

# Procedure Committee

## Oral evidence: Accountability hearings, HC 277

Wednesday 25 May 2022

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Members present: Karen Bradley (Chair); Aaron Bell; Chris Elmore; Patrick Grady; Mr Kevan Jones; Nigel Mills; James Sunderland.

Questions 1-45

Witness

I: Rt Hon Mark Spencer MP, Leader of the House of Commons.



## Examination of witness

Witness: Rt Hon Mark Spencer MP.

Q1 **Chair:** I welcome you on your first attendance at the Procedure Committee in your capacity as Lord President of the Council and Leader of the House of Commons. Would you like to make some opening remarks before we kick off with the questions?

**Mark Spencer:** Only to say that I am delighted to be here. I am at the service of the Committee. I recognise the great work that you guys do and, if I can assist in that process, I am at your service.

Q2 **Chair:** Obviously we are very much dependent on you to make our recommendations a reality, so it will be very good to work closely with you and to ensure that, when we make recommendations that we believe have the support of the House, you as the Leader of the House can find space for them on the Order Paper.

I will kick off with a question about the responsibilities of the House. This is clearly a House Committee. We look at how to ensure that the conduct of public business is such that MPs can best represent their constituents. There has been some confusion—perhaps that is the way to put it—about what constitutes House business and what constitutes Government business. Do you have any comments on your views of what would be House business and what would not be?

**Mark Spencer:** That almost sounds like a trick question. Everything is House business, isn't it? The House decides everything so, ultimately, it is the House of Commons that passes Government or any other business. I would say that everything is House business, but I understand the nuance of your question in that, clearly, there are things that are procedural, rather than driving the Government's legislative agenda. That does not mean the Government cannot have a view on those types of issues. Occasionally, the Government will have a strong view one way or the other.

Q3 **Chair:** There is an issue around the role of Parliament. I am always clear that Parliament has two roles: scrutinising the Executive and allowing MPs to represent their constituents; and ensuring that the Government pass their business. We are a representative democracy with an Executive that is part of and fully accountable to Parliament, so it is quite clear that there are the two roles. In the past, the Committee has been concerned that some issues that we believe to be House business—and therefore should be matters for the conscience, views and judgment of Members of Parliament as to how best to represent their constituents—have perhaps strayed into being seen as more Government business.

**Mark Spencer:** I do not share that view. Let me give you a really good example. It was decided to establish the ICGS. You can make an argument that the establishment of the ICGS is House business—it is for the House to decide on how it investigates and chastises those people who have done



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wrong. I think that the establishment of that system was very important, and probably should not have been left to the chance that the legislation and the establishment of the system would not happen. Therefore, there is an argument that the Government should intervene and say to the Government Whips Office, "Colleagues will want to and should support this."

**Q4 Nigel Mills:** I got naively caught out on this understanding that things that are purely matters of how the House conducts itself would not have a Government Whip on them. Perhaps I should have been wiser at the time. Issues such as how the House votes—proxy voting and electronic voting—do not really need a Government Whip. That should be a matter just for MPs to come to a view on, shouldn't it?

**Mark Spencer:** I am not sure. That is a huge change to how the Government can deliver their legislative programme. I think that if you are fortunate enough to convince the British public to support you and to establish a Government, you have a responsibility to deliver your manifesto commitments. You have that right to try to push that through the House of Commons, and the system by which that is done can affect that. Proxy voting and how we dealt with the pandemic were very important issues. I can see why the Government had a fairly strong view on how the House was going to operate.

**Q5 Nigel Mills:** Of course, you, the Chair and me were all elected on our first manifesto to establish a House business committee. I guess we are still waiting for that one to be honoured. That would have changed the nuance of some of this, wouldn't it? If and when we do make recommendations to change proxy voting, will you commit to make time for that debate to happen, so we can have the vote, whether it is free or whipped?

**Mark Spencer:** Of course. These things are worthy of further debate and scrutiny. I think the House will be very keen to engage in that process. I am looking forward to receiving your report and reflecting upon it, and I think the House will be very keen to do the same.

**Q6 Nigel Mills:** You would make time on a timely basis.

**Mark Spencer:** Yes. Well, you know—to be clear, I am not quantifying that time because I don't know whether your report is going to be one side of A4 or 300 sides of A4. Clearly, I will want to read it before I commit to the timescale, but I think it is something that lots of people will be interested in, and lots of people in the House will want to get involved in that debate. That is something that is worthy of further debate.

**Q7 Nigel Mills:** Now we are through—we hope—all the crises, will you commit to giving the Backbench Business Committee all the time it is duly allotted in this Session so that it won't fall short, as it has in recent ones?

**Mark Spencer:** I think we've been pretty generous to the Backbench Business Committee—



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**Nigel Mills:** Well, they are short, actually.

**Mark Spencer:** There have been a number of occasions when they have almost run out of debates to be had. I think the numbers of days that we have committed have worked quite well. The Chairman of the Backbench Business Committee and I have regular conversations. I think he is fairly content—I am putting words in his mouth. My experience is that colleagues on the Back Benches feel that they do have the opportunity to bid for those debates and the opportunity to have those debates when they put them forward.

Q8 **Nigel Mills:** Just a final quick question: when your predecessor was here, he told us the Backbench Business Committee could approve motions for Humble Addresses, yet when that was done by the Opposition recently, the Government seemed to have the view that that was an abuse of House processes. Are you happy to confirm your predecessor's view that that is a perfectly acceptable thing for the Backbench Business Committee to propose?

**Mark Spencer:** These are decisions for the Speaker and for the Clerks, really, rather than for me, whether they are procedurally correct. My own personal view is that I am not quite comfortable with Humble Addresses, if I am honest. Dragging the monarchy in through some sort of arcane process is not always the right way to go about things. There are many ways to make a political point and to get it across without resorting to some of those arcane measures.

Q9 **Nigel Mills:** Would you support a reform, therefore, that the House can pass binding motions on non-Government business, so we wouldn't need to involve Her Majesty?

**Mark Spencer:** No, I think there are lots of ways of getting your view on the record. Colleagues are very adept at making sure their political views are heard and registering their concerns and criticisms of Government policy.

Q10 **Nigel Mills:** You are Leader of the House. We are Parliament. We are not an Oxford debating union that expresses views. We are here to take decisions and make people do things. Don't you recognise that it is actually a bit unfortunate that, unless it is Government business, Parliament cannot actually bind people?

**Mark Spencer:** I think, again, that's the way our democracy works. If you are fortunate enough to win a general election, you have the right to form a Government, you have the right to deliver your manifesto commitments and you have the right to control the Order Paper and the agenda. That is one of the privileges of winning a general election and forming a Government.

**Nigel Mills:** We'll have to disagree, I think.

Q11 **Chair:** Your predecessor was very encouraging of Back Benchers submitting Humble Addresses, so it is interesting to hear a change of view.



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**Mark Spencer:** There are lots of opportunities for Back Benchers to get their political points across and to raise matters that matter to their constituents and to the general public. My experience is that Back Benchers are very adept at that and have been very successful in the past.

**Chair:** Thank you. Can I turn now to questions on oral questions, from James Sunderland?

- Q12 **James Sunderland:** Leader, thanks for coming. A few weeks ago, I asked a question at business questions about the perceived imbalance between Government Departments in terms of the duration and programming of OPQs. Can I ask first what the rationale is for the House having more time to question Cabinet Office Ministers than DEFRA or DCMS Ministers?

**Mark Spencer:** There clearly is a formula here that works for the rota. We could, of course, change it at any point we wanted, but there is a cost to that. If you were to extend the questions for, say, DEFRA and then push Church Commissioners to another day, you would extend the rota and the point at which you get to other important Departments. There could be a price to pay for extending all those other smaller Departments, if I can describe them in that way. It would be longer in the cycle before you got around to the Treasury or the Department for Education. There is always a price to pay for doing that. I think the way it actually works out is that DEFRA questions come around every four weeks—off the top of my head—and Treasury questions come around every five weeks. When you add up the number of DEFRA sessions and Treasury sessions—one hour compared with 40 minutes over a year—you are probably not far off the same amount of scrutiny, although I have not done the maths.

- Q13 **James Sunderland:** Mea culpa—I have the information here. It says every five weeks on a fixed pattern, which is fine. Thank you for your answer.

Moving on to my next question, is this is a subjective issue? Is the decision taken on programming objective, or is there a scientific element to it? What is the history behind certain Departments having 45 minutes and others having only 30?

**Mark Spencer:** I hope the Committee would agree that there are probably many more Back Benchers interested in Treasury matters than in other Departments, such as DEFRA—I don't want to pick on DEFRA, but that is the one you mentioned—or Church Commissioners. The questions to the Attorney General are very specific and narrow, whereas questions to Health, Education or Treasury could be much broader and, probably, apply to the vast majority. Clearly, Treasury applies to every constituency. I think it feels about right to me, if I am honest. I am open to representations to change that if the Committee feels strongly about it, but it feels to me as though the balance is about right. There have been a couple of occasions recently—obviously because business questions follow on from some of those Thursday questions—where there has been a bit of panic that there might not be enough interest in the question session on a



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Thursday morning to be able to reach 10.30 and that we would have to suspend. Luckily, your colleagues have been able to talk for long enough.

**James Sunderland:** I'm on a roll now, please forgive me.

**Mark Spencer:** Keep going.

Q14 **James Sunderland:** What would it take now for that approach to be made? What form would it take? Is it a letter from the Procedure Committee to you? How would we initiate a review taking place?

**Mark Spencer:** That is something this Committee could look at. It could do a review itself. You have the power to look at anything, don't you?

Q15 **Chair:** We have the power to look at the conduct of public business.

**Mark Spencer:** If the Committee felt strongly enough that that was something that was worthy of investigation, I would, of course, be delighted to read the report at the end of that investigation.

Q16 **James Sunderland:** Before I shut up, should Members have the opportunity to ask topical questions of Ministers answering for the Wales, Northern Ireland and Scotland Offices?

**Mark Spencer:** And AG does not have topicals off the top of my head either.

**Chair:** AG does not have topicals either.

**Mark Spencer:** There is actually quite a good reason why that isn't the case. Of course, many of the items Members might want to raise are devolved matters. If you were to ask about transport or health in Wales or Scotland, they are devolved matters to the Senedd or Holyrood. You might find yourself in a circumstance where Members are standing up and saying, "I want to ask this", and Mr Speaker has to stand up and say, "I'm really sorry, but the Minister cannot answer that. That is not within the Minister's portfolio. It is a devolved matter." The way it is organised now is that the Table Office can sift those questions out and see what is devolved and what isn't. It does work quite well in those circumstances. The AG is much more serious. We wouldn't want someone asking something that was prejudicial to a live case. It allows the Table Office to give advice to Members as to what is in scope and what isn't.

**James Sunderland:** Thank you very much.

Q17 **Patrick Grady:** Just as a follow-up to that, there are Scottish Members who probably would welcome the opportunity for topical questions; if you look at what has been coming out of the draw in Scottish questions, certainly, it tends to be very generic questions that essentially lead to topical interventions. An awful lot of Government Members are asking about the steps the Government are taking to strengthen the Union. From our side, there are questions about the engagement that has been had with the Scottish Administration or Scottish Government, and you therefore end up with de facto topicals. There is an argument for a rota



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within the rota, as well, so that some of the Departments that currently get 30 minutes get a bit longer, even if that means it takes place on different days. I would be interested in your reflections on that.

We also had some briefing that suggested that there is certainly provision—if not precedent—for Ministers to take questions in Westminster Hall. I wonder if you have any views on whether Ministers would be willing to look at that as an option to create a bit more time and space for questions.

**Mark Spencer:** I think it would get a bit of pushback, if I'm honest. Ministers would say, "Wait a minute—why is my Department being pushed to Westminster Hall? My Department is very important. It is worthy of being scrutinised in the Chamber." There would be pushback from Departments that would feel slighted by the fact that they were no longer worthy of being scrutinised in the Chamber.

Q18 **Chair:** Can I take it from that that you would welcome us looking at this, and welcome a report that might suggest changes to the way questions operate?

**Mark Spencer:** I certainly welcome investigation and further debate, but I am not committing to welcoming any changes you recommend until I have heard what they might be. My instinct is that, at this moment in time, the balance is about right: the length of time allocated and the rota work pretty well. I don't necessarily have a strong feeling that it's worthy of change. However, that doesn't mean that I would seek to stop you guys investigating it.

Q19 **Chair:** We tend to find on this Committee that if we have a suggestion from the Leader of the House that there is a more welcoming attitude to something, it is worth spending more of our time on it, but if the Leader of the House is less willing to look at something, we probably shouldn't spend too much time on it.

**Mark Spencer:** I think that other matters are probably worthy of your investigation before that.

**Chair:** Thank you. Unless there are further questions on oral questions, we will move on to the inquiry we are conducting into how the four legislatures of the United Kingdom operate together, in the light of the fact that many of the issues that used to be dealt with in Brussels are devolved and we therefore have to work out how the common frameworks and relationships between the four Parliaments work. We have visited Cardiff and Belfast and will shortly visit Edinburgh. Patrick Grady has some questions following on from our visits.

Q20 **Patrick Grady:** From our visits and from debates in the Chamber when there has been controversial legislation that has required legislative consent, which has been granted—or not granted, as it may be—the message has come through pretty clearly that what is becoming an increasing challenge to the devolved legislatures is the notice they are being given in which to consent or not consent. They are often being given very short timescales—aside from the fact of legislation going



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through without consent.

To begin with, I wonder what evidence do Government Departments currently have to provide to the Cabinet's Parliamentary Business and Legislation Committee around devolution issues—matters that require legislative consent—such as when they have been consulted on and when they have been resolved.

**Mark Spencer:** At every one of those Committee meetings where legislation is considered, the Secretaries of State of those Departments—Scotland, Wales and Northern Ireland—will be represented. I don't think I've chaired one without them being present. They always ask about LCMs and whether LCMs are required and what work those Departments are doing to secure an LCM. It is quite robustly challenged. Where I think your criticism is a little unfair is that if you are going through the legislative process and somebody comes forward with an amendment that suddenly brings an LCM into scope, clearly, that Department cannot engage early and flag that up with the devolved Administration in question. There will be occasions where notice is quite short, and we will have to try and expedite that process, but my experience is—I am disappointed to hear that you do not concur—that early engagement does work, and people are encouraged to do that.

Q21 **Patrick Grady:** As I say, we have heard evidence to the contrary: that requirements for legislative consent appear at relatively short notice, inhibiting opportunities for scrutiny of the detail of that legislation. Perhaps we will reflect on that in the—

**Mark Spencer:** I would be interested to see the detail of the Departments, or pieces of legislation, where those devolved Administrations felt as though they did not have enough notice.

Q22 **Chair:** What we heard from both of our visits was that when it happens, early engagement is very welcome. The sense from the Members we met in Stormont and in Cardiff Bay was that there simply was not enough early engagement, and that an awful lot of things were coming at them at the very last minute. Sometimes, Royal Assent had been granted before legislative consent was being considered in the devolved Administration.

Now, there are issues with the Parliaments and the Ministries. Obviously, the devolved Ministry will look at the legislative consent and perhaps are not given enough time to get them to the Parliament, so there are issues around that that we are also looking at, but it was a very strong view, and—I have to say—was totally across parties. This was not coming from any one party, any one designation or viewpoint: the view that there simply was not enough time to scrutinise LCMs, and there were so many of them coming forward that the Parliaments felt overwhelmed, was completely across parties.

**Mark Spencer:** That is not my experience, and that is certainly not the message that I see delivered at PBL Committees. I see a series of Ministers coming forward saying, "This is my plan to secure an LCM. This is my engagement plan." That is challenged and scrutinised by those



Departments, so I would be interested to look at the detail of what you are saying.

- Q23 **Patrick Grady:** I wonder, then, whether anything could be done to improve the transparency and awareness of those processes. Perhaps there is a role for the devolved Administrations in that, but even in our own processes here, if you go into the back of explanatory notes, you can see that there is a table that says whether consent is needed for x, y and z. I take the point that amendments can change things—although if someone could point to the last time an Opposition amendment made it successfully through the primary legislation process without the Government’s backing and awareness, I would be interested to see that example—but can any more be done to improve the transparency of the steps that are being taken to secure legislative consent?

This is particularly in cases where legislative consent is not given, yet Royal Assent will be granted. Those cases are increasing, and by the looks of the Queen’s Speech that has come out, there will be more cases. Are there steps that can be taken to improve the transparency of that; for example, for a Minister to recognise that in their Third Reading speech, or by some sort of formal note? There is sometimes a note on the Order Paper, depending on what stage the LCM is at, but is there a way of formalising that and improving the transparency around it?

**Mark Spencer:** I am disappointed to hear you already pronounce that LCMs will not be granted to legislation you have seen in the Queen’s Speech before seeing that legislation. That sounds to me that you have a closed mind to the fact that we might be able to agree going forward, but that does not stop the Government from attempting to change your mind and convince you that you should support that legislation, and that it is good for Scotland. We will continue to encourage you to open your mind, Mr Grady.

- Q24 **Patrick Grady:** I am not a Member of the Scottish Parliament, and I was not allowed to vote on legislative consent motions when they appeared before the English Grand Committee under the late lamented EVEL system. In all seriousness, more pieces of legislation in this Queen’s Speech will require legislative consent than has been the case for a long time. To come back to the point about improving the robustness of the transparency—

**Mark Spencer:** We are keen to engage. Certainly, on the day of the Queen’s Speech, I spoke to the Deputy First Minister, and I spoke to the First Minister in Wales. We have moved forward, whereby now at Third Reading in the Lords you have to declare whether an LCM was secured. I think there is quite a lot of sunlight poured on this, but the Government remain committed to making sure that we secure an LCM wherever possible, and the way to do that is by early engagement. If you have examples of where that has not happened, I would be quite disappointed, but I would be interested to see them.

- Q25 **Chair:** I think it would be fair to say that it wasn’t that consent wasn’t granted but that there was a very limited timeframe in which scrutiny



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could happen. There was a sense that things were being done to the devolved Administrations without them really having a say. Consent was granted in the vast majority of cases, but people were frustrated because they felt they had been bumped into it; they did not feel they had had time to really scrutinise. We are and will be looking at examples from other places around the world that have similar systems in which devolved matters are dealt with in one Parliament and then have to be implemented by Ministries in other parts of the country.

Perhaps there could be a statement on the face of a Bill or on the Order Paper, for example, saying that legislative consent will be required, so that nobody can turn around the day before—or possibly after—Royal Assent and say, “My goodness! We now have to give legislative consent to this. We didn’t know it was coming.” That is important.

When directives used to come from Brussels, they never went through Westminster; they went straight to the devolved legislatures. That is no longer the case. One of things that we heard in Cardiff in particular was that there is a tendency, which was criticised by those we spoke to, for Ministers in devolved Administrations to ask Ministers in Westminster to insert amendments for measures they want to implement locally into Bills that are entirely devolved. Those measures are then passed in Westminster with what is considered less scrutiny than they perhaps would have had if they had been done as an individual stand-alone measure in the devolved nation. There is then confusion about where the legislation sits.

The example of building safety was cited. The building safety regulations for Wales now sit in some Westminster legislation and some Cardiff Bay legislation, which makes it difficult for people to find what legislation applies where and how the two interact with one another. We are looking for ways to improve that.

**Mark Spencer:** Okay. They are matters for the individual Ministers who are conducting that legislation, but the message from the PBL Committee is very much to engage early and enthusiastically.

Q26 **Chair:** I will now move on to a niche but important point: the European Statutory Instruments Committee. Your predecessor was clear that there would not be an extension to it. I think it may have been you, actually, because we received the letter in April—we approached your predecessor, but it came to you. There is concern that that Committee, which has been very successful and helpful for the Government, will just end. There will be a sense that maybe there are instruments that are not being scrutinised, or that there is unnecessary scrutiny and instruments could be sifted out early on.

We look at what the House of Lords does, and it certainly does much more sifting of instruments before they hit the Floor of the House or go into Committee. Would you perhaps reconsider your decision on the European Statutory Instruments Committee and whether there is a role for a sifting Committee to look at instruments that we will still have to work on?



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**Mark Spencer:** Forgive my directness, but I think that is unlikely to happen, if I am honest. The system has worked quite well. It was given a timescale to operate under. The number of SIs we are talking about is miniscule and it would require primary legislation to undo that. The Government have 38 Bills in the Queen's Speech to deliver through primary legislation in the House and, if I am honest, finding the time for another little bit of tidying up, if you like, or extra scrutiny that is probably not necessary or that applies to only a very small number, is unlikely to happen.

Q27 **Chair:** Is there any possibility that we could see a similar kind of committee in the future to assist with this sifting, to give Members confidence that—

**Mark Spencer:** If there is sifting to be done. Honestly, I think the number of SIs we are talking about is very, very small, so we are trying to solve a problem that does not exist.

**Chair:** Can I now move on to Kevan Jones and written parliamentary questions, please?

Q28 **Mr Jones:** Leader, in the past few years I have seen an increasing use of disproportionate cost as the reason not to answer written parliamentary questions. We know that the figure of the disproportionate cost hasn't been increased, but I have examples where the Ministry of Defence answered a question last year but won't answer it this year because of disproportionate cost. I have a feeling that it is increasingly being used by Departments as a way of not answering perfectly legitimate questions, and I know that because I put in some questions every year and I have not had an answer to them. What is your view on this? I think it is a wider problem to do with the scrutiny of Departments where special advisers are involved in the process more than civil servants, and I will give you an example in a minute.

**Mark Spencer:** I do not know the answer to that. That would be a question for those specific Departments as to who considers those requests. It is 10 years since we reviewed this. Off the top of my head, the figure is £850, so whether that figure is right and how the system works is probably worthy of review.

I would be disappointed if that was being used as a weapon to not answer those questions that should be answerable, but I suppose this question should be put directly to those ministries rather than to me. As Leader of the House, I would encourage Departments to answer as many questions as they can and to be as open and transparent as they can be.

Q29 **Mr Jones:** Do you think there should be some mechanism where Members could question disproportionate cost? At the moment I have to accept that reason for not having an answer with no justification at all.

Another issue is that certain written questions are highly criticised by Departments. When I was a Minister, if you tried to change a written question, civil servants would come down hard on you, saying you can't



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put comments in written questions. I had an example of this last week that I can give you in a minute, if you want.

**Mark Spencer:** I don't quite know what your question was there, if I am honest.

**Mr Jones:** The one last week was about the use of official Twitter accounts. The MOD Twitter account publicly criticised the Public Accounts Committee and said that Committee did not understand defence procurement, which is a highly political thing to say on an official Twitter account. I put in a written question asking on what grounds this had been done, only to get the same reply standing by the comment. I have now put in a subsequent question asking them to justify the reasons why that statement was made, as the official account was used in a highly political way. Attacking the PAC, for example, is unusual and it got past civil servants.

**Mark Spencer:** That wasn't linked to the cost threshold?

Q30 **Mr Jones:** No, it is an example of something where, unless things have changed radically in the Ministry of Defence since my day, a civil servant wouldn't have signed that off. I find it worrying if replies to PQs and official Twitter accounts are being used to attack Committees of this House.

**Mark Spencer:** I can only answer from my own Department that my own civil servants wouldn't allow me to politicise a response on Twitter via the Leader of the House of Commons Twitter handle. They would certainly robustly push back should I suggest or try to do that.

Q31 **Mr Jones:** I wonder whether you could look at that one because, as the old saying goes, "When you are in a hole, stop digging," and they still seem to be digging.

May I ask about something that is a hobbyhorse of mine and Aaron's? It is about Departments deflecting answers to external bodies. Our great campaign is the Environment Agency, because waste crime has been my pet hobby for the last 10 years and Aaron's since he was elected to Parliament. Where we do not get replies from Ministers, we get replies directly from the Environment Agency. I understand that people say the Environment Agency are responsible for certain questions, but it limits our ability to then hold those individuals to account.

The other one is HMRC. When asking the Treasury questions around waste crime, you get the reply back from HMRC, but then our ability to ask questions and hold them to account is limited. I will tell you how I got round it in a minute, but it is a worrying trend, and some of these are policy issues.

**Mark Spencer:** Obviously I cannot speak for other Ministers, but I sense that they would share your frustration to a certain extent. An arm's length body is an arm's length body and beyond the control of a Secretary of State in that Department.



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Q32 **Mr Jones:** Well, they're not, because some of the issues are around policy. There is a tendency to just push it on to arm's length bodies, when really it should be a policy issue. I got round it in my case by getting the National Audit Office to do an investigation into it, but I am concerned about the ability to hold Ministers to account. It is a bugbear when you write to Departments and then get a reply back from the outside body rather than the Minister.

**Mark Spencer:** Using the Environment Agency as an example, clearly they could be scrutinised by the EFRA Committee or the Environmental Audit Committee, and those senior execs could be hauled before a Committee and held to account in that way. Parliamentary questions are not the only route to scrutiny.

Q33 **Mr Jones:** I agree, but when you have individual cases or the issues that I have had, and that Aaron has had in his patch as well—it has been a bugbear of mine for a while. The issue, which has affected not just this Government but previous Governments, is that our ability as parliamentarians to raise our constituents' concerns is limited. The other one is HMRC, which hides behind legislation—let's put it that way—in terms of answering legitimate questions.

**Mark Spencer:** Obviously I wasn't in Parliament when you probably voted to let the Environment Agency become an arm's length body. I probably would not have supported that move. I would celebrate them coming back under the DEFRA umbrella.

**Mr Jones:** They are at arm's length, but their Ministers are increasingly trying to do that. You are right about the EFRA Committee and others being able to scrutinise them, but when Members have individual issues, they seem to be totally unaccountable.

Q34 **Aaron Bell:** We had a discussion with your predecessor about having a formal way for parliamentary questions to be put. I write to the Environment Agency all the time to ask them questions, or I put the question to DEFRA but then the answer comes back from the Environment Agency anyway. There are about 20 or so of these arm's length bodies. I understand the position of Ministers, because they are not supposed to politically direct these bodies, but it does not feel very satisfactory, as a parliamentarian trying to represent people, that I cannot really put them on the record in the same way.

**Mark Spencer:** No, but it is also unfair to hold the Secretary of State to account for something that he or she is not in control of.

Q35 **Chair:** I think it is this difference between policy and operational, but we have all had frustrations with certain bodies, where we simply cannot get responses, and normal correspondence does not elicit the response needed. The parliamentary question should be the ultimate test that parliamentarians can use. It should be more accessible to us than FOI requests or anything else. We should be able to get that information in a way perhaps no one else can.

**Mark Spencer:** Yes.



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Q36 **Mr Jones:** Of course, what this is leading to is colleagues using FOI requests to get the information, which is not a very satisfactory way of—

**Chair:** Or instigating National Audit Office inquiries and things like that. It will be much easier and better if we can find a way to do this, so it would be helpful if we could perhaps work with you on that. We put forward proposals, which we were invited to do by your predecessor, for changes to the Cabinet Office guide on parliamentary questions. I wonder whether there is any progress on updating the “Guide to Parliamentary Work”.

**Mark Spencer:** We are working on that. We have your recommendations in hand. We are certainly working our way through that and hopefully we will be in a position to respond to you around the summer recess. We will get there as soon as we can, but certainly we are grateful for your recommendations and my office are munching their way through that.

Q37 **Chair:** Thank you very much. Before we finish on written questions, let me ask this. We monitor the performance on written questions. It is a crude metric: it’s how quickly questions are responded to. It doesn’t take into account whether they are responded to in a “good” fashion—whether we get the answers we want—but merely says whether they were on time. We are detecting from our work a sense that some of the larger Departments—the DWP, BEIS and the Home Office—we started to see a decline over the second half of 2021. We obviously contact the Ministers responsible and then we escalate the matter to the Secretary of State if we don’t see an improvement. Where, in your view, should parliamentary engagement and responding to parliamentary questions and parliamentarians sit in the list of priorities of a Secretary of State?

**Mark Spencer:** Pretty high. It is a very important part of a Department’s responsibilities. To be fair, with the global pandemic, Departments like the Home Office and Health were completely smashed by the number of questions that were coming forward. I think we ought to give them a bit of slack for that period of time. But I think that excuse now has evaporated and Departments should be getting back to the level of performance that we would think is more acceptable. I am looking forward to seeing your stats; I presume they are coming out in the summer. I am looking forward to seeing those stats and I am very keen to work with you to try to improve the speed at which those responses are coming. As a constituency MP, I feel that pain. Some of the responses from some Departments to my constituency office have been woeful in their timing. That has to improve.

**Chair:** Thank you. Can we move on and go to Aaron Bell with some questions about corrections?

Q38 **Aaron Bell:** Thank you for coming, Leader. The Procedure Committee in 2007 made the recommendations that led to the process for ministerial corrections. The Committee on Standards recently had a consultation as part of the code of conduct work and says that a process needs to be available for all Members. At the moment, it’s a bit haphazard. Sometimes you can do it later in the debate, if you happen to be there;



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sometimes you can do it through a point of order. And there's often no link clearly there in *Hansard* that you have later corrected the record, whereas sometimes there is a link if a Minister corrects the record. So would you support Back-Bench Members having a better way to put their corrections more firmly on the record and have that recognised in the electronic *Hansard*?

**Mark Spencer:** This is one of the areas where I would welcome the Committee's guidance and investigation; it is something that is worthy of further scrutiny. Clearly, the world has moved on from recording *Hansard* on vellum. We are in an electronic age. It should be and is possible to make those electronic links between statements that differ factually. I make that distinction; I think it's quite an important distinction. If you make a factual error and you correct that, there should be the ability to link that back: "The Member corrected the facts of this later"—three days later or whenever—"for the records." What you mustn't be able to do, though, is—to be blunt—correct stupidity. If you say something stupid in the Chamber, you shouldn't be able to go back and say, "Oh, actually, I didn't quite mean that," "I didn't mean it in that way," or whatever. You understand what I'm saying.

**Chair:** *Hansard* would be very thick!

Q39 **Aaron Bell:** You can't correct your argument, but you can correct the facts.

**Mark Spencer:** That's right. If you are factually incorrect, it is important that you do correct that record, but you should not be able to recontextualise your argument in the light of public reaction or political scrutiny.

Q40 **Aaron Bell:** I think that's fair enough. Shadow Ministers are in the same position as Back Benchers. A Minister can correct the record, but if a shadow Minister makes an error, they are in the same position as a Back Bencher so, without speaking for the Opposition, I think that would be welcomed as well.

**Mark Spencer:** I would certainly welcome the Committee's views on that, if you wanted to look at it. It is worthy of consideration.

Q41 **Aaron Bell:** On ministerial corrections, are you satisfied that when a Minister has corrected the record, it is very apparent and transparent, with the process that we have at the moment?

**Mark Spencer:** It is done in public in the House of Commons Chamber or by a WMS.

Q42 **Aaron Bell:** Again, looking at the internet, when people search for things, I don't think the links are always there. If the record has been corrected and it is a really serious thing, it would have been picked up by the press at the time, but it is not always there if it is a more minor issue. Maybe we just need to improve—



**Mark Spencer:** *Hansard* is the benchmark that we should be looking at. *Hansard* are brilliant in the way in which they record parliamentary proceedings, and if you can link these things via *Hansard*, that is a system that we can all trust in, believe in and recognise is as close to perfect as we can get.

Q43 **Chair:** Can I now move on to the culture in Parliament? I hope you are aware that this Committee was asked to take advice on the possibility that Members could be suspended from the House if they had been charged or accused of misdemeanours and to determine whether an inquiry should come from that advice. That advice was received, and it was the view of this Committee that we did not need to do an inquiry and that it would not be a good use of our time, given the strong advice, which you referred to earlier, around the confidentiality that was deliberately built into the ICGS process. If a Member was precluded from being here because of an accusation, they would have to be named—there would clearly have to be transparency, because the public expects transparency on our comings and goings—and therefore the confidentiality that is afforded to the victim or complainant would be compromised. On the basis of that, and other points that were given in the advice, the Committee concluded that we were not going to carry out an inquiry.

The unions and ParliGENDER are very concerned that these issues are not being aired and about the safety of staff on the estate. I wonder whether you might consider looking at the issues that have been raised to see whether things could be done, cross-party, to try to give staff the sense of safety I think we all want to see in this place, as we would expect to have in any workplace in the country.

**Mark Spencer:** The Committee has clearly identified that this is a very challenging area and very difficult to navigate a path through. It is legally and constitutionally complicated, but that does not mean to say we should not try, cross-party, to address that and navigate a way through it.

Clearly, the unions will have a view as to how they want to protect their members. There are actually legal routes. If there were genuine danger from an individual—an MP or a member of staff on the parliamentary estate—there are routes to legally bar people from coming to the estate. If those in authority—the police force or the courts—felt someone was a genuine danger, you can put in measures to stop people attending a certain area of Westminster; you can go down that route.

If you want to block somebody from coming to the Palace of Westminster because they are a danger and they are an MP, where does that leave their constituents? Are they allowed to continue in their constituency office and continue attending public events? These are very complicated and challenging areas, and we have to try to navigate a way through.

We have made huge strides in improving the accountability of MPs and support for victims, and we need to continue on that journey. If we can find a cross-party vehicle to scrutinise that, I would certainly be open to



that discussion. Mr Speaker has set up his Speaker's Commission, which is going to look at some of these issues. We have not seen the wording or the definition of what it is going to look at yet. I would certainly be interested to see what he comes forward with and whether we can navigate a way through it. I am more than happy to assist with and participate in those discussions and to try to find a way forward.

- Q44 **Chair:** There have obviously been high-profile issues and cases recently that have heightened the concerns of people who work in the building. There is a very real fear that if this is not grasped quickly, it could be taken out of the control of Parliament altogether and we could end up in an expenses mark 2 situation, with the imposition of a regulator on all of us and the inability to recruit our own staff and determine how we conduct our business. Every Member of Parliament conducts their business in a different way based on their constituency and their individual circumstances.

I urge you to do whatever you can to grasp this. This Committee stands ready to assist if procedural changes are needed. I would cite the example of when the Committee was asked to look at introducing proxy votes for baby leave. That is a very defined area that we were asked to look at. It would have been much harder if we had been requested just to have an inquiry on how people on baby leave might register their votes—that is a much harder question to answer. We stand ready to look at the specific procedural changes that would be needed. I urge and encourage you—we will support you—to look at how Parliament can make sure we address these issues, give comfort to staff, and ensure we are all confident of the safety in this place.

**Mark Spencer:** I think we can all help. No. 1, we should all call this stuff out if we see it—we should call it out there and then, at that moment. We should make sure everyone is aware of the procedures that are in place. There is quite a lot of evidence that if victims come forward, their allegations are, first, taken seriously and, secondly, investigated very robustly. As you say, there are a number of very high-profile cases. You can point to the fact that, no matter how important you are, how big a deal you might be, whatever position you have aspired to, you will be held to account and those investigations will be taken seriously. That should be publicised, and victims should have the confidence to come forward.

- Q45 **Chair:** Thank you. We should reinforce the fact that, as leaders in society, it is incumbent on us all to act, and to be perceived to be acting, in a way that is above reproach.

**Mark Spencer:** It is worth putting on the record that, out of the 650 MPs in this place, 646 came here with the right intentions and a strong desire to improve the lives of their constituents, with a strong moral base, and want to do the right thing. It is very sad that the reputations of all parliamentarians are being corrupted and tarnished by the actions of a very, very small minority of people.

**Chair:** We all find it difficult to explain to our constituents sometimes that that is the situation. We want to be able to demonstrate that we are above



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reproach too.

On that happy note, thank you very much, Lord President, for coming to see us. We would love to see you back here again shortly. We want to continue working with you. As I say, this Committee has its best successes and is most impactful on Parliament when we are working closely with the Leader of the House and we all understand what everyone is trying to achieve. Thank you for coming.

**Mark Spencer:** It has been a pleasure. I look forward to working with you in the future.