The House Rules?

International lessons for enhancing the autonomy of the House of Commons

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This report is dedicated to Robin Cook, a friend and adviser to this project until his untimely death in August 2005, and a dedicated defender of parliament.

Table of Contents

List of Tables

Acknowledgements

Introduction

This report is the final output of a two-year Constitution Unit research project on 'The Governance of Parliament', funded by the Nuffield Foundation. The purpose of the project was to look in detail at the internal organisation of the House of Commons with a view to making proposals for strengthening its ability to control its own business.

The principal research question addressed is how much autonomy the Commons has, and how much it should have, over its own affairs. That is, its agenda, its internal appointments processes, and its rules and procedures. Concerns about these issues have long been shared by parliamentary reformers inside and outside parliament. In recent years a number of relevant controversies – most notably over committee appointments and the power to recall parliament during recess – have brought these issues to broader public and political attention. These have helped feed a growing sense that parliament is in decline, with insufficient influence over the governance of the country (see, for instance, Power Commission 2006).

The current frustrations can be explained by reference to Anthony King's seminal article on the different 'modes' of executive-legislative relations (1976). The most visible aspect of Westminster parliamentary democracy is the confrontation between government and opposition – as symbolised in the weekly sparring match of Prime Minister's Question Time. But this 'opposition mode' of executive-legislative relations is only one of several that could exist. There is also an intra-party mode, where government ministers are kept in check (largely behind closed doors) by their own backbenchers. What King found far less evidence of was the 'cross-party' mode, in which MPs from across the House work together, in particular to call government to account. This might be expected to form the heart of executive-legislative relations, but was found by King to be weak. Thirty years on, in today's Britain, the 'opposition mode' looks increasingly outdated. We have seen declining party loyalties outside parliament (Dalton 2002; Webb 2002), and a rise in backbench independence at Westminster (Cowley 2002, 2005), fed to some extent by the growth of expert select committees (Natzler and Hutton 2005; Seaward and Silk 2003). A rebalancing of parliamentary democracy from the 'opposition' to the 'cross-party' mode of activity would therefore chime with both the tenor of current political debate and recent trends at Westminster.

All three major parties have now responded to this disquiet. A central theme of the Conservative Party's Democracy Taskforce has been to 'to restore and enhance the role of the House of Commons in our political life' (2007: 1), while a recent Liberal Democrat policy paper sought 'to empower Parliament …[and] reinforce the dependence of the government on Parliament for its authority and legitimacy' (Liberal Democrats 2007: 2). Most significantly, in July 2007, Gordon Brown indicated the importance that he attaches to this issue in his first prime ministerial statement to the Commons, on constitutional reform.[1] In presenting this package one of the government's stated intentions was to 'rebalance power between Parliament and Government' (Ministry of Justice 2007: 11). Many of the proposals in its Green Paper clearly do this – for example by giving parliament the right to vote on sending troops to war, to ratify international treaties, and to recall and dissolve itself. But there are also many other important steps that could be taken in order to give greater control of parliament to its members. Our proposals are therefore consistent with the direction in which all parties have indicated that they want to go, and offer detailed suggestions for further reforms in this direction.

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[1] House of Commons Hansard, 3 July 2007, Cols. 815-820.

The methodology used in this research project began with detailed study of the procedures and structures of the House of Commons, supplemented by interviewing key individuals within Westminster and reviewing the recent history of parliamentary reform debates. We also undertook a consultation exercise on the main themes of the project, inviting responses to a brief 'Issues and Questions Paper' (Russell & Paun 2006a), some of which are integrated below. However the key element of the project was its international comparative research. We looked to five parliamentary chambers from across the world for lessons as to how the Commons might be organised differently and better. The Scottish Parliament was chosen because it was designed as a 'Parliament with a purpose' (Winetrobe 2001), intended to improve upon the Westminster system by fostering a non-partisan and more inclusive form of politics. The New Zealand House of Representatives was formerly regarded as 'more Westminster than Westminster' due to its history of overwhelming executive dominance and stable single-party government. But following a shift to proportional representation in 1996 it underwent a radical set of organisational and procedural changes that might offer inspiration for the UK. Also in the Westminster tradition, we looked to the Australian Commonwealth Parliament, where the majoritarian House of Representatives has much in common with our House of Commons, while the Senate has developed many procedural innovations since its switch to a proportional electoral system in 1948. And finally, we turned to an example from the continental European tradition, the German Bundestag, which is of similar size to the House of Commons, is elected by a highly proportional system, but usually delivers stable (coalition) majority government. In each case we conducted desk research, followed by study visits during which interviews were conducted with parliamentarians, parliamentary staff, and other local experts.

The structure of the rest of the report reflects this methodology. It starts with an analysis of how the House of Commons works at present in terms of control of its timetable, its committee system (including the appointments process), and its procedures and rules. We also consider the roles of various individuals and bodies who might embody the Commons as a collective, and could therefore play an important role in 'speaking for' the chamber as a whole. This is followed by the comparative sections, which explore the operation of our five comparator chambers in each of these fields respectively, in search of lessons for the UK. The concluding sections of the report then look at lessons that can be drawn from our comparative work. Here we start by highlighting a number of ways in which Westminster represents a positive rather than negative model of parliamentary autonomy. We discuss how a new logic of parliamentary control – giving greater autonomy to members – might replace the status quo. Finally, we concentrate in detail on those areas where improvements to the Commons are both desirable and feasible, setting out our recommendations for change. These are summarised below, before the main body of the report.

Summary of recommendations

A full discussion of our recommendations is included in the last section of the report. The following is a summary of the key points.

The plenary timetable

Scheduling non-government time

1. The radical option would be to turn the current logic of standing order no. 14 on its head, by limiting government time on the agenda to specified periods, and giving precedence to 'House Business' instead. This is the logic used in the Australian Senate, and would return the Commons to a situation similar to that before Balfour's reforms of 1902.
2. An alternative is to specify further categories of business which have guaranteed time, including committee business and procedural matters.
3. The best solution may be to establish a far clearer dichotomy between 'government time' and time for 'House Business' or 'backbench business', with the latter guaranteed a larger and more regular block of agenda time.
4. A reconsolidation of existing time (without the loss of private members' Fridays or members' adjournment debates) should result in at least half a day, and up to a full day, per week being given over to House Business. This should be on Tuesday or Wednesday to ensure that it is in 'prime time'.
5. It is an important principle that members should be able to force votes on House Business. This would enable committees to force decisions on their reports, and the House to express its view collectively on issues of current public importance.
6. Standing orders should continue to set out, as they do now, a minimum allocation of time for private members' bills and for debating committee reports.
7. Crucially, if there is a new category of House Business, the responsibility for allocating time between different items of business on this part of the agenda should no longer rest with the 'usual channels', which give primary control to the government Chief Whip.
8. A new committee made up of backbenchers (the 'Backbench Business Committee') should be established to determine the timetable of House Business.
9. The Backbench Business Committee should have responsibility for scheduling different items in the regular House Business slot, within the confines set out in standing orders. It might also be given some control over programming on private members' Fridays.
10. To ensure that members' and committee business is clearly separate, and freed from the control of the whips, the new Backbench Business Committee should have no role in timetabling government business.
11. While we do not propose that opposition days should be considered House Business, opposition parties should have a right to demand a half-day debate be scheduled within five days, as recommended by the Conservative Democracy Taskforce, and to exchange some of their days for government statements on specified topics as recommended by the Hansard Society in 2001.
12. The Backbench Business Committee should have broad representation from across the House, and be wholly made up of backbench members. It might comprise, say, ten members drawn proportionately from across the House, who could be elected in their party groups. The chair of the Liaison Committee, and possibly the chair of the Procedure Committee, should sit as ex-officio members. The committee should be chaired by one of the Deputy Speakers.
13. It is extremely important that drawing up a draft schedule does not fall, de facto, into the hands of the whips (as has occurred with respect to business committees elsewhere).

Administration of the committee should lie firmly with officials reporting to the Deputy Speaker.

Time for committees

14. There should be a 30 minute slot every week for the announcement of any new committee reports, with a capacity for the chair of the committee to introduce the report and for a short government reply. But, building on the recent Australian model, we believe that this initial debate should be in plenary, and if members indicate that they want more time for debate on a particular report there should then be a time set aside each week in Westminster Hall for this to happen.

15. The 30 minute plenary slot would take place on House Business day if one is created. Alternatively it might replace one of the current two ten-minute rule bill slots, which occur in prime time.

16. 'Estimates days' should be formally renamed 'committee days' with allocation determined, as at present, by the Liaison Committee.

17. If a Backbench Business Committee is created we do not suggest an increase on the minimum three days for committees each session, but would in practice expect additional time to be made available for consideration of committee reports on House Business days.

18. If no Backbench Business Committee and House Business slot is created we would support the proposal made by the Liaison Committee and others, that committees should be entitled to a minimum of six days of debate in the Commons chamber per session, with allocation between committees decided by the Liaison Committee.

19. Committees should, as in Scotland, themselves decide the form of debates on their reports, including the possibility of debates on a substantive motion.

20. Committees should be entitled to propose their own bills, as in Scotland, and these should be given special priority.

21. One option would be to provide a fast-track for two committee bills in each session to be given priority over other non-government legislation. These could be selected either through the Liaison Committee or on the basis of the number of signatories – with a minimum cross-party requirement.

Other time for members

22. The example of Germany, where groups of members have rights of access to the agenda could usefully be followed.

23. Groups of backbenchers should be able to propose bills, and there should be a means for these to gain priority, especially when these groups are cross-party.

24. Facilities for private members' bills, based on a ballot, should continue to form part of the package of non-government time and we do not propose any change, at least in the short term, to the arrangements for Fridays.

25. We propose that the Backbench Business Committee should be able to timetable high priority non-government bills in the House Business slot for which it is responsible, ensuring that private members' bills would not be wholly dependent on winning government time if they come low down the ballot.

26. Members' motions should be reinstated, again with particular priority for motions with cross-party support. These should also be programmed by the Backbench Business Committee, and would enable members to initiate debates on topics of their choice.

Agreeing the main weekly timetable

27. If the move to a House Business slot is not made, or is not made immediately, we believe that the present system of debating the Business Statement on a weekly basis could be significantly improved by learning from the Scottish Parliament.

28. The weekly Business Statement should be published in advance of being debated.

29. There should be an ability to table amendments to the Statement.
30. Amendments should only be ruled in order if they specify which business should be omitted or curtailed to make time for any additional business.
31. To be ruled in order amendments should have to demonstrate significant support, and a mechanism might also be included to prioritise amendments with clear cross-party support for debate.
32. The Business Statement, and any qualifying amendments to it, should be voted upon before being agreed.
33. All parties should commit to a strong convention that such divisions are considered procedural and are taken on a free vote.

Appointments to committees

34. The Committee of Selection should include backbench members from each of the main parties, and its membership cease to be dominated by whips.
35. The appointment of the committee should be timetabled during House Business at the start of the parliament.
36. Motions for the appointment of select committees should be tabled in a House Business slot early in the parliament.
37. The motion to approve select committee memberships should be moved by the chair of the Committee of Selection, not by a whip or other minister, and s/he should respond to any objections.
38. The chair of the Committee of Selection should be a senior backbencher elected specifically for the purpose by the House in a secret ballot, along the lines previously recommended by the Liaison Committee.
39. Select committees should elect their own chairs in secret ballots, following an in-principle agreement as to which party should hold the chair.
40. The division of chairs between parties should be approved by the chamber at the same time as the overall membership of select committees is approved, as is the case in the Scottish Parliament.
41. Standing orders should state that the chairs of select committees will be shared broadly proportionately between the parties.
42. The same procedure as applies to select committees should be used for approving lists of public bill committee members, with the chair of the Committee of Selection moving such proposals.
43. The expectation should be that the composition of bill committees reflects the balance of *opinion* in the House rather than simple party balance.

Changing the rules

44. If committees have more time on the agenda and can propose reports on substantive motions, and private members' motions can also be used to propose procedural change, we see no need for the continuation of the Modernisation Committee. This should be merged with the Procedure Committee, under a strong backbench chair.
45. We are attracted to the system in Scotland where all standing order changes must be proposed by the Procedures Committee, and ministers cannot propose changes to the chamber directly. This should be kept under review. However, on balance we believe that greater pluralism – whereby either backbenchers or frontbenchers have a chance to propose procedural change – is preferable to giving the committee such a rigid gatekeeping role.
46. However, procedural changes proposed by government should be moved in government time.

Who speaks for parliament? Individuals

47. Care must be taken in the establishment of any new procedures that the neutrality of the Speaker, and the Speaker's office, is not put under threat.
48. The Speaker could play a more assertive role in defending the Commons, and the rights of its members.
49. When electing its next Speaker the House should consider the benefits of choosing someone prepared to be an outspoken public defender of parliament.
50. Various proposals made in this report would strengthen the visibility of other actors in the House, including the first Deputy Speaker, who would probably chair the Backbench Business Committee, and the chair of the Committee of Selection. These individuals might therefore come to be seen as greater defenders of parliament over time.
51. If the Commons continues with a 'usual channels' system where whips are responsible for key decisions over timetabling and appointments this could be significantly improved by whips being elected, as in Germany and New Zealand.
52. We are not attracted to the merging of the Leader of the House and Chief Whip, but if in the future the Speaker develops as a greater champion for parliament, and particularly if the Chief Whip were elected, this might become a sensible step.

Who speaks for parliament? Co-ordinating bodies

53. On balance we do not believe that a 'business committee' for the House of Commons would tackle the perceived problems of parliamentary control, and conclude that other changes set out above will prove more effective. Indeed, if built on the model of our comparator parliaments a business committee could in some ways make things worse, by handing greater control to party leaders and whips.
54. One option would be to try and construct a unique UK parliament model of a business committee, with backbench representation and better accountability. However, we believe that this would be unlikely to succeed.
55. Furthermore, there are concerns that if the Speaker chaired a business committee s/he could be drawn into political arguments. We do not believe that this would necessarily happen, but it is a risk. A greater risk may be that the Speaker would lose status if s/he chaired such a committee without playing a full part in its discussions. This is the pattern we have seen in other parliaments.
56. We conclude that the key question is 'ownership' of time: if the government continues to own most agenda time, thanks to standing order no. 14, it will continue to be dominant in negotiations, with or without a business committee.
57. We believe that the establishment of a more limited Backbench Business Committee to manage House Business would be a more realistic and more fruitful place to start. Over time, if this mechanism proved a success, a business committee with broader function might develop from it.
58. The chair of the Liaison Committee could, like the chair of the Committee of Selection, be elected by the whole House at the start of each parliament.
59. Over time there may be a desire to create a more unified collective voice for the backbenches. A more united body could work with the Speaker on outreach activity, and review general parliamentary developments, and might meet only occasionally. Its membership could be drawn from the existing co-ordinating bodies, along with the new Backbench Business Committee.
60. If certain procedural changes are introduced in the future, such as establishment of specialist legislation committees, the case for establishing a general purpose business committee may grow, and other new options for creating co-ordinating bodies develop.

Control of the Commons: The key issues

At one level the question of how the House of Commons runs itself is a dry and obscure one, of interest only to those few specialists who concern themselves with parliamentary procedure. But in fact it addresses fundamental questions about the way in which we are governed. This is reflected in the significant public interest that is sometimes generated when the system is seen not to be working. For example in recent years we have seen two major controversies over the recalling of parliament during the summer recess – once in 2002, in the run up to the Iraq war, and another in 2006 over the Lebanon crisis. These highlighted how even a majority of MPs had no automatic right to force a meeting of their own institution. This will be resolved following Gordon Brown's announcement in July 2007 that the recall arrangements will be changed.[2] But there are other examples. In 2001 MPs voted, against the advice of the whips, to reinstate two members who had been removed from the select committees that they chaired. This again received widespread media attention. The Iraq crisis also brought to wider public attention the fact that even when debates are scheduled on controversial issues, it is for government alone to decide whether the motion before the House is a substantive one or merely 'on the adjournment', with the exception of debates on 'opposition days'.[3] Such difficulties potentially undermine parliament's authority as an independent body, both in fact and in public perception. This, and numerous other issues about parliamentary ownership discussed in the following sections, remains the subject of unresolved tensions.

The key question that this report addresses is who does, and who should, decide how the House of Commons runs itself. The Commons lies at the heart of the nation's democracy, bringing together representatives from all geographical areas to determine who governs, to amend and approve legislation and to participate in a forum for political debate. The image of Westminster is recognisable as symbolic of democracy not only in Britain but also far wider afield. Nonetheless at its heart lies an inherent tension – that the Commons must both sustain government and at the same time hold it to account. The system 'fuses' executive and legislative power in a way that many other systems (particularly presidential systems such as that of the US) do not. Ministers are drawn from parliament and continue to work as active voting members, and parliament remains formally 'sovereign'. The only independent powers of the executive are those that derive from the royal prerogative.[4]

The tasks of government and parliament are therefore inextricably interwoven. In order to pass its legislation, and implement its manifesto programme, government relies on parliament to expedite its business reasonably swiftly. Parliament also provides a forum in which ministers expect to (and indeed are expected to) make regular statements about important matters of policy. Much of the business of parliament is concerned with the scrutiny of government, for example through question time and the work of select committees. Indeed so strong is the link that a minister

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[2] This proposes that recall can be brought about by a majority of MPs petitioning the Speaker, although the Speaker will retain discretion (Ministry of Justice 2007: 21). Recall was one of our original topics of study on the project, but has been omitted from this report due to the government's announcement. We found that the Australian Senate operates a similar system to that proposed for the UK House of Commons, while the German Bundestag can be recalled on the request of one third of MPs (see Table 5).

[3] In the event, the government permitted a substantive vote on the invasion of Iraq in March 2003 – famously suffering its largest ever backbench rebellion (Cook 2004). It has subsequently committed to repeating this precedent prior to any future armed conflicts (Ministry of Justice 2007: 15).

[4] The government's statement of July 2007 also gave a commitment to divest many of these powers (for example over the civil service and the signing of treaties) and give them to parliament. It should also be noted that there are important powers held by the US President – for example to veto bills – which are no longer held by the political executive in Britain. So for example Tony Blair was powerless to block the ban on hunting once the Commons had approved it, despite his own reservations.

responds to almost every debate, including adjournment debates and those on private members' bills. This can be seen as an asset, demonstrating that the executive must take seriously points raised in parliament (in Australia, for example, there is no ministerial response in adjournment debates). However, the interweaving of executive and parliamentary business also raises questions about how autonomous parliament really is. This is particularly the case in the House of Commons, where the governing party under usual circumstances holds a majority of seats.

As a democratic and sovereign assembly the House of Commons formally controls its own business. In reality, however, much of this responsibility is delegated to the executive. There are three principal reasons why this situation has become established. One is the development of the modern party system, which itself grew from the division of the Commons into supporters and opponents of the government already established by the 18th century. The logic of Westminster has therefore long benefited the single majority that sustains the government, rather than relying on the kind of *ad hoc* coalitions that would be necessary if the parties didn't exist. The second reason is the cementing of privilege for the governing majority in standing orders, which took place particularly from the late 19th century onwards. At this time the government faced difficulties in achieving its business thanks to procedural tactics used by Irish nationalist MPs, and this was followed by rule changes which gave ministers significantly greater power.[5] The 19th century also saw a long tussle between government and private members over their respective share of agenda time. Government time was limited to two days per week until Balfour's procedural reforms of 1902 – which created the current situation where the default is government ownership of time (Lees-Smith 1924). In both cases these explanations lie long ago, but their effects persist for a third reason. This is that a chamber of over 600 members such as the House of Commons has difficulty taking collective decisions when not guided by the divisions of party. As Tony Wright (2004: 874) has suggested, we should be wary of stating that 'parliament' should insist on having more control as 'there is no parliament, in that collective sense, to insist on anything. There are simply Members of Parliament who have preoccupations and inhabit a career structure in which attention to the sustained strengthening of the institution is not a central priority'.

The lack of collective will in the Commons is obviously a major obstacle to parliament becoming more autonomous from the executive. But so is the lack of visible alternatives. The long traditions at Westminster, which set us apart from other parliamentary systems in Europe, mean that we can be surprisingly short-sighted and assume that there is only one way in which a parliament can be run. But our comparative study shows us that there are other ways in which political institutions can be organised. In this study we have drawn in particular from other parliaments originally based on the Westminster model, which have developed procedures in different ways. We also draw from European experience in the case of the German Bundestag. These examples offer us alternative models, aspects of which might usefully be imported to the Commons. By presenting concrete examples of other systems in operation, we hope to help overcome the collective action problem, and inspire Members of Parliament to introduce change into their own institution. In a period when the Prime Minister has stated an intention to give greater power to parliament, we hope that these examples may offer inspiration to those wishing to put that pledge into effect.

There are four key areas in which greater control could be handed to the House of Commons over its own affairs. These are the plenary timetable, the work of committees, changing the rules, and the ability to 'speak for parliament'. This last role, which as already indicated is difficult, could be carried out more strongly either by an individual or by some kind of collective body. The perceived problems in each of these areas are discussed in the remainder of this section. The rest

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[5] For example, following obstructionist tactics by the Irish Party over the Criminal Law Amendment (Ireland) Bill 1887, the first 'guillotine motion' in its modern form was passed on 11 June 1887 after 35 days of debate (House of Commons Information Office 2004: 5).

of the report then analyses how these matters are dealt with in our comparator parliaments, and what lessons we might learn from them for the running of the House of Commons.

The plenary timetable

One of the commonest complaints about the organisation of parliament is 'the extent to which the government dominates the agenda of the House of Commons' (Rush 2005: 137). This statement, however, requires 'unpacking', as government dominance could refer to a number of different things.

One interpretation is the time allocated on the floor of the House of Commons to government business, as opposed to other kinds of business. As shown in Table 1, over 50% of time in the chamber is devoted to government business, which is about five times as much time as the opposition parties have at their disposal. However, this is not necessarily a disproportionate amount of time – given that scrutinising government and its legislation is among parliament's absolutely core roles. Indeed, as Blackburn and Kennon point out, one might even argue that debates on government legislation should be categorised as non-government business as it is opposition and backbench MPs that desire the opportunity to subject bills to detailed scrutiny whereas 'ministers would usually be happy to see their bills passed with little or no debate' (2003: 1-024).

Of greater concern than the overall share of time is how time comes to be allocated between these different forms of business. The principles for this are laid down in House of Commons standing order number 14 (which is reproduced in Appendix A). This specifies that there will be certain minimum allocations made to different kinds of non-government business. In particular 20 days (a limited number of which may be taken as half-days) are allocated to opposition parties each session.[6] Seventeen of these go to the main opposition party and the other three to the third party, with occasional allocation of slots to the minor parties. In addition 13 Fridays are set aside for discussion of private members' bills (PMBs). As Table 1 reveals, the share of time devoted to these matters can vary significantly between sessions, as they are assigned a precise number of days per session rather than, for example, a regular slot every week or month. In long sessions following spring general elections (such as 2005-06), these allocations therefore fall in terms of the proportion of time they represent. Whereas in short sessions preceding elections the number of days falls short because government chooses to prioritise its legislative or other business in the lead-up to dissolution (see Appendix B for full figures). Other standing orders specify the fixed nature of other business – for example arrangements for oral questions are included in standing order no. 21, and for adjournment debates in standing order no. 9. Standing order no. 10(13) guarantees select committees six days of debate in Westminster Hall (though in practice committees are allocated significantly more slots than this[7]) and by convention the Liaison Committee, made up of select committee chairs, also decides the topic for three days of debates in the main chamber on the estimates in each session. There are, therefore, various protections for

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[6] In practice opposition parties gain additional control over the agenda through rarely-granted urgent debates under standing order no. 24 (only two granted since 1997), through Urgent Questions (of which 14 were granted by the Speaker in the 2005-06 Session, with a total of seven and a half hours spent discussing them), and by convention through setting the topic for part of the annual debates on the Budget and the Queen's Speech. The first of these is shown as opposition time in Table 1, but the others are not.

[7] In the long 2005-06 Session, for instance, 22 out of 44 available Thursdays in Westminster Hall were devoted to debate of select committee reports (Liaison Committee 2007: para 53). This is significantly more than the mandatory number of committee slots provided for in standing orders, but less than the two-thirds of available Thursdays recommended by the Modernisation Committee (2000b: para 40) and reemphasised by the Liaison Committee (2007: para 56).

non-government business in standing orders, which are supplemented in places by convention. There is also additional time for this business in Westminster Hall, as shown in Table 1.

Table 1: Distribution of House of Commons agenda time – in hours (% of total)

	Commons chamber		Westminster Hall	
	2003-04 'normal' session	2005-06 long session	2003-04 'normal' session	2005-06 long session
Government legislation	388.4 *(32.0)*	631.5 *(40.2)*	0.0 *(0.0)*	0.0 *(0.0)*
Government statements	97.0 *(8.0)*	120.1 *(7.6)*	0.0 *(0.0)*	0.0 *(0.0)*
Government adjournment debates	99.2 *(8.2)*	103.0 *(6.6)*	19.4 *(4.7)*	44.8 *(8.4)*
Government motions and other business*	58.8 *(4.8)*	63.2 *(4.0)*	0.0 *(0.0)*	0.0 *(0.0)*
Government business total	**643.4 (52.9)**	**917.7 (58.4)**	**19.4 (4.7)**	**44.8 (8.4)**
Private members' bills	63.0 *(5.2)*	58.0 *(3.7)*	0.0 *(0.0)*	0.0 *(0.0)*
Daily adjournment debates	79.0 *(6.5)*	107.0 *(6.8)*	307.4 *(75.1)*	398.7 *(74.9)*
Last day before recess debates	14.5 *(1.2)*	25.1 *(1.6)*	0.0 *(0.0)*	0.0 *(0.0)*
Other members' business**	36.3 *(3.0)*	34.4 *(2.2)*	0.0 *(0.0)*	0.0 *(0.0)*
Members' business total	**192.8 (15.9)**	**224.5 (14.3)**	**307.4 (75.1)**	**398.7 (74.9)**
Opposition day debates	131.4 *(10.8)*	130.0 *(8.3)*	0.0 *(0.0)*	0.0 *(0.0)*
Urgent debate under SO 24***	0.0 *(0.0)*	3.3 *(0.2)*	0.0 *(0.0)*	0.0 *(0.0)*
Opposition motions in government time	9.9 *(0.8)*	0.0 *(0.0)*	0.0 *(0.0)*	0.0 *(0.0)*
Opposition business total	**141.3 (11.6)**	**133.2 (8.5)**	**0.0 (0.0)**	**0.0 (0.0)**
Estimates debates on cttee reports	12.2 *(1.0)*	15.7 *(1.0)*	64.3 *(15.7)*	65.7 *(12.3)*
Debates on cttee reports in govnt time****	22.0 *(1.8)*	20.6 *(1.3)*	0.0 *(0.0)*	0.0 *(0.0)*
Committee business total	**34.2 (2.8)**	**36.3 (2.3)**	**64.3 (15.7)**	**65.7 (12.3)**
Questions to ministers	131.0 *(10.8)*	176.7 *(11.2)*	0.0 *(0.0)*	0.0 *(0.0)*
Urgent Questions	6.3 *(0.5)*	7.6 *(0.5)*	0.0 *(0.0)*	0.0 *(0.0)*
Questions total	**137.3 (11.3)**	**184.3 (11.7)**	**0.0 (0.0)**	**0.0 (0.0)**
Queen's Speech debate	**37.4 (3.1)**	**40.8 (2.6)**	**0.0 (0.0)**	**0.0 (0.0)**
Miscellaneous business*****	**29.0 (2.4)**	**35.3 (2.2)**	**18.1 (4.4)**	**23.1 (4.3)**
TOTAL	**1215.3**	**1572.1**	**409.2**	**532.2**

* Not including government motions on committee reports and EU documents (see committee business below).
** Includes petitions, points of order and private members' motions.
*** Although backbenchers can also apply for urgent debates, the sole successful application in these two sessions was by a Liberal Democrat shadow minister.
**** Includes time provided by the government for debates on reports of the Public Accounts, Procedure, Privileges, Modernisation and 'domestic' committees, and on EU documents recommended by the EU Scrutiny Committee.
***** Includes suspensions of proceedings of the House and prayers.
Sources: House of Commons Sessional Returns, at: www.publications.parliament.uk/pa/cm/cmsesret.htm and original research including approximations of time spent on different activities based on details in Hansard. The data presented here differs from Sessional Returns (and the figures in Appendix B) the in that debates on committee reports in government time have been deducted from the government motions category. The various sub-categories of time have also been regrouped to show more clearly the division between government, opposition, committee and members' business.

The basic logic of ownership of time is however set down in the opening line of standing order number 14 that 'Save as provided in this order, government business shall have precedence at every sitting'. These words date to the Balfour reforms of 1902, and were described by one respondent to our Issues and Questions paper as 'a rather brutal encapsulation of the UK's

political system'. This general provision in SO14 leads to a slightly peculiar situation, where some non-government time is clearly protected in standing orders, and providing time for other non-government business is essentially left at the discretion of the government. So 'government business' includes various matters, such as adjournment debates (amounting to 7-8% of total Commons time, as shown in Table 1), which are of general interest in the chamber and may be tabled as a result of pressure from non-government forces. These sometimes follow a select committee report on the subject at hand.[8] Similarly debates on the establishment of new committees, on the appointment of members to existing select committees, and on the recommendations of bodies such as the Modernisation Committee and Procedure Committee (discussed further below) are also taken in 'government time'. This actually makes the government appear more dominant than it is in terms of the share of agenda time. We have tried to capture a truer version of the situation in the allocation of time to categories in Table 1.

A related but separate aspect of government control of the plenary agenda is, however, equally important. This is how time on the agenda is shared out week-by-week within the framework set out in standing orders. Unlike many other parliaments, the House of Commons does not have an all-party 'business committee' to carry out this task. Instead the timetabling of bills now generally takes place through 'programme motions' which are agreed by the chamber on a whipped vote. This procedure, established by the Modernisation Committee post-1997, has been highly controversial.[9] The weekly programme for the Commons chamber is negotiated informally through the 'usual channels'. These comprise the government and opposition Chief Whips, and more marginally the Leader of the House and minor party whips. Decisions on the programme take place in a weekly series of private bilateral meetings between these actors,[10] and include:

- when plenary stages of government bills will take place (clearly government business);
- how much time will be given, and when, to general debates (which take place in government time but are of far wider interest in the House);
- the topics for these debates and their basis – whether taken 'on the adjournment' or on a substantive motion asking the chamber to take a meaningful decision (a choice which largely rests with government, but arguably should rest with members);
- the timing of opposition day debates – though not the topics, which are left to the discretion of the opposition parties (with the number of days per session fixed in SO14);
- the timing of private members' Fridays (similarly within the constraints set out in SO14);
- the timing of the three estimates days in practice allocated to debating committee reports (though this is not protected formally in standing orders), and the availability and timing of any other debates on committee reports.

The government has significant influence over all of these matters, thanks to the nature of usual channels discussions. This is partly a result of the bilateral basis of these discussions, which allows the government Chief Whip potentially to 'divide and rule'. But it also flows from both the government's majority (usually) and the resources available to the Chief Whip. In particular the Private Secretary to the Chief Whip is a powerful figure, who in 2000 had a staff of 19, and conducts much of the negotiation (Rush and Ettinghausen 2002).[11] The ability of other groups to

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[8] For instance, in six of the 26 adjournment debates in government time in the 2005-06 session (as listed in Modernisation Committee 2007: para 80), the order paper 'tagged' a committee report or evidence session.

[9] The Committee itself has conceded that 'concern about the volume of legislation which passes undebated [as a result of programming] is entirely legitimate' (Modernisation Committee (2003: para 19). See also Procedure Committee (2004a) and Brazier (ed.) (2004: chapter 3).

[10] For a detailed analysis of the 'usual channels' system see Rush and Ettinghausen (2002).

[11] The power of this figure has long been noted. As Leader of the House of Commons in 1967 Richard Crossman said of Freddie Warren, then holder of this position, that 'the more I see of him the more astonishing I find the influence he exerts' (Crossman 1976: 625).

influence the timetable is therefore limited. Opposition parties select the topics for their own debates, although when they occur is decided by the usual channels. The Liaison Committee decides the topics for debate on 'estimates days', the timing of which is subject to similar negotiation. The precedence of PMBs within the agreed Fridays is primarily decided by the ballot that takes place at the start of each parliamentary session. But many key decisions, even over non-government business, are out of the reach of members entirely. As one MP suggested in their response to our Issues and Questions paper 'the usual channels are completely opaque and take no account of backbench interests'. As Professor Michael Rush suggested in his response 'what is needed is not more backbench time (Westminster Hall has provided that), but a greater backbench say over the control of parliamentary time'.

The chamber of the House of Commons has oversight of the weekly timetable, but no decision-making power. By convention the Leader of the House makes a statement every Thursday setting out the agenda for the following week, and a draft agenda for the week after that. This formally responds to an Urgent Question by the Shadow Leader of the House. The Shadow Leader then responds, and questions are allowed from members for up to an hour. These are largely phrased as requests for additional time to debate topics – which range from substantial demands to provide more time to debate key legislation, or to hold a debate on a current crisis, to interventions driven by more parochial constituency concerns. The Leader of the House generally responds politely, but there is no opportunity to change the timetable that has already been proposed.

There are various frustrations contained within the current system – in terms of the allocation of time to different forms of business, government's control over essentially non-government time, and how the timetable is negotiated and agreed. But there are also some elements notably missing. For example, though individual members may introduce bills (through the ballot process, 'ten-minute rule bills' or 'presentation bills'), they have limited ability to move motions. Adjournment debates at the end of the day and in Westminster Hall are not taken on a substantive motion, Early Day Motions are not debated, and other motions may appear on the Order Paper under 'Remaining Orders', but will in practice never be reached. The ability of members to force a vote on an issue is therefore limited – to their own bills, or amendments to bills or government motions. Select committees have even more limited ability to force decisions – they have no capacity to introduce bills or move motions as a collective group, and cannot decide the form that the limited debates on their reports will take. They cannot therefore force decisions on their recommendations. All of this clearly contributes to the House of Commons' noted weakness in 'cross-party' mode (which might instinctively be expected to be its primary mode), where the chamber as a whole holds the government in check (King 1976). Instead the Commons chamber is principally the site for debate in 'opposition mode', with the two main parties are ranged against each other, while the party back room is the site of negotiation in 'intra-party' mode. Increasingly in recent years intra-party negotiation has spilled over into the chamber itself, which is a sign of the increasing independence of backbenchers (Cowley 2002, 2005). In a time when the importance of parliamentary committees has significantly increased, alongside declining party cohesion, and declining adherence to political parties outside parliament, the fact that members have such difficulty gaining access to the agenda on a cross-party basis looks increasingly out of step.

The organisation of the parliamentary timetable has regularly been the target of parliamentary reformers. Serious attempts were made from the mid-1980s onwards to inject a greater degree of predictability and cross-party agreement into the timetabling of business, and especially government legislation[12] leading eventually to the introduction of formal programme motions as part of the post-1997 'modernisation' agenda.[13] In recent years a number of authoritative reports

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[12] Procedure Committee (1985) and (1986); Jopling Committee (1992); Hansard Society (1992).
[13] See Modernisation Committee (1997 and 2004).

have addressed these issues, making recommendations that we will reflect upon – and in some cases endorse – in the latter sections of this report.

A particular objective of many reform efforts has been to enhance the opportunities for backbenchers to initiate business. Several reports have called for a less restrictive approach to granting time for topical or Urgent Questions and debates,[14] with some prescribing a set number of signatories that should trigger a debate on a specific issue.[15] Proposals have also been made to increase the amount of time available for private members' legislation, including in a higher profile slot on a Tuesday or Wednesday evening, in Westminster Hall, or through taking Report Stage in a committee off the floor of the House.[16] Other reports have highlighted the need for procedural reform to enable some members' bills to pass 'without the need for government support or [being] subject to hijacking by minority opponents',[17] and to restore the right of backbenchers to move substantive motions.[18]

Many of the same reports have also recommended greater opportunities for committees to instigate business in the House. Almost 30 years ago, the Procedure Committee called for eight days per year to be designated committee days, with committee chairs able to move substantive motions (1978: paras 6.2-6.13). This proposal was rejected but the issue has come back onto the agenda in recent years. The Liaison Committee has proposed doubling the number of estimates days (on which committee reports are debated) to six, and floated the idea of holding a weekly 30-minute slot on a recent committee report (2000a: paras 39-40 and 2001: paras 31-35). Similar recommendations have been made subsequently by a number of bodies.[19] Two recent reports have also touched upon this issue. The Conservative Democracy Taskforce (2007: 4) proposed that committee chairs should be able to make statements and take questions on new reports (with a quota of perhaps 12 such sessions per year) and to move substantive motions on their reports when the government has failed to give a satisfactory response. The Modernisation Committee (2007: para 91) suggested a weekly half-hour opportunity for a minister to respond to a recent report in Westminster Hall, again with the Liaison Committee selecting the subject.

There has been less attention paid to opposition access to the agenda – possibly because the usual channels offer the main opposition parties regular opportunities denied to backbenchers to state their case to the government about the organisation of business. Also because opposition days are held on a substantive motion. An exception to this pattern was made by the Hansard Society (2001: para 4.32), which suggested that opposition parties be able 'to trade some of their Opposition Days for the chance to call for a statement on a topical issue'. Not surprisingly, the opposition parties have also taken an interest in this issue. The Conservative Democracy Taskforce recommended that the opposition be given a greater say over when it can use its allocation of days and that it have the right to trade these debates for topical questions (2007: 5), and the Liberal Democrats have recently advocated enhanced opportunities for non-government parties 'to force votes on contentious issues' (2007: para 5.3).

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[14] See Norton Commission (2000: 27-28); Hansard Society (2001: paras 4.30-34); Parliament First (2003: 64); Hansard Society (2005: para 4.78); Conservative Democracy Taskforce (2007: 5-7); Modernisation Committee (2007).

[15] For instance, the Hansard Society Commission on Parliamentary Scrutiny recommended that a 'public interest' debate be scheduled when backed by 150 or 200 members drawn proportionally from across the House (Hansard Society 2001: para 4.34) and the Procedure Committee suggested that long debates in Westminster Hall be scheduled on Early Day Motions that attract over 200 signatories from at least three parties (2003: para 36).

[16] See Hansard Society (2003: 6); Conservative Democracy Taskforce (2007: 6).

[17] Parliament First (2003: 62).

[18] See for example Procedure Committee (2007: para 82); Modernisation Committee (2007: para 114). This right was lost as part of the post-Jopling timetabling reforms in 1994 (Sear 2002: 25).

[19] See Norton Commission (2000: 28-29); Hansard Society (2001: para 3.46); and Parliament First (2003: 68).

In recent years interest has grown in the establishment of some kind of body representative of the chamber as a whole which would be responsible for agreeing the programme of business. More than 20 years ago the Procedure Committee (1985: para 36) suggested the establishment of a Legislative Business Committee which would consider the timetable for government bills. A similar proposal was made by the Hansard Society report on *Making the Law* (1992: 518) and by the Norton Commission (2000: 42). Since then the range of functions proposed to be given to such a committee has broadened. The Hansard Society Commission on Parliamentary Scrutiny proposed that there should be a more general business committee with responsibility for organising parliamentary business (2001: paras 2.47-2.49). The demand for more cross-party consultation over the programme was acknowledged by the Modernisation Committee (2002b) under Robin Cook but not substantially acted upon. Subsequent publications have echoed the calls for an inclusive, cross-party business committee to 'bring a greater certainty to the parliamentary timetable and involve the main political parties in the management of business' (Brazier, Flinders & McHugh 2005: 80). [20] The government, however, remains sceptical, having told the Lords Constitution Committee (2005: para 40) that it 'does not believe [the creation of a business committee] would offer significant advantage over current arrangements'.

Questions:

- How could members of the Commons be given more control over its weekly timetable?
- Are there examples overseas of committees having better access to the plenary timetable than they do in the House of Commons?
- Are there examples of members, individually or collectively, having greater access to the plenary agenda?
- Could the division between government and non-government business be made more fairly and transparently?

The work of committees

Many of the frustrations about control in the Commons relate to the plenary agenda, but there are also perceived problems about the organisation of committees. As already mentioned, one of the biggest controversies about parliament's ability to run its own affairs in recent years concerned the appointment of select committee members. This appeared to show up some weaknesses in the system. After the 2001 general election, a list of select committee members was presented to the Commons for approval which omitted the names of two established committee chairs – Gwyneth Dunwoody and Donald Anderson – from their respective committees. [21] The chamber rejected the proposed lists, and these two members were ultimately reinstated. There had already been demands for reform of the process for appointing select committee members, as discussed below. Following this controversy there was an attempt to introduce reform, based on a report of the Modernisation Committee, but these recommendations were rejected by the House by 209 votes to 195 in May 2002.

The power to make recommendations for appointment and removal of select committee members formally rests with the Committee of Selection. This committee has nine members, most of whom are whips, though its chair is normally a backbench member. [22] The committee obviously has to be

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[20] See also Parliament First (2003: 69); Conservative Democracy Taskforce (2007: 6-7); Liberal Democrats (2007: para 5.3).

[21] See Kelso (2003). Note that this government was not the first to try and force select committee chairs out. In 1992 the Conservatives sought, successfully, to remove Nicholas Winterton from the Health committee (see Tomkins 2003).

[22] In July 2007 the members of the committee were: Rosemary McKenna (Labour backbencher, chair of committee), Nick Brown (Labour, deputy chief whip), Liz Blackman (Labour, whip), Simon Burns (Conservative, assistant chief whip), Alan Campbell (Labour, whip), Tony Cunningham (Labour, assistant whip), Andrew Robathan (Conservative, deputy chief whip), Adrian Sanders (Liberal Democrat, deputy whip), Sir George Young (Conservative backbencher).

established at the start of a session, before the select committees themselves. Its membership is agreed through the usual channels and then moved as private business not to be debated.[23] (Its status as private business is a curiosity resulting from the history of the committee, which was originally created in 1839 to deal with such business.) In modern times the committee has come under regular criticism for in effect just 'rubber stamping' the decisions on committee membership taken by the whips.[24] There is thus concern that members can be 'kept off committees, or removed from them, on account of their views', and that disloyal members may therefore be excluded (Liaison Committee 2000a: para 12).

Standing orders with respect to the nomination of select committee members are minimal. By convention the party balance on committees is broadly proportional to that in the House (so the governing party normally has a majority on all committees) but this is not prescribed in the rules. The detail of membership is negotiated initially by the whips through the usual channels, before being referred to the Committee of Selection. In this process there may be some haggling over the party balance, but the whips from one party are unlikely to question the names of individuals nominated by another. Once the Committee of Selection has agreed the lists they are proposed to the House for approval, in a motion in the name of a member of the Committee. The debate on establishing committees has often been led by the chair of the Committee of Selection though in July 2005 – following the 2001 controversy – the Leader of the House played this role.[25] Two days notice must be given to the House, so that members have the opportunity to move amendments before the lists are approved (or rejected). In 2001 the controversy started inside the Parliamentary Labour Party (PLP), where members complained that they had not been adequately consulted on the Labour names put forward by the Chief Whip. The only reform that has occurred since then has been within the PLP rules. These were amended to make clear that the PLP would vote on the list of names before it was put to the chamber, and could make amendments. In addition the Parliamentary Committee of the PLP now has a formal role in the process, alongside the Chief Whip. Equivalent processes do not exist within the other parties.

Select committee chairs are formally chosen by their committees. Here again there is little in standing orders. Informal negotiations take place through the usual channels, and a broadly proportional share of chairs is given to the opposition party, and more recently to the Liberal Democrats.[26] When committee members are nominated this is obviously done with due consideration as to who will be chair. The hand of the whips in selecting chairs can be quite visible, as on 25 July 2007, when the Leader of the House controversially bypassed the Committee of Selection and moved at short notice a motion adding former minister Keith Vaz to the Home Affairs Committee in order that he could be elected chair before the summer recess (as he duly was).[27] When the committees are established at the start of the parliament members will be informed by their whips who the 'agreed' chair is, and there are allegations that members are kept off committees if they are thought likely to vote for a different person, or even seek to become the chair themselves. Nonetheless, as Margaret Beckett told the Liaison Committee in 2000 'it has

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[23] See for example House of Commons Hansard 13 June 2005, Col. 1, and House of Commons Hansard 3 July 2001, Col. 125.

[24] The role of the Committee of Selection in nominating committee members was a proposal of the report that originally led to the creation of the new select committees (Procedure Committee 1978: para 6.19). This was seen as an improvement on the previous situation whereby all select committee appointments were proposed directly by a government whip. But the hand of the whips in the operation of the committee was suspected from early on (see Norton 1980: 352).

[25] House of Commons Hansard, 13 July 2005, Cols. 840-929.

[26] In July 2007, of 32 select committee chairs (the 31 members of the Liaison Committee plus the chair of the Modernisation Committee) Labour held 19 (59%), the Conservatives 10 (31%) and the Liberal Democrats 3 (9%). The three parties respectively held 55%, 31% and 10% of seats in the House.

[27] House of Commons Hansard, 25 July 2007, Cols. 916-36.

been known for [a select committee] to elect the wrong person' (Liaison Committee 2000b: para 21).[28] This explains why the whips decided to remove Dunwoody and Anderson from their committees altogether rather than simply to seek alternative chairs.

There are therefore a number of concerns about the control by the whips over select committee membership, and the means by which members who are not felt to be sufficiently 'reliable' may be kept off these committees. However, the behaviour of the House in 2001 showed that the whips do not in fact have ultimate control. An alternative view of this event was that it demonstrated how the checks in the system can work effectively. But in the case of public bill committees (formerly standing committees) the position is very different. For these committees, one of which is established for each government bill, the appointments are made by the Committee of Selection with no oversight by the chamber. In other words, these members are essentially chosen by the whips. This situation clearly raises greater concerns about the ability to keep 'unreliable' members off committees, and the available evidence suggests that that this is a genuine problem. For example there have been ten government bills since 1997 that 20 or more Labour backbenchers have opposed at second reading.[29] On average these rebellions involved 9.6% of all Labour members, but in virtually all cases the Labour dissenters were underrepresented on the committees established to consider these bills. In half of the cases where bills went to standing committee no rebels at all were selected for membership of the committee. The full figures are given in Appendix C.

Appointments to bill committees have rarely been on the agenda of parliamentary reformers largely because the committee stage of the legislative process has been widely considered ineffectual. In the words of the Hansard Society, standing committees (as they were then called) 'fail to deliver genuine and analytical scrutiny of the provisions involved, their political functions are neutered, dominated almost exclusively by government… and they do not adequately utilise the evidence of experts or interested parties' (Modernisation Committee 2006: Ev 108). Now that the bill committee process has been changed to include evidence taking there may be greater scope for members to influence legislation through these committees, putting more pressure on the accountability of their appointment.

As well as the membership of committees, there are some concerns about the ability of select committees to influence debate given their lack of access to the plenary agenda. As outlined above, the select committees do have access to a limited number of 'slots' on the plenary agenda, and a more generous number in Westminster Hall. The allocation of these between committees is controlled by the Liaison Committee of select committee chairs. But there remains a problem with the timeliness of debate on reports, particularly in the chamber itself, as here the Liaison Committee remains reliant on the usual channels to make the time available. There is also a connected problem about the ability to debate committee reports on a substantive motion. As no votes are taken in Westminster Hall there are no substantive motions used in these debates, and debates on the estimates are also essentially on a 'take note' basis. The only opportunity for the chamber to vote on the recommendations in a committee report is therefore if government makes time available and moves a substantive motion. This happens rarely, except for recommendations made by committees dealing with internal procedural matters.

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[28] This apparently occurred when Nicholas Winterton was elected chair of the Health Committee in 1987 in defiance of the Conservative whips. As noted above, following the 1992 election Winterton was removed from the committee to prevent this happening again.
[29] Either on the second reading vote itself or on a 'reasoned amendment'. In one case – the Health and Social Care Bill – there were two separate rebellions of over 20 MPs.

The select committees do control their own agendas. They have significant freedom to decide what inquiries to pursue and to publish their own reports. However, they do not have any specific right to introduce legislation – a right which is reserved for the government or private members. This again limits committees' ability to force decisions on their recommendations. In recent years the Public Administration Committee has published a draft Civil Service Bill, and this did succeed in encouraging the government to publish its own proposals.[30] But the committee could not formally introduce its bill, unless this was done through the normal PMB process by one of its members. It would have had no more chance of success than any other PMB, unless its sponsor happened to do well in the ballot at the start of the parliamentary session. Meanwhile, in this case, the government's own draft bill has not been proceeded with to date.

The departmental select committee system established in 1979 is generally seen as a success story in terms of the autonomy the committees enjoy over their own agendas and the use they have made of their powers to scrutinise the executive. Reform efforts have focussed on areas where their independence from the government is more questionable, notably – as just discussed – on the issue of appointments of members and chairs, and access to the agenda.

Seven years ago the Liaison Committee (2000a) published a detailed set of proposals as to how 'the House' could take back power over committee appointments. It suggested the establishment of a new post of Chairman of Committees who, along with two deputies, would be elected by the chamber at the start of each parliament to recommend the membership of all committees. These three figures – plus the chairs of individual committees once elected – would form a Select Committee Panel which would recommend changes to committee membership during the parliament as well as taking on the functions of the Liaison Committee. These proposals were backed by the Norton Commission (2000: 29) but rejected by the House itself.[31] Revisiting the issue, the Liaison Committee set out a range of options for reform including broadening the membership of the Committee of Selection, involving committee chairs from the previous parliament in the nominations process, and using a secret ballot to appoint members.[32] Following the Dunwoody and Anderson affair, the Modernisation Committee (2002a: paras 15-17) made its own set of proposals, recommending the creation of a new Committee of Nomination consisting of senior backbenchers only. But this too was defeated in the House – in part due to behind-the-scenes organisation by both government and opposition whips.[33] More recently, the Conservative Democracy Taskforce called for the membership of the Committee of Selection to be amended (with only one whip from each party permitted to serve) and also raised the possibility of secret ballots for appointing committee members (2007: 3-5).

Although the influence of whips in selecting committee chairs has also often been criticised, there have been fewer specific proposals made as to how this might be prevented. Parliament First suggested that the House as a whole should elect committee chairs in secret ballots (2003: 50) and this was endorsed more recently by the Conservative Democracy Taskforce (2007: 3). The distribution of chairs among the parties has generally been seen as operating satisfactorily.

The debate about standing committees has been rather different, in that the chief area of concern has been the limited powers that they enjoy – particularly in regard to taking evidence.[34] Another

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[30] See Public Administration Select Committee (2004) and Cabinet Office (2004).

[31] House of Commons Hansard, 12 February 2001, Cols 80-128.

[32] Liaison Committee (2001: para 14). The secret ballot option was later endorsed by the Parliament First group (2003: 50).

[33] House of Commons Hansard, 14 May 2002, Cols 648-721. See Kelso (2003) for a discussion.

[34] For example Modernisation Committee (2006: paras 62-65); Procedure Committee (1978: paras 2.19-2.20); Procedure Committee (1985: para 13); Hansard Society (1992: para 349); Modernisation Committee (1997: para 95); Parliament First (2003: 60); Lords Constitution Committee (2004: para 145).

recurring set of suggestions has sought to increase the role of subject-specific select committees in legislative scrutiny.[35] Other recommendations relating to the composition of standing or public bill committees include that nominations be made by the Liaison Committee rather than the Committee of Selection (Norton Commission 2000: 41) and that there be a formal process by which backbenchers can indicate their interest in serving on a particular bill committee to the Committee of Selection (Conservative Democracy Taskforce 2007: 4).

Questions:

- Could the chamber as a whole be given greater control of who sits on public bill and select committees?
- Are there more inclusive ways of choosing select committee chairs?
- Do comparator parliaments offer any examples of how the Committee of Selection could be improved?

Changing the rules

One of the most basic questions when thinking about parliament's control over its own business is who is responsible for setting the rules. Formally, the House of Commons decides its own procedures. Any change to standing orders must be agreed by a vote in the House, and these are conventionally free votes. In this respect members indeed have control. However, the opportunity for procedural changes to reach the agenda in the first place is limited, placing constraints on the ability of members to initiate change.

There are two main committees in the House dealing with procedural issues. The first is the Procedure Committee, which is a select committee on the normal model and comprises backbench members. It was first established in 1945 and has existed in all parliaments since 1983 (though it was only made permanent in 1997). The committee has 13 members and is currently chaired by a Conservative. The second committee is the Modernisation Committee, which was established in 1997. It has been re-established in each parliament since, although it still does not have permanent status. The Modernisation Committee has 15 members, and is unique amongst the select committees in that its chair is a government minister. It is chaired by the Leader of the House and the two main opposition parties also appoint one frontbencher to the committee (in practice the Shadow Leaders).

The Procedure and Modernisation Committees operate in similar ways and have similar terms of reference (though the Modernisation terms of reference are broader). Each conducts inquiries and publishes reports with recommendations, most of which relate to House of Commons procedural change. In recent years for example the Procedure Committee has reported on public petitions and EDMs (2007), programming of legislation (2004a), public petitions (2004b), sitting hours (2004c), and procedures for debates, private members' bills and the powers of the Speaker (2003), and the Modernisation Committee has reported on select committees (2002a), sitting hours (2002b, 2005), 'reconnecting' parliament and the public (2004), the legislative process (2006) and the role of the backbencher (2007).

The fact that the Modernisation Committee is chaired by a government minister has been controversial ever since it was established. However it does have some advantages. In particular it ensures that the committee's proposals can win parliamentary time, given the extent to which this is controlled by the government. As discussed above, select committees have no way of forcing a

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[35] See for example Procedure Committee (1978: para 2.17); Hansard Society (2001: para 3.50); Parliament First (2003: 61); Norton Commission (2000: 41); Lords Constitution Committee (2004: para 145); Modernisation Committee (2006: para 35).

decision on their recommendations, and have only limited access to the agenda for debate of their reports. The Procedure Committee finds itself in this position, as did the Liaison Committee when it made recommendations about reform of the select committees. As procedural motions moved by non-ministers have no prospect of reaching the agenda, these committees have to lobby for government time, and for a minister (the Leader of the House) to move a motion accepting their recommendations. In practice, most recent reports of the Procedure Committee have been debated or 'tagged' to other business, but whether specific recommendations of the committee are put to the House is at the discretion of government. As the Leader of the House chairs the Modernisation Committee its recommendations are far more likely to win debating time and to be decided upon. However, to sign up to the committee's conclusions the Leader of the House must ensure that they are acceptable to the government.[36] This can easily be seen as in conflict with the principle that the House controls its own procedures. Although other members have no real ability to get procedural motions onto the agenda, government ministers may also move motions on other procedural matters which have not been considered by the Procedure or Modernisation Committees. This applies, for example, to motions to approve new Commons (and Joint) select committees.

With a handful of exceptions, control of the procedures of the House has not registered on the radar of many previous reform projects. Two reports have suggested that in addition to setting the parliamentary timetable a cross-party business committee could 'ensure that the Commons determined its own Standing Orders' (Parliament First 2003: 69; and Brazier, Flinders & McHugh 2005: 80), but not what this might mean in practice. The recent Conservative Democracy Taskforce report developed a more detailed set of proposals including a merger of the Procedure and Modernisation Committees under a backbench (opposition) chair with the government stripped of its majority on the committee (2007: 6-7). Brazier, Flinders & McHugh also expressed concern about a minister chairing the Modernisation Committee, but concluded that the best way forward would be to appoint the chair of the Procedure Committee as permanent deputy chair of Modernisation (2005: 81).

Questions:

* How can the House of Commons win more genuine control of its own procedures, in terms of ability to change the parliamentary rules?
* How do procedure committees work in other parliaments? How do procedural reforms reach the agenda, and how are they decided upon?

Who speaks for parliament? Individuals

As already discussed, the House of Commons has difficulty acting as a collective body. It has over 600 members, who are divided on most matters along partisan lines. The fusion of executive and legislature can make it difficult for the Commons to speak with its own voice. However, there are some key individuals who may seek to do this – notably the Speaker and the Leader of the House. In order for the Commons to gain more autonomy, one option is to ensure that these individuals or others are strengthened in their ability to speak for the chamber as a whole. Another is for collective bodies representing the House to be strengthened – which is considered in the next section.

The Leader of the House is a cabinet minister, and therefore appointed by the Prime Minister. The position is non-statutory, but became established in the mid-19th century (Limon and McKay 1997).

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[36] When Robin Cook was Leader of the House and pursued a strong reforming agenda, ministerial colleagues sought to exert increasing degrees of control over the Modernisation Committee's decisions, culminating in the creation of a Cabinet Committee to sign off its recommendations in advance. See Power (2007).

It was originally held by the Prime Minister, when that person was a member of the Commons, and by another senior figure in the governing party during periods when the Prime Minister sat in the House of Lords. The Leader of the House balances being a voice for the government in parliament with being a voice for parliament around the cabinet table. S/he is responsible for the government's legislative programme (and chairs the Legislative Programme committee of Cabinet), announces the forward business to the House every Thursday, and moves most procedural motions on behalf of the government. The Leader of the House works closely with the Chief Whip (who is also a government minister) but has a rather more bipartisan, and a far more public, role. The Chief Whip primarily negotiates matters through the usual channels with whips from other parties, while the resulting agreements are often presented by the Leader of the House. This slightly more bipartisan approach means that the Leader of the House can, to some extent, speak 'for parliament' outside – a role which may be boosted by being chair of the Modernisation Committee. The way the Leader of the House behaves, and the extent to which s/he is a champion for parliament or simply a loyal servant of the executive, is highly dependent on that individual's personal traits. Both approaches have been taken by different individuals in recent years.[37] In political science terms the relationships between the Leader of the House, Chief Whip and other key players such as the Prime Minister could be characterised by a 'resource dependency' model of a similar kind to that which has been used to describe the relationships inside the 'core executive' (Smith 1999). There is no very clear division of responsibilities between the first two actors, and one or the other may be more powerful depending on factors such as their popularity in the party in the country, their parliamentary experience and the point that they are at in their career. A Leader of the House whose political capital is high, and who wishes to do so, may be an effective defender of parliament. But no matter how good a parliamentarian the holder of this office is, s/he is, at the end of the day, always a government minister.

The other individual better placed to speak for parliament is the House of Commons Speaker. This individual has two crucial characteristics not shared by the Leader of the House. First, s/he is elected by the whole House. Second, upon taking office the Speaker renounces political party and acts in a wholly neutral, bipartisan way. The current system for electing the Speaker, which uses a secret eliminating ballot, was introduced only in 2001 and it has not yet actually been used. It was introduced following frustration with the previous system when Michael Martin was elected in 2000 from a field of 12 candidates. In the past the election of Speaker had often been uncontested, and indeed the post went by convention to a representative of the governing party.[38] However that convention was broken when Betty Boothroyd (a Labour member) was elected in 1992. The previously informal system, where a Speaker proposed from the governing party was generally elected by acclaim, has therefore been replaced by a more formal system. However, there has been no change to the traditions of neutrality of the Speaker, which have long existed. Not only does the Speaker act neutrally in proceedings in the House, but postholders also cut themselves off from any party political activity – fighting subsequent elections as 'Speaker' rather than a representative of a party, and on retirement conventionally sitting on the Crossbenches in the House of Lords.[39] The Speaker only votes in the circumstances of a tie, and 'then only in accordance with rules which preclude an expression of opinion upon the merits of the question' (Limon and McKay 1997: 190). Under the new procedure for electing the Speaker, candidates must be nominated by 12-15 members, at least three of whom are from parties other than their own.

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[37] Since Labour came to power the holders of this office have been Ann Taylor (1997-98), Margaret Beckett (1998-2001), Robin Cook (2001-03), John Reid (2003), Peter Hain (2003-05), Geoff Hoon (2005-06), Jack Straw (2006-07) and Harriet Harman (2007-date).

[38] See Blackburn and Kennon (2003).

[39] The main parties generally do not contest the election in the Speaker's seat, though that convention has not always been observed. See, for example, Livingston (1958).

The Speaker has significant powers in the conduct of the House. For example, selecting amendments for debate and deciding on the admissibility of Urgent Questions. S/he calls speakers in debate (the pre-publication of speakers' lists has been firmly resisted), keeps order in the chamber and rules on points of order. On all of these matters the party whips, and particularly the Chief Whip, will take a keen interest. However, although some former Speakers have complained of attempts by senior figures in the government to interfere in their decisions, the Speaker's independence is strongly defended.[40] The holder of this position also has a key role in the House administration, including chairing the House of Commons Commission.

The Speaker's independence means that he or she is well placed to be a defender of the House of Commons. This individual is genuinely able to speak for the chamber as a whole, and does have a formal role of representing parliament to the outside world. At times, and on certain issues, the Speaker has been quite outspoken. For example Betty Boothroyd frequently complained about the government's habit of making announcements to the media rather than in parliament. However, interventions by the Speaker risk being seen as 'party political' if he or she too frequently clashes with the government. Therefore, ironically, in order to protect the independence of the role s/he may tend not to defend parliament too vigorously. Particularly in recent years, the Speaker has been criticised for taking too cautious an approach.

The Speaker is supported by a small staff, appointed directly to the office and independent of the other staff of the House of Commons. There are also three Deputy Speakers, who are officially the 'Chairman of Ways and Means' and his or her two deputies.[41] The Deputy Speakers support the Speaker in chairing plenary proceedings, and similarly act neutrally and abstain from party activity and voting (though continue to stand for election as party candidates). In recent years the first Deputy Speaker has made some relatively outspoken interventions in procedural debates, such as that about the programming of legislation (e.g. Modernisation Committee 2002b). Formerly the Deputy Speakers, like the Speaker, were drawn from the governing party, but this convention broke down from the 1940s.[42] There is now an expectation of party balance amongst the four positions – the current Speaker was formerly Labour, as was one deputy, while the other two deputies were formerly Conservative. The appointment of Deputy Speakers remains relatively informal. Following consultation through the usual channels a motion to appoint these individuals is moved, usually on the day of the Queen's speech. In these circumstances there can be no notice as there is no order paper. The motion can be opposed and is debatable, though no such motion has been opposed since 1968 (Procedure Committee 2002).

It is very common for the Speaker to be chosen from amongst the Deputy Speakers, and this has been the case with all four occupants of the position since 1976.[43] With this in mind, and given that the election of Speaker had been reformed, the Procedure Committee considered in 2002 whether the same should be done for the election of Deputy Speakers. However the committee concluded that the whips do 'make a genuine effort to ensure that the names to be put forward have broad support within their parties and across the whole House' (Procedure Committee 2002: para 44). Although they concluded that there were some tensions around the appointment of these positions they did not recommend a change to the election system, with the exception that there should be notice of the names proposed. The government gave this proposal a cautious endorsement in its response. The committee also noted that the appointment of Deputy Speakers,

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[40] For allegations of interference see the memoirs of the former Speaker George Thomas (1985).
[41] The Ways and Means committee was formally abolished in 1966-7, along with the Committee of Supply, having previously been responsible for debating the raising of revenue (Seaward and Silk 2003).
[42] See Livingston (1958); Procedure Committee (2002).
[43] See Livingston (1958); Blackburn and Kennon (2003).

many of whom in turn have previously served on the Chairmen's Panel (see below), provides the opportunity for a non-partisan career structure through the House, with the Speaker at the pinnacle of this structure.

One of the recommendations often made to alter the role or powers of the Speaker is that s/he – and the three Deputies – should play a greater role in managing the business of the House. In particular, two influential reports calling for a business committee of some kind suggested the chair of the new body be taken by the Speaker (Hansard Society 1992: Annex B) or first Deputy Speaker (Norton Commission 2000: 42). Others have proposed that the Speaker be granted greater discretion in deciding when to recall the House (Procedure Committee 2003: para 58) though, as noted, the government now favours giving this right to 50% of MPs (Ministry of Justice 2007: 21). The Hansard Society's Puttnam Commission, meanwhile, suggested that the Speaker's role should be refocussed from the administration of the House to being the public face of parliament (Hansard Society 2005: paras 6.5-6.7). The role of Leader of the House has not been a central concern of recent reformers.

Questions
- Which individual, if anybody, speaks for parliament in other parliamentary systems?
- Is there more that could be done to enable existing individuals, or even different individuals, to take a strong and independent line in defending the House of Commons?
- Are there other roles or responsibilities which should be given to the Speaker, as the neutral arbiter in the House of Commons?

Who speaks for parliament? Co-ordinating bodies

It could be argued that no individual can speak with real authority for the House of Commons, given the diversity within the institution. It might be more realistic to expect some collective body, more representative of the House as a whole, to be able to take this role. It is suggested by some that 'business committees' have such a function in other parliaments, which is one argument used for creating one in the Commons.

There are several collective bodies in the Commons already which have some claim to be representative and to defend the autonomous interests of the institution. However, these are all limited, at best, in their reach.

The body which has gone furthest in acting as a voice for parliament is the Liaison Committee, comprising the chairs of the select committees. This has grown in profile and importance in recent years. As well as its traditional role in agreeing committee visits, it now selects reports to be debated in Westminster Hall, has published a series of influential reports on procedural matters (Liaison Committee 2000a, 2000b, 2001, 2002) and submitted evidence to inquiries by the Modernisation Committee. It also (since 2003) holds regular question sessions with the Prime Minister. It therefore has some claim to speak for the Commons as a whole, and has been quite an outspoken defender of the institution. But as one MP stated in a response to our Issues and Questions paper 'the Liaison Committee does not represent backbenchers, it co-ordinates select committees'. And the select committees do not include all members of the House. The members of the Liaison Committee (many of them nonetheless outspoken and independent) are also to some extent dependent on the whips for their positions. Its chairman is added to the membership of the committee specifically on a government motion, and is the only member not to chair a select committee.

The House of Commons Commission is a powerful body which exists in statute. It is chaired by the Speaker and includes the Leader of the House, a member representing the Leader of the

Opposition (generally the Shadow Leader of the House) and three other members. These three members in practice represent the three main parties. They are agreed through the usual channels, but subject to the agreement of the House. The Commission's responsibilities are largely administrative, but some of these – such as budget setting and employment of staff – can have important political implications. It has no role in the matters discussed above, such as timetabling business or making appointments to committees, and is internally rather than externally focused. A representative of the Commission answers questions in the House once every four weeks, and its minutes are published online.

Two other, lower profile bodies also have some claim to represent the Commons as a whole. The Committee of Selection, which recommends names of members to serve on select committees and agrees membership of public bill committees, has already been mentioned. It fills some of the roles taken by 'business committees' in other parliaments but is generally seen as simply being a rubber stamp for the whips. The Chairmen's Panel comprises those senior members who chair public bill committees. These members are, unusually, nominated by the Speaker – the whips have no power over their selection. The three Deputy Speakers are also members of the Chairmen's Panel. This group therefore has the potential to take a Liaison Committee type role, but has not sought to do so. It did submit proposals on reform of the legislative process in 1997 to the Modernisation Committee (Blackburn and Kennon 2003), but this was an unusual occasion. It has no profile outside the House, and even inside is largely invisible as a collective body.

Proposals relating to collective parliamentary bodies either call for the establishment of new bodies or for changes to the role of those bodies that already exist. Falling into the former category are proposals for a 'business committee' with powers to determine the timetable for some or all categories of parliamentary business, and calls for a new body tasked with making nominations to select and/or bill committees: both discussed above. Most such initiatives have sought to create more inclusive decision-making arrangements, taking power away from whips and other frontbench actors. Thus of the many proposals for a business committee of some sort, some have specified that such a body should include backbenchers,[44] while others have been more concerned with inclusivity in terms of ensuring that all parties have a voice in the agenda-setting process.[45] Attempts to create a new body to oversee committee appointments have also focussed on the need for broad membership and, in particular, the inclusion of senior backbenchers.[46] As also discussed above, there have been various proposals to strengthen the powers and/or the independence of existing bodies such as the Committee of Selection and the Liaison Committee. Finally, a proposal has also been made to strengthen the House of Commons Commission by electing its members by secret ballot of the House.[47]

Questions

- Are there collective bodies in other parliaments which represent the interests of the chamber a as a whole? In particular, do business committees perform this function?
- Are there ways in which the current collective bodies in the House of Commons could be strengthened and/or rationalised?

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[44] Hansard Society (1992: Annex B); Norton Commission (2000: 42); Conservative Democracy Taskforce (2007: 6-7).
[45] Hansard Society (2001: para 2.49); Liberal Democrats (2007: para 5.3).
[46] Modernisation Committee (2002a: paras 15-17); Liaison Committee (2002: para 1); Liberal Democrats (2007: para 5.1.5).
[47] Hansard Society (2005: para 6.6).

Experience in other parliaments

The purpose of this report is to consider how experience from other parliaments can inform debates about reform in the UK. For this purpose desk research and study visits were carried out with respect to five other parliamentary chambers: the Scottish Parliament, the German Bundestag (lower house), the New Zealand parliament, and the two chambers of parliament in Australia (the House of Representatives and the Senate). Four of these five chambers are descended in one way or another from the Westminster system, while the fifth is a chamber of a similar size to the House of Commons, drawing from different European traditions. In this sense all share some attributes with the Commons, but all also have distinct differences as well. Some of the key features of the five chambers are illustrated in Table 2.

Table 2: Key features of the five comparator parliaments

Name	Type	Relationship with Government	Date Estd.	Size	Electoral System *	Normal Pattern of Party Control	Current Party Control
Australian House of Representatives	Lower house	Confidence relationship. Most ministers are members.	1901	150	AV	Single party majority	Liberal-National has clear majority **
Australian Senate	Upper house	No confidence relationship. Some ministers are members.	1901	76	STV	Hung chamber	Liberal-National one-seat majority since 2005
German Bundestag	Lower house	Confidence relationship. Some ministers are members.	1949	598†	MMP	Coalition majority	Grand coalition has 73% of seats
New Zealand House of Representatives	Uni-cameral	Confidence relationship. All ministers are members.	1854	120†	MMP	Minority and/or coalition govnt	Labour-Progressive coalition minority
Scottish Parliament	Uni-cameral	Confidence relationship. All ministers are members.	1999	129	MMP	Minority and/or coalition govnt	SNP minority administration

* AV: Alternative Vote; STV: Single Transferable Vote; MMP: Mixed Member Proportional, also known as the Additional Member System.
** The Liberal and National parties operate effectively as a single party with a permanent electoral pact.
† Minimum size. Due to electoral 'overhangs' the Bundestag and the New Zealand parliament currently have 615 and 121 members respectively.

The Australian and New Zealand House of Representatives were both closely modelled on the House of Commons. In Australia the lower house continues to be elected by a majoritarian system (the alternative vote) based on single member constituencies. In New Zealand the decision was taken in 1993 to change the electoral system, and since 1996 the parliament has been elected using the 'mixed member proportional' system, similar to that used for the Scottish Parliament and Welsh Assembly. This resulted in a change from a two-party parliament to a multi-party parliament,

and some important procedural changes. The Scottish Parliament obviously also learned from Westminster, but sought to avoid some of its more negative attributes and to model itself in part on other modern parliaments, particularly in Europe. Amongst European parliaments one of the more similar to Westminster is the German parliament, which is bicameral and has a lower house of a similar size which is seen as an influential institution. It too is elected using a mixed member system, leading to coalition governments. Finally the Australian Senate was also originally based on the Westminster system, but has diverged significantly particularly since the introduction of proportional representation for Senate elections in the 1940s. It offers an interesting contrast not only to the House of Commons, but also to the Australian lower house.

In this part of the report we look at the practice in each of these five parliamentary chambers with respect to the four main issues identified earlier: control of the plenary agenda, the work of committees, changing the rules, and who speaks for parliament – both in terms of individuals and collective bodies.

The plenary timetable

The widest and most important issues of parliamentary control in the Commons relate to control over the plenary timetable. As outlined above there are concerns about this at two levels. First, the availability of time for non-government business in the Commons, and second, control over the allocation of time on a week-by-week basis. These issues are related, as the default position that time belongs to the government has led to the government business managers having significant control over the setting of the weekly timetable.

In this section of the report we set out the basic pattern of sittings for each of our comparator parliamentary chambers, and the forms of time available for non-government business. We then turn to how the timetable is agreed.

Allocation of time

Table 3 shows the standard sitting pattern for each of the chambers, within which business must be programmed. This demonstrates significant variation. As is well known, the House of Commons spends a comparatively large amount of time in plenary session, sitting every week except for the three major recesses and three half terms, and devoting many hours per day to plenary meetings. In contrast the Australian parliament meets for fewer than 20 weeks per year, in part because of the enormous distances that members must travel for parliamentary sittings. The German Bundestag meets for more weeks, but within each sitting week only one full day is spent in plenary (plus roughly two half-days), because the remainder of time is devoted to party meetings and committee work. A similar system exists in the Scottish Parliament.

Within these differing patterns all the chambers set aside some time in standing orders for non-government business. However, there is obviously more pressure in some settings than others. For example in the Australian parliament, where overall sitting time is short, there is great pressure for government to pass its legislation. This is less so in the House of Commons and some of the other comparators.

An important starting point is the principle by which time in the chamber is distributed. This is summarised in Table 4 (page 36), along with other information about the distribution of time for different purposes. Three of the five comparator chambers essentially follow the same principle as Westminster, with an assumption that time will be devoted to government business unless standing orders explicitly state otherwise. This is true in the Australian House of Representatives and the New Zealand parliament. In the Scottish Parliament the principle has been disputed, with some claiming that the original vision of devolution's architects was that all time should belong to

the Parliament (see Winetrobe 2001, 2006). There is no explicit reference in standing orders to a default position (as there is in standing order no. 14 for the House of Commons), though standing order 5.6.1a states that 'On 12 half sitting days in each parliamentary year the business of committees is given priority over the business of the Scottish Executive at the meetings of the Parliament' – which seems to suggest that the remainder of time rests with the Executive itself. Unsurprisingly, this is the way that the Executive has chosen to interpret the situation.

Table 3: Basics of the plenary timetable in comparator parliaments

Chamber	Standard weekly timetable	Approx. sitting weeks per year	Other plenary forums
UK House of Commons	Mon: 2.30-10.30 Tues: 2.30-10.30 Weds: 11.30-7.30 Thurs: 10.30-6.30 Fri: 9.30-3.00*	35	Westminster Hall
Australian House of Representatives	Mon: 12.30-9.30 Tues: 2.00-9.30 Weds: 9.00-9.00 Thurs: 9.00-5.00	18	Main Committee
Australian Senate	Mon: 12.30-6.30, 7.30-10.30 Tues: 12.30-evening Weds: 9.30-8.00 Thurs: 9.30-8.40	15	None
German Bundestag	Weds: 1.30-2.30 Thurs: 9.00-evening Fri: 9.00-early afternoon	22	None
New Zealand House of Representatives	Tues: 2.00-6.00, 7.30-10.00 Weds: 2.00-6.00, 7.30-10.00 Thurs: 2.00-6.00	30	None
Scottish Parliament	Weds: 2.30-6.00 Thurs: 9.15-6.00	35	None

* 13 Fridays per year for private members' bills. Other Friday sittings are rare.

In the Australian Senate and the German Bundestag very different principles for control of time apply. Standing orders of the Australian Senate, which unlike the House of Representatives normally has no government majority, recognise three main types of business: government business, 'general business' and 'business of the Senate'. It is business of the Senate that takes precedence over both other kinds by default. Business of the Senate includes presentation of committee reports, establishment of new committees or motions to refer matters to committees, as well as motions to block statutory instruments. If such business is moved, government business may have to wait. Government business then takes precedence over general (i.e. other non-government) business during all but one session of the week. Even this organisation is more familiar from a British perspective, however, than that in the German Bundestag. Here a strict proportionality rule applies, with each of the main party groups being entitled to a share of agenda time in proportion to their share of seats in the House. Each group may essentially use this time as they wish. The government, which is usually a coalition of parties, therefore has to rely on time being made available from the allocation for its party groups. This means that the governing

coalition generally has around 60% of plenary time (but over 70% at the moment, due to the 'grand coalition'). Opposition parties have a proportionate share of time, which may be used for any purpose including moving bills. The same privilege applies to minority groups, so long as they comprise 5% of members of the Bundestag (i.e. at least 31 members), including ad hoc cross-party groups. A major difference between the German and UK systems – discussed further below – is that there are virtually no privileges for individual members.

Time for non-government actors

The House of Commons gives clear rights to opposition parties to control 20 debate days per year (and various other opportunities by convention), as discussed above. In Germany opposition time is an immediate consequence of the general principle of proportional sharing of agenda time, and this proportionality is applied on a weekly basis. This allows the opposition and minor parties to regularly initiate debates, and also to move bills. Opposition party bills are, like government bills, sent straight to committee, and may be programmed to return to the chamber in opposition party time. Opposition time also exists in Scotland, modelled very much upon the House of Commons arrangements. Here opposition parties are entitled to 16 half-days of debate per year, which are shared proportionately between them. The timing of these debates is managed by the Parliamentary Bureau (business committee), which may offer some advantages over the usual channels system. We return to this matter in detail below. Our other two comparator countries (Australia and New Zealand) offer no formal plenary time to the opposition. This has a detrimental effect on the management of members' business, to which we will now turn.

There are various opportunities available for non-government actors other than opposition parties to initiate business in the House of Commons. We discuss committee business in the next section and here limit ourselves to private members' business. This can be further divided into debates – such as Commons adjournment debates in the chamber and in Westminster Hall – and bills. In addition, questions to government allow members to set the agenda to a significant extent. We therefore discuss the comparators for each of these in turn.

In the parliaments descended from Westminster there are similar arrangements for adjournment debates to those existing in the House of Commons. In particular both chambers in Australia, and the Scottish Parliament, have an adjournment debate at the end of every day. In Australia, however, this is not so much a debate as an unfocussed series of 15 minute speeches which may be on a range of topics, and with no government reply. But there are also other opportunities here for member-initiated debates. In both Houses each day there is facility for a debate on a 'Matter of Public Importance' which will last for around an hour. Such debates must be sponsored by four members, and in practice take place daily in the House of Representatives but less often in the Senate. In the Senate there is also an opportunity at 12.45 each Wednesday to debate 'Matters of Public Interest', but this again simply allows five Senators to make 15 minute speeches, the contents of which may be completely disconnected. None of these mechanisms allow a vote to be forced. These features of the Australian system therefore do not offer much inspiration for the House of Commons. This is even more the case when it is considered how they are distributed, and conventionally how they are used. In practice all these speaking opportunities are divided up among the parties, and once this has happened the norm is for them to be shared out inside the parties by the whips. [48] Matters of Public Importance by convention are almost invariably sponsored by opposition frontbenchers, and never by the government side. Even in adjournment debates the opposition whips seek to sponsor and co-ordinate speeches to raise topics of greatest concern to them. These are both practices the whips have seemingly been driven to by the lack of formal opposition time. Meanwhile government backbenchers have few opportunities to

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[48] As discussed later in the report, the whips in Australia are elected, which creates a different dynamic to where they are appointed by party leaders. However, this still means that all opportunities are filtered via parties.

contribute, and interventions by members acting independently on either side are rarely seen. In contrast in Scotland adjournment debates are more genuinely controlled by members and are more focussed, but here too there is a rigid proportional sharing of slots between the parties, with individual slots in practice allocated by party whips. This is something that the House of Commons has escaped, in part through the tradition of balloting for such debates.

In New Zealand there is no daily slot for adjournment debates, as sitting hours are so short. There is a 'general debate' for an hour each Wednesday, but like the Australian debates these are made up of unconnected speeches on different subjects. They are generally dominated by opposition parties seeking to raise points salient for the media, which is in part a result of the lack of formal opposition time.

It would be wrong to conclude however that there is nothing to learn from New Zealand and Australia about the scheduling of members' business. Both do have a more extended period set aside regularly for non-government business. In the two Australian chambers this comprises one afternoon per sitting week (Monday in the House, Thursday in the Senate), and in New Zealand it comprises one day per sitting fortnight. In these slots a series of forms of business may be taken, including motions and bills. In practice the priorities are different, with the Australian chambers focussing primarily on motions and the New Zealand parliament primarily on bills. In New Zealand members' motions are rarely reached (which is disadvantageous for committees as this is the only opportunity for discussion of their reports). In practice these slots on the agenda in both countries are also monopolised by the parties, given the lack of opposition time. However their existence offers a potential model which the Commons might follow. This is particularly the case with respect to the Australian House of Representatives, where (as discussed below) the order of business for non-government Monday sessions is organised collectively by, in effect, a non-government business committee.

The exception with respect to members' debates is Germany, where there are few rights granted in standing orders to members individually. The proportionality rule that applies in the chamber takes into account only groups of at least 31 members (5% of the total). This many members is therefore needed to initiate a debate or a bill. In practice, as in Australia and New Zealand, these rights tend to be used only by the parties, though there have been some examples of cross-party initiatives. These generally occur on 'conscience' type issues. For example a bill proposing the banning of smoking in public places has been promoted several times (as yet unsuccessfully) by such groups in the Bundestag.

In Germany, therefore, there is no right for individual members to propose bills. In the other comparator parliaments there is such a right, though their chances of success are limited. In Scotland an early aspiration was for it to be less difficult than at Westminster to pass non-executive legislation. Since then, however, the Parliament has found it hard to deal with the volume of legislation proposed by members (any member can in principle promote a bill, and there is no ballot procedure) and has sought different means to prioritise.[49] To limit demand, bills are now required to have support from 18 members, drawn from at least half of the main parties in the Parliament. Proposers must also be able to demonstrate that they have consulted the public on the content of their bills. There is no time set aside for debate of these bills, and they must compete with other business for prioritisation by the Parliamentary Bureau. Nonetheless, several members' bills have been successful, including the influential Protection of Wild Mammals Bill (banning hunting) and Abolition of Poindings and Warrant Sales Bill.

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[49] See for example Scottish Parliament Procedures Committee (2004).

In Australia and New Zealand, as already indicated, members' bills must compete for time in the regular non-government business slot. In New Zealand bills are given priority over motions,[50] and several have succeeded in recent years. For example in 2004 five such bills were agreed, in comparison to the three that succeeded in the 40 years to 1985 (McGee 2005). This appears to indicate that the non-government business slot, and the committee system where bills are scrutinised, is working well. In Australia in contrast members' bills are rarely passed. Only seven private Senators' bills passed between 1901 and 2003, as did around the same number moved by members of the House of Representatives.[51] The difference in success rate between the two countries may be accounted for largely by partisan factors. The Australian House of Representatives is dominated by the governing party, which can block backbench bills from either chamber. In contrast minority or coalition governments in New Zealand may find it more necessary to compromise. In fact in both countries the treatment of such legislation is highly partisan. In neither case (and not in Scotland either) is there a convention, as applies in the Commons, that members' bills are taken on a free vote. In neither case is there a ballot for introducing bills, and many members' bills are sponsored by opposition parties – members are expected to clear with their whips any bill they seek to propose. The only exception to both of these practices is over conscience matters. So for example in Australia in December 2006 a bill promoted by a backbench government Senator on embryo research managed to pass, despite the opposition of both main party leaders. This, however, was a very unusual event.

The final opportunity that members have to set the parliamentary agenda is via questions to government. This is not contentious in the UK, and therefore does not need much discussion.[52] However there are some practices from the overseas chambers that are worthy of note. First, in Germany questions are the only real opportunity for individual members to get items onto the plenary agenda, as there are no private members' debates or bills. Second, in New Zealand and Australia parliamentary questions are completely monopolised by the whips. Unlike in the UK there is, again, no ballot for asking questions. Again, their allocation is proportional by party, and again the selection of participating members within each party is in practice delegated to the whips. The topics for questions are thus discussed at each party's daily whips' meeting. On the government side questions are provided by ministers, and given out to reliable backbenchers. There is no opportunity for members to buck this system, as it is well established that the lists of who will ask questions are handed to the Speaker by the whips. This is another area where backbench independence is severely compromised in our comparator parliaments, to a degree that would be considered intolerable in the House of Commons.

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[50] This is set out in standing order 69.
[51] See Evans (2004: 651) for Australian Senate and Harris, Wright and Fowler (2005: 570) for the House of Representatives.
[52] Questions are often considered to be 'private members' time' (see, for example, Blackburn & Kennon 2003: 1-024). In Table 1 we classified them separately, as they are initiated by members but clearly relate to government business and holding the executive in check.

Table 4: Allocation of time for different purposes

	UK House of Commons	Australian House of Representatives	Australian Senate	German Bundestag	New Zealand House of Representatives	Scottish Parliament
Principle by which time is divided	All time is government time, except where standing orders state otherwise.	Government business takes precedence except for most of each Monday sitting.	'Business of the Senate', including some committee business, takes precedence over government and general business.	Time is divided strictly proportionately by party group. Government business is programmed in these parties' time.	Government business takes precedence except for on every other Wednesday.	This is disputed, but in practice the Commons' tradition has been adhered to.
Opposition party business	Opposition parties allocated 20 days per year. They have autonomy in how to use this time, but not over when it is programmed.	No dedicated opposition time distinct from non-government business (see below).	No dedicated opposition time distinct from non-government business (see below).	Opposition parties get proportionate share of agenda time according to share of seats in the chamber. This is often used to move bills.	No dedicated opposition time distinct from non-government business (see below).	Opposition parties allocated 16 half-days per year, allocated proportionately between them. They may use their days as they wish. Timing decided by Bureau.
Committee access to the agenda				See Table 7		
Other non-government debates	Adjournment debates, held at the end of each day in the Commons and in Westminster Hall, are allocated by ballot.	Adjournment debate at end of each day. 'Matter of Public Importance' debate Tues–Thurs. Non-government business slot Monday afternoons. All these in practice are allocated by whips.	Adjournment debate at end of each day. 'Matters of Public Interest' debate weekly. 'Matter of Public Importance' debate up to daily. Non-government business slot Thursday afternoons. All but the first are used by party groups.	Minority groups of at least 5% of members can win proportionate access to agenda. No access for individual members.	Unfocussed 'general debate' for one hour each Wednesday. Members' business takes precedence on alternate Wednesdays and is mostly devoted to bills.	There is a members' debate at the end of each sitting. In practice these opportunities are allocated by the party whips.

Other non-government bills	13 Fridays for private members' bills allocated by ballot, plus two ten-minute rule bill slots per week in prime time.	Private members' bills are debated in non-government time (above). In practice very little time is made available and few succeed.	Senators can propose bills but these compete for the non-government business slot and in practice are rarely reached.	Debate time (above) can be used by minority groups to move bills. No rights for individual members.	Members' bills are debated in members' time (above). They are balloted for, but in practice topics are agreed with the whips.	Members' bills need 18 supporters. There is no dedicated plenary time for these – it is at discretion of the Bureau.
Questions	Opportunities to pose oral questions (daily) are allocated by ballot.	Opportunities to pose oral questions (daily) are wholly controlled by party whips.	Opportunities to pose oral questions (daily) are wholly controlled by party whips.	Asking questions (weekly) is the only individual agenda-setting opportunity for members.	Opportunities to pose oral questions (daily) are wholly controlled by party whips.	Opportunities to participate in the weekly general and 'themed' question times are allocated by ballot. Presiding Officer selects First Minister's Questions – opposition leaders get priority.

Negotiating the timetable

In all chambers standing orders set out some fixed items of business, but in all there is also business to be programmed on a week-by-week basis – not least the business of the government, which is the largest single element everywhere.

In the House of Commons it is the usual channels, led by the government Chief Whip, which agree the timetable for the week. These discussions take place on a bilateral basis and in private. The agreed programme is then announced to the chamber by the Leader of the House in the business statement. At this point members can raise objections or propose alternative arrangements, but no changes can be made. This process leads to some frustrations and calls for a more transparent procedure, possibly involving some kind of 'business committee' which represents the House as a whole. Such a committee might also be given some responsibility for programming legislation, and other related matters. Three of our comparator chambers have business committees which deal with all weekly business, so may offer useful lessons for the UK. The arrangements for all of the comparator chambers are summarised in Table 5.

First, it is worth noting that there are examples of less transparent processes – in Australia there is no announcement of the weekly order of business and it remains flexible on a day-by-day (or even hour-by-hour) basis. This gives members little opportunity to plan and does not aid the status of the chamber. The government publishes a weekly programme, but there is no consultation and no debate. In any case this programme is never adhered to. There is a daily programme published at midnight on each preceding day, but even this is subject to change. In the Senate there is more negotiation behind the scenes than in the House of Representatives, thanks to the government's (usual) lack of majority, but also the procedural factors which make it easier for business in the Senate to be disrupted. There is also a Selection of Bills Committee that decides which bill will be sent to which committee, and agrees the appropriate timetable. In both contexts the key figure is the opposition Chief Whip, who is influential when government lacks a majority. This situation may be preferable to that in the House of Representatives, but still is largely opaque to those not involved, including interest groups and the public who have little idea when particular items of interest will be discussed. Unsurprisingly, the Procedure Committee in the House of Representatives has looked into how members could be more involved in setting the agenda. In doing so they have sought inspiration from overseas, including the Scottish Parliament.[53]

The other three comparator chambers have some kind of 'business committee' which draws up the weekly programme – the Parliamentary Bureau in Scotland, the Council of Elders in Germany, and the Business Committee in New Zealand. Membership of the bodies is described in greater detail on pp. 60-61 and in Table 11 below. They formally represent the whole chamber, and ensure that business is not decided unilaterally by government, or bilaterally with their shadows. However in all cases these bodies are either wholly made up of party whips, or at least dominated entirely by them. They provide greater transparency, but in other respects differ less from our usual channels system than it might on the face appear.[54]

In Scotland the architects of the new Parliament sought to break the mould of Westminster politics by creating a business committee based on the European model. They believed that such a committee's 'absence is a key to the government's excessive control of the House in Westminster' (Crick & Millar, quoted in Winetrobe 2001: 39). Under their original proposals there would have been one representative on the business committee elected from each party group, plus one

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[53] House of Representatives Standing Committee on Procedure (2006).
[54] An earlier output from this project was a briefing on business committees, which includes more detail on some aspects of the subject than this report. See Russell & Paun (2006b).

representing independent members and two representing the First Minister. In the words of the Consultative Steering Group, a business committee would ensure that decision making was more 'inclusive' and that the Parliament's programme of business could be developed 'in a transparent, and, insofar as is possible, consensual, way' (1998: Section 2, paras 6-7).

The membership of the committee established was rather different to that originally envisaged, as described later in the report. The way the committee has gone about its task has also differed. It had been hoped that its establishment would take control out of the hands of the whips and hand it to the Parliament as a whole. However, not only does the committee comprise only whips, but the Executive is very influential. This stems in part from the system of weighted votes, which means that an Executive with a majority in the Parliament also has a majority on the committee. The committee's method of working has also, in practice, become executive dominated.[55]

Although the committee has its own secretariat, this is not responsible for drawing up the business programme. This may have been the initial intention, but in the words of one official, the responsibility was 'grabbed' (or in the words of a minister, 'acquired') at an early stage by the Minister for Parliamentary Business. As at Westminster the programme is drawn up by the Private Secretary to this Minister, who is in effect a combination of House Leader and Chief Whip. As at Westminster there is some consultation on the preparation of the programme with other parties, though the extent of this is disputed. The programme then goes to the Parliamentary Bureau for discussion and approval, in minuted meetings, providing transparency. However in practice informal meetings have grown up, off the record. In the early years of the Parliament all members of the Bureau save for the Presiding Officer met, in advance, to agree business. As an official reported to us 'it was convenient to have these meetings unminuted'. The Presiding Officer sees the papers only around half an hour before the Bureau meets and its meetings are usually short and uncontroversial (though formal divisions on the Bureau are not unknown[56]). It is unclear to what extent the informal pre-meetings have continued, and how the practice will be changed by the advent of minority government. However, the Scottish experience demonstrates that the existence of a formal body cannot stop informal trading between whips in private, if this proves more politically efficient. In consequence even sympathetic assessments have concluded that '[t]he Parliamentary Bureau has proved to be less an open, transparent and inclusive business committee model, and more a formalisation of Westminster-style "usual channels" practice' (Winetrobe 2001: 2).

The way the role of Scotland's business committee has developed with respect to timetabling of business seems fairly typical. In Germany the tradition of a senior body representing all Bundestag members, and with responsibility for timetabling business, goes back to at least the nineteenth century (Loewenberg 2003). There the Council of Elders (*Ältestenrat*) plays a similar role to the Parliamentary Bureau in Scotland. It draws up the weekly programme of business for agreement by the plenary. However, again it is a meeting primarily of whips, and again most formal business is done outside the meeting. The draft programme is drawn up by the secretariat of the largest party, rather than of the business committee, and is agreed in informal pre-meetings. In particular there is an established meeting of all the party whips on Wednesdays, before the Council of Elders (which is again chaired by the presiding officer) meets on Thursdays. This meeting is known as the

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[55] These comments are based on the operation of the committee until May 2007, when there was a majority executive. This may change under the minority SNP administration. But its operation in the 1999-2007 period is more representative of how such a committee might normally run at Westminster.

[56] In the first session of the Parliament (1999-2003) a total of 26 formal divisions on the Bureau were recorded. In the second session (2003-07), however, there were only two divisions, despite the expansion of the Bureau to include the Greens, Scottish Socialists and Independents. No divisions were recorded in the first three months of the 2007-11 session.

Interfraktionelle Runde. So sure are members that its decisions are final that the agreed programme is announced to the party groups later on Wednesday before the Council of Elders has met. As in Scotland, the meetings of the formal body are short. These last no more than 45 minutes, with the main time being taken up by 'a very good lunch', in the words of one participant. The discussion of the weekly agenda itself takes no more than 'a few minutes'. Consequently Loewenberg (2003: 23-24) states that 'The Council formulates a proposal about the length of debate on each item, and the number of speakers. But in a real sense it merely formalises what the Floor Leaders [i.e. whips] have decided'. This is a change from its original role, and politicians with long memories note that 20-30 years ago it was a genuine discussion forum. But it proved unwieldy as a decision making body, so its role was gradually usurped by informal meetings between the whips.

In New Zealand the Business Committee was, as in Scotland, an attempt to move away from established practice. Its creation dates to 1995, when a new set of standing orders was agreed in anticipation of the first parliament to be elected under the mixed member proportional (MMP) system. Prior to this, when the parliament was elected by first past the post, it used a usual channels system similar to that at Westminster. The standing orders review sought to create a more plural system of decision making, importing practices from countries such as Germany, Denmark and Norway. Standing order 76 states that the Business Committee is now formally responsible for agreeing the order of business, time spent on each item, and allocation of time to speakers of different parties. Standing order 75 states that it will take its decisions by 'near unanimity', which should mean that all major parties consent to its decisions. Yet standing order 65 specifies that 'The Government decides the order in which Government orders of the day are arranged on the Order Paper'. As in Scotland, it is the government business manager (in this case the Leader of the House) who draws up the programme, and there is no consultation except with coalition partners (or other parties with which the main party has 'confidence and supply' agreements). The main opposition party is unlikely to be consulted, and there is no input from backbenchers. The presentation to the Business Committee is, in the words of a senior clerk 'for information, not approval'. This does 'introduce more certainty' but not give any greater leverage to non-government actors. In particular, opposition parties complain that items of business are scheduled on days when their relevant spokespeople are on overseas trips, and that business is frequently changed by government business managers on the day, without consultation. During the study visit for this project one of the authors attended a meeting of the Business Committee. This lasted a full 12 minutes, with all discussion focussed on other matters. The weekly programme was passed over without comment – a reflection of the fact that, even post-MMP, programming is considered to be a matter for government alone. As two respected New Zealand commentators have noted 'The Business Committee in practice has not been such a powerful influence on what occurs in the House as many thought it would be' (Palmer & Palmer 2004: 160). Clearly, despite the presence of the committee, the system for setting the timetable in New Zealand is actually less consultative than the usual channels in the UK.

A separate issue is the extent to which the weekly programme is subject to oversight and approval by the chamber itself. In Australia there is no such oversight, and the same essentially applies in New Zealand. The programme is announced to the chamber by the Leader of the House but there is no debate and no requirement for approval. In this respect responsibility has been delegated from the chamber to the Business Committee. In Germany and Scotland, however, the situation is rather different. There the programme is subject to formal approval by the chamber itself. This is because the business committee is not formally a decision-making body, but remains subordinate to the chamber. This acts largely as a safety net, and provides the political context within which agreements are reached in the business committee. In Germany there are hardly ever challenges to the agreed programme, as the party system is strong and agreement between the whips (which must give even minor parties proportionate time in the Bundestag) is generally uncontroversial. In

Scotland, also, challenges to the agreed programme are the exception rather than the rule. As in the House of Commons there is a weekly statement about the forthcoming business, made by the Minister for Parliamentary Business, but here accompanied by a written motion. This may be challenged, and amendments that are backed by at least 10 members can be moved and voted upon. In the Parliament's short history such disagreements have happened roughly 5-10 times per year. Challenges tend to happen when a matter has been raised, often several times, in the Bureau without being adequately resolved. If a party representative is dissatisfied they will express their intention to raise objections on the floor and push the programme to a vote. If someone does challenge then they can make a five minute speech against the motion, followed by a five minute response from the Minister, and a vote.[57] No other members may speak to the motion, though additional speaking opportunities may arise if more than one amendment is taken.[58] Examples of issues raised include lack of time for debating key reports, lack of time for debating the final stage of important bills, and failure of the Executive to make statements or provide debates on certain topical issues.[59]

To date no such votes have been lost, in part because the main parties will vote together when they have already reached agreement in the Bureau, and in Scotland there is no convention of taking such business on a free vote. However, some amendments have been moved by government backbenchers, and there have been rebels in such votes on the government side. Often assurances will be given that debate will be brought forward on a future occasion, or the issue be looked at again, to placate the critics. This mechanism does therefore seem to act as a real check on Executive (and, more generally, frontbench) control of the agenda.

Finally, it is worth returning to Australia, where consultation on the main programme of government business may be nonexistent, but there is an interesting mechanism for agreeing the use of non-government time. In the House of Representatives there is no business committee in the conventional sense, but there is a committee, called the Selection Committee, which agrees the programme for debates in non-government time on Monday afternoons. This committee was established following a recommendation from the House of Representatives Standing Committee on Procedure (1986) to better manage non-government time. It has 11 members, and is chaired by the Deputy Speaker of the chamber. In practice, like other business committees, most of its members are whips – though junior whips are elected in their party groups, and it includes two other backbenchers. At its weekly meetings it prioritises different elements of non-government business, including committee reports, members' motions and members' bills, that are competing for time. In practice decisions are taken by consensus. In certain respects this offers a possible model for the UK, in terms of having a forum to agree the priorities for the use of non-government time. In other respects the way it operates in practice is not an attractive model. As with all other business in Australia (as discussed above), slots of non-government business are allocated by the whips, so it is appropriate for them to be the ones brought together on this committee to reach agreement. In the UK such a committee would be expected to be genuinely run by backbench members, given that it is responsible for scheduling backbench business. We return to this question later in the report.

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[57] Standing order 8.11.
[58] This occurred on 23 November 2005, when three highly similar amendments moved by opposition members were debated.
[59] For examples see Scottish Parliament proceedings 26 January, 13 April, 25 May, 15 June and 6 September 2005.

Table 5: Control of the parliamentary timetable

	UK House of Commons	Australian House of Representatives	Australian Senate	German Bundestag	New Zealand House of Representatives	Scottish Parliament
How is the detailed weekly parliamentary timetable agreed?	Informal negotiations through the usual channels of Leader of the House, Chief Whip and shadows.	Government controls the timetable for its own business. It remains relatively flexible throughout the week.	Through negotiations between whips. It remains relatively flexible throughout the week.	Council of Elders* (mostly whips) agrees the timetable following informal pre-meetings between major party whips.	Business Committee* (of whips) approves the timetable as proposed by the House Leader following agreement with coalition parties.	Parliamentary Bureau* (of whips) agrees the timetable following informal pre-meetings between major party whips.
Special arrangements for non-government business (aside from what is fixed in standing orders)	None.	Non-government business on Mondays is timetabled in the Selection Committee (mainly whips).	None formally, though in practice non-government business on Thursdays is negotiated between non-government whips.	None.	None.	None.
What role does the plenary have in agreeing the weekly timetable?	It is announced to the House in a business statement, which MPs can debate but not amend or reject.	None. It is not even announced to the chamber.	None. It is not even announced to the chamber.	It is announced to the plenary which may amend or reject it.	Business Committee reports are presented to the House; there is no debate or vote.	The Bureau's proposals are put to the plenary in a motion, which members can debate, amend or reject.
Who decides the timetable for each bill?	Programme motions are discussed by the whips and voted on in plenary. In practice the government majority prevails.	The government.	Selection of Bills Committee decides how long in committee. Greater informal inter-party negotiation over plenary time than in House of Representatives.	The Council of Elders, though a framework is included in standing orders.	Plenary stages fixed in standing orders (max. 2 hours each). Committee timetable recommended by bill's proposer, agreed by House – Business Committee can extend.	Business motions moved on behalf of the Parliamentary Bureau set out the timetable for bills.

Who decides which bill goes to which committee?	Not an issue for most bills as committees are ad hoc. For draft bills select committees may decide to consider them but in practice need notice from Chief Whip.	Bills only very rarely go to committees.	The Selection of Bills Committee makes recommendation to the Senate. Senate has the final say.	Any committee that wishes to may look at a bill. There is one lead committee which co-ordinates responses. This is decided by the Council of Elders.	The member in charge of the bill nominates a committee. The House has the final say.	The Parliamentary Bureau makes a recommendation in a motion. The Parliament has the final say
Who has the power to recall parliament in recess?	Speaker can only recall if asked to do so by ministers. Formally s/he could refuse if didn't agree it was in the public interest. Gordon Brown has promised change to give initiative to 50% of members	Formally the Speaker may convene the House but by convention s/he acts on the advice of the Prime Minister.	If requested by an absolute majority of Senators, the presiding officer must recall the Senate.	The presiding officer must recall the Bundestag if the government or 1/3 of MPs request it.	The Prime Minister decides whether to recall the House and the Speaker must act on this decision.	Presiding Officer has right 'to convene the Parliament on other dates or at other times in an emergency' (standing order 2.2.10)

* See Table 11 for further details of these bodies.

The work of committees

The basic information about committees in each of the five comparator chambers is shown in Table 6. This demonstrates (as is widely known) that the House of Commons is unusual in splitting the legislative from the executive scrutiny function. In Scotland, Germany, New Zealand and the Australian Senate there is a single set of subject-specific committees shadowing government departments and combining the two functions.[60] The Australian House of Representatives, in contrast, can be seen as less developed than the Commons, in that the committee stage of most bills continues to be taken on the floor of the House, so committees deal largely with executive scrutiny. All the chambers have the facility to set up ad hoc investigative committees, and all also have domestic committees. Here, in the interests of brevity, we concentrate only on the permanent policy committees.

Table 6: Basic information about committees (July 2007)

	Permanent subject or departmental committees	Other committees*	Principal functions of permanent subject committees
Australian House of Representatives	13 'Standing Committees'.	5 other permanent, plus occasional ad hoc investigatory cttees.	Inquiries. Committee stage of most bills is taken on the floor.
Australian Senate	8 'Legislative and General Purpose' committees.	7 other permanent, plus occasional ad hoc investigatory cttees.	Legislation and inquiries.
German Bundestag	Circa 20 permanent committees.	3 other permanent, plus occasional ad hoc Committees of Inquiry.	Legislation and some executive oversight.
New Zealand House of Representatives	13 'Select Committees'.	5 other permanent, plus occasional ad hoc investigatory cttees.	Legislation and inquiries.
Scottish Parliament	9 subject committees (2 of which are specified in standing orders).	6 other permanent, plus occasional ad hoc investigatory cttees.	Legislation and inquiries.

* The 'other permanent' committees listed include procedural, privileges, interests, petitions, delegated legislation, administrative and timetabling committees.

The concerns in the Commons about committees relate to three areas – the appointment of members, the election of chairs, and the ability for committees to get items onto the plenary agenda. Starting with the first two of these, the concern is that the whips have too much power, the Committee of Selection is too weak, and that there is therefore insufficient accountability to the chamber. Various past reports have suggested that some new body more representative of the chamber be given more genuine oversight over committee appointments, and even that committee chairs should be elected by the chamber as a whole.

In looking at practice in other parliaments, as summarised in Table 7, we are forced to conclude that the arrangements in the House of Commons are quite normal, or even good, in comparison

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[60] Obviously our comparators provide only a small sample. However, Mattson and Strøm (1995) find that the UK is the only country in Europe without specialist legislative committees. It should be noted that the Australian Senate changed its system only in 2006, and previously had separate legislative and investigative committees shadowing each department, with overlapping memberships. The reform which ended this situation is discussed in the section on Changing the Rules, below.

to the alternatives. Nowhere do we find that committee members are chosen by a cross-party panel with backbench representation as was proposed, for example, by the Liaison Committee, and nowhere is the chamber responsible for electing committee chairs as was proposed by the Conservative Democracy Taskforce. In all cases the choice of committee members is delegated to the parties in one way or another, and questions of democracy therefore become internal party matters.

In all cases except the UK the party balance between members on committees is specified in standing orders. In Australia the precise makeup of each committee is fixed, but in other cases there is a requirement to be proportional to the balance in the chamber. The application of proportionality is generally dependent on a defined formula – e.g. Scotland uses the d'Hondt formula, and Germany the Saint Laguë/Schepers method. But there is generally some negotiation, particularly over which committees will include minor party representation. This takes place in the relevant business committee, but in all cases is in practice negotiated by the whips beforehand. In Scotland and New Zealand the business committee also has formal responsibility for recommending individual members of committees. These are all-party bodies, but are even more whip-dominated than the Committee of Selection in the Commons. In both countries there is a clear convention that the representatives of one party do not interfere in the committee nominations from another. Each party therefore remains responsible for selecting its own committee members.[61] Meanwhile in the other two comparator countries this reality is actually enshrined in the rules. In Germany rule 57.2 of the Bundestag states that the party groups 'shall appoint committee members and their substitutes'. The business committee has no oversight at all of these nominations. In Australia standing order 25.5 of the Senate places responsibility for appointing committee members on party leaders, stating that 'The committees shall consist of 8 senators, 4 nominated by the Leader of the Government in the Senate, 3 nominated by the Leader of the Opposition in the Senate and one nominated by minority groups and independent senators'.

It therefore appears that even where there are cross-party bodies which could take responsibility for appointing committee members, and even where (as in Germany) these include backbench representation, in practice there is little cross-party involvement in making these appointments. The fact that debates about this are taking place in the UK is a welcome sign that committee membership is seen as relatively non-partisan – members are not seen as solely representatives of their parties. But our overseas comparators can offer us no way forward. There is a question to resolve over whether it is desirable to wrest control of committee memberships from the parties and hand it to parliament as a whole. But these examples show that 'parliament as a whole' is difficult to find personified. There is a separate question about whether party appointments should lie in the hands of the whips, or be subject to greater democracy. For example in Australia the Labor Party may hold internal elections for places on committees. But clearly such elections are an internal question for parties and fall outside the scope of standing orders.

In the UK 'parliament as a whole' is involved in agreeing committee appointments directly, as select committee appointments must be approved by a motion in the chamber. This same pattern is found in some other parliaments – for example in Australia and in Scotland.[62] However, it is not always the case that the chamber has oversight of committee memberships. For example in New

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[61] Our comparator parliaments are not unusual here. The same is probably the case of most parliaments in developed democracies. For example Hegevi (2000) notes that in the Nordic countries membership of committees is controlled to a significant extent by party leaders.

[62] In Scotland one interesting difference from the rules at Westminster is that once appointed, a member of a committee can only be removed if s/he resigns, or else on a motion from the committee itself, which gives members a degree of autonomy from their whips. At least one member, Dorothy Grace-Elder of the SNP, has been suspended from her party group for refusing orders from her whips to step down from a committee – in this case the Health and Community Care Committee in May 2002 (Shepherd 2002: 10).

Zealand the standing order review in 1995 that created the business committee brought an end to this practice. The Business Committee is officially delegated the responsibility for appointing committee chairs on behalf of the chamber, as it formally represents all parties. However as already discussed it only represents the party front benches, so here an important element of accountability has actually been lost.

Practice varies in our comparator parliaments regarding how committee chairs are chosen. In Scotland and Germany chairs are shared between the parties strictly proportionately,[63] and which party chairs which committee will be negotiated by the whips (formally through the business committee). Each party will specify which committees it most wants to chair and if there is a contest that cannot be resolved a formula will be applied so that parties choose in a proportional manner.[64] The New Zealand system is more similar to that at Westminster, in that the share between the parties is left to convention, but it is only in recent years that non-government parties have won any committee chairs. In Australia the governing party simply takes all subject committee chairs.

The official choice of chair in all cases is left to the committee in question, however this follows the negotiations about party shares, which are adhered to. As in the UK, the choice of individual to chair each committee is therefore in practice decided in the parties, and indeed by the party whips. Nowhere are committee chairs elected even in their party groups, let alone in the chamber as a whole. However there can be upsets to these arrangements. In the Australian House of Representatives committees elect chairs by secret ballot, and in 2004 one committee failed to elect the candidate preordained by the whips. This must have resulted from some government party members 'rebelling', but the culprits could not be found as this was a secret vote.

A separate issue of concern in the UK is the ability of committees to gain access to the plenary agenda. If committees are conducting detailed inquiries it can be frustrating for their members, and others, if the reports that they produce are never debated. Evidence from our comparator parliaments on this issue is extremely mixed. At one end are the German and New Zealand parliaments. In the Bundestag subject committees in practice do not conduct inquiries and produce reports which compete for plenary time (aside from routine reports on bills). Ad hoc inquiry committee reports may be debated, but these have been established in response to a request from the chamber in the first place, so are unlikely to have difficulty getting time. In New Zealand committees do produce reports on their own initiative, but have no automatic opportunity to have them debated. Plenary time in New Zealand is extremely limited, and there is no time set aside for committees (and no parallel debating chamber as in the UK and Australia). Committee reports can be put on the Order Paper for non-government time but are placed below members' bills and in practice are never reached.

At the other end of the spectrum are the parliaments in Australia and Scotland, which offer potential lessons for the UK House of Commons. In the Scottish Parliament standing orders specify that there will be 12 half-days in plenary per year devoted to 'the business of committees'.[65] The allocation of these is in practice decided by the 'Conveners' Group' (the committee of committee chairs equivalent to the Commons Liaison Committee), which makes recommendations to the business committee that are generally accepted. Committee debates are allocated

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[63] The requirement for committee chairs to be allocated proportionately is codified in Scottish Parliament standing order 12.15 and Bundestag rule of procedure 12 respectively.

[64] For example applying the d'Hondt formula the largest party might be entitled to the first and third choices of which committee to chair, but the second and fourth choice might go to the second largest party with the third party getting fifth choice, etc.

[65] Standing order 5.6.

fairly evenly throughout the year, and interestingly do not have to be on committees' reports. For example on one occasion the Health Committee commissioned some research and this research report was selected for discussion in the plenary.

In Australia practice differs more starkly from that at Westminster, and is therefore even more interesting. In the Senate, as indicated above, presentation of committee reports falls under 'Business of the Senate' and therefore officially takes precedence over government business. In practice there is also up to an hour available in the regular timetable on Wednesdays and Thursdays to debate committee reports. At other times if a member moves discussion of a committee report this will usually be granted by the Senate, and debate will last for half an hour. This all follows the culture in the Senate where the government generally does not have a majority, and the chamber therefore genuinely controls its own time. In the House of Representatives the government does have a majority, and committee activity is more limited. Nonetheless there is a slot on the plenary agenda each Monday when publication of any new committee reports is noted. At this point the chair and deputy chair of the committee can each speak for five minutes. If there is demand from members there will then be a fuller debate scheduled in the Main Committee (the equivalent of Westminster Hall), usually on that same day. This is scheduled by the Committee of Selection which timetables non-government business, but there is a fixed slot each Monday from 4-6pm for these debates. This is a recent innovation established by the Procedure Committee.[66] Previously, as at Westminster, debate of a committee report often had to wait several weeks after its publication. It must be noted however that committees in the Australian parliament have far less control over their own agendas than committees at Westminster. In most cases a committee must receive a 'reference' from the chamber requesting it to look into a subject before it can start an inquiry. In recent years references on controversial subjects have been far more forthcoming in the Senate than in the House of Representatives, due to the government's lack of a majority. Accordingly, the number of controversial Senate inquiries has markedly declined since the government gained a majority in the chamber in 2005.

A final feature of the Scottish system which is of particular interest when considering possible changes for the House of Commons is the ability of committees to move their own bills. It is the only one of our comparators that allows this. Committees are entitled to propose bills within their own areas of policy, and standing order 9.15.6 provides that when they do 'a time shall be appointed in the business programme for consideration of the proposal by the Parliament'. Following this agreement the committee may then go ahead and draft the bill. There have been relatively few such bills, as committees have found their preparation a very burdensome task (although they can draw on the same resources available to private members via the Non-Executive Bills Unit). However in the first session of the Parliament alone (1999-2003) three committee bills reached the statute book, alongside eight members' bills and 50 executive bills. Successful committee bills include the Protection from Abuse (Scotland) Act 2001 and the Scottish Parliamentary Standards Commissioner Act 2002.

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[66] See House of Representatives Standing Committee on Procedure (2005: para 2.49).

Table 7: Parliamentary committees

	UK House of Commons		Australian House of Representatives	Australian Senate	German Bundestag	New Zealand House of Representatives	Scottish Parliament
	Select Committees	**Public Bill Committees**					
Name of main committees	Select Committees shadow and scrutinise govt depts.	Public Bill Committees for scrutiny of legislation.	Standing Committees are general purpose and shadow depts.	Legislative and General Purpose Committees shadow depts.	Permanent Committees shadow government departments.	Select Committees with combined legislative, investigatory and scrutiny functions.	Subject Committees to shadow Exec departments and scrutinise bills.
Party balance on committees	SOs state that public bill committees should 'have regard to…the composition of the House'. No such requirement applies to select committees but in practice proportionality applies to all committees.		SOs specify the precise party makeup of each committee, giving the government a majority on all policy committees.	SOs specify that government party members take half the positions on subject committees.	Rules require party balance on proportional basis.	SOs require party balance on proportional basis.	SOs require party balance on proportional basis.
Who formally nominates members?	Committee of Selection (principally comprising whips). One party does not question another's nominations.		In practice whips.	SOs state that this is done by party leaders.	SOs state that this is done by parliamentary party groups (*fraktionen*).	Business Committee (made up of whips). One party does not question another's nominations.	Parliamentary Bureau (made up of whips). One party does not question another's nominations.
Approval by the chamber?	Yes.	No.	Yes.	Yes.	No.	No.	Yes.
Who formally elects chairs of committees?	Each committee.	n/a, Speaker appoints.	Each committee.	Each committee.	Each committee.	Each committee.	Each committee.
How is party of chairs determined?	Through the usual channels. In practice proportionate.	From Chairmen's Panel. Speaker's decision.	Government takes all chairs.	Government takes all chairs.	Allocated proportionately – negotiated by the whips formally through Council of Elders.	Government takes most chairs.	Allocated proportionately, negotiated by whips through Business Cttee. Plenary vote.

Powers over own agenda	Extensive: can launch inquiries on all matters within remit, call for evidence, summon witnesses and publish reports.	Limited: set up to consider specific bill. May (since 2006) question witnesses.	Limited: in general committees only consider business referred by the House or a minister (and rarely consider legislation).	Greater than House committees: have general remit to inquire into 'the performance of departments and agencies allocated to them' as well as considering referred matters.	Most work of permanent committees is on bills.	Extensive in theory but the demands of scrutinising bills and estimates limit the scope for investigatory inquiries.	Extensive: committees can launch inquiries on all matters within remit, but also deal with business referred to them such as bills.
Ability to get reports discussed	Three 'estimates days' per year are generally allotted to consideration of committee reports as are many Westminster Hall debates.	n/a	Publication of cttee reports is noted in chamber weekly, with 10 minutes each for debate. If requested, further debate takes place in the parallel Main Committee where there is 2 hours provided for the purpose weekly.	Presentation of reports officially takes precedence over govt business. Two weekly slots of up to an hour for debating cttee reports. At other times reports can be debated by leave of the Senate. This is usually granted.	Committee reports are only debated in plenary when they relate to matters referred to the committee by the Bundestag.	Committee reports are rarely debated.	Committees are collectively entitled to twelve half-days per year. Conveners' Group decides on allocation.
Can committees propose bills?	No.	n/a	No.	No.	No.	No.	Yes.

Changing the rules

One concern at Westminster is whether members of the House of Commons have sufficient control of the rules of their own chamber. There is no direct route for backbenchers to force decisions on rule changes, and in practice making these depends on motions moved by ministers in government time. The Procedure Committee, made up of backbenchers, cannot force decisions on its reports and may not even gain agenda time to have them debated. The Modernisation Committee, which considers some similar issues, has caused controversy thanks to being chaired by the Leader of the House, but has had more success in recent years in getting its recommendations accepted.

The key points with respect to changing the rules in our five comparator chambers are summarised in Table 8. What we find is that there are essentially two kinds of parliamentary committee which may consider procedural matters. The first, like our Procedure Committee, is a committee of backbenchers which operates much like other committees in the chamber, taking evidence and publishing reports with recommendations. The second is a more tightly controlled but informal arrangement where procedure is considered by a group of senior members who are mostly whips and frontbenchers, and which may meet less frequently and rarely publish reports. Each comparator has only one committee, always on or the other model. The House of Commons clearly has two, and the Modernisation Committee – including amongst its members the Leader of the House and the two Shadow Leaders – has some elements of the second model. However in other respects it operates very like other parliamentary committees, so may be considered a hybrid of the two models.

Tightly controlled informal committees exist in Germany, New Zealand and the Australian Senate. In all cases these are dominated by whips and frontbenchers; in New Zealand the committee is chaired by the Speaker and in Australia by the Deputy President of the Senate. These are senior members who do not have time (and possibly inclination) for conducting open inquiries and taking evidence. Instead the committees are forums in which deals can be done between some of the most powerful figures in the chamber. In all cases they meet on a fairly ad hoc basis, and issue few reports. In New Zealand the Standing Orders Committee conducts an annual review of standing orders, which was a major undertaking in the 1990s when the parliament switched to MMP from first past the post. However, normally standing orders are very stable, and the committee meets rarely. Similarly in Australia the Senate Standing Committee on Procedure had a major task in 2006, when the incoming government announced its intention to reform the committee system (discussed in more detail below). It issued a report recommending how the change could be brought into effect. However, reports from the committee are otherwise rare, and even on this occasion its main role was to facilitate trading between the parties. In Germany the role of the Committee for the Scrutiny of Elections, Immunity and the Rules of Procedure is even more shadowy. It is responsible for resolving questions of procedure (in the way that the House of Commons Speaker would do) as well as recommending any changes. However its real political function is to facilitate trading between the party whips.

Forums such as these seem quite alien from a Westminster perspective. Whereas in the Commons it is difficult for members to force decisions on procedural changes they may favour, there is at least an open discussion about these issues and a transparent process for considering them. There are also groups (such as the Constitution Unit or Hansard Society) who may feed ideas into these deliberations. In the three chambers just discussed this level of openness is simply missing. It is accepted that procedure is a matter for whips, who trade on behalf of their parties. A backbench member, or group of members, must therefore lobby within their party group if they want a change to be considered, and encourage their whip to take it up. This makes cross-party

backbench working, of the kind this report seeks to promote, difficult if not impossible. [67] Westminster can be grateful that it at least has an open system, even if this is frustrating.

The other two chambers considered in this study have more transparent arrangements, closer to those in the House of Commons. It is interesting that the Standing Committee on Procedure in the Australian House of Representatives is a very different body to its counterpart in the Senate. The two used to be similar, but the lower house committee was changed in 1985. It is now wholly made up of backbenchers and operates very much like other committees of the House. In comparison to the other committees it has relative freedom to initiate its own inquiries, as unlike them it has a 'running reference' from the chamber to consider procedure, rather than relying on the chamber to refer questions to it.[68] In this respect it is very similar to the Commons Procedure Committee, and likewise holds evidence sessions and publishes reports, often informed by practice by other parliaments overseas. Some major changes have come about as a result of its recommendations, notably the establishment of the Main Committee (parallel chamber) and the Selection Committee (for programming non-government business) and more recently the establishment of automatic debating time on new committee reports (as described in the previous section).

The most interesting example amongst our comparators is the Procedures Committee of the Scottish Parliament. This is again a backbench committee, which operates in a very similar way to the equivalent committees at Westminster. The key difference comes with respect to the committee's powers. Whereas in other settings outside actors may put procedural change on the plenary agenda for decision (and in the Commons this is done by the executive) in Scotland all recommendations for changes to standing orders must go through the committee.[69] This means that if the Executive wants to see a change to standing orders the Minister for Parliamentary Business must write to the committee asking them to look at it. To date proposals to the committee have come from the Minister directly, as well as from the Bureau, the Presiding Officer, and other members. However, it remains at the committee's absolute discretion whether to pursue inquiries and what recommendations to make. There have been occasions when the Minister, or the Bureau, has asked for changes and the committee has replied that no such change is necessary. This clearly puts it in a far stronger position that the Procedure Committee in the House of Commons, and ensures that control over procedure does to a very large extent rest with the Parliament itself. This is boosted by the fact that standing order 17.1 specifies that procedural changes require an absolute majority in plenary to be passed. In terms of finding time for the committee's recommendations to be debated, it must seek a share of the committee time that is allocated by the Conveners' Group (Liaison Committee equivalent). Recently there has been discussion about whether this is adequate, or whether the Procedures Committee should have ring fenced time or guaranteed access to the agenda (Scottish Parliament Procedures Committee 2006: para 91).

Although access to the agenda to move procedural change in the House of Commons is very much controlled by the government, there is a strong convention that important standing order changes are decided on a free vote. In Scotland, it is less clear whether this applies, as there have

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[67] In the Australian Senate there is one alternative means for members to get procedural changes on the agenda. This is a somewhat arcane procedure called 'Discovery of Formal Business', for which there is a slot on the agenda every day. This allows members to table proposals for decision without debate. It is often used by opposition parties to force the government to take a position on an issue by forcing a vote. But it has also been used by members to press procedural changes for which they have managed to gather sufficient support. There are several standing orders that have originated in this way.

[68] See previous section for details of the limitations on Australian committees.

[69] This requirement is set out in standing order 17.1 on 'Amending Standing Orders' which states that 'The Parliament may, on a motion of the Procedures Committee, amend these standing orders.'

been few controversial changes pushed to a vote: most have been agreed by consensus. But in all the other chambers it is clear that procedural changes are decided, like other matters, on whipped votes. This is in line with the situation where procedural changes are negotiated between the whips.[70] Again, we should consider ourselves lucky in this respect for the bipartisan nature of such discussions in the House of Commons.

The most glaring example of this different culture with respect to procedural change in recent years is the change to the committee system in the Australian Senate. The Howard government elected in 2004 decided to take advantage of its new majority in the Senate to reform the chamber's assertive system of committees. For the previous 25 years no government had a majority in the Senate, and a strong set of committees had developed. In each subject area there was a pair of committees – a legislative committee and a 'general purposes committee' to carry out inquiries. The legislative committees were all chaired by government Senators and the general purpose committees were chaired by non-government Senators. As there was a balance between government and non-government members, and the chair had a casting vote, this gave effective control of all inquiry committees to non-government parties. Although the Howard government had a majority of only one vote in the Senate, it saw an opportunity to change this situation to make life easier for government. Hence it proposed a merging of legislative and general purposes committees so there was just one committee in each policy area, with all chaired by government Senators. This caused uproar amongst non-government parties, but the matter was referred to the Standing Committee on Procedure. Although this was chaired by a non-government Senator, it produced a report specifying how the government's proposals could be put into effect. The committee's chair reported to one of the authors that this was done on the basis that the government 'had the numbers' to get its reform through, so opposition was pointless. Sure enough, when the question of reform was put to the chamber, the government's proposals passed on a whipped vote, with no dissent on the government side. It is difficult (thankfully) to imagine anything of this kind happening in the UK.

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[70] Indeed in New Zealand coalition agreements and 'cooperation agreements' between the main governing party and others currently include the words that the junior party will 'vote with the government on procedural motions in the House'.

Table 8: Control of parliamentary rules and procedure

	UK House of Commons	Australian House of Reps	Australian Senate	German Bundestag	New Zealand House of Reps	Scottish Parliament
Name of relevant committee	Modernisation Committee. / Procedure Committee.	Standing Committee on Procedure.	Standing Committee on Procedure.	Committee for the Scrutiny of Elections, Immunity and the Rules of Procedure.	Standing Orders Committee.	Procedures Committee.
Composition of committee	15 MPs incl. Leader of the House and shadows. / 13 backbenchers.	7 backbenchers.	10 members including Senate President and Deputies and govt and oppn Senate leaders.	Size varies (currently 13). Includes whips of all parties.	Speaker plus 10 other members, including House Leader and whips. No govt majority.*	Currently 7 backbenchers with Executive in minority.*
Committee chair	Leader of the House by convention. / No rule. Last two chairs from opposition.	A government party member (specified in SOs).	Deputy President of the Senate (specified in SOs).	No convention or rule. Current chair is from the largest party.	The Speaker by convention.	No convention or rule. Current convener is from Executive party.
Committee's powers and method of work	Both committees have standard committee powers to set own agenda, take evidence and publish reports.	Has 'running reference' to consider SOs and also has business referred to it by the House. Initiates enquiries, takes evidence and publishes reports.	Has no formal inquiry powers and deals with business referred by the Senate or Senate President. Operates by consensus and reports only rarely.	Considers changes to procedure, and also interprets the rules. Works in private and by consensus.	Has power to inquire into SOs on own initiative and also has business referred to it by the House or others. However, meets and reports rarely.	Has power to inquire into SOs on own initiative and also has business referred to it by the House or other bodies.
Who can move procedural amendments?	In practice, only government proposals will get agenda time.	Committee, government or members.	Committee, government or members.	Committee, party groups or other groups of at least 5% of members.	In practice all SO changes go through the committee.	Only the Procedures Committee.
Are these taken on a free vote?	Yes.	No.	No.	No.	No.	Not yet clear, as most to date agreed without a vote.

* This lack of majority reflects the government's lack of majority in the House.

Who speaks for parliament? Individuals

If we want parliament to develop a clearer independent voice there are two places we can look: either to individuals who can speak for the chamber as a whole, or to collective bodies. In the House of Commons the two individuals who come closest to fulfilling this role are the Speaker and the Leader of the House. This pattern is largely replicated in our comparator chambers.

The key facts about Speakers (or, more generically, presiding officers) are summarised in Table 9. Although in all cases the presiding officer is probably the most visible representative of the chamber, nowhere did we find a more active defender of the institution than the House of Commons Speaker. This is because in all but one case the presiding officer is a far more partisan figure than at Westminster, and therefore less trusted outside their own party and less able to speak for the chamber as a whole.

In all cases the presiding officer is formally elected by the chamber as a whole, but with the exception of Scotland there is a convention that he or she is drawn from the government party. This used to be the case in the UK, until the convention was broken by the election of Betty Boothroyd in 1992. However even then UK practice differed significantly from that in our comparator chambers. First, the Speaker was elected in their own right, and was not expected to step down if a government of an opposing party was elected. Second, the Speaker renounced party allegiance altogether and acted in a strictly non-partisan way.

In Germany, New Zealand and Australia the election of the presiding officer is largely a formality. Although officially it is done by the chamber in fact the individual to be elected is predetermined by the governing party. In the first two countries this puts it in the gift of the head of government, who appoints a senior figure. In Australia, an election is actually held in the parliamentary group of the governing party to determine who the candidate will be (the incumbent President of the Senate was thus deposed in 2002 by a coup in her own party, and did not subsequently stand for the election in the chamber itself). There is a secret ballot in the chamber, but a partisan vote is expected, and at least one party operates a 'show and tell' policy whereby members are expected to show their completed ballot paper to a whip. This is clearly displays a very different attitude to that in the House of Commons.

Once elected, the presiding officer in these three countries may continue to act in a partisan fashion to a greater or lesser extent. Nowhere is the Westminster practice followed where the Speaker fights subsequent elections as an independent. In Germany, New Zealand and the Australian Senate, the presiding officer continues to vote with their party as an active member. In all cases there is an expectation of non-partisan chairing of debates, though in the Australian House of Representatives in particular there are well established complaints about partisan behaviour of the Speaker from the chair. To an extent the same applies in New Zealand. In both countries presiding officers have continued to be active in their parties. For example former New Zealand Speaker Jonathan Hunt (1999-2005) routinely attended party caucus meetings, and at times deputised for the Prime Minister. The current incumbent (Margaret Wilson) attends party conferences and meets the government Chief Whip every day. In Australia the Senate President now has an office wholly staffed by political appointees, while the Deputy President is the Secretary of his party caucus. In the German CDU the Bundestag President has an automatic seat on the party's national executive committee.

This degree of partisanship significantly weakens the presiding officer as a voice for parliament as a whole. Such figures are clearly not trusted by opposition parties to act impartially, which results in practice in power leaching to the whips. Trading between the whips over speakers and time

(often employing strictly proportional formulae) becomes a substitute for impartial rulings from the chair. Hence in all three countries the presiding officer in practice calls speakers in debate from lists provided in advance by the whips, and has virtually no discretion over other political matters such as the selection of amendments, as detailed in the table. In the parliaments of Australia and New Zealand at least, the weak and partisan nature of the institution of presiding officer is deeply rooted, to the extent that the majority party may openly defy a presiding officer who seeks to take an even-handed approach.[71] Instead of playing an active role in managing business, these presiding officers mostly concern themselves with administrative matters to do with the running of the parliament – equivalent to our Speaker's role in the House of Commons Commission.

As a consequence in none of these countries can the presiding officer be seen to be a strong voice for parliament. All officially have such a role, but are seen to a large extent as senior partisan figures (perhaps more akin to our Leader of the House). Only in Scotland is the convention of neutrality maintained, and the Presiding Officer seen as more representative of the parliament as a whole. There conventions are continuing to be established, but the Presiding Officer has largely renounced party politics on election, and there is no expectation that they come from the governing party. The first Presiding Officer (David Steel) was drawn from Labour's coalition partner, the Liberal Democrats. His successor, George Reid, was from the opposition SNP. The new Presiding Officer elected in 2007, Alex Fergusson, is a Conservative. Any convention of neutrality is in some ways weaker in the Scottish Parliament than in the House of Commons. For example no Presiding Officer has yet sought re-election by standing as an independent: though in fact the incumbents in both 2003 and 2007 retired rather than seeking re-election at all. There is also not yet any convention that on retirement former Presiding Officers are appointed to the House of Lords as Crossbenchers. Indeed, David Steel sat in the Lords while Presiding Officer as a voting Liberal Democrat member, and has remained so since retiring from Holyrood. The fact that Steel was a somewhat partisan figure may help explain, for example, why he was excluded from informal pre-meetings of the whips on the Parliamentary Bureau (as discussed on p. 82). It is clear that the thoroughly neutral position of the House of Commons Speaker significantly strengthens the office, and is something to be carefully protected.[72]

The Leader of the House of Commons also has counterparts in our comparator parliaments. The position regarding this figure, and the Chief Whip equivalent is summarised in Table 10. In all cases the House Leader is a clearly partisan figure, and in most cases is appointed by the Prime Minister. In New Zealand and Australia the House Leader plays a far more active role in setting the programme of business than does our Leader, taking more of the role that is taken here by the Chief Whip. But if anything, this is done in a less consultative way than in the House of Commons.

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[71] A famous example of this occurred in 1975 in the Australian House of Representatives, when the Speaker sought to call a government minister to order. The minister retorted 'I don't give a damn what you say' and the House then rejected the Speaker's motion to censure the minister. His authority undermined, Speaker Cope resigned (Laundy 1984: 152).

[72] For a discussion of the powers and partisanship of presiding officers around Europe see Jenny and Müller (1995). This suggested that the House of Commons Speaker is highly non-partisan and moderately powerful, though some of the measurements applied may be questioned.

Table 9: The role of parliamentary presiding officers

	UK House of Commons	Australian House of Reps	Australian Senate	German Bundestag	New Zealand House of Reps	Scottish Parliament
Title of presiding officer(s)	Speaker (plus three Deputies).	Speaker (plus two Deputies).	President (plus one Deputy).	President (and currently six Vice-Presidents).	Speaker (plus one Deputy and two Assistants).	Presiding Officer (plus two Deputies).
Method of selection of presiding officer	Secret ballot of all members (since 2001).	Secret ballot of all members but, in practice, predetermined.	Secret ballot of all members but, in practice, predetermined.	Secret ballot of all members but, in practice, predetermined.	Open ballot of all members but, in practice, predetermined.	Secret ballot of all members.
Party of presiding officer	Previously by convention from governing party. Now may be either.	By convention, governing party.	By convention, governing party.	By convention, largest governing party.	By convention, governing party. An exception occurred when government majority was tight.	From either governing or opposition parties. Two of 3 POs have come from opposition.
Party of deputy presiding officers	Previously all from governing party by convention. There is now balance between govt and oppn parties.	By convention one Deputy (the more junior) comes from the opposition.	By convention Deputy comes from opposition.	All parties get at least one Vice-President. SPD currently has two.	Previously often came from governing party. Present incumbent is from opposition.	The Scotland Act mandates that the PO and two deputies cannot all come from one party. In practice the three positions have been shared between three parties
Neutrality of presiding officer	Abandons party affiliation once elected and is strictly neutral in office.	Retains party affiliation and may be active in party politics. Can act in a partisan fashion including from chair.	Retains party affiliation and may be active in party politics but is seen as less partisan than House Speaker.	Retains party affiliation and may be active in party politics but is strictly neutral as chair.	Retains party affiliation and may be active in party politics. Can act in an openly partisan fashion.	Abandons party affiliation in Parliament once elected and is strictly neutral in office.
Does presiding officer vote in divisions?	Only to break ties.	Only to break ties.	Yes, with party.	Yes, with party.	Yes, with party.	Only to break ties.

Key political roles of the presiding officer	Selecting speakers in debates, selecting amendments, ruling on Urgent Questions, interpreting procedure.	Calling speakers preselected by the whips. Selecting a 'Matter of Public Importance' for debate if more than one is submitted.	Calling speakers preselected by the whips. (Matters of Public Importance are decided by drawing from a hat).	Calling speakers preselected by the whips. Chairs the business committee.	Calling speakers preselected by the whips. Chairs the business committee.	Selecting speakers in debates, selecting amendments. Chairs the business committee.
Key administrative roles of the presiding officer	Significant administrative role, including chairing House of Commons Commission.	Significant administrative role, much of it jointly with Senate President.	Significant administrative role, much of it jointly with House Speaker. Chairs the Standing Committee on Appropriations and Staffing.	Significant administrative role including chairing the Presidium.	Significant administrative role including chairing the Parliamentary Service Commission, negotiating the budget.	Significant administrative role including chairing the Scottish Parliamentary Corporate Body.

In the UK you could not say that the Chief Whip speaks for parliament (indeed one of the key features of the Chief Whip is that s/he rarely speaks at all). The same is true in other parliaments. However, in some cases it could be said that the Chief Whip more genuinely speaks for the backbenches within their own parties than is generally the case here. In New Zealand and Germany whips are elected within their party groups rather than being appointed by the party leader. The same is true in the Labor Party in the Australian House of Representatives. This clearly creates a very different set of relationships to that in the House of Commons. Rather than principally representing the views of the party leaders to their members, these whips principally represent the views of members to their leaders. So while in all countries the whips have significant control – over matters such as negotiating the agenda and allocating members to committees, they are more likely to be responsive to backbench concerns than in the UK. Indeed in the German SPD, the whips are elected only for a fixed term of two years, so must face re-election halfway through the parliament. This mechanism is specifically designed to keep them responsive to the views of members within the caucus.

Nowhere, then, have we found a very strong voice for parliament amongst the individuals who are members of our five comparator chambers. In fact, the strongest individual defender of parliament found during this study was not a member at all, but a member of staff. In Australia the Clerk of the Senate, Harry Evans, has achieved a high profile as a defender of parliament against the executive, and of proper respect for parliamentary traditions and rules. These views are expressed through lectures, newspaper and journal articles, and regular comments to journalists. In June 2005 for instance, following media controversy over the tendency of government to ignore parliamentary committee inquiries, Evans was quoted likening Prime Minister John Howard to an 'elective monarch', able to 'rule all he surveys'. Described in one newspaper headline as the 'Senate Boss', he went on to argue that 'We no longer have parliamentary government in any meaningful sense of the term'. [73] In a talk to the Australasian Study of Parliament Group shortly after government had taken a majority in the Senate Evans (2006) reflected on whether this would be 'a nail in the coffin of responsible government', concluding that 'the brief answer is that the government majority undoubtedly led to a decline in accountability'.

In a similar but milder way the Clerk of the New Zealand parliament, David McGee, is also an established public figure. Both men have been in post for a long time – Evans since 1988 and McGee since 1985 – so have built up significant expertise and respect in the political community. In some ways they have filled a vacuum created by the lack of outspoken champions of parliament from amongst the politicians themselves. But this is a precarious position to be in as a member of staff, and it is not guaranteed to continue when they retire. Harry Evans in particular has made himself unpopular with a whole generation of governing party politicians who find his opinions inconvenient. In 1999 a new Parliamentary Service Act was passed, to regulate staffing in parliament, and it set down that the Clerk of the Senate must serve a term of no more than 10 years. This was not applied retrospectively, but it was agreed that Evans must retire in 2009. There is an open question as to whether the government, when the time comes to replace the Clerk, will seek to make this a partisan appointment. Should this happen it is not at all clear who, if anyone, would fill the void.

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[73] Gerard Ryle, Lisa Pryor and Mark Metherell, 'Senate boss blasts PM's monarchy', *Sydney Morning Herald*, 21 June 2005, at: www.smh.com.au/news/national/king-john-under-fire/2005/06/20/1119250927991.html

Table 10: Other key individuals

	UK House of Commons	Australian House of Reps	Australian Senate	German Bundestag	New Zealand House of Reps	Scottish Parliament
Leader of the House figure and how chosen	Leader of the House appointed by the Prime Minister.	House Leader (also known as Manager of Business) appointed by Prime Minister.	Government Leader (similar to Leader of the House of Lords). Elected in Labor but appointed in National Party.	No real equivalent. Each party has an elected parliamentary chair.	Leader of the House appointed by the Prime Minister.	Minister for Parliamentary Business appointed by the First Minister.
Leader of the House role(s)	Fronts weekly business programme, fronts procedural debates, co-ordinates legislative progr-amme and chairs Modernisation Committee.	Draws up order of business for chamber.	Main government spokesperson (as in House of Lords).	n/a	Draws up order of business and negotiates committee chairs.	Draws up order of business and also acts as Chief Whip.
Chief Whip figure and how chosen	Chief Whip appointed by the Prime Minister.	Chief Whip elected in Labor Party, appointed in Liberal Party.	Whip (also known as Manager of Business) appointed in both main parties.	Whip or 'Floor Leader' (*Geschäftsführer*) elected in all parties.	Senior Whip elected in both main parties.	No separate position to that above, only junior whips (appointed).
Chief Whip role(s)	Leads usual channels negotiations on programme, committee memberships, etc.	Draws up order of business for Main Committee only. Otherwise ensures members turn up and vote, and coordinates speakers lists.	Fronts procedural debates. Draws up order of business. Junior whips may ensure attendance and voting.	Draws up order of business, negotiates committee chairs, chooses committee members and ensures members turn up and vote.	Chooses committee members and ensures members turn up and vote.	n/a (but junior whips ensure members turn up and vote).
Senior parliamentary official/Clerk	An almost entirely invisible figure to those outside Westminster.	Has some visibility, but is not outspoken.	A highly visible and outspoken figure, who regularly comments in the media and makes speeches.	An almost entirely invisible figure to those outside parliament.	Has relatively high visibility and has made some outspoken comments.	Has some visibility, but is not outspoken.

Who speaks for parliament? Co-ordinating bodies

It is inevitably difficult for any single individual to speak for parliament as a whole. It may be more realistic to expect a collective body to do so. A group of members clearly has potential to represent a range of views within the chamber, and it is for this reason that calls for establishment of a 'business committee' have become more common in recent years by those seeking a more independent voice for the House of Commons. At present the Commons has no such body, though it does have other bodies with general representative roles. The Committee of Selection carries out some functions similar to those of business committees in terms of committee appointments; the House of Commons Commission has an administrative oversight role; and the Liaison Committee of select committee chairs has become more assertive in recent years. The hope of some reformers is that a new body could improve on the functions of these existing groups.

In our comparator parliaments there are similarly three types of bodies: business committee type organisations, administrative oversight bodies, and groups representing committee chairs. The arrangements in each parliament are summarised in Table 11.

As discussed above with respect to the management of plenary time and appointments to committees, three of our five comparator chambers have general business committees but none of these live up to the expectations of Westminster reformers. The attempt in the Scottish Parliament to break away from the 'usual channels' system by creating the Parliamentary Bureau has had only limited success. Rather than, as originally envisaged, including backbenchers among its members this group is wholly made up of party whips (plus the Presiding Officer in the chair). Its members are therefore appointed by party leaders. Its existence does ensure a greater level of transparency in political management, and as was particularly the case in the period of 'rainbow parliament' from 2003-07, its membership is broad.[74] However there is no backbench representation, and the rules provide that in the case of a division the whips cast weighted votes according to the size of their party groups. This leaves little scope for cross-party backbench coalitions to exert influence. Consequently it would be inaccurate to describe the Bureau has a 'voice for parliament'. Indeed one Executive party backbencher interviewed for the project, who complained that at least some members on the Bureau should be elected, suggested that without this the arrangement of business is a 'typical powers-that-be stitch up'. He lamented that, despite the ambitions of those who pressed for devolution, 'the Parliament itself has no voice'.

The dynamics in New Zealand and Germany are similar. In New Zealand the Business Committee similarly includes only whips and frontbenchers. It is chaired by the Speaker, whose role it is to determine whether 'near unanimity' in decision-making has been achieved, but the application of this is necessarily limited. As discussed above, the 'near unanimity' rule is overridden in practice by the standing order which gives the government control over the plenary agenda. Those decisions which the committee does take are therefore limited to generally less politically-important issues such as the annual calendar and overseas trips. Agreement on the committee is agreement between whips, although it must be noted that in New Zealand the whips are elected by their party groups. In Germany there is some non-whip representation on the Council of Elders but these representatives are excluded from the pre-meetings where the key decisions are taken. However whips are, again, elected in party groups. The Council of Elders has the capacity to set up subcommittees and has several, covering administrative matters such as allocation of rooms and

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[74] A party or group must comprise at least five MSPs to be awarded a seat on the Bureau. At its largest, it included representatives of the four major parties (Labour, SNP, Conservatives and Liberal Democrats) plus the Greens, Scottish Socialists and an Independents group.

information technology. It is here that 'ordinary' members may play a role, although there is a fuzzy line between these functions and those of the Presidium (see below). The fact that the whips are elected in their party groups is an important consideration when seeking to understand the dynamics of the Council of Elders. But this supports and reinforces the culture of the German Bundestag, which is wholly dominated by trading between the (internally democratic) party groups, and where the kind of cross-party working which many would like to encourage in the UK is largely alien.

In Australia there are two bodies which fulfil some of the roles of a business committee, but which are much more limited in scope. Both have already been mentioned. In the Senate the Selection of Bills Committee has responsibility for deciding whether each bill should be referred to a committee for consideration, and if so which committee, and to what timetable (roughly 35% of bills are referred to a committee). The Selection of Bills Committee is made up of whips, and its meetings are brief. But under normal circumstances, when there is no government majority in the Senate, it is an important site for inter-party negotiation. Since the government gained a small majority in the Senate its role has become far more formalistic, and it is principally government that makes these decisions. In the House of Representatives the Selection Committee, which has responsibility for timetabling non-government business, has already been discussed above. It has 11 members and is chaired by the Deputy Speaker. Like the other bodies discussed here, its membership is dominated by whips. However it is again notable that junior whips in the House of Representatives (and the Chief Whip in the ALP) are elected by the party caucuses. So this body could be said to be truly representative of the House, but it does little to foster cross-party relations at the backbench level. Instead it reinforces the culture whereby parliamentary business is a trade between party blocs.

The senior administrative bodies in our comparator parliaments are in many ways similar to the House of Commons Commission. In all four cases where these exist they are chaired by the presiding officer, and include a broad representation of parties. For example the Scottish Parliamentary Corporate Body (SPCB), which clearly was influenced by the model of the House of Commons Commission, includes four members plus the Presiding Officer, and meets fortnightly. Its members are elected by the chamber as a whole, though it is clear that there is inter-party agreement to support a representative group, and each member is from a different party. In at least one party there are regular reports to the party group and, as one member put it, those on the SPCB represent their parties 'obliquely'. But the issues discussed are largely non party political, covering matters such as staffing, security, and – importantly in the first few years of the body's operation – the logistics of creating a new Parliament building.

Administrative bodies in the other comparator parliaments are similar. The Presidium in Germany, comprising the President and Vice Presidents of the Bundestag, concerns itself with employment matters and parliamentary outreach, but the division of responsibility between it and the Council of Elders has become somewhat unclear. In New Zealand the Parliamentary Service Commission comprises largely whips (or in the case of small parties, leaders). It formerly had a directing role, but following the Parliamentary Service Act 2000 it now only 'advises' the Speaker, and in practice it has no control over the budget. In Australia the House of Representatives has no equivalent body at all, though the Standing Committee on Appropriations and Staffing in the Senate was established in the 1970s. As well as dealing with budgetary and staffing issues in the Senate itself, this body also has some oversight over the joint administrative departments in the Australian parliament.

Table 11: Collective and coordinating bodies within parliament

	UK House of Commons	Australian House of Reps	Australian Senate	German Bundestag	New Zealand House of Reps	Scottish Parliament
Bodies with general political co-ordination role	None. Is done informally through usual channels.	None (except Selection Cttee for non-government business).	None.	Council of Elders.	Business Committee.	Parliamentary Bureau.
Membership	n/a	n/a	n/a	Circa 30 members distributed proportionately and including all Vice Presidents and whips.	Speaker plus one representative of each party (in practice, whips and Leader of the House).	Presiding Officer plus one representative of each party of 5 MSPs or more (in practice, whips).
Chair	n/a	n/a	n/a	President of the Bundestag.	Speaker.	Presiding Officer.
How decisions are taken	n/a	n/a	n/a	The Council is not a decision-making body as such. If consensus is not reached, the issue is decided in plenary.	On the basis of unanimity or 'near unanimity', as judged by the Speaker. Otherwise, the majority may revert to closure motions to get its business.	Usually by consensus but by weighted party voting in case of disagreement.
Role in agreeing business	n/a	n/a	n/a	Recommends weekly programme and annual calendar. Proportional formula applies to share of slots and speaking between parties.	Rubber stamps weekly programme, in practice decided by government. Agrees annual calendar. Formally agrees share of speaking time but proportional formula applies.	Recommends weekly programme.

Role in managing committees	n/a (although Committee of Selection plays some roles similar to other business committees).	n/a	n/a (although Selection of Bills Committee determines whether bills are referred to cttee and sets a timetable).	Recommends share of chairs between parties, though a proportionality formula applies. Members are chosen directly by the parties.	Agrees share of chairs between parties and agrees individual members. Both are governed by a strict proportionality formula.	Recommends share of chairs between parties and recommends individual members. Both are governed by a strict proportionality formula.
Body chiefly responsible for parliamentary administration	House of Commons Commission.	None.	Standing Committee on Appropriations and Staffing.	Presidium.	Parliamentary Service Commission.	Scottish Parliamentary Corporate Body.
Membership	Speaker (who chairs) plus House Leader and one representative of each party.	n/a	Senate President (who chairs) plus leaders of government and opposition and six others.	President (who chairs) and all Vice-Presidents of the Bundestag.	Speaker (who chairs) plus House Leader, opposition leader and one from each party.	Presiding Officer (who chairs) plus four elected members (by emerging convention, one from each main party).
Body representing committee chairs	Liaison Committee, which exists in SOs and has become assertive. Since 2003 has regularly questioned the Prime Minister.	Committee of Chairs, an informal grouping where all members are from the governing party (though non-government Deputy Chairs can attend).	Chairs' Committee which exists in SOs but has low profile.	None.	Chairs' Forum, an informal forum created around 2004, now chaired by the Speaker.	Conveners' Group. Started informally but now exists on SOs. Chaired by the Presiding Officer or Deputy.

None of these administrative bodies could be said to 'speak for' parliament in a political sense. As at Westminster the greatest potential may therefore lie with the committee comprising committee chairs, where one exists. Here the House of Commons Liaison Committee has proved to be a model for other parliaments. In Scotland the Conveners' Group was established in 1999 initially on an informal basis, though this was put into standing orders in 2002. The committee is officially chaired by the Presiding Officer, though in practice the Deputy Presiding Officer takes the chair. The Group was created at the instigation of then Deputy Presiding Officer George Reid, himself a former MP, and clearly built on Westminster practice. Its establishment led to some turf wars with the Bureau and SPCB over such matters as overseas committee visits, but it has now found a role which includes recommending committee reports to the Bureau for debate in plenary and sharing knowledge over scrutiny techniques. Members of the Conveners' Group agree that it has the potential to take on higher profile representing the Parliament over time, particularly given the centrality of the Scottish Parliament's committees. However, ironically, the Group's more formal status post-2002 creates some limitations, as standing orders state that it must concern itself with committee business. Previously the unwritten nature of its existence gave the Group greater freedom to roam. Since taking on the role of First Minister Alex Salmond has indicated that he would be prepared to answer questions from the Conveners' Group, as the UK Prime Minister does with the Liaison Committee, though procedural changes would be needed before this could happen.[75] At the moment the Conveners' Group is also limited by the fact that it does not have formal status as a committee.

This is, however, far more advanced than the situation in the other comparator parliaments. In New Zealand a Chairs' Forum was established three years ago by the Clerk, David McGee, who had been impressed by the Liaison Committee model. This remains an informal forum, though its status was upgraded last year when it was established that the Speaker would take the chair. Given the seeming inability of the Business Committee to speak for parliament, alongside the respected role of the committees in New Zealand, this body has the potential to grow in power and influence. However it is, at the very least, in the early stages of its development. Similarly in Australia there are equivalent bodies but these have a limited role. In the House of Representatives the Committee of Chairs meets only around every six months, and largely deals with administrative matters. But as all committees are chaired by government party members a Committee of Chairs could at some time become an important lobby from the government backbench. In the Senate the Chairs' Committee has, if anything, an even lower profile.

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[75] 'Salmond offers to undergo public grilling by committee conveners', *The Herald*, 26 June 2007, at: www.theherald.co.uk/politics/news/display.var.1497172.0.0.php

Conclusions

Reasons to be cheerful

This research was spurred by concerns about the way the House of Commons is run, and particularly the control that its own members have over its timetable and procedures. It is informed by study of five other parliamentary chambers – in Scotland, Germany, Australia and New Zealand – which feeds into the recommendations for change set out below. However, we were equally struck by some of the ways in which these parliaments were *worse* rather than better than the House of Commons in certain key respects. Uncovering this was not the intention of the research – we set out to study comparable parliaments that might have something to offer. But whilst there are many positive lessons to be learnt, one of our key conclusions is that the UK has a lot to be grateful for. Rather than focussing wholly on the negative, and on reform proposals, it therefore seems useful to reflect on 10 'reasons to be cheerful' about the internal democracy of the House of Commons:

1. **The Speaker is genuinely neutral.** In the UK parliament we go to great lengths to ensure that our Speaker is genuinely neutral. S/he withdraws from party politics completely, including not voting in the House (except in the case of a tie) and is supported by wholly non-partisan officials. This is in stark contrast to what we saw in Germany, Australia, and New Zealand. While in the UK the Speaker used to by convention come from the governing party, but go on to act independently, all these countries elect speakers from the governing party who remain to some extent connected to party politics. In New Zealand the last Speaker for example routinely attended meetings of his party caucus, while in Australia the President of the Senate has an office entirely staffed by political appointees.

2. **The Speaker has significant discretion over matters which would otherwise rest with the whips.** A connected fact is that more partisan presiding officers are not trusted with much responsibility and end up concentrating on largely administrative matters. Real political power leaches to the whips. And when presiding officers seek to operate in a strictly non-partisan manner they may find themselves being reined in by their own side – unthinkable in the House of Commons. Consequently, in Germany, Australia, and New Zealand the presiding officer has virtually no discretion even over who is called in debates – it is openly accepted that s/he will stick rigidly to speakers' lists provided by the whips. In Australia these lists are so certain that they are made publicly available in advance. Remarkable as these suggestions may seem from a UK perspective they are not 'allegations' but openly accepted fact in the countries in question.

3. **Members have fair access to the agenda on many matters which are elsewhere controlled by the whips.** We complain in the UK that members lack access to the agenda, and at the end of the report we propose some remedies to this perceived problem. But in some respects the problem is far more significant elsewhere. For example in our House of Commons private members' bills and questions are balloted for. In New Zealand and Australia these are wholly in the gift of the whips. Questions are discussed at daily whips' meetings, and on the governing side are drafted by ministerial offices. If a backbencher wants to ask a question s/he must first submit it to the whips, which leaves little scope for independent questioning. In New Zealand not only questions but even supplementaries are called by the Speaker according to a predetermined party rota and lists provided by the whips. Private members' bills are similarly controlled, and in Germany single members cannot propose bills at all. Even in Scotland, which draws more from the Westminster tradition, adjournment debates

are allocated by the whips. But in some systems there are no such member-initiated debates: in New Zealand members are limited to contributing to a fortnightly 'general debate' made up of unconnected speeches on different topics.

4. **There is a clear distinction between members' and parties' time.** One reason that members' business has not been monopolised by the whips in the same way in Britain is the existence of separate opposition time. On House of Commons opposition days the other party frontbenches can pick the topic for debate. In Australia and New Zealand these opportunities do not exist for opposition parties, so they have no choice but to encroach on members' time.

5. **Voting is nowhere near as controlled as it could be.** People in Britain tend to describe the House of Commons as highly cohesive along party lines, and often to complain about that 'fact' – though recent research has had some success at eroding this image (Cowley 2002, 2005). Our research provides clear illustration of how votes could be a great deal more controlled than they are. The most extreme case is New Zealand, where since 1996 the whips have been able to cast block votes on behalf of their members, who need not even attend the chamber for divisions. All members are assumed to wish to vote as part of the block. In Australia there is an expectation that members will be expelled from their party group if they vote against it even once. In addition all the other parliaments were far more controlled on particular issues than is the UK. In all cases private members' bills (where they exist at all) were taken on whipped votes unless they concerned clear conscience matters. In contrast all PMBs in the House of Commons are taken on a free vote. Crucially, although there is agenda control in terms of ministers moving amendments to standing orders, in the House of Commons these issues are also conventionally taken on free votes. There was no such tradition in any of our comparator countries, meaning that the governing party had the capacity to get its way on procedure (though in Scotland convention is not yet established, and procedural changes have tended to be by consensus).

6. **The chamber has at least some oversight over the weekly agenda.** The Business Statement may be an inadequate form of accountability, and we propose some major changes in this area below. But at least it exists, and allows members to debate the timetable for the week for up to an hour. In Australia there is no announcement of the timetable in the chamber, and indeed this remains subject to renegotiation by whips on an almost hourly basis. In New Zealand the announcement of the timetable proposed by the government through the business committee may be followed by no more than a few brief interventions.

7. **The chamber has oversight over committee appointments.** Committee appointments have been controversial in the UK in recent years, following the rejection of the whips' list of select committee members by the chamber in 2001. But at least this opportunity exists, since the chamber has the final say. In New Zealand, for example, there is no oversight whatsoever of the lists drawn up by the business committee – which in effect means drawn up by the whips. Had this system existed in the UK, members would have been completely powerless to reinstate Gwyneth Dunwoody and Donald Anderson.

8. **Opposition parties hold a relatively fair proportion of committee chairs.** In the Commons there is no rigid rule about the share of committee chairs, but by convention the opposition parties hold a fairly proportional number of chairs. In the Australian House of Representatives – and since 2006 the Senate too – all departmental committee chairs are simply held by the governing party.

9. **Committees have significant control over their own affairs.** Commons select committees can set their own agendas and report to their own timetables. This is also in contrast to many other countries. In Germany permanent committees carry out little investigative work. In

Australia committees in both chambers do hold inquiries, but the topics for these must first be agreed by the chamber. If a topic is uncomfortable for government it simply uses its majority to block the inquiry from going ahead. The chamber also sets down strict time limits for committees to report to.

10. **There is at least some space on the agenda for debating committee reports.** It could be said that there is a serious lack of time on the agenda in the House of Commons for debating the reports of select committees, and we make suggestions to remedy this below. But it should be remembered that in both Germany and New Zealand permanent committees have no guaranteed access to the agenda at all.

Finally, this project at the outset planned to also investigate budgeting arrangements, and the extent to which the House of Commons controls its own budget. In the UK this process is set within a statutory framework and managed by the House of Commons Commission. We have not reported on this aspect at all, as we found no superior arrangements elsewhere. Indeed comparative work by a former parliamentary official in Australia judged the UK House of Commons to have by far the best system for managing its budget (Verrier 2007). In New Zealand the Speaker must bid alongside other ministers for parliamentary funds in the annual budget round, but cannot discuss the details with members as s/he is sworn to budget confidentiality. The likely success of these negotiations is said to depend on the warmth of the relationship between the Speaker and the Treasury minister. The distribution of the budget is also connected to the general issue of whips' control over members. British MPs are entitled to allowances direct from the parliamentary authorities and have virtually no financial dependence on their parliamentary party groups. A very different arrangement exists in many other parliaments. In both New Zealand and Germany members are heavily dependent on their party groups for research support (in Germany the large party groups employ around 250 staff), which creates potential for 'disloyal' members to be denied resources.

A new logic of parliamentary control

The central question in this report is who does, and who should, take decisions about how the House of Commons runs itself and chooses to use its time. In principle parliament is a democratic institution, and these decisions belong to its members. In practice this principle is difficult to adhere to, given the size and diversity of interests in the House of Commons. A combination of this and political pressures have caused the principle to be gradually weakened over time. Democracy inside the Commons has been interpreted as majority rule, but with rights for individuals to gain access to the agenda. This is wholly reasonable. But arrangements have developed so that one majority – the government – is privileged in particular, and there are few opportunities for other majorities to be influential. In particular backbenchers, and cross-party groups such as committees, have little influence over the agenda, and find it nearly impossible to press matters to decisions.

While it is easy to see how this situation came about, we suggest that it is no longer fitting for modern times. Since the 1970s select committees have become increasingly important and well respected, backbenchers have become more independent, and among the electorate tribal adherence to political parties is on the decline. An environment where government controls the agenda (even following behind-the-scenes consultation with the opposition front bench) now seems a very outdated and limited interpretation of democratic practice. In particular, while it is obviously important that parliament spends significant time scrutinising the government and its legislation, the government has an unjustified level of control over the nature and timing of other (non-government) business in the chamber.

As discussed above, our study of other parliaments shows that Britain is very lucky in many respects. The independence of the Speaker, coupled with a culture where informal cross-party backbench work and even 'cross voting' are common, is not found amongst any of the comparators we looked at. UK backbenchers have a whole raft of freedoms not available to their counterparts in New Zealand and Australia, for example. But while this is healthy it also creates a significant pressure for change – to find a new logic of parliamentary control more suited to our current circumstances.

The system in the House of Commons continues to centre on rights for the individual member, which in a chamber of over 600 creates severe co-ordination problems. This is one of the reasons that government has been able to gain so much de facto control, most clearly reflected in the rules by standing order no. 14. The logic of individual member control therefore does not in itself give power over decision making to the collectivity of members. Our comparators, however, do not by and large offer us attractive alternatives. In Australia, New Zealand and Germany rights for individual members have gradually been colonised by the parties, to the point where there are few opportunities in parliament which are not controlled by the whips. The division of time in the chamber, the division of committee chairs and members, and even the division of such matters as parliamentary questions and adjournment debates, have become matters which are traded between party blocs – generally to the exclusion of backbench members. Business committees, where they exist, actually help facilitate this trade. The fact that such complete colonisation by the parties has not occurred at Westminster suggests that we have a more robust culture of parliamentary independence, but these examples should also act as cautionary tales. One alternative to the logic of individual member rights balanced by government rights is a greater drift towards *de facto* party rights, with independent backbenchers restricted to voicing doubts behind closed doors in the party room. Although this could be mitigated if greater democratic rights were granted within the parties (as, for example, in Germany), we do not believe that this is an attractive route. Indeed it is quite contrary to the objective set at the start of this report to empower parliamentarians *per se*, and particularly to encourage and give vent to cross-party backbench work. We believe an important consideration in deciding any changes to procedure is that these should strive to avoid inadvertently creating greater party control.

There are, however, some examples from the comparator parliaments that we believe can be built on. These act to give more rights to members to influence the agenda on a collective basis. One key example is that of Germany, where there are protected minority rights for groups comprising at least 5% of the chamber. This model provides an intermediate option between majority control and individual member rights, without necessarily privileging parties (though in the party-dominated environment of the Bundestag it happens to be parties that generally exercise these minority rights). At Westminster currently, for example, private members' bills struggle to gain prominence in the shadow of government bills. In contrast bills backed by groups of members, as exist in Germany, might stand a better chance, and could be formally privileged in the rules. With care it should be possible to enshrine minority rights in ways which do not simply advantage opposition parties. The most obvious example of cross-party backbench working is that of committees, and lessons can be learnt from our comparators about boosting their strength in the chamber. For example in the Scottish Parliament committees can move bills, and in Australia they are guaranteed almost immediate debating time for their reports.

One result of the 'winner takes all' culture of the House of Commons is the extent to which government influences the pattern of the agenda, even on non-government business. Clearly government must be able to govern, which includes having adequate time for consideration of its legislative proposals. Parliament would also be failing in its duty of checking government if it did

not debate government legislation and statements, and question ministers, for much of the time. But shifting greater control to parliament need not be the same thing as denying government adequate time. The examples of Australia and New Zealand, where there is ring-fenced time set aside for non-government business, which in Australia is programmed by a special committee, also show that there is a middle ground between empowering isolated individuals on the one hand and party blocks or government on the other.

This is one way in which we suggest that the logic of control in the House of Commons should change. But there are also other ways, and other examples from comparator parliaments which can offer inspiration. In particular operating a democratic principle inside the House of Commons should not mean that one majority, the governing party, is necessarily privileged to the exclusion of other majorities that could be formed. This is particularly the case with respect to matters such as agreeing the weekly agenda. Here we can learn from the Scottish and German parliaments, where the chamber not only hears about the proposed agenda for the coming week, but also has an opportunity to vote on it. Similarly we believe that MPs should have greater collective control of the very rules by which they operate, with the proposal of procedural changes taken out of the *de facto* exclusive control of the government.

When proposing procedural change there are some principles or lessons which are familiar from the UK, but which are reinforced by study of the comparator parliaments. These have influenced our approach in making the specific proposals below. One is that there is a trade-off between formalisation of rules and establishment of cultural habits or conventions. For example, in our comparator parliaments it was normal for standing orders to specify the party balance on committees (or at least that such balance should be proportionate to share of seats in the chamber). At Westminster this is not stated explicitly, but is in practice adhered to. One byproduct of formalised rules in the other parliaments is that proportionality formulas are rigidly applied in order to avoid petty squabbles (effectively, or even literally, litigation) between parties over seats. The more informal system at Westminster is based on trust to a more significant extent, in line with a 'political' rather than 'legal' constitution (Griffith 1979). There are some advantages in this. In particular new formalised rules may themselves change culture and behaviour, and in a modern party-dominated parliament there is a risk that changes may feed the general drift towards greater party control. A second general lesson is that the most important issue is not necessarily how decisions are taken, but can be what sanctions exist if those decisions prove unacceptable to the wider group. So for example in the House of Commons, the agreement between the usual channels over the business programme exists 'in the shadow' of the Business Statement, where members of the House can raise objections. This is a fairly soft sanction, but holds the threat of embarrassment, not only in front of MPs but also any media representatives present. In contrast, there are no real sanctions in the New Zealand parliament, where the decision taken by the Business Committee is not debated. In Scotland, in contrast, there is a 'hard' sanction in that the chamber can amend and vote on the programme. But it is rarely necessary to use this sanction because it will be taken into account by those on the Parliamentary Bureau drawing up the programme. The Scottish system therefore offers greater parliamentary control over the agenda than does the House of Commons system, while the New Zealand arrangements do not.

Specific options for change

In this final section of the report we set out our specific proposals for changes to procedure in the House of Commons. For clarity we adopt the same structure as earlier in the report, though there are some obvious links between the different issues. Many of our proposals build on experience in the other comparator parliaments, and where this is the case the detail can be found in the earlier corresponding section of the report.

Although these proposals are designed to be coherent and consistent, they do not comprise a closed package of reform. Instead we present them as far as possible as a menu of options, from which different recommendations may be chosen independently. We believe that any of these individual reforms could result in improvements, irrespective of adoption of the others. In some places we suggest alternative ways forward, either of which could be beneficial.

The plenary timetable

A central objective of the research project has been to find ways of restructuring the parliamentary timetable so as to transfer some of the government's agenda-setting power to other actors within the House of Commons, but without denying government adequate time to 'get its business'. Indeed, as we noted earlier, restricting the available time for scrutiny of government legislation (the single largest category of business in terms of time in plenary spent) would be neither popular with, nor in the interests of, opposition parties or backbenchers. Nonetheless, we believe that government control of the agenda is excessive and extends to areas of activity that are more properly considered business of the House as a whole. This category of business includes such items as topical adjournment debates, debates on the establishment of select committees, other procedural motions, and debates on committee reports. While it is a strength of the British parliamentary system that time is regularly provided for these activities, we do not believe it should be for government whips to determine whether, when, for how long and on what terms such business is conducted. This forms the context for the following discussion.

Scheduling non-government time

Key to the present allocation of time in the chamber is standing order no. 14, which specifies the time available for opposition days and private members' bills. The basis of government's 'ownership' of much parliamentary time is the opening statement of SO14 that 'Save as provided in this order, government business shall have precedence at every sitting'. This makes members dependent on government to, for example, move standing order changes or allocation of seats on select committees. It is the root, therefore, of many of the difficulties outlined in this report. There are two basic alternatives to deal with this. One is to reverse the logic of SO14. The other is to specify different, and wider, exceptions to the general assumption of government time.

The radical option would be to turn the current logic of standing order no. 14 on its head, by limiting government time on the agenda to specified periods, and giving precedence to House Business instead. This is the logic used in the Australian Senate, and would return the Commons to a situation similar to that before Balfour's reforms of 1902. In Australia Senate business includes procedural matters, and presentation of committee reports, for example, with government business required to fit around them. This is a neater solution to that tried in Scotland, where there is no formal presumption of government ownership of time, but this seems to have crept in to the system by default. Adopting such a solution is possible, but it would be a major change to current practice so would require careful and detailed consideration. In particular the definition of House Business would need careful thought, as this doesn't currently exist in the UK system. If specific time were set aside for government this would need to be extensive, and could even result in less flexibility than the current system.

An alternative is to specify further categories of business which have guaranteed time, including committee business and procedural matters. This is a more pragmatic approach more in line with British tradition. However, it could result in a somewhat long and unwieldy list. It would also do nothing to address the fact that government controls the timing of many non-government matters. Therefore **the best solution may be to establish a far clearer dichotomy between 'government time' and time for House Business or 'backbench business', with the latter guaranteed a larger and more regular block of agenda time.** This is a similar logic

to that applied in Australia and New Zealand. House Business would include debates on committee reports, backbench bills and motions, and procedural matters (see Box 1). We do not propose that this form of business includes 'opposition days', and we return to these below.

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| Box 1: Forms of House Business |
| |
| • Debates on select committee reports |
| • Debates on select committee bills (see below) |
| • Debates on private members' motions |
| • Debates on establishment of select committees |
| • Debates on procedural changes proposed by the Procedure Committee |
| • General debates on matters of interest to members |
| • Occasional debates on (selected) private members' bills |
+--+

If this approach is adopted the allocation between government and non-government time could be based on the rough share between these matters at present. This was illustrated earlier in Table 1. We do not propose that time should be taken from the current slots on the agenda made available to individual members via the ballot process: i.e. oral questions, adjournment debates at the end of the day, and private members' bills on Fridays. However there are a series of other forms of time which could sensibly be bundled together as House Business. The figures in Table 1 show that there are sufficient other items which are not genuine government business to construct at least half a day's time each week for non-government business. Giving over a complete Tuesday each week (with the exception of question time and the end of the day adjournment debate) to House Business would have required 19.3% of time in the 2003-04 session, and 16.1% in the 2005-06 session.

Committee business in the chamber takes up 2.8% of time on the basis of 2003-04 figures (1% on estimates days and 1.8% on discussing committee reports in government time). The ritual pre-recess debates comprise 1.2% of time, and other miscellaneous members' business 3% of time. Together these items alone comprise 7% of annual time. It would be reasonable to add to this at least half the time spent on adjournment debates in government time (8.2%), bringing the total to 11.1%. These items are clearly more than sufficient to create a half day's House Business slot each week, if distributed fairly throughout the year. However there are also other items which could be included. If government is giving up some of its time (albeit on matters which are not strictly government business) it could be argued that the opposition should also give up a small portion of its time. Forfeiting two opposition days per year would provide a further 1.1% of time. Additional time might be found in trimming the time spent in debating the Queen's speech and the Business Statement slightly, while there are various other items of business from within government time, such as debates on establishment of new committees, which are not shown separately in Table 1. These figures show that at a stretch it might even be possible to create a whole day of House Business in each sitting week – that is approximately 35 half-days, or 35 days, of House Business every year. It would have the advantage that the share of government and non-government time would be evenly distributed throughout the year and across sessions of differing lengths – which Appendix B demonstrates is not currently the case. **A reconsolidation of existing time (without the loss of private members' Fridays or members' adjournment debates) should result in at least half a day, and up to a full day, per week being given over to House Business. This should be on Tuesday or Wednesday to ensure that it is in 'prime time'.** It has been suggested at various times in recent years that private members' bills should be moved from a

Friday to a weekday evening.[76] Although we do not specifically propose this, it would be possible to create an even longer period of continuous non-government business on Tuesdays if 'House' business were followed by rescheduled private members bills.

At present one of the greatest frustrations in the system is that most opportunities members have to get issues onto the agenda do not allow them to force decisions. Even where government does provide time for debates on matters of widespread interest, these are generally taken 'on the adjournment'. **It is an important principle that members should be able to force votes on House Business. This would enable committees to force decisions on their reports, and the House to express its view collectively on issues of current public importance.**

This leaves the question of how time is allocated and prioritised between different items of House Business, and again there are several options. **Standing orders should continue to set out, as they do now, a minimum allocation of time for private members' bills and for debating committee reports.** But **crucially, if there is a new category of House Business, the responsibility for allocating time between different items of business on this part of the agenda should no longer rest with the usual channels, which give primary control to the government Chief Whip.** The creation of a fixed slot for House Business should end government input into when private members' business and committee business is scheduled. It should also end the government's dominance over procedural change (as further discussed below). Our view is that **a new committee made up of backbenchers (the 'Backbench Business Committee') should be established to determine the timetable of House Business.** This builds on experience in Australia, where government business is organised by the whips through a usual channels arrangement, but non-government business is organised by a separate 'Selection Committee'.[77] In Australia this is run by whips, but the whips are elected in party groups. In order to create genuine member control in the Westminster system, members of such a committee should be backbenchers. **The Backbench Business Committee should have responsibility for scheduling different items in the regular House Business slot, within the confines set out in standing orders. It might also be given some control over programming on private members' Fridays.**

One option we discuss later in the report is whether the timetabling of all business should be determined by a 'business committee', and we express ourselves not convinced. **To ensure that members' and committee business is clearly separate, and freed from the control of the whips, the new Backbench Business Committee should have no role in timetabling government business**, which would continue to be determined via the usual channels, and principally by the government whips.

We have given careful consideration to whether opposition days should be considered House Business. This has some attractions, but the costs in our view outweigh the benefits. It would be hard to justify excluding opposition whips from a committee which was scheduling opposition business, and would therefore be politically impractical to create a genuine Backbench Business Committee if opposition days were included. Hence we conclude that the timing of opposition days should not be included in the remit of the new committee and should continue to be agreed through frontbench negotiation as at present. But we do believe that the opposition should be given more control over the timing of how its allocation is taken. Therefore, **while we do not propose that opposition days should be considered House Business, opposition parties**

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[76] For example Hansard Society (2003: 6); Conservative Democracy Taskforce (2007: 6)

[77] It also builds on proposals that have been made in the past for a committee to manage timetabling of private members' bills (Marsh cited in Hansard Society (2003: 6); Hansard Society (2003: 6); Dismore in Procedure Committee (2003: Ev 71).

should have a right to demand a half-day debate be scheduled within five days, as recommended by the Conservative Democracy Taskforce, and to exchange some of their days for government statements on specified topics as recommended by the Hansard Society in 2001. In both cases such time would be deducted from the overall allocation for opposition time. It would supplement the existing provision for urgent debates under standing order 24 as a way of preventing the government from avoiding debate on controversial topical issues.

The Backbench Business Committee should have broad representation from across the House, and be wholly made up of backbench members. It might comprise, say, ten members drawn proportionately from across the House, who could be elected in their party groups. The chair of the Liaison Committee, and possibly the chair of the Procedure Committee, should sit as ex-officio members. The committee should be chaired by one of the Deputy Speakers. The core task of the committee would be scheduling non-government time, within the framework set by standing orders and following the items tabled by different eligible groups. **It is extremely important that drawing up a draft schedule does not fall, de facto, into the hands of the whips (as has occurred with respect to business committees elsewhere). Administration of the committee should lie firmly with officials reporting to the Deputy Speaker.**

Time for committees

The establishment of a weekly House Business slot on the plenary agenda, with a Backbench Business Committee in control of the allocation of time within it, would end many of the frustrations with respect to committees' ability to get their reports debated. In particular, the Backbench Business Committee would be able to make debates votable, and would include representation from the Liaison Committee. However there are other changes which could be implemented separately, or alongside this reform.

We propose that there should remain ring-fenced time for discussion of committee business. At present the Liaison Committee controls six Thursdays annually in Westminster Hall, and in practice three days for 'consideration of estimates' in the Commons chamber. There has been some expansion in recent years, but this falls far short of arrangements in some of our comparator countries. We are particularly impressed by the example of the Australian House of Representatives, which is linked to their 'Main Committee' on which our Westminster Hall was based. Here the publication of each new committee report is announced in the chamber, and at this point there is an opportunity for members to request a debate, which takes place on the same day in the parallel chamber. We believe that this example could be usefully combined with the proposals which have emerged from various bodies in recent years. We agree with the Modernisation Committee that **there should be a 30 minute slot every week for the announcement of any new committee reports, with a capacity for the chair of the committee to introduce the report and for a short government reply. But, building on the recent Australian model, we believe that this initial debate should be in plenary, and if members indicate that they want more time for debate on a particular report there should then be a time set aside each week in Westminster Hall for this to happen.** In practice requests for debates might become routine, but announcement of reports in the Commons chamber would improve their visibility on the public record. These arrangements would replace the current standing order with respect to committee debates in Westminster Hall. **The 30 minute plenary slot would take place on House Business day if one is created. Alternatively it might replace one of the current two ten-minute rule bill slots, which occur in prime time.**

Whatever arrangement is made for House Business we believe that committees should have clear guaranteed access to the plenary agenda to have their reports debated in a timely manner. In

Scotland standing orders explicitly set aside 12 half-days per session for committee business, which are allocated by the Liaison Committee equivalent. We suggest that a similar clarification is needed in the Commons, both in order to guarantee time to committees and also to improve public understanding. Therefore **'estimates days' should be formally renamed 'committee days' with allocation determined, as at present, by the Liaison Committee**. This leads to the question of how much time should be set aside for committee business. At present extra opportunities for debates on committee reports are provided by government (and in government time) on an ad hoc basis. It is tempting to suggest that more time should be guaranteed to committees for debate on their reports. However if our proposals to create a Backbench Business Committee implemented it also seems desirable that that committee should have a fair amount of discretion over what is timetabled in the House Business slot. Therefore **if a Backbench Business Committee is created we do not suggest an increase on the minimum three days for committees each session, but would in practice expect additional time to be made available for consideration of committee reports on House Business days** in response to demand from committees and members.

The situation is rather different if our main proposal for a Backbench Business Committee is not acted upon. In this case a stronger guarantee of time for committee business seems desirable. **If no Backbench Business Committee and House Business slot is created we would therefore support the proposal made by the Liaison Committee and others, that committees should be entitled to a minimum of six days of debate in the Commons chamber per session, with allocation between committees decided by the Liaison Committee.** Whether or not the proposal of a new House Business slot is implemented, **committees should, as in Scotland, themselves decide the form of debates on their reports, including the possibility of debates on a substantive motion.** This would ensure that particularly important committee recommendations could be put to the chamber, and thereby provides a safety valve. However in Scotland committees generally choose voluntarily to present their reports on 'take note' motions.

Finally, we suggest that, **Committees should be entitled to propose their own bills, as in Scotland, and that these should be given special priority.** Some committees have published bills, but have no formal means to get these onto the agenda unless they are taken up by individual members (who might, obviously, be members of the committee). This is one of the clearest examples where the Commons' privileging of individuals and of government leaves an important gap. Select committees build up substantial expertise in a topic and should have the ability to move legislative proposals in their subject area as a collective should they wish. These would by definition be cross-party proposals. We suggest below that other groups of members should also be able to move legislative proposals, but those put forward by committees should have a priority. **One option would be to provide a fast-track for two committee bills in each session to be given priority over other non-government legislation. These could be selected either through the Liaison Committee or on the basis of the number of signatories – with a minimum cross-party requirement.**

Other time for members

Committees, of course, do not have a monopoly on expertise in the chamber. There are many individual members who build up effective campaigns on issues. However, their opportunities for formal outlets on these are limited. Individually members can sponsor adjournment debates, which have low profile, or private members' bills, which have limited chance of success, as well as asking questions to ministers. Collectively, the options are significantly more limited: Early Day Motions may gain large numbers of supporters, and members can add their names to each others' bills. But while large numbers of names on legislative amendments may help ensure that they are selected, weight of support makes no difference to the priority given to motions or bills. EDMs are never debated, and the ranking of PMBs is literally a lottery. As our comparators show, there is much to

be said for random selection, and EDMs also have their uses as a 'soft' form of influence, but there remains a gap with respect to members' ability to put their proposals on the agenda.

We believe that **the example of Germany, where groups of members have rights of access to the agenda could usefully be followed.** The German system is based on a logic of proportionality, which says that minority groups should be entitled to a fair share of agenda time. In the UK we have other ways of ensuring time for minorities – through opposition days, and individual member rights – both of which are valuable and should be retained. But we could add to these by allowing greater group rights, particularly for backbench and cross-party groups. **Groups of backbenchers should be able to propose bills, and there should be a means for these to gain priority, especially when these groups are cross-party.** This also builds on the experience in Scotland, where PMBs must have the support of 18 members, drawn from several parties.

We believe that **facilities for private members' bills, based on a ballot, should continue to form part of the package of non-government time and we do not propose any change, at least in the short term, to the arrangements for Fridays.** In particular the UK's ballot arrangements avoid bills falling completely into the hands of the whips as happens in some comparator countries. However, there should also be opportunities for committees and other groups of members. **We propose that the Backbench Business Committee should be able to timetable high priority non-government bills in the House Business slot for which it is responsible, ensuring that private members' bills would not be wholly dependent on winning government time if they come low down the ballot** (time which in recent years has only very rarely been given). Such bills could also compete for the time on the agenda controlled by the Backbench Business Committee. In particular, the Backbench Business Committee should be able to prioritise bills that come from committees, or have otherwise demonstrated widespread support. This would help ensure that the whips cannot wholly colonise PMB time through the use of 'handout' bills.

In addition, agenda time should not be restricted to those bringing forward legislative proposals. **Members' motions should be reinstated, again with particular priority for motions with cross-party support. These should also be programmed by the Backbench Business Committee, and would enable members to initiate debates on topics of their choice.** If no Backbench Business Committee is created, and there is no creation of a House Business slot, we would support the recent recommendation of the Modernisation Committee (2007) that such motions should be eligible for debate on Fridays. However this would be very much a second-class option. An alternative would be to learn from the House of Lords, where one Thursday per month is given over to two backbench debates, which are balloted for amongst backbenchers and Crossbenchers only.[78]

Agreeing the main weekly timetable

The proposals above, if implemented, would give members of the House of Commons significantly more control over the timetable of their own institution. They would carve out a new part of the agenda not falling under usual channels control, and provide a greater ability for individuals and groups of members to put items onto the agenda. They would address many of the concerns that have been raised about parliamentary control in recent years. However we realise that these would amount to a significant change. **If the move to a House Business slot is not made, or is not made immediately, we believe that the present system of debating the Business Statement on a weekly basis could be significantly improved by learning from the Scottish Parliament.**

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[78] See House of Lords (2007: para. 5.51).

At present the timetable for the week is presented to the House in the Business Statement on a Thursday, following negotiation through the usual channels. Members may respond by raising points and calling for time to be allocated differently, but these pleas are largely symbolic as no change can be forced. There are two aspects of this process which could potentially be reformed. The first is the way in which the timetable is drawn up, and the second is how it is presented to the House.

With respect to the first of these, many groups have recently proposed the establishment of some kind of general 'business committee'. Based on our study of such institutions in other parliaments, we are not convinced that an overarching business committee would address the key question of parliamentary control over the agenda, as further discussed below. But insufficient focus in recent debates has been given to the second question. We believe that changes here could be important in order to give greater control of the agenda to members. That is, what oversight role the chamber as a whole should have once a draft of the timetable has been drawn up.

Here the existing Business Statement offers a foundation on which to build. The announcement is transparent and allows objections to be voiced, which can create political pressure on the whips to respond to the demands of the House. The difficulty is that if the whips are determined to resist such pressure, they ultimately can. An increased formalisation of the Business Statement could therefore offer greater parliamentary (and particularly backbench) control.[79] Our comparator parliaments – particularly in Scotland and Germany – offer useful models to follow.

An increased formalisation of the Business Statement would involve two changes. First, **the weekly Business Statement should be published in advance of being debated**. Assuming that the timing of the statement is not changed, it would be published late on Tuesday or early on Wednesday. Publication in advance would mean that **there should be an ability to table amendments to the Statement.** This would act as a safety valve for both backbenchers and opposition parties to object to the substance or timing of the agenda – for example if members felt that insufficient time was being allowed for the remaining stages of an important bill. To help avoid frivolous claims for extra time (of which there are many at the present Business Statement), **amendments should only be ruled in order if they specify which business should be omitted or curtailed to make time for any additional business**.

The publication of amendments for debate would place an additional burden on the Speaker if there were many tabled from which s/he had to select. In the Scottish Parliament, which operates a similar system, amendments are relatively rare. However, the House of Commons is far bigger, and might develop a different (and more 'free for all') culture based on existing practice. To avoid this process descending into ritualistic oppositionalism, **to be ruled in order amendments should have to demonstrate significant support.** This might be set at, say, 30 signatories, but be subject to review after a pilot period. **A mechanism might also be included to prioritise amendments with clear cross-party support for debate.** On the basis of experience in other parliaments, partisan amendments may be relatively rare, given the presence of opposition whips in the usual channels. These should really only occur only when the government had ignored opposition voices, or when the whips on one side or the other had not responded to the views of their backbenchers. However given the established adversarial culture in the House of Commons, it would be sensible to build in some safeguards.

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[79] This is in line with the recent recommendation of the Modernisation Committee (2007: 32) that 'there is a case for formalising business questions in Standing Orders', though the committee did not specify how it would seek to do this.

The second element of change would be that **the Business Statement, and any qualifying amendments to it, should be voted upon before being agreed.** This would emphasise that the chamber's agenda belongs to all its members. It would also provide a real sanction to the chamber when voices of members had been overlooked. As in Scotland and Germany, these members would be able to change the order of business if they could muster a majority. Again, in other parliaments such votes are relatively rare, but the threat of them helps ensure that the whips are responsive to the chamber. Where there was no significant opposition to the Business Statement it could then be agreed after a shorter debate than the full hour as at present. Time for this could come out of government time, providing an incentive for the government to ensure widespread support for its programme before it is presented to the House, or be added to House Business.

Finally, **all parties should commit to a strong convention that such divisions are considered procedural and are taken on a free vote.** In practice parties might be likely to vote fairly cohesively most of the time, particularly as government members will tend to support the government's programme. But votes for change by government backbenchers should not be considered as 'rebellions'. In fact, since the usual channels would have agreed the timetable in advance it is likely that most opposition members would support the Statement, and that divisions would be rare. This is the experience in Scotland. But where there is clear backbench unrest, or where usual channels negotiations have failed, the chamber would have the final say.

Appointments to committees

Aside from the control of time in the chamber, appointment to committees is the issue which has raised most concerns recently over 'ownership' of House of Commons decisions. There have been various proposals put forward for reform of appointments to select committees, in particular, and two failed attempts to introduce reform. The key concern has been the control of committee appointments by the whips.

Our study of other parliaments has found no obvious solution to this perceived problem. In all cases appointment to committees lies in the hands of the parties, and in practice largely in the hands of party whips. There is a basic question about whether committee memberships belong to the parties, or to the House as a whole. In all our comparator parliaments, it is the former that prevails. Even in those parliaments with 'business committees' that formally make nominations to committees the whips from one party will not interfere with nominations by whips from other parties. As these bodies have no other real backbench representation, this means whips' nominations go unchallenged. Indeed in some cases, such as New Zealand, there is no role for the chamber in approving the business committee's recommendations, so the system is far more party controlled than in the UK. In addition, when asked in our Issues and Questions paper whether committee membership should be a matter for parties, or be decided on a cross-party basis, all respondents felt that it was inevitable (and in several cases desirable) for parties to retain control.

We have not found another system where greater cross-party involvement is formalised in the choice of committee members. In the Commons, rejection of lists by the chamber is a last resort, which in 2001 was shown to work. Since then the Labour Party has significantly democratised its internal arrangements for choosing committee members. Although parallel changes have not occurred in the other parties it is difficult to see how these could be imposed. It would break with precedent, and be extremely controversial and probably undesirable, for House rules to set down mechanisms for party group activities.

There are ways, however, in which the present system for choosing select committee members could be improved, and this process be distanced from the whips. **The Committee of Selection should include backbench members from each of the main parties, and its membership**

cease to be dominated by whips. We favour the recommendation of the Conservative Democracy Taskforce that only one whip of each of the three main parties should sit on the committee. Under the current arrangements the Committee of Selection's membership is approved by the House, but this tends to be low key. **The appointment of the committee should be timetabled during House Business at the start of the parliament.** Indeed it might be debated at the same time as the establishment of the Backbench Business Committee, if one is established. As with other committees its appointment would normally be non-controversial, if the whips have responded to members and created a balanced membership.

After the appointment of the Selection Committee, **motions for the appointment of select committees should be tabled in a House Business slot early in the parliament.** This is a similar practice to now, but would have its timing under the control of the Backbench Business Committee. In addition, as was the case prior to 2005, **the motion to approve select committee memberships should be moved by the chair of the Committee of Selection, not by a whip or other minister, and s/he should respond to any objections.** This puts ownership of appointments clearly in the hands of the committee, makes its chair responsible for defending its decisions, and in so doing elevates the importance of the chair. While we did not find any examples of the whole House electing committee chairs, as was recommended by the Conservative Democracy Taskforce, we believe that **the chair of the Committee of Selection should be a senior backbencher elected specifically for the purpose by the House in a secret ballot, along the lines previously recommended by the Liaison Committee**. These changes would creates a more transparent, and clearly non-government, framework for the appointment of committees.

There has been particular concern about the appointment of chairs of select committees. Again, our comparative research found no example of very different mechanisms to copy, as in all cases committees are responsible for selecting their own chairs. However, the procedure followed in Australia would be a small improvement on current practice. We therefore recommend that **select committees should elect their own chairs in secret ballots, following an in-principle agreement as to which party should hold the chair.** This would particularly make a difference if there were less whip control over who gets on committees. The sharing of chairs should be agreed through the usual channels, as now, with only members of the appropriate party entitled to stand for election. However, **the division of chairs between parties should be approved by the chamber at the same time as the overall membership of select committees is approved, as is the case in the Scottish Parliament.** This would provide a clear forum for grievances to be resolved if usual channels agreements broke down. Any such decision should take place within a clear framework set down in standing orders, so that the majority party could not vote itself all of the chairs. We therefore suggest that **standing orders should state that the chairs of select committees will be shared broadly proportionately between the parties.** This would enshrine current practice in the rules.

Although attention has focussed on appointments to select committees, appointments to public bill committees (formerly standing committees) is far less transparent. Here again we find no obvious comparators, as all other countries combine the legislative and investigative functions in specialist committees (or take the committee stage of bills in plenary). However, we see no clear reason why the transparency applying to select committees should not be extended to bill committees. We therefore recommend that **the same procedure as applies to select committees should be used for approving lists of public bill committee members, with the chair of the Committee of Selection moving such proposals.** This should normally be a formality, but if it seemed that a particular member had been excluded unfairly, or opinion on a bill committee not be suitably balanced (e.g. by the exclusion of leading rebels), amendments to

the list could be moved and agreed. In the light of evidence presented above that rebels are often excluded from or under-represented on bill committees, **the expectation should be that the composition of bill committees reflects the balance of *opinion* in the House rather than simple party balance**. This solution was supported by the Hansard Society in its response to our Issues and Questions paper.

Changing the rules

A further frustration is the extent to which rule changes in the Commons depend on the initiative of government. Although the Procedure Committee (or Liaison Committee, or others) can make recommendations, in practice standing order changes will only get debating time if tabled by a minister. A connected issue is the chairing of the Modernisation Committee by the Leader of the House. This has the advantage of focussing the Leader on reform issues, and improving the chances of committee recommendations winning parliamentary time, but runs counter to the principle that parliament's rules belong to its members, rather than to government.

We found some very different examples of how rule changes are agreed in our comparator parliaments. There are broadly two types of procedure committees – one dominated by leaders and whips, and the other run by backbenchers. The first tend to be very closed, and the second much more open and transparent. The establishment of the Modernisation Committee took a small step in the direction of the first kind of committee, though its work remains largely open.

The proposals that we have made above have implications for the way that procedural changes are agreed. The establishment of House Business time, during which members' motions could be taken, would provide an opportunity for individual members (or groups) to propose procedural change. More time to debate committee reports, and allowing committees to propose these on substantive motions, would provide more opportunities for the Procedure Committee. All of this, we believe, is desirable.

However, there are some other specific changes that could be made. **If committees have more time on the agenda and can propose reports on substantive motions, and private members' motions can also be used to propose procedural change, we see no need for the continuation of the Modernisation Committee. This should be merged with the Procedure Committee, under a strong backbench chair.** One of the key arguments for having the Leader of the House chair the Modernisation Committee is to ensure it access to the agenda, but this should no longer be a difficulty under our proposals. This does somewhat diminish the role of the Leader of the House and could over time, along with other developments, lead to the demise of this position.

There is a remaining problem that government regularly brings forward procedural changes. This would be diminished by the changes above, but not necessarily eliminated. **We are attracted to the system in Scotland where all standing order changes must be proposed by the Procedures Committee, and ministers cannot propose changes to the chamber directly. This should be kept under review. However, on balance we believe that greater pluralism – whereby either backbenchers or frontbenchers have a chance to propose procedural change – is preferable to giving the committee such a rigid gatekeeping role.** It would appear unfair to allow backbenchers but not ministers (who, after all, are MPs) to put procedural change on the agenda. **However, procedural changes proposed by government should be moved in government time.** A 'third way' would be say that no standing order changes could be put to the House until they had been considered and reported upon by the Procedure Committee, although that committee would not specifically have had to propose them.

Who speaks for parliament? Individuals

There are a number of individuals who hold key positions which require them to represent the Commons as a whole, and/or play a major part in how it runs. These are the Speaker and Deputy Speakers, the Leader of the House and the Chief Whip. There are some fuzzy lines between the responsibilities of these different actors, particularly with respect to the extent that the two government members represent the government or the House. The role of 'champion' of the Commons is divided between the Speaker and Leader of the House, while the role of managing government business is divided between the Leader of the House and Chief Whip. It is the 'champion' role that could be carried out more effectively than it is now.

Our overseas comparators offer little inspiration as to how to better fill this role. The presiding officer role in all the overseas parliaments was far more partisan, demonstrating that we have a lot to be grateful for in our tradition of a neutral Speaker. Indeed, **care must be taken in the establishment of any new procedures that the neutrality of the Speaker, and the Speaker's office, is not put under threat.** Should this tradition be lost it would be difficult to regain. However, **the Speaker could play a more assertive role in defending the Commons, and the rights of its members.** The strongest defender of parliament that we came across in this study was not a presiding officer, but the Clerk of the Australian Senate. To a lesser extent the Clerk of the New Zealand parliament plays a similar role. These officers are filling a void left by the lack of a strongly neutral presiding officer. But the way they go about their roles – publishing articles and speaking at events in order to explain and defend the principles of parliamentary democracy – could provide an inspiration to a future Speaker in the UK. **When electing its next Speaker the House should consider the benefits of choosing someone prepared to be an outspoken public defender of parliament.**

The way the Speaker is elected has been reformed in recent years, though these arrangements have not yet actually been used. The new system promises to be more satisfactory than that which preceded it, and until it is tested there is certainly no need to recommend change. Indeed a similar system was put into effect in the House of Lords, where the Lord Speaker elected in 2006 was a clear choice, and seems to be developing a role as a confident champion of the House.

The election of the Deputy Speakers is less transparent, and for these positions the House normally approves nominations agreed between the whips. More transparency seems desirable in the appointment of the Deputy Speakers, but as the Procedure Committee (2002) has pointed out this is not straightforward. Any reform would have to protect the convention that there is a party balance in these positions. As a result, this may have to remain (at least *de facto*) a matter for the party groups. However, if reform was considered necessary in this area one solution would be that all three Deputy Speakers could be elected simultaneously by secret ballot with a rule that no more than one of those elected must be from the same party as the Speaker. This would create a similar situation to that which exists in Scotland. **Various proposals made in this report would strengthen the visibility of other actors in the House, including the first Deputy Speaker, who would probably chair the Backbench Business Committee, and the chair of the Committee of Selection. These individuals might therefore come to be seen as greater defenders of parliament over time.**

The choice of the Leader of the House and Chief Whip both lie with the Prime Minister. This may seem automatic, but in fact our comparator countries show that it need not necessarily be the case. In both Germany and New Zealand the whips are elected within their party groups. This puts a rather different complexion on usual channels negotiations. In all cases the whips tread a balance between representing party leaders to members and the other way around. Election by members tilts responsibility and accountability towards them. **If the Commons continues with a usual**

channels system where whips are responsible for key decisions over timetabling and appointments this could be significantly improved by whips being elected, as in Germany and New Zealand. The division of the timetable into government and House Business, with whips' control limited to the former, plus greater transparency for the Committee of Selection, might justify maintaining the current arrangements for the appointment of whips. If these changes are not made, electing whips would be an alternative route. If a general purpose business committee were created in the future, it should be noted that this would not be as representative as those in Germany and New Zealand unless the whips were elected in their parties.

A proposal that has been floated from time to time is a merger of the roles of Leader of the House and Chief Whip. This would result in a more general 'Minister for Parliamentary Business' as exists in Scotland (in other countries the duties carried out by our Leader and Chief Whip are shared out in a variety of ways). However, on balance we are not attracted to this idea, at least at the moment, and it found no support amongst the respondents to our Issues and Questions paper. The Leader of the House is a far greater champion for the Commons than is the Chief Whip, and if the positions were merged it would be likely to be the whip role which became dominant. In the absence of other parliamentary champions, this would be a loss. **We are not attracted to the merging of the Leader of the House and Chief Whip, but if in the future the Speaker develops as a greater champion for parliament, and particularly if the Chief Whip were elected, this might become a sensible step.**

Who speaks for parliament? Co-ordinating bodies

It seems that one of the reasons why parliamentary control has been lost is that the Commons does not speak with one 'voice', as the government is able to do. Just as there is no single actor, there is no single body that speaks for the Commons as a whole. The House of Commons Commission exists in statute and is made up of senior members, but has a largely administrative role. The Liaison Committee has achieved political prominence, but is a voice for select committees rather than the whole House. The Chairmen's Panel also comprises senior members on a cross-party basis but is now low key and has an even narrower role.

A perception has grown that one thing which might provide a greater voice for parliament, and a more general co-ordinating role, would be the creation of a general 'business committee'. These are common in other parliaments, and take a role in managing the timetable, appointing committee members, and allocating bills to committees. Such bodies exist in one form or another in all of our comparator parliaments, and their role was described earlier in this report and in greater detail in an earlier publication (Russell and Paun 2006b). However, **on balance we do not believe that a 'business committee' for the House of Commons would tackle the perceived problems of parliamentary control, and conclude that other changes set out above will prove more effective. Indeed, if built on the model of our comparator parliaments a business committee could in some ways make things worse, by handing greater control to party leaders and whips.** In our comparator parliaments we found that business committees are effectively institutionalisations of the usual channels, which allow brokering between party whips, but provide no leverage for other backbenchers and particularly for cross-party groups. In some ways the existence of these committees (particularly in New Zealand) means that there is less accountability to the chamber itself for decisions than is currently the case in the House of Commons. The dynamic of these bodies, and their accountability to other members in the chamber, crucially depends on how the whips who sit on them are selected: in cases where the whips are elected in party groups this accountability is clearly stronger. Without such a change at Westminster a business committee made up of whips would be largely unaccountable. But even if this change did happen, a business committee on this model would reinforce bargaining between

party blocs rather than promoting the kind of cross-party work that many now feel should be strengthened.

One option would be to try and construct a unique UK parliament model of a business committee, with backbench representation and better accountability. However, we believe that this would be unlikely to succeed. A committee could be constructed, for example, including backbench members elected from each of the party groups, and other key individuals such as the chair of the Liaison Committee. It might be chaired by the Speaker or Deputy Speaker (as occurs in most other parliaments). However, our research shows that it is easy for such individuals to be shut out of discussions, which in practice continue to go on between the whips behind the scenes. In Scotland such whips' meetings excluded the Presiding Officer under David Steel, and in Germany pre-meetings are held between senior whips excluding both the Presiding Officer and other members. In all cases, much like our much-maligned Committee of Selection, meetings are extremely brief and largely rubber-stamp whips' decisions. The exception may be Scotland under SNP minority rule, but this is a special case, and still facilitates deals between whips rather involving backbenchers. **Furthermore, there are concerns that if the Speaker chaired a business committee s/he could be drawn into political arguments.[80] We do not believe that this would necessarily happen, but it is a risk. A greater risk may be that the Speaker would lose status if s/he chaired such a committee without playing a full part in its discussions. This is the pattern we have seen in other parliaments.**

We conclude that the key question is 'ownership' of time: if the government continues to own most agenda time, thanks to standing order no. 14, it will continue to be dominant in negotiations, with or without a business committee. Hence we have set out proposals above to create a regular House Business slot, including most of the non-government items currently taken in government time. Alongside this we suggested establishment of a Backbench Business Committee to draw up the timetable for the House Business slot. Such a committee would be drawn wholly from the backbenches, and be chaired by the Deputy Speaker. As it would have no role in timetabling government bills it would be of far more limited interest to the whips, but enable backbenchers – including committees – to bargain over how non-government time is allocated. **We believe that the establishment of a more limited Backbench Business Committee to manage House Business would be a more realistic and more fruitful place to start. Over time, if this mechanism proved a success, a business committee with broader function might develop from it.** This approach has the advantage that a cross-party culture with meaningful backbench involvement would develop in the initial stages, and therefore might have a better chance of transferring to a more general business committee at a later stage. However, even at a later stage it would probably be sensible to keep committees managing government and non-government business separate, perhaps with some overlap in membership.

In addition to this important change, there are some more limited changes that might usefully be made to existing chamber-wide bodies. The selection of the chair of the Liaison Committee has been the subject of some recent debate, and the mechanism for choosing this individual could be improved. The Liaison Committee itself suggested that this post should be combined with that of chair of the Committee of Selection (2000a). Given the potential 'closed shop' that this creates, we are not drawn to this suggestion. However, **the chair of the Liaison Committee could, like the chair of the Committee of Selection, be elected by the whole House at the start of each parliament**.

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[80] This concern was raised by several of the respondents to our Issues and Questions paper.

The establishment of a Backbench Business Committee to manage non-government time would mean that for the first time there would be a single body to represent and provide a voice for the backbenches. This new committee would be likely to develop a stronger such a role over time. The Liaison Committee currently takes on part of the role, and members on other bodies such as the House of Commons Commission and the Procedure Committee (particularly if appointment to these bodies is made more transparent) share the role on specific topics. This may prove perfectly sufficient. However, **over time there may be a desire to create a more unified collective voice for the backbenches. A more united body could work with the Speaker on outreach activity, and review general parliamentary developments, and might meet only occasionally. Its membership could be drawn from the existing co-ordinating bodies, along with the new Backbench Business Committee.** That is, the Commission, Chairmen's Panel and Liaison Committee. At a minimum one representative of each of these four bodies might start to meet together on a quarterly basis with the Speaker.

Depending on other changes in future, it may be necessary to revisit these proposals. For example if specialist legislation committees were established, questions could arise about which committee/s should consider which bills.[81] This problem arises at the moment to some extent with respect to draft bills. Similarly, if such committees were established there would be a new set of expert committee chairs in place of the Chairmen's Panel, who would be a closer parallel to the Liaison Committee. This might call for greater joint working, and create new opportunities for development of a collective backbench voice. **If certain procedural changes are introduced in the future, such as establishment of specialist legislation committees, the case for establishing a general purpose business committee may grow, and other new options for creating co-ordinating bodies develop.**

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[81] Although this issue has not been addressed in this report, the authors are broadly sympathetic to the idea of committing bills to subject-specific committees. However, it should be noted that in Scotland concerns have been expressed that some committees have faced such a heavy workload in terms of legislative scrutiny that they have had little time to undertake other inquiries (Scottish Parliament Conveners' Group 2007: 1). A more attractive model is that which operated in the Australian Senate until the Howard government reforms in 2006, with two committees with overlapping memberships working in each policy area, one dealing with legislation and the other with inquiries. Such an arrangement in the House of Commons would also create new seats for those who do not currently sit on select committees.

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Appendices

Appendix A: Standing Order No. 14

Arrangement and Timing of Public and Private Business

14.—(1) Save as provided in this order, government business shall have precedence at every sitting.

(2) Twenty days shall be allotted in each session for proceedings on opposition business, seventeen of which shall be at the disposal of the Leader of the Opposition and three of which shall be at the disposal of the leader of the second largest opposition party; and matters selected on those days shall have precedence over government business provided that—

> *(a)* two Friday sittings shall be deemed equivalent to a single sitting on any other day;

> *(b)* on any day other than a Friday, not more than two of the days at the disposal of the Leader of the Opposition may be taken in the form of four half days, and one of the days at the disposal of the leader of the second largest opposition party may be taken in the form of two half days; and

> *(c)* on any such half day, proceedings under this paragraph shall either—

>> (i) lapse at seven o'clock on Monday or Tuesday, four o'clock on Wednesday or three o'clock on Thursday if not previously concluded, or

>> (ii) be set down for consideration at the hour specified in sub-paragraph (i) above and, except on days on which private business has been set down for consideration under the provisions of paragraph (5) of Standing Order No. 20 (Time for taking private business), shall be entered upon at that time: Provided that on days on which business stands over until seven o'clock, four o'clock or three o'clock under the provisions of Standing Order No. 24 (Adjournment on specific and important matter that should have urgent consideration) proceedings under this subparagraph shall not be entered upon until such business has been disposed of, and may then be proceeded with for three hours, notwithstanding the provisions of Standing Order No. 9 (Sittings of the House).

(3) For the purposes of this order 'the second largest opposition party' shall be that party, of those not represented in Her Majesty's Government, which has the second largest number of Members elected to the House as members of that party.

(4) Private Members' bills shall have precedence over government business on thirteen Fridays in each session to be appointed by the House.

(5) On and after the eighth Friday on which private Members' bills have precedence, such bills shall be arranged on the order paper in the following order— consideration of Lords amendments, third readings, consideration of reports not already entered upon, adjourned proceedings on consideration, bills in progress in committee, bills appointed for committee, and second readings.

(6) The ballot for private Members' bills shall be held on the second Thursday on which the House shall sit during the session under arrangements to be made by the Speaker, and each bill shall be presented by the Member who has given notice of presentation or by another Member named by him in writing to the Clerks at the Table, at the commencement of public business on the fifth Wednesday on which the House shall sit during the session.

(7) Until after the fifth Wednesday on which the House shall sit during the session, no private Member shall—

> *(a)* give notice of a motion for leave to bring in a bill under Standing Order No. 23 (Motions for leave to bring in bills and nomination of select committees at commencement of public business); or

> *(b)* give notice for presenting a bill under Standing Order No. 57 (Presentation and first reading); or

> *(c)* inform the Clerks at the Table of his intention to take charge of a bill which has been brought from the Lords.

(8) A private Member's bill to which the provisions of paragraphs (2) to (6) of Standing Order No. 97 (Scottish Grand Committee (bills in relation to their principle)) have applied, and which has been considered by a Scottish public bill committee, shall not be set down for consideration on report so as to have precedence over any private Member's bill so set down which was read a second time on a day preceding that on which the bill was reported from the Scottish Grand Committee under paragraph (3) of that Standing Order.

(9) An order appointing a day for the second reading of a private Member's bill shall lapse at the rising of the House on the preceding sitting day if at that time the bill has not been printed and delivered to the Vote Office, and the House shall make no further order appointing a day for the second reading of the bill until it has been printed.

Appendix B: Non-government time by session (% of total)

Session	Type	Opposition Days*	Private Member Bills	Estimates Days	Total
2005-06	Long (17½ months)	8.3%	3.7%	1.0%	13.0%
2004-05	Short (4½ months)	6.1%	3.7%	1.3%	11.1%
2003-04	Normal (12 months)	11.6%	5.2%	1.0%	17.8%
2002-03	Normal (12 months)	10.6%	4.9%	1.2%	16.7%
2001-02	Long (18 months)	9.0%	4.1%	0.9%	14.1%
2000-01	Short (6 months)	7.0%	5.6%	1.1%	13.7%
1999-2000	Normal (12½ months)	9.0%	4.9%	0.8%	14.6%
1998-99	Normal (12 months)	9.7%	4.4%	0.6%	14.6%
1997-98	Long (18 months)	6.4%	3.0%	0.5%	9.9%
Average long		7.7%	3.5%	0.8%	12.1%
Average short		6.6%	4.8%	1.2%	12.6%
Average normal		10.1%	4.8%	0.9%	15.8%
Average all		8.7%	4.3%	0.9%	13.8%

* Figures differ slightly from those presented in Table 1, as here we show only the time spent on activities for which a specified number of days is set aside (opposition days, private members' bill Fridays, and estimates days).
Source: House of Commons Sessional Returns, at: www.publications.parliament.uk/pa/cm/cmsesret.htm

Appendix C: Representation of Labour rebels on standing committees

The rebellions shown in this table are the ten largest second reading rebellions between 1997 and 2007 in terms of the number of Labour members voting against a government bill either on the second reading vote itself or on a 'reasoned amendment'.

Title of Bill (date of second reading)	Labour rebels at second reading – N (% of PLP*)	Labour rebels on standing committee – N (% of Labour committee members)	Labour rebels on notional proportional committee
Higher Education Bill (27.01.04)	72 (17)	1 (6)	2.8
Health and Social Care Bill (07.05.03)**	65 (16)	1 (6)	2.8
Education and Inspections Bill (15.03.06)	52 (15)	0	1.9
Prevention of Terrorism Bill (23.02.05)	32 (8)	***	-
Gambling Bill (01.11.04)	30 (7)	0	1.0
Criminal Justice (Mode of Trial) (No.2) Bill (07.03.00)	29 (7)	0	0.8
Offender Management Bill (11.12.06)	27 (8)	1 (9)	0.8
Fire Services Bill (08.05.03)	27 (7)	***	-
Asylum and Immigration (Treatment of Claimants etc) Bill (17.12.03)	25 (6)	1 (8)	0.8
Identity Cards Bill (28.06.05)	20 (6)	0	0.6
Average	*37.9 (9.6)*	*0.5 (3.6)*	*1.4*

* Based on number of Labour MPs elected at start of the parliament (1997= 418, 2001= 412, 2005= 356).
** In the case of the Health and Social Care Bill 65 Labour MPs backed a 'reasoned amendment', and 31 of these rebels then also opposed the second reading motion. The one rebel selected for the standing committee (Stephen Pound) rebelled on the reasoned amendment vote but backed the government in the second reading motion.
*** Committee stage taken in Committees of Whole House.

Source: This table is adapted (and updated) from Cowley and Stuart (2006: Table 4) using data from www.publicwhip.org.uk

The House Rules? is the final output of a two-year Constitution Unit research project investigating who runs, and who should run, the House of Commons. In a year in which the Prime Minister and both major opposition parties have expressed concern about government dominance of parliament, this report seeks to inform the debate by looking at how much autonomy the Commons has over its own affairs – in particular its agenda, its committee system, and its procedures. The authors draw ideas from the legislatures of Scotland, Germany, New Zealand and Australia to set out a programme of reform that would strengthen the control exercised by backbench MPs and committees over their own institution.

The report asks:

- Should MPs and committees have more influence over the parliamentary agenda?

- Would a 'business committee' of the kind existing in other parliaments be a good idea?

- Could the power of the Speaker or others to 'speak for parliament' be enhanced?

- Could the way that committee members are chosen be improved?

The report calls for a new logic of parliamentary control and makes 60 recommendations for change. But it also argues that there is much to celebrate at Westminster compared to other parliaments, so future reforms must build upon rather than undermine the healthier aspects of British parliamentary democracy.

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The Constitution Unit in the School of Public Policy, UCL, is the UK's foremost research body on constitutional reform and comparative constitutional studies. It is independent and non-partisan, and the centre of a wide network of national and international experts.

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The House Rules? International lessons for enhancing the autonomy of the House of Commons *Meg Russell and Akash Paun*

The Constitution Unit

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