering colleagues within the Cabinet to be slightly more assertive.⁶⁷

52. The need to keep the support of the majority of Members of Parliament and the support of the Cabinet acts as a check and balance on the powers of the Prime Minister. In extremis, Members of Parliament can, as history demonstrates, remove a Prime Minister from office by withdrawing their support. However, these political mechanisms are not effective as a day-to-day check and balance on Prime Ministerial power. Members of Parliament—be they Cabinet Ministers or Backbenchers—can technically say “no” to the Prime Minister, but the Prime Ministerial powers of patronage mean they very rarely do. A more assertive Cabinet, and a more assertive House of Commons, would require a change in political structure. Defining Prime Ministerial powers could be the start of that change.

65 Q24

66 [Dr Richard Heffernan written evidence](#)

67 Q303

7 Accountability to Parliament and the electorate

53. Linked to the issue of checks and balances is the question of whether the Prime Minister is sufficiently accountable personally to Parliament and to the electorate.

Accountability to Parliament

54. There are currently two formal mechanisms by which the House of Commons holds the Prime Minister to account: Prime Minister's Questions, and the Liaison Committee's oral evidence sessions with the Prime Minister. Our witnesses had a variety of views about the ways in which these mechanisms could be improved, and some suggestions for additional mechanisms.

Prime Minister's Questions

55. The Prime Minister answers questions from Members of Parliament in the House of Commons every Wednesday for half an hour when the House is sitting. Prime Minister's Questions usually begin with an open question about the Prime Minister's engagements, and then the Member of Parliament who has asked this question follows it up with a supplementary question on any subject. Other Members of Parliament who have tabled the same questions about engagements (in practice all or nearly all of the questions are about engagements) are then called to ask an untabled supplementary question on any subject. By convention, the Leader of the Opposition is allowed to ask six questions.

56. A recent report by the Hansard Society, *Tuned in or turned off: Public attitudes to Prime Minister's Questions*, stated of Prime Minister's Questions:

Its main virtue is that the Prime Minister must attend the House of Commons once a week when the House is sitting to answer questions for half an hour on any issue that Members wish to direct at him or her. In theory, this is one of the most important political mechanisms available to Parliament to hold the Executive to account. In practice, however, the Prime Minister is rarely subjected to a searching examination. Too many of the questions are planted by the party whips, the range of subjects covered is too broad to be anything but a shallow form of scrutiny, and the nature of the 'open question' means that the answer from a Prime Minister who has anything short of a photographic memory is almost guaranteed to be limited. There are occasions when an MP who wants a substantive response gives prior warning of their question in order to facilitate an informed answer but these are relatively rare.⁶⁸

68 Hansard Society, *Tuned in or turned off: Public attitudes to Prime Minister's Questions*, 2014, p 48

The Hansard Society suggested extending the length of Prime Minister’s Questions to 45 minutes or an hour once a month, to facilitate “improved scrutiny and a more informed discussion”.⁶⁹ It also stated: “One option [for reform] could be to introduce the departmental question time model to PMQs: a proportion of the questions listed for debate are closed questions (around three quarters for most departmental question sessions) with the remainder being open, topical questions.”⁷⁰

57. Some of our witnesses made similar points to the Hansard Society. Professor Theakston and Dr Heppell commented of Prime Minister’s Questions:

The modern media spotlight contributes to the extremely adversarial and gladiatorial nature of the confrontations. As a test of nerve, personality-under-pressure, and verbal dexterity it could hardly be bettered. But the political theatre and knock-about carries a price in terms of substance and questioning in depth... Proposals to lengthen PMQs to 45 or 60 minutes, perhaps to return to two sessions a week, and to make it more of a backbench institution would be worth serious consideration.

Dr Heffernan described Prime Minister’s Questions as “necessary but not sufficient.”⁷¹ He suggested that “PMQs could be extended to an hour each week with MPs entitled to ask follow up questions and not confine themselves to their own particular question”.⁷² Professor Richard Toye, of the University of Exeter, suggested that there should be a return to bi-weekly sessions of Prime Minister’s Questions.⁷³

Liaison Committee

58. The Liaison Committee—a Committee composed of the 33 Chairs of House of Commons Select Committees—holds regular oral evidence with the Prime Minister “on matters of public policy”.⁷⁴ The sessions take place two or three times a year. This practice began in 2002, after the then Prime Minister Rt Hon Tony Blair MP contacted the then Chair of the Liaison Committee to propose it.

59. On the Liaison Committee’s evidence sessions with the Prime Minister, Professor Theakston and Dr Heppell state:

Some journalists have mocked them as “bore-a-thons” that do not leave “blood on the carpet”, but that is almost the point and it makes for productive and informative exchanges. But these are only twice-yearly events and it is arguable that more frequent sessions would be of value. If the Prime Minister were also to face questioning by an equivalent Lords select

69 [Tuned in or turned off](#), p 51

70 [Tuned in or turned off](#), p 51

71 Q311

72 [Dr Richard Heffernan written evidence](#)

73 [Professor Richard Toye written evidence](#)

74 [Standing Orders of the House of Commons: Public Business](#), 2013, 145(2)

committee, an extra dimension of accountability and expert scrutiny might be added.⁷⁵

60. Dan Corry, formerly head of the Policy Unit at Downing Street, described the Liaison Committee as “potentially a great innovation.” He stated:

Certainly in my experience the PM take it very seriously, spending some time getting briefed up on a whole range of issues.

However, usually the PM is well able to handle the actual meetings as there are too many topics and questioners to really allow detailed follow-up of particular issues. In one way or another this needs to be resolved if the Committee is to be more effective in holding the PM to account.⁷⁶

Dr Heffernan commented:

The Liaison Committee is a good development, but it is difficult having 25 or so people asking questions of the Prime Minister. Perhaps you could have a smaller group; perhaps you could have anonymised questions from Members of Parliament that are then presented to the Prime Minister in a formal situation like the Liaison Committee.⁷⁷

61. The Liaison Committee itself has made some attempts to address what others have pointed to as the defects in its questioning of the Prime Minister. In its report on *Select Committee effectiveness, resources and powers* it listed as one of its draft objectives: “To increase the effectiveness of our own evidence sessions with the Prime Minister.”⁷⁸ Recent evidence sessions have focused on a narrower range of topics and have involved a limited number of Members of Parliament asking the questions, rather than the whole Committee. Its latest oral evidence session, on 13 May 2014, involved 10 of the 33 members of the Committee and focused on two themes: migration, and foreign affairs issues relating to Ukraine and Syria.

62. The Liaison Committee has the potential to be a very effective mechanism by which Parliament can hold the Prime Minister to account. We commend the attempts it has made to narrow the range of topics it discusses at any one session, and to limit the number of questioners to enable the questioning to be more thorough and detailed. We hope that these efforts continue. The fewer the topics, and the questioners, the more in-depth and serious the scrutiny will become—a welcome balance to the superficial nature of Prime Minister’s Questions.

75 [Professor Kevin Theakston and Dr Timothy Heppell written evidence](#)

76 [Dan Corry written evidence](#)

77 Q310

78 Liaison Committee, Second Report of the 2012-13 Session, [Select Committee effectiveness, resources and powers](#), HC 697, Annex A

Investiture vote for the Prime Minister

63. The *Cabinet Manual* states: “The Prime Minister will normally be the accepted leader of a political party that commands the majority of the House of Commons...The Prime Minister accepts office at a private audience with the Sovereign, at which time the appointment takes effect.”⁷⁹ Although Prime Ministers need the support of the majority of the House of Commons in order to function effectively, there is no formal process by which the House of Commons directly endorses the Prime Minister. It could be argued that the Prime Minister gets his or her democratic legitimacy from elected MPs—the House of Commons in this view could be seen as a form of electoral college to legitimise the Prime Minister, but one which does not officially meet for this purpose—and that that should be formally recognised by a proper parliamentary process. Dr Heffernan commented that it would be “highly desirable for the appointment of the Prime Minister to be subject to a formal recorded vote of the House of Commons at the beginning of each parliamentary session (or, should the party leader be changed in the middle of the parliamentary session, at that time too).” He stated:

This would impinge on the Sovereign’s present prerogative, but it would empower the House of Commons vis a vis the Prime Minister by formally demonstrating that he or she only serves at the behest of the Commons. The Sovereign could then appoint the Prime Minister once the Commons had nominated him or her. This could also, following a change of government at an election, have the agreeable effect of improving our hasty, improvised means of transition by extending the period of governmental handover by creating the temporary posts of acting Prime Minister (the outgoing one) and Prime Minister designate (the incoming one).⁸⁰

64. Professor Theakston and Dr Heppell also suggested that the House of Commons should have a formal role in the appointment of Prime Ministers:

It is striking that in the fifteen mid-term successions—changes of Prime Minister mid-parliament—since 1902 in only one case (that of Churchill succeeding Chamberlain in 1940) was there an immediate confidence vote in the House on the formation of the new government. We would support the introduction of the practice of a formal Commons investiture vote for Prime Ministers following a general election and on a mid-term succession in Number 10. The Monarch’s prerogative power to appoint the Prime Minister would remain, but the House of Commons would nominate or recommend who should be appointed.⁸¹

65. Dan Corry described an investiture vote as “a really interesting idea”. He added:

What worries me about it is that while it is making clear the truth in our unwritten constitution, that the Prime Minister is elected by the MPs as the

79 [The Cabinet Manual](#), paras 3.1-3.2

80 [Dr Richard Heffernan written evidence](#)

81 [Professor Kevin Theakston and Dr Timothy Heppell written evidence](#)

person who commands the House, I don't think that is what the public think. The public think they vote for the Prime Minister. I know they don't actually, they vote for their local MP.⁸²

He stated:

If the public, having watched leader debates, seen many posters featuring the party leaders and so on, then discover that though they have voted for X as PM (even if in fact voting for their own local MP) they might be faced with a different character as PM, they would go wild. This may be a shame, but the media and public reaction to PM Brown not having been voted in by the public (when in fact he did not have to be), shows where we stand on this in reality.⁸³

It is difficult to imagine circumstances in which, after a general election, the House of Commons would not vote to support the leader of the party that had a majority in the Commons or the leader of the largest party in a coalition government. A mid-term change of Prime Minister, though, would certainly involve the Commons voting on a Prime Minister for whom the public did not feel that they had voted. We address the question of whether the public should be able directly to elect the Prime Minister later in our report.

66. The House of Lords Constitution Committee discussed an investiture vote for the Prime Minister in its recent report on *Constitutional implications of coalition government*. It did not recommend the creation of a vote, stating that it would be “a step away from the principle that the Government as a whole should command the confidence of the House of Commons.”⁸⁴ However, it noted that a similar vote already takes place in the devolved Administrations in Scotland and Wales:

Similar processes are already followed in Scotland and Wales. After an election to the Scottish Parliament or the National Assembly for Wales the Parliament or the Assembly has 28 days to nominate someone as the First Minister. The person so nominated is recommended to Her Majesty by the relevant Presiding Officer. Failure to nominate a First Minister within the 28 days results in another election.⁸⁵

67. It would be perfectly possible for there be an investiture vote in the House of Commons following a mid-term change of Prime Minister. The vote would result in a clearer line of accountability and would make it explicit that the Prime Minister commands the confidence of the majority of the House of Commons.

68. Similarly it would be feasible for proposals be developed for an investiture vote for the Prime Minister within a specified time period after a general election. This would require

82 Q153

83 [Dan Corry written evidence](#)

84 House of Lords Constitution Committee, Fifth Report of Session 2013-14, [Constitutional implications of coalition government](#), HL Paper 130, para 52

85 [Constitutional implications of coalition government](#), para 46

the creation of the post of “Prime Minister Designate”. The Prime Minister Designate would be able to perform all the main functions of the Prime Minister, including appointing Ministers and instructing civil servants, but would not take the title of Prime Minister until he or she had been confirmed in the post by a vote in the House of Commons and subsequently appointed to the post by the monarch.

69. *We request that the Government consider if and how Parliament could be involved in the investiture of the Prime Minister, or the Government, after the general election of Members of Parliament.*

Accountability to the electorate

70. In democracies in which the leading political figure is directly elected by the people, the office has a separate legitimacy from the legislature, which is charged with holding the executive to account.

71. Those witnesses who discussed the Prime Minister’s accountability to the electorate focused on the accountability provided by general elections. Dr Nicholas Allen stated: “Given that the Prime Minister leads a team of party politicians that stand for re-election every four or five years, there is, I think, sufficient electoral accountability.”⁸⁶

72. As Dan Corry noted, some of the public may feel that they are voting for the Prime Minister in a general election, but they are in fact voting for their local Member of Parliament, and although the cumulative choices of all voters will ultimately play a decisive part in who is the Prime Minister, it is a very different thing from individual members of the public being able to vote for the Prime Minister directly. It could be argued that the post of Prime Minister has no direct electoral legitimacy of its own and thus legitimacy has to be borrowed from control of the legislature, which has legitimacy because it is elected. Dr O’Malley commented:

An argument might be made that if power is personalised into a single figure then accountability should be personalised into that figure. The electorate has no way of holding a Prime Minister directly accountable, but it can hold the government to account through parliamentary elections.⁸⁷

73. Professor Foley said:

I am thinking that we are in a different kind of landscape, insofar as you have increasing prime ministerial pre-eminence but it is based on the notion of national and popular leadership. How do you bring this in line with the British constitution? One way you could do that is direct election of the Prime Minister. That is very radical, of course, but you could make a claim that that is bringing it into line with the position the Prime Ministers hold.

⁸⁶ [Dr Nicholas Allen written evidence](#)

⁸⁷ [Dr Eoin O’Malley written evidence](#)

You could claim that there is insufficient accountability of prime ministerial power without direct elections.⁸⁸

74. Professor Pryce supported the direct election of the Prime Minister by the public, stating: “I would like it to be done here as a way of ensuring a more accountable Prime Minister.”⁸⁹ She added: “most of us are electing MPs in safe seats, so you don’t have a check as an individual voter. But you would if you were voting for a Prime Minister, wouldn’t you?”⁹⁰ Having direct elections for the Prime Minister would mean that the Prime Minister might not be the leader of the party that commanded a majority in the House of Commons, but Professor Pryce did not see this as a difficulty: “Prime Ministers would be, in a sense, very like an American President. They would be forced to negotiate with other people within Parliament to build a coalition of support.”⁹¹

75. Several of those who were opposed to the idea of a directly elected Prime Minister pointed to the example of Israel, which, at the end of the last century, briefly introduced direct elections for its Prime Minister. Dr Bennister commented:

The main reason I would urge some caution is the example of Israel...From 1996 to 2001 they had direct elections for the Prime Minister, but it is interesting to note in the case of Israel that it was mainly to enhance the power of the Prime Minister, who had become weak. It was not to try to confirm what already existed. It was also to try to reduce the number of parties in the Knesset, and it had the opposite effect in both cases. It made the power of the Prime Minister even weaker by meaning the Prime Minister had to draw on a Government of a different political persuasion, which really struggled to get its legislation through and, rather than reducing the number of parties, it increased the number of parties because the electorate were happy to split ticket and vote for different parties. I think there would be a lot of potential negative effects. Split ticketing, governability—there could be problems with governability—and negative public opinion are consequences. If we look at Israel, the public were very much in favour of direct elections for the Prime Minister but within a couple of years public opinion had swung the other way.⁹²

76. Professor Paul Webb, of the University of Sussex, who discussed the Israeli example in detail in his written evidence, and said that the Prime Minister should “emphatically not” be directly elected by the British people, stated:

In general terms, the separation of powers tends to expand the independence, not the compliance of the legislature. When backbench parliamentarians do not feel fear to bring down the executive by voting against their leader’s wishes, they are more likely to feel free to rebel. While some might regard

88 Q113

89 Q12

90 Q46

91 Q13

92 Q82

such a development as healthy for democracy, it should be remembered that there is a price to be paid: governments can find it harder to pilot their legislative programmes through Parliament, a situation which may lead to allegations of ungovernability and ‘gridlock’. In the long run, voters are unlikely to be impressed by such developments. Therefore, while the expectation is that a directly elected premier under ‘divided government’ should seek to build legislative coalitions on an issue-by-issue basis, as the US President does, it would probably be advisable to furnish the head of the executive with the right to dissolve Parliament and call fresh elections, in order to avoid the risk of political immobilisation.⁹³

77. Currently, the House of Commons is directly elected by the people but the chief of the executive—the Prime Minister—is not. Instead, he or she is indirectly accountable to the public through the mechanism of general elections. Many would regard this as sufficient, but some have argued that accountability would be strengthened by the direct election of the Prime Minister by the public. Such a move would create a very different political system in the United Kingdom, and could contribute to a clearer separation of powers. The Prime Minister would still need to command the support of the majority of Members of Parliament in the legislature in order to pass legislation. Although the Prime Minister is unlikely to be directly elected in the near future, we ask the Government in its response to put on the record its position on allowing the people to elect directly the UK’s senior political figure.

8 Structures of power

78. We asked our witnesses whether the structures of power beneath the Prime Minister—by which we meant the support he or she is provided with by civil servants and special advisers—were sufficiently clear and accountable.

79. The Prime Minister is supported by the Prime Minister’s Office, which has traditionally been regarded as part of the Cabinet Office. In a letter to us on 28 April 2014, Sir Jeremy Heywood, the Cabinet Secretary stated: “The total number of Civil Servants currently working in the Prime Minister’s Office is 184.6.” This includes one Director-General, two Directors, and 16 Deputy Directors. Sir Jeremy added: “The total number of special advisers currently working for the Prime Minister is 26.”⁹⁴ Professor Hazell noted that the Prime Minister’s staffing complement is “by comparison with other similar-sized countries, remarkably small.” He stated: “That, in turn, makes it difficult for the Prime Minister himself to lead on more than a very few policy areas, because he just does not have the staff support to enable him to do so.”⁹⁵

80. Sir Jeremy Heywood commented in his letter to us that details of civil servants working in the Prime Minister’s office were available online, as were the number and costs of special advisers. Despite this, there is a lack of clarity about support structures for the Prime Minister and it arises principally because the relationship between the Prime Minister’s Office and the Cabinet Office is confusing.

81. In January 2010, the House of Lords Constitution Committee published a report on *The Cabinet Office and the Centre of Government*, which considered, among other things, the way in which civil service and special adviser support was provided to the Prime Minister. Its central recommendation was that “structures of accountability should mirror structures of power”.⁹⁶ However, it could not establish a clear picture of how those structures of power operated in practice. It commented: “Formally defining the administrative relationship between the Cabinet Office and the Prime Minister’s Office is not simple, as there are no official documents codifying it.” It continued:

Sir Gus O’Donnell [at the time, the Cabinet Secretary] asserted that “there is one Cabinet Office of which Number 10 is a subset”. This description of the relationship between the Cabinet Office and Prime Minister’s Office was not reflected in other evidence that we received. It conflicts, for instance, with the statement of Lords Armstrong, Butler and Wilson, that the two offices are “functionally distinct”. It is open to doubt whether Sir Gus O’Donnell’s description of the Prime Minister’s Office as a “subset” and a “business unit” goes beyond what Sir Richard Mottram told us, that “Number 10 is part of the Cabinet Office for public expenditure planning purposes”, and whether it

94 [Written evidence from the Cabinet Office](#)

95 Q94

96 House of Lords Constitution Committee, Fourth Report of Session 2009-10, [The Cabinet Office and the Centre of Government](#), HL Paper 30, para 8

accurately describes how the centre operates in practice. We believe that the nature of this relationship should be clarified by the Cabinet Office, and should be reflected in government publications, which appear to suggest that the two offices are independent institutions.⁹⁷

As if to illustrate this confusion, on the page listing Departments on the Government's Gov.uk website, the Prime Minister's Office is listed twice: once separately from the Cabinet Office, and once as a part of the Cabinet Office.⁹⁸

82. In evidence to our inquiry, Professor Foley described the structures of power beneath the Prime Minister as “utterly opaque.”⁹⁹ Professor Hazell described the Prime Minister's relationship with the Cabinet Office under Tony Blair as follows:

Tony Blair, when he was Prime Minister, in his first term, significantly changed his own description of the Prime Minister's role and functions, in particular in relation to his leadership of the Cabinet Office which up to that time had been viewed, including by itself, as providing collective support through the Cabinet Secretariat to the Cabinet as a whole. It became more directly an office and set of units that provided support, in particular, to the Prime Minister, so a Prime Minister who wants to extend his staffing support can look next door to the Cabinet Office to do so.¹⁰⁰

Dan Corry told us: “The Cabinet Office are always split. Are they there to help manage the Cabinet Committees and all the rest of it, to help the Prime Minister see his agenda through, and to what extent are they the honest broker between all the different departments?”¹⁰¹

83. One way forward would be to create a Prime Minister's Department—either as a separate entity or as a formal department combined with the Cabinet Office. Lord Hennessy believed that, in practice, there was already a Prime Minister's Department, but it was simply not referred to in those terms:

I am reluctant for a Prime Minister's Department to exist, being a traditionalist, but it does. It is there. It is the department that dare not speak its name. Mr Cameron was very shrewd. He got Oliver Letwin in to do the clever thinking stuff and Francis Maude to be Minister for the Civil Service and a lot more, to Cabinet rank, though not full Cabinet members, some hybrid position they have. That is a Prime Minister's Department.¹⁰²

He suggested that if the existence of a Prime Minister's Department were acknowledged and formalised, there could be a Select Committee to scrutinise its work and described this

97 [The Cabinet Office and the Centre of Government](#), para 24

98 www.gov.uk/government/organisations

99 [Professor Michael Foley written evidence](#)

100 Q94

101 Q149

102 Q317 [Lord Hennessy]

as “a great advantage”.¹⁰³ Dr Heffernan, giving evidence alongside Lord Hennessy, commented:

A Select Committee that looked at Downing Street and the Prime Minister I think might within Parliament over time develop the authority and power that the Public Accounts Committee has with regards to public administration....we might as well face up to the fact that it is a department whether we like it or not. Therefore, to formalise that would give Parliament the ability to have some oversight of it.¹⁰⁴

He agreed that such a Committee should oversee the use of prerogative powers.¹⁰⁵

84. It could be argued that the creation of a Prime Minister’s Department would represent a move away from Cabinet government. Indeed, Lord Hennessy’s comments about being a traditionalist and therefore reluctant for a Prime Minister’s Department to exist draw attention to this point. Dr Nicholas Allen commented: “If a full-blown Prime Minister’s Department were to be created, akin, perhaps to the German Chancellery, then this would amount to a major rebalancing between collegial government and Prime Ministerial authority, in favour of the latter.”¹⁰⁶ However, a combined Department for the Prime Minister and the Cabinet Office could be one way of preserving collegiate government. Dr Bennister stated: “The Department of Prime Minister and Cabinet in Australia has shown that a formal department (as opposed to a department ‘in all but name’ in the UK) can be compatible with collective responsibility and functioning cabinet government.”¹⁰⁷

85. The current confusion about the nature of the relationship between the Prime Minister’s Office and the Cabinet Office is unhelpful. The Government should address this by considering the creation of a combined Department for the Prime Minister and the Cabinet, with a departmental Select Committee specifically to scrutinise that Department.

103 Q317 [Lord Hennessy]

104 Q317 [Dr Heffernan]

105 Q318 [Dr Heffernan]

106 [Dr Nicholas Allen written evidence](#)

107 [Dr Mark Bennister written evidence](#)

9 Conclusion

86. The role and powers of the Prime Minister are notoriously difficult to define conclusively, because they have evolved and continue to evolve over time. Some regard this as an advantage of the United Kingdom's constitution, arguing that it leads to flexibility and responsiveness; others as a disadvantage, arguing that it results in a lack of clarity and the potential for the Prime Minister to acquire ever-more power. Whichever view is taken, our inquiry has demonstrated that there is scope to improve the checks and balances on the Prime Minister and the mechanisms by which he or she is held accountable.

87. Everyone would benefit from this, not least the Prime Minister. Dr Heffernan, discussing the vote in the House of Commons on 29 August 2013 on military action in Syria, in which the majority of Members of Parliament voted against the Prime Minister's motion, stated:

The actual interesting thing about it was that I thought Cameron came out of it strengthened rather than weakened largely because he had the sensible policy of saying, "I understand Parliament's view and I accept it". The ceiling did not fall in; the clouds did not collapse; the constitution did not fall apart. He was strengthened and most people say, "Oh, if you defeat the Prime Minister, if you question his authority, if you challenge his authority, you weaken the party, you damage the party, you damage the Government". This did not happen at all. I think Back Benchers gave him more credit as a result of his sensible reaction to their decision that war was not sensible.¹⁰⁸

88. Effective checks and balances, and strong accountability mechanisms, ultimately lead to better decisions. This is good for Parliament, for the Government, for the Prime Minister, and, most importantly, for the public. We have suggested several practical reforms to improve accountability mechanisms, such as placing more prerogative powers on a statutory footing. During the course of our inquiry, we have also discussed some much more contentious and radical reforms. Our intention has been to provoke debate about the role and powers of the Prime Minister, and how they should change in the years to come.

Conclusions and recommendations

Clarity about role and powers

1. The office of Prime Minister has evolved over nearly three centuries. It is both a cause and a consequence of that evolution that there is no single authoritative source of information on the Prime Minister's role and powers. The Cabinet Manual, published in October 2011, contains arguably the most comprehensive official account to date of the Prime Minister's role and powers, but it is aimed at Ministers and civil servants, rather than the public, and it has no statutory force. (Paragraph 14)
2. *We request that the Government explore in a Green Paper the arguments for and against placing the Prime Minister's role as outlined in the Cabinet Manual on a statutory footing, so that the next Parliament can decide the issue. (Paragraph 15)*
3. Many of the Prime Minister's powers are exercised under the prerogative. These powers in particular are difficult to define and are therefore hard to scrutinise effectively, and confusing to many people. We welcome the recent moves to place some prerogative powers on a statutory footing, and we also accept that there is a need for the Prime Minister to retain some reserve powers that are not codified in statute for use in an emergency. However, the process of transferring prerogative powers to statute, and making them subject to greater parliamentary oversight, must continue. (Paragraph 16)

Codification

4. There are a variety of views on whether it would be desirable to codify the role and powers of the Prime Minister in statute. Opponents of codification argue that it would reduce flexibility; proponents that it would bring clarity. While it would be difficult, if not impossible, to codify all the Prime Minister's powers in statute, international examples, and the examples of the First Ministers in the devolved Administrations, demonstrate that setting out the basic architecture of how the Prime Minister is appointed and, in broad terms, his or her executive functions, is an achievable goal. We have included as an Appendix to this report an example Bill. We believe this and future Governments should consider consolidating the existing Prime Ministerial powers in one place. (Paragraph 24)

Changes to the role

5. There is widespread agreement that the number of functions performed by the Prime Minister has increased in recent decades—including, in particular, an increased role in policy making—and some agreement that Prime Ministers have become progressively less collegiate and more “presidential”, although the extent of this change is disputed. Three factors emerged as driving these changes to the role of the Prime Minister: the development of 24-hour mass media, the increased importance of international bodies, and the lack of clear statutory constraints on executive power. As the concentration of Prime Ministerial power over the decades intensifies the need for Parliament and the people to be clear about the extent and

legitimacy of that power, it will make an open, transparent statement of those powers in law more necessary, not less. (Paragraph 35)

Impact of coalition government

6. Coalition government has to some extent constrained the powers of the Prime Minister and made a more collegiate style of government necessary. This does not mean that this more collegiate style would persist under a single-party government. (Paragraph 41)

Checks and balances

7. The need to keep the support of the majority of Members of Parliament and the support of the Cabinet acts as a check and balance on the powers of the Prime Minister. In extremis, Members of Parliament can, as history demonstrates, remove a Prime Minister from office by withdrawing their support. However, these political mechanisms are not effective as a day-to-day check and balance on Prime Ministerial power. Members of Parliament—be they Cabinet Ministers or Backbenchers—can technically say “no” to the Prime Minister, but the Prime Ministerial powers of patronage mean they very rarely do. A more assertive Cabinet, and a more assertive House of Commons, would require a change in political structure. Defining Prime Ministerial powers could be the start of that change. (Paragraph 52)

Accountability to Parliament and the electorate

8. The Liaison Committee has the potential to be a very effective mechanism by which Parliament can hold the Prime Minister to account. We commend the attempts it has made to narrow the range of topics it discusses at any one session, and to limit the number of questioners to enable the questioning to be more thorough and detailed. We hope that these efforts continue. The fewer the topics, and the questioners, the more in-depth and serious the scrutiny will become—a welcome balance to the superficial nature of Prime Minister’s Questions. (Paragraph 62)
9. *We request that the Government consider if and how Parliament could be involved in the investiture of the Prime Minister, or the Government, after the general election of Members of Parliament. (Paragraph 69)*
10. Currently, the House of Commons is directly elected by the people but the chief of the executive—the Prime Minister—is not. Instead, he or she is indirectly accountable to the public through the mechanism of general elections. Many would regard this as sufficient, but some have argued that accountability would be strengthened by the direct election of the Prime Minister by the public. Such a move would create a very different political system in the United Kingdom, and could contribute to a clearer separation of powers. The Prime Minister would still need to command the support of the majority of Members of Parliament in the legislature in order to pass legislation. Although the Prime Minister is unlikely to be directly elected in the near future, we ask the Government in its response to put on the record its position on allowing the people to elect directly the UK’s senior political figure. (Paragraph 77)

Structures of power

11. The current confusion about the nature of the relationship between the Prime Minister's Office and the Cabinet Office is unhelpful. The Government should address this by considering the creation of a combined Department for the Prime Minister and the Cabinet, with a departmental Select Committee specifically to scrutinise that Department. (Paragraph 85)

Conclusion

12. Effective checks and balances, and strong accountability mechanisms, ultimately lead to better decisions. This is good for Parliament, for the Government, for the Prime Minister, and, most importantly, for the public. We have suggested several practical reforms to improve accountability mechanisms, such as placing more prerogative powers on a statutory footing. During the course of our inquiry, we have also discussed some much more contentious and radical reforms. Our intention has been to provoke debate about the role and powers of the Prime Minister, and how they should change in the years to come. (Paragraph 88)

Appendix A: terms of reference

Witnesses were invited to submit evidence on the following points:

1. Is there sufficient clarity as to the Prime Minister's role and powers?
 - 1a. Should the Prime Minister's role and powers be codified in statute or otherwise?
2. How has the role of the Prime Minister changed in recent years?
 - 2a. How has this process of change been brought about and controlled?
3. What is the impact of coalition government on the role and powers of the Prime Minister?
4. Are there sufficient checks and balances on the powers of the Prime Minister?
 - 4a. If no, what additional or improved checks and balances are required?
 - 4b. Is any further change required with regard to specific powers currently exercised under the royal prerogative, by transferring them to statute or otherwise?
5. Is the Prime Minister sufficiently accountable personally to the electorate, to Parliament, and otherwise?
 - 5a. If no, how should his accountability be improved?
6. Are structures of power beneath the Prime Minister sufficiently clear and accountable?
 - 6a. If no, how should this clarity and accountability be improved?
7. Should the Prime Minister be directly elected by the British people?

Appendix B: Prime Minister (Office, Role and Functions) Bill

A

BILL

TO

Define the office, role and functions of the Prime Minister and First Lord of the Treasury; to make arrangements for his appointment; and for connected purposes.

Whereas those functions and responsibilities and powers of the office of Prime Minister have never been defined in statute;

And whereas those functions and responsibilities and powers have vastly expanded since the office was first established;

And whereas in the absence of such definition the democratic accountability of the Prime Minister to the House of Commons, and to the people of the United Kingdom requires clarification;

And whereas it is expedient to distinguish in statute the executive functions of government from the legislative functions of Parliament;

And whereas the use of Royal Prerogative powers is based on convention and has no basis in statute law;

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Appointment of the Prime Minister and First Lord of the Treasury

- (1) The Prime Minister and First Lord of the Treasury shall be appointed by Her Majesty, provided that such an appointment must be proposed by the resolution of the House of Commons within 7 days of a general election, or of the death or resignation of a serving Prime Minister.
- (2) Except in the case of a vacancy caused by the death or resignation of a serving Prime Minister, Her Majesty shall appoint as Prime Minister only a person who has been declared to be a candidate for that office at the General Election immediately preceding the appointment.

2 Term of office of the Prime Minister

- (1) The Prime Minister shall hold office until the appointment by Her Majesty of a successor.

- (2) The Prime Minister shall resign his office if the House of Commons resolves that he no longer enjoys its confidence.

3 Functions of the Prime Minister

Except in respect of matter which are the exclusive responsibility of the European Union or any devolved Parliament or Executive within the United Kingdom the Prime Minister shall be accountable to Parliament for the following functions:

- (a) to determine the policies of the United Kingdom government;
- (b) to communicate the policies of the United Kingdom government;
- (c) to execute the policies of the United Kingdom government;
- (d) to decide which measures represent the legislative programme of the United Kingdom government;
- (e) to decide on the level and application of taxation within the United Kingdom and the objects of public spending;
- (f) to recommend appointments to honours, other than those in the gift of Her Majesty or life peerages given to persons other than members of the Prime Minister's political party;
- (g) to appoint the ministers of the United Kingdom government and determine their responsibilities, provided that for each Department of State he shall appoint as a minister at least one member of each House of Parliament;
- (h) to decide, having first obtained the approval of the House of Commons, whether to declare war or commit the United Kingdom armed forces to armed conflict and, if they are so committed, to determine their strategy and objectives;
- (i) to decide whether to declare a state of emergency;
- (j) to appoint the permanent heads of government departments, the members of the Defence Staff, and the heads of the security services.

4 Power to delegate

The Prime Minister may delegate any of the functions referred to in section 3 (a) to (f) above, provided that any such delegation is communicated to the House of Commons at the time it is made, and any action performed or statement made by any person under powers delegated under this section shall be treated as if it were performed or made by the Prime Minister or by ministers acting under his authority.

5 Power of appointment

To assist him in the performance of any of the functions referred to in section 3 above the Prime Minister may—

- (a) appoint a Prime Minister's Department without limit as to its size or membership, which shall be paid for out of money provided by Parliament;
- (b) appoint any non-departmental public body without limit as to its size or membership, which shall be paid for out of money paid for by Parliament;
- (c) appoint any person whomsoever to the public service, who shall be paid for out of money provided by Parliament.

6 Use of Crown prerogative powers

- (1) In the discharge of any of the functions referred to in section 3 of this Act the Prime Minister may advise Her Majesty to use any power or issue any command within the prerogative of the Crown.
- (2) Without prejudice to the generality of subsection (1), the Prime Minister in the discharge of any of the functions referred to in section 3 above, shall with the consent of Her Majesty have responsibility for any execution of the powers under the Royal Prerogative which are listed in Schedule 1.
- (3) No immunity attached to the Crown shall attach to the Prime Minister in the use of any power under this section.
- (4) Any use of any power under this section shall be reported to the House of Commons within seven days, subject to any restrictions which the Speaker may agree as necessary to protect national security, or in the administration of justice or the prevention and detection of serious crime.

7 Powers of Secretaries of State

For the avoidance of doubt, any power under statute which may be exercised by a Secretary of State may be exercised by the Prime Minister.

8 Duty to behave lawfully

Nothing in this Act shall empower the Prime Minister, or any person acting under his authority, to disregard any provision of the Human Rights Act 1998, or any obligation under international law or treaty, under common law or equity or any other obligation to behave justly, fairly, reasonably and lawfully, or any published rules for the time being in force for ministers and civil servants in the conduct of public life, or to act in contempt of any resolution of the House of Commons.

9 Duty to account to Parliament

The Prime Minister, ministers of the Crown and other persons acting under his authority, shall be under a duty to account to each House of Parliament in such ways as each House may prescribe.

10 Public policy

For the avoidance of doubt, in any matter which is not the exclusive responsibility of the European Union or a devolved Parliament or Executive within the United Kingdom, a statement by or on behalf of the Prime Minister shall be regarded as a definitive statement of the public policy of the United Kingdom.

11 Expenses

There shall be paid out of money provided by Parliament any expenses of the Prime Minister under this Act.

12 Short title

This Act may be cited as the Prime Minister (Office, Role and Functions) Act.

SCHEDULE

**ROYAL PREROGATIVE POWERS EXERCISABLE ON THE AUTHORITY OF THE
PRIME MINISTER IN PURSUANCE OF SECTION 6(2) OF THIS ACT**

- 1 To make Orders in Council.
- 2 To declare war or commit United Kingdom forces to armed conflict, but only after the House of Commons has given its approval.
- 3 To issue lawful command to the armed forces.
- 4 To require persons to perform military service or other service to the state in times of armed conflict or emergency.
- 5 To sign or ratify treaties.
- 6 To recognise foreign governments.

- 7 To appoint ambassadors, permanent secretaries of departments, the heads of the security services, members of the Defence Staff, Royal Commissions and members of public bodies.
- 8 To declare a state of emergency.
- 9 To order the confiscation, forfeiture or seizure of property and assets.
- 10 To issue pardons and detail felons or the insane during pleasure.
- 11 To institute or quash legal proceedings.
- 12 To assert Crown immunity in any legal proceedings and to grant public interest immunity certificates.
- 13 Powers in relation to intestacy, the failure of charitable trusts, treasure trove, mineral rights, wrecks, sturgeon, swans, whales, territorial waters and the ownership of the foreshore of the United Kingdom.

Formal Minutes

Thursday 19 June 2014

Members present:

Mr Graham Allen, in the Chair

Mr Christopher Chope
Tracey Crouch
Paul Flynn

Robert Neill
Chris Ruane
Mr Andrew Turner

Draft Report (*Role and powers of the Prime Minister*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 88 read and agreed to.

Two Papers were appended to the Report as Appendix A and Appendix B.

Resolved, That the Report be the First Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Thursday 26 June at 9.45 am

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the Committee's inquiry page at <http://www.parliament.uk/business/committees/committees-a-z/commons-select/political-and-constitutional-reform-committee/inquiries/parliament-2010/pm-powers/oral-and-written-evidence/>

Thursday 23 June 2011

Question number

Sue Pryce, Associate Professor, School of Politics and International Relations, University of Nottingham

[Q1-66](#)

Thursday 7 February 2013

Professor Robert Hazell CBE, Professor of Government and the Constitution, and Director of the Constitution Unit, School of Public Policy, UCL

[Q67-94](#)

Professor Michael Foley, Professor of International Politics, Aberystwyth University

[Q95-139](#)

Thursday 27 March 2013

Dan Corry, former Head of No. 10 Policy Unit

[Q140-169](#)

Dr Mark Bennister, Senior Lecturer in Politics and International Relations, Canterbury Christ Church University

[Q170-184](#)

Dr Michael Pinto-Duschinsky, Senior Consultant on Constitutional Affairs to Policy Exchange

[Q185-208](#)

Thursday 20 June 2013

Rt Hon Peter Riddell CBE, Director, Institute for Government

[Q209-230](#)

Miss Chloe Smith MP, Minister for Political and Constitutional Reform, Cabinet Office

[Q240-290](#)

Thursday 27 March 2014

Dr Richard Heffernan, Reader in Government, Open University, and **Lord Hennessy Attlee** Professor of Contemporary British History, Queen Mary, University of London

[Q291-333](#)

Published written evidence

The following written evidence was received and can be viewed on the Committee's inquiry web page at:

www.publications.parliament.uk/pa/cm201012/cmselect/cmpolcon/842/842vw01.htm

- 1 [Paul Webb, Professor of Politics, University of Sussex](#)
- 2 [Professor the Lord Hennessy of Nympsfield, FBA, Queen Mary, University of London](#)
- 3 [Emeritus Professor George Jones, London School of Economics and Political Science](#)
- 4 [Emeritus Professor George Jones, London School of Economics and Political Science \(supplementary\)](#)
- 5 [Dr Nicholas Allen, Department of Politics and International Relations, Royal Holloway, University of London](#)
- 6 [Dr Eoin O'Malley, School of Law and Government, Dublin City University](#)
- 7 [Dr Eoin O'Malley, School of Law and Government, Dublin City University \(supplementary\)](#)
- 8 [Dr Mark Bennister, Canterbury Christ Church University](#)
- 9 [Dr Mark Bennister, Canterbury Christ Church University \(supplementary\)](#)
- 10 [Dr Richard Heffernan, Reader in Government, The Open University](#)
- 11 [Mr Elfyn Llwyd MP, Parliamentary Leader of Plaid Cymru](#)
- 12 [Professor Kevin Theakston and Dr Timothy Heppell, School of Politics and International Studies, University of Leeds](#)
- 13 [Professor Martin Smith and Professor David Richards, Department of Politics, University of Sheffield](#)
- 14 [Sir Gus O'Donnell KCB, Cabinet Secretary and Head of the Home Civil Service](#)
- 15 [Sir Gus O'Donnell KCB, Secretary of the Cabinet and Head of the Home Civil Service \(supplementary\)](#)
- 16 [Professor Ludger Helms, Chair of Comparative Politics, University of Innsbruck](#)
- 17 [The Green Party of England and Wales](#)
- 18 [Rt Hon Carwyn Jones AM, First Minister of Wales, The Welsh Assembly Government](#)
- 19 [Rt Hon Alex Salmond MSP, First Minister of Scotland](#)
- 20 [Professor Michael Foley](#)
- 21 [Sue Pryce, Associate Professor, School of Politics and International Relations, University of Nottingham](#)
- 22 [Dan Corry](#)
- 23 [Mark Harper MP, Minister for Political and Constitutional Reform](#)
- 24 [The Scottish Government](#)
- 25 [Professor Richard Toye, University of Exeter](#)
- 26 [Michael Pinto-Duschinsky, Policy Exchange](#)
- 27 [Hans Peter Ulrich, Civio Public Policy Consulting](#)
- 28 [The Cabinet Office](#)

List of Reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2010–12

First Report	Parliamentary Voting System and Constituencies Bill	HC 422
Second Report	Fixed-term Parliaments Bill	HC 436 (Cm 7951)
Third Report	Parliamentary Voting System and Constituencies Bill	HC 437 (Cm 7997)
Fourth Report	Lessons from the process of Government formation after the 2010 General Election	HC 528 (HC 866)
Fifth Report	Voting by convicted prisoners: Summary of evidence	HC 776
Sixth Report	Constitutional implications of the Cabinet Manual	HC 734 (Cm 8213)
Seventh Report	Seminar on the House of Lords: Outcomes	HC 961
Eighth Report	Parliament's role in conflict decisions	HC 923 (HC 1477)
Ninth Report	Parliament's role in conflict decisions: Government Response to the Committee's Eighth Report of Session 2010-12	HC 1477 (HC 1673)
Tenth Report	Individual Electoral Registration and Electoral Administration	HC 1463 (Cm 8177)
Eleventh Report	Rules of Royal Succession	HC 1615 (HC 586)
Twelfth Report	Parliament's role in conflict decisions—further Government Response: Government Response to the Committee's Ninth Report of Session 2010-12	HC 1673
Thirteenth Report	Political party finance	HC 1763

Session 2012–13

First Report	Recall of MPs	HC 373 (HC 646)
Second Report	Introducing a statutory register of lobbyists	HC 153 (HC 593)
Third Report	Prospects for codifying the relationship between central and local government	HC 656(Cm 8623)
Fourth Report	Do we need a constitutional convention for the UK?	HC 371

Session 2013-14

First Report	Ensuring standards in the quality of legislation	HC 85 (HC 611)
Second Report	The impact and effectiveness of ministerial reshuffles	HC 255
Third Report	Revisiting Rebuilding the House: the impact of the Wright reforms	HC 82 (HC 910)
Fourth Report	The role and powers of the Prime Minister: the impact of the Fixed-term Parliaments Act 2011 on Government	HC 440 (HC 1079)

Fifth Report	Pre-appointment hearing: The Chair of the House of Lords Appointments Commission	HC 600
Sixth Report	Introducing a statutory register of lobbyists: Government Response to the Committee's Second Report of Session 2012-13	HC 593
Seventh Report	The Government's lobbying Bill	HC 601
Eighth Report	Parliament's role in conflict decisions: an update	HC 649
Ninth Report	House of Lords reform: what next?	HC 251
Tenth Report	The Government's lobbying Bill: follow up	HC 891
Eleventh Report	Impact of Queen's and Prince's consent on the legislative process	HC 784 (HC 224)
Twelfth Report	Parliament's role in conflict decisions: a way forward	HC 892
Thirteenth Report	Fixed-term Parliaments: the final year of a Parliament	HC 976
Fourteenth Report	Constitutional role of the judiciary if there was a codified constitution	HC 802