



Procedure Committee

Oral evidence: [Written Parliamentary question answering performance in 2013–14, HC 655](#)

Wednesday 19 November 2014

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Members present: Mr Charles Walker (Chair); Jenny Chapman; Thomas Docherty; Yvonne Fovargue; Sir Roger Gale; Mr James Gray; John Hemming; Mr David Nuttall; Jacob Rees-Mogg; Martin Vickers

Questions 63–119

Witnesses: [Rt Hon Chris Grayling MP](#), Lord Chancellor and Secretary of State for Justice, and **Dame Ursula Brennan DCB**, Permanent Secretary, Ministry of Justice, gave evidence.

Q63 Chair: Secretary of State, thank you very much for coming. You will be aware that your colleague, Mr Simon Hughes, came before us a few weeks ago and we had some questions about the performance of your Department in answering parliamentary questions. My colleagues felt at the end of that session, collectively, that we had some further questions to ask and we felt very much that we would like to put these questions to you as the head of the Department. Thank you very much for attending this Committee so promptly. I am not going to say too much, because colleagues have a number of questions to ask, but it would be courteous of me to ask you, as Secretary of State, if you would like to make an opening statement.

Chris Grayling: I do not think so particularly. I am very happy to take questions from the Committee.

Chair: Excellent.

Q64 Jacob Rees-Mogg: Lord Chancellor, welcome, and Dame Ursula, welcome, and thank you particularly for coming so quickly, which is much appreciated. It is not always the case that Secretaries of State come promptly when we ask them.

I want to follow up on the questioning from last time about the issue of accurate and high-quality answers, and the feeling that the delays were coming because your Department wanted to provide accurate and high-quality answers. That implied, however, that the answers being given by your predecessor were either inaccurate or of low quality. I wonder if we could get to the bottom of that in understanding to what extent the answers being drafted for Ministers before you arrived were unsatisfactory.

Chris Grayling: I felt when I arrived in the Department that the answers we were putting out were not inaccurate, but were substantially—or, very frequently, completely—out of context. Let me give you a practical example: if you took today a statistic about the number of absconds from an open prison, they would tell you that there are about 200 a year. You then turn that into four or five a week—shocking. It is actually about 10% of what it was a few years ago, and it is a result of a lot of work within the Prison Service to make sure this does not happen. My view is that if you are going to give one bit of information, you should give the whole story, because otherwise you end up with professionals on the front line getting muck landing on their heads when they have been doing a good job for a number of years and improving the situation.

What I felt we were not doing was giving context to answers, and the officials had not been given the guidance to do that over a number of years. I set about changing that. It has taken a bit of time to sort out. I accept, and regret, the fact that we had a dip in performance in 2012-13. We are now pretty much back up to where we were before. It is also worth saying that there was a big increase in the number of named day questions in 2012-13 as well.

It was not that they were inaccurate, but a question of presenting to the House—and then, through the House, to the public—a bit of information about what is happening in the justice system, and we should understand the full picture, not just something that could be taken completely out of context.

Q65 Sir Roger Gale: There is an adage that the perfect parliamentary answer is brief, factual and tells the questioner absolutely nothing. To some extent that has always been the case. You have given one example, but are there other examples where perhaps an answer has been not disingenuous, but so brief as to not provide a satisfactory answer to the question? You are obviously concerned about it. I am not suggesting you know every last question, but there must be some example.

Chris Grayling: It is not so much “brief”, but there was a good case in point of a question that was put by the Opposition Front Bench about a

whole variety of categories of crime that were not dealt with through immediate custodial effects, and they included burglary, some sex offences and so forth. They asked for the figures for 2012; they were given a table for 2012. What that showed was that around half the people convicted of burglary, for example, will not be given a custodial sentence. That immediately causes anxiety and shockwaves outside—“Are we not doing anything about this?” What it did not show was that that was now an improving trend, and that over the previous two or three years—particularly under this Government—we had been making real efforts to address that, and people are going to prison for longer and more people are going to prison. That was not reflected in one snapshot of one year.

What I said to the Department after that—it created a bit of a brouhaha at the time—was that of course we have to provide accurate information, but that it is not unreasonable to give a bit of context to say this is on an improving trend, when it is on an improving trend, because there are professionals in the front line and in the courts, and there are judges who are taking decisions. We, as politicians, are used to having mud thrown at us and we deal with that, but I have to remember that my job is also to steward a large workforce, some of whom are directly employed, and some of whom are in the judiciary and in the courts. I want to make sure that the good work they are doing is understood by the public. When they are improving the situation or doing things that the public would want, I think that that should be highlighted. That was another example of something for which I felt that simply publishing the figures for 2012 created a misleading picture. Publishing the figures for 2008, 2009, 2010, 2011 and 2012 would have given people context for what they were looking at.

Q66 Sir Roger Gale: Getting that additional information obviously takes a little time and a little thought, so by implication there is going to be a built-in delay. Do you have enough people to do that—are you on top of it?

Chris Grayling: I think we are now. If you look at where we are in the current financial year, effectively the performance in 2014-15 is almost identical to 2012-13. We have very few outstanding questions at this moment in time. We have changed working practice. We have put extra checks and balances in. We have asked people to work in a different way and to approach this in a different way. Yes, we have had a temporary hiccup in doing so, but at the end of it, we have a better product. I make no apology for delivering better quality. I make an apology for saying that sometimes when we go through change, it takes a bit of time to bed that change in, but the Committee would see

in this particular Session of Parliament that the performance is now what it was previously.

It is not quite as high as it was in 2010-12, but look at the volumes, especially for named day questions. If you look at the first Session of the Parliament, there were 1,340 named day questions across that two-year Session. There were 1,317 in 2013-14 alone, so there has been a big jump in work load at a time when inevitably, because of financial constraints, we have fewer staff available in the Department. But now we have improved the ways of working in a way that is enabling us to deliver a comparable performance with two years ago with less resource and more detail.

Q67 Chair: It could be suggested, Secretary of State, that the number of named day questions will start to dissipate when colleagues feel they have a good chance of getting their ordinary written questions answered in good time. I know from my own experiences in the previous Parliament that if I felt my questions were not being answered in good time, I would up the ante by making them a named day question. Perhaps the increase in named day questions is a consequence of other problems within the process.

Chris Grayling: It is possible. Of course, the arrival of a named day question reduces the time you have available to respond. By definition, inevitably, that puts additional pressures on the system. What we have also tried not to do—I think we have a good record in comparison with other Departments—is just to give holding answers. I have to say that when I was in opposition, I was quite a serial poser of parliamentary questions to the previous Administration, and I used to get a steady stream of, “I will answer as soon as possible”. We do do that, but I think we do it much less than other Departments, and I would hope we would not change that. It is important to try to answer the questions substantially when we can.

Q68 Yvonne Fovargue: I would like to turn to the role of special advisers. What role do they have in the answering, and to what extent has that role changed since your appointment to the Department?

Chris Grayling: I think the main difference is that my special advisers have a look at every question that passes through the Department. It is just a quick glance and pass through, but it is important to have quality checks.

Q69 Yvonne Fovargue: Did that happen before, or has it changed since you—

Chris Grayling: I do not believe it happened before.

Dame Ursula Brennan: I think that special advisers are more involved, or more often, with PQs. They did look at some PQs in the past.

Chris Grayling: It is not just special advisers; it is my private office as well. We have taken more of an active interest in making sure that we have quality products going out of the door.

Q70 Yvonne Fovargue: When we spoke to Mr Hughes, he was saying that his special advisers do not have as much of a view of them, so is it different for different Ministers in the Department?

Chris Grayling: We try to make sure that senior coalition Ministers have— Simon is a former deputy leader of his party, and a very senior Minister of State, so I do not try to sit on his shoulder quite as much as I might do a new junior Minister.

Yvonne Fovargue: So it does differ then.

Chris Grayling: A little bit; not substantially.

Q71 Mr Gray: Am I right in remembering that the Table Office insisted all parliamentary questions must be factual—both the question and the answer? Am I right also, remembering from my own time as a special adviser, that their function is to provide party political input to what the Secretary of State is doing? Is that their purpose in life?

Chris Grayling: Not simply. To be honest, we are a pretty seamless team across the private office and the special advisers. Yes, they deal with political things, but we work together on a whole range of projects in the way you would want and, I hope, expect us to. Let me give you an example—

Q72 Mr Gray: No, I do not want an example. The purpose of a special adviser, as opposed to the ordinary line civil servant, is that a special adviser does things civil servants would be precluded from doing. They provide a political oversight of what the Secretary of State is doing and advice to the Secretary of State that civil servants would not factually be able to do. Is that not correct?

Dame Ursula Brennan: That is part of their role, but it is not the whole of the role by any means. Different Ministers use special advisers in different ways.

Q73 Mr Gray: Yes, but that is what their purpose is. That is why we have them, is it not?

Dame Ursula Brennan: There are rules that govern them, because they are permitted to give certain types of advice, but, as I said, in practice, different Ministers use special advisers in quite different ways, not exclusively—

Q74 Mr Gray: The point I am making is that if PQs are factual, and therefore incapable of explanation or changing, rather than simply the machinery, which is the Department, answering the question factually, why should it be that these very clever people—I was one of them—as special advisers, have any say in it at all? I never saw a single PQ in the four years I was a special adviser. Why are special advisers involved?

Chris Grayling: Let me give you a very practical example of that. You highlighted in your last session a question that Philip Davies asked about prisoners on the run. It had never been the policy of the Department before to publish details of which prisoners are on the run so, left to its own devices, the Department would have simply given a bland follow-up answer to that. It took a bit of time, I accept, to answer that question, but I have taken the decision—prompted by one of my special advisers who said, “This is the policy, we cannot carry on with this”—to change the policy on that. Unless there is an operational reason, such as that the police are hunting them and they do not want it to be known they are hunting them, I personally do not think that somebody on the run should be kept secret. As a result of one or two questions of Philip’s questions on that, we changed our policy.

Q75 Mr Gray: So in that case a special adviser’s intervention gave the Member more information than the Department had done?

Chris Grayling: Yes.

Q76 Mr Gray: Do you think that that is the norm, or would the special adviser normally reduce the amount of information that his Department had given?

Chris Grayling: The special adviser might say, if you take my example earlier, “You really need to give two or three years of information on this so that we know what is happening, rather than one snapshot.” They might say, “This has uncovered a policy we should change,” and if I agree and we will change it, we will then answer the Member of Parliament saying that we have changed the policy. There is no single answer to that. From my point of view—

Q77 Mr Gray: But PQs are not about policy; PQs are factual—they are asking about facts, not policies.

Chris Grayling: Quite often they are, “What is your policy of?”

Q78 Mr Gray: I am not sure that, “What is your policy of?” would be allowed, would it? I think not.

Chris Grayling: I have been asked, “If he will make a statement about his policy about,” many times over the years.

Q79 Mr Gray: I have some doubts about this. My role as a special adviser would be to spot elephant traps for the Secretary of State and say, “Ah, that is bad. That will put the Secretary in a bad light, it might lose us some marginal seats in key areas, and it might produce bad publicity in newspapers the next day.” It was to watch out for problems. I am interested to hear that, in this case, the special adviser was leaning towards more information being made available. That is a new role I cannot remember—

Chris Grayling: Take the example I gave at the start about open prisons. It might well be the special adviser saying to me, “Look, this looks like four people are escaping from prison a week at the moment and it will look dreadful, but we do need to point out the fact that it is about 10% of what it used to be,” which I think is right and proper. There is a political dimension to that, but if you are working in an open prison or you are the governor in an open prison, what you do not need is your local community thinking your open prison is out of control when it is doing a much better job than it used to. So there is a job that I have in protecting the reputation of and the pressures on members of staff on the ground around the country. We had all the stuff earlier this year about open prisoners on the run largely because one of them had a nickname—I don’t know if we got to the bottom of whether he really had it—and by the time you have Skull Cracker on the loose around the country, everybody thinks, “Oh my God, open prison is terrible.” Actually, we have tightened up the rules around open prisons, and they do an important job. The number of prisoners who abscond is pretty low. We would lose an important part of the resettlement and rehabilitation process if we did not have them, so I have a duty to make sure that information that goes out from the Department is put into context. It is not that there is not a problem, but that the problem is much less than it used to be. That is very important in terms of protecting the people on the ground, including the guards.

Q80 Mr Gray: Putting information from the Department into context seems to be quite different from the purpose of parliamentary questions. Parliamentary questions are supposed to be factual questions demanding factual answers. Putting those answers “into context”, as you describe it, and using special advisers to do so, is extremely close to spinning the answer. Isn’t that what it is about?

Chris Grayling: I do not think that at all.

Mr Gray: It is putting the answer in a better light.

Dame Ursula Brennan: May I make a comment on that? You said the parliamentary questions need to be factual. It is facts particularly. Large numbers of our questions are about numbers: how many of something; what number of something. The work of analysis and understanding of what numbers mean in Government Departments has come on leaps and bounds. There was an era when if you wanted to know a number, you sent a message to an analyst, they sent your answer back and said it was 327, and then you just handed that to the Minister and you had no idea what that represented. Sometimes somebody would then ask another question and a different number would come up and someone would say, "Why have you done those differently?" to which the answer was, "If you had explained to me what you thought you were asking about, I would have given you some context".

It is very important, particularly when we are dealing with numbers, that we give Ministers advice that makes things clear because some of the time this is a discussion with Ministers so that they understand what these numbers are. It may not make a difference to the answer that comes out.

Q81 Mr Gray: That is very important, but that is departmental civil servants, not special advisers. Departmental civil servants are doing precisely what you describe, saying, "The number of runaways is x, and that is 10% of what it was last year," or whatever. That is perfectly factual and straightforward. There is nothing to prevent an ordinary civil servant from doing that. The special adviser's job is to put something else on to that—to put a gloss or a spin on to it to make it into a politically advantageous statement, rather than a mere factual one.

Dame Ursula Brennan: Just to be clear, from my point of view, we have had a lot of discussion in the Department about improving our performance in relation to parliamentary questions and we have had many discussions with senior managers in my Department being absolutely clear that it is not our business to put spin of any sort. If an official thinks the answer does not look right, it is their responsibility to say, "No, this is not clear and straightforward." The discussion is not about officials doing something and then some spin being put on it. The discussion is about, as the Secretary of State has said, a group of people working together—the officials who are the policy analysts; the analysts, who are the people who understand the databases; and the Secretary of State's private office and his special advisers—to try to make sure that we are getting the right answer and the best answer,

and to get back to a good timeliness in terms of response. That is what we are trying to do as a team in the Ministry of Justice.

Chris Grayling: I would argue that if you do not have the comparator, you cannot understand the facts before you. If I said now that in 2013-14 we achieved 37% of our ordinary written questions being answered substantively within a working week, without any context, you would not be having this session. You have the context. The reason you are having this session is because you know that the year before was 70% and people are not happy with that. It could be, if you saw that in isolation, that we are the best Department, and it might be something that takes longer. I do think it is important to give you the context, whether it is good or bad. If you see the Department is doing something that is going in the wrong direction, it gives you the opportunity to grill and scrutinise.

Q82 Thomas Docherty: This was first flagged up to Ministers in the 2012-13 Session. It then fell off the cliff. Why did it take you a further 18 months to begin to fix it?

Chris Grayling: I do not think it fell off the cliff in 2012-13.

Thomas Docherty: I said, "It then fell off the cliff"—after it was flagged up to you.

Chris Grayling: We had a 12-month period in which we did less well when there was a big increase in the number of ordinary written questions at a time when the Department was going through quite a lot of change. I had introduced new processes to tighten up the monitoring to provide more context and, like many changed processes, they took time to bed in. You have seen this year, long before this Committee had either the previous session or this one, that there has been a big increase and a big improvement, so we are back to where we were before.

Q83 Thomas Docherty: No. With great respect, you are back to where you were in the first year of this new process. You are not anywhere near being back to where you were before your process was introduced, Lord Chancellor. Unless the figure has changed dramatically in the past two weeks, you are still on or around two thirds of answers, which is where you were when it was being flagged up to you that there had been a deterioration in performance. I have the transcript—

Chris Grayling: What I said earlier was that we were now back to where we were two years ago. Things are improving all the time.

Q84 Thomas Docherty: Not before the system. You are nowhere near where you were before. Before you were at 93%. Now I am a politician, and my maths is not fantastic, but 66% is not 93%.

Chris Grayling: No, I did not say that. I said we were back to where we were two years ago.

Q85 Thomas Docherty: I can get the Hansard sent to you, but you said “before”. You are not back to where you were before; you are back to where you were after you introduced the process.

Dame Ursula Brennan: I think what the Secretary of State meant was: before we started to institute the process of having a more thorough review of questions.

Thomas Docherty: No, we are not back to that.

Q86 Chair: Could I just say something very briefly, Dame Ursula? The fact of the matter is that I imagine all your colleagues across Whitehall take great pride in the answers they produce. They produce, on average, ordinary written questions 85% of the time and named day 78%. I have to ask this question: are you suggesting that your colleagues—other Permanent Secretaries—are not taking the same level of care in how they deal with parliamentary questions?

Dame Ursula Brennan: Not at all. I have been a civil servant for a very long time. I have worked for Ministers who want to see extremely brief answers to questions, and I have worked for Ministers who like to have longer answers. I have worked for Ministers who like very detailed factual analysis and numbers before they answer a question, and some who, frankly, do not want to see that information. I have worked for Ministers who were content to do quite a lot of “I will write” answers, and I have worked for ones who always want to try to answer them exactly on time. My experience across different types of government is that different Ministers have different views about how they like to approach answering questions.

When the Justice Secretary came into office in September 2012, he was not happy with how we were providing a service. We put a lot of effort into improving that service, and in the process of putting that effort in, our performance really dipped. We then continued the work that we were doing to improve the performance. We have put in improved tracking so that we have a sharper sense of where PQs are in the system, and we are now back on an upward curve. We are currently at 69% for ordinary written and 66% for named day. There have been some weeks when we have hit 100% for ordinary written and the trend over the weeks of the Session has been improving, so we will expect to continue to improve. It is my responsibility to give the

Secretary of State, as far as I possibly can, from the Department, the service that he wants from us in answering parliamentary questions. From my experience, it is quite reasonable for him to say, "This is the service that I want from you".

Q87 Chair: Why do you think it took your civil servants so long to get to what is just about an acceptable standard? What is it within your Department that took more than two years for them to get up above 60%? Why was it such a challenge for them?

Dame Ursula Brennan: Whenever there is a change in the approach to answering questions or providing policy advice, it takes time for that to bed down. Whenever there is a new Minister, for the first few months you are working out what the Secretary of State wants. In the first few months of the new Justice Secretary's tenure, he was establishing what was coming to him and working out whether he was happy about it. Then at the turn of the year, we started to put in processes to try to change our performance, so around January 2013 we started saying, "This is not working; there are things that we need to be doing about that." We had workshops with staff.

When what you are trying to do is to get people to put information in context, to understand what underlies the data and to be more thoughtful about it, there are occasions when things went back and forth, and it took us time to do that. We have managed to get the quality into better shape, I think the Secretary of State would think. It has taken us time to get the turning around of the PQs and getting them back to the Minister, and then into Parliament. There was a quality improvement part and a speeding up part. It is true that more work on the quality slowed down our performance initially. We think we are now back on the right trend on that.

Q88 Chair: So the quality was not good when you were performing at 94%?

Dame Ursula Brennan: Whether it was good or not, it was not the quality that the Justice Secretary wanted. As I say, in my experience, different Ministers want different things and it is our job—as far as is possible and consistent with responding to Parliament and answering honestly and clearly—to give Ministers the best service that we can, and we were not giving the Justice Secretary the service that he wanted when he started.

Chris Grayling: It is worth also saying that you need to put this in the context of a Department that has fewer people over a broad geographic area. There are many Departments that are fundamentally head offices. Many of the questions that we receive relate to operational

matters around the country in individual prisons, individual courts or whatever. We have fewer staff now, for obvious reasons, at the other end of a phone to do that, so there will inevitably be an impact on performance of the necessary reductions we have had to make across the Department. It becomes that much more difficult to get answers instantly.

To go to Mr Docherty's question, I became Secretary of State halfway through 2012-13. The impact I had in policy change on that year was not great. We have now got back to the figures in that year. The impact that my changes would have had would have been in the latter few weeks of that year, not over a substantial part of it. We have now got back to the levels—or close to the levels—we had previously because the other two changes during that time: a big increase in the number of named day questions, so things were required to be answered more quickly; and also just changes in the Department, with fewer people, as you will be aware.

Q89 Thomas Docherty: There is little point in rehearsing this again beyond saying the transcript of evidence given by your slightly more junior Minister and Mr Crawford clearly states that it was raised with you during the 2012-13 Session that the numbers were dropping. Mr Crawford said: "But it was, as you have said, only really during the 2013-14 Session when performance nose-dived to a level that was clearly unacceptable and one we have had to take very serious steps to address." So it is not that, with the greatest respect, Lord Chancellor, you arrived on a ship that was already taking in water. You arrived and you changed the policy, which is your prerogative, but that was the cause of the delay.

Chris Grayling: I have not sought to deny that.

Q90 Thomas Docherty: You have sought to deny the level of water that was being taken on, if I can put it like that, because you are only back to sinking at the level you were at first. You are not back to the position under Kenneth Clarke.

Chris Grayling: I can only dissect year by year, but the impacts of the policy changes I put in place were felt at the very tail end of 2012-13, but effectively in 2013-14, which is what the previous evidence said. If you are looking at what is the true picture, it is that we made changes that had a material effect on 2013-14, and we are pretty much back to where we were before. That is not exactly—there might be a bit of leeway—but we are on an upward trend all the time.

Q91 Thomas Docherty: Can I examine this point about seeking further information? Perhaps I have misunderstood the process, but my understanding of what you seem to be saying is that you would receive an

answer, such as how many prisoners there are currently on the run. Perhaps the question did state specifically for this particular year, and as I understand it, your special adviser was dissatisfied that the answer did not give previous information. If that answer was coming back within the named day period, why did it take four months subsequently to find out the previous year? Surely it takes the same amount of time to phone back and say, "That is fine, but I want the previous years." Why can they not turn it around in an appropriate period?

Chris Grayling: The prisoners on the run question—as to who they are—was a very difficult one. The reality is that the Department has never published the names of prisoners on the run before. I do not think that is acceptable, and I have been prompted by all this to change the policy. However, before you can, you have to talk to all the police forces involved. You have to make sure they do not have any current operations chasing after any of those people before we make that list public. That is certainly not something that is going to happen within two or three days.

Q92 Thomas Docherty: Let us take two different issues then. Let's look at the on the runs. At no point in the correspondence that we have from Mr Davies did the Department, in a parliamentary answer, communicate to Mr Davies that there was a problem with the policy. Nor did it go on to say, "And we are looking at it." It simply refused to answer his question. He put it away for another day. Do you think that was acceptable?

Chris Grayling: No, I do not think it is acceptable, but you are always going to get positions like that when an official somewhere in the organisation, confronted by a question that poses real new questions, is going to go, "What do I do with that? I have four things to do today; I will leave that one until tomorrow". That is not acceptable when it happens.

In this particular case, there was quite a lot of head scratching within the Department as to how to handle this one because it had not been done before. When it got to me, I said, "Right, we will do this properly. We will get the names from the police and publish the details," which was what we did.

Q93 Thomas Docherty: Just so I am clear, so that there is no ambiguity, that initial answer came to you relatively promptly and you were dissatisfied with the policy statement. You then spent perhaps three months going round in a policy debate about changing the policy?

Chris Grayling: It was the other way round. The Department scratched its head for a while and then it came to me. I said, "We have to publish them," and then we went off and got the information.

Q94 Thomas Docherty: So it was Dame Ursula's officials who sat on an answer for an unacceptable period of time before it reached you.

Chris Grayling: I cannot remember exactly, but it took some while before the question was posed to me, "What are we going to do about this?" and I said, "We have to publish".

Q95 Thomas Docherty: Is that standard practice: when your officials do not know what to do, rather than approaching the Secretary of State, the Ministers or the special adviser—indeed, I imagine they did not come to you—your officials park it for another day?

Dame Ursula Brennan: I do not know what specifically happened with that question, but just thinking—

Thomas Docherty: Why not?

Dame Ursula Brennan: Because I do not see every single parliamentary question that comes through.

Q96 Thomas Docherty: I appreciate that, but this was raised with us two or three weeks ago and there was quite a lot of coverage. I am surprised that you did not think before you came here today, having seen the—

Chris Grayling: In defence of Dame Ursula, I am telling you what happened. The question was put. I cannot tell you the exact choreography of who said what to whom, but what I am telling—

Thomas Docherty: I was not looking you; I was talking to Dame Ursula.

Chris Grayling: I am defending her though.

Dame Ursula Brennan: What I was going to say is that if somebody asks a question that raises a new area of policy, or where it is not entirely clear what the question was about—particularly if it raises a new area of policy, or you are going to need to consult some people—the question goes to the person who is the policy expert on the subject or the operational expert on the subject. What will happen is they will look at that and think, "That is not a standard subject that we have answered before," and the first thing they will probably do is to speak to their manager—to their boss—and say, "Is this a policy that we are currently operating? Is there something we need to do here?" There will have been some kind of conversation before it goes to the Secretary of State, or whoever was the Minister answering, to say, "This raises a new issue, how do you wish to deal with it?" What we are seeking to do is to make sure that if a question is not clear like that, we get as swiftly as possible back to the Minister to say, "This person has asked this

question, which raises a new issue that has not been raised with you before. How do you want to deal with it?"

Q97 Thomas Docherty: Sorry, I am really confused here. Mr Nuttall will correct me if I get this wrong. The Daily Mail made an FOI request earlier this year for this information. It was turned down because it was the policy of the Department not to provide that. Mr Davies then picks up the baton and puts down a parliamentary question in mid-July, before the House rose. It then sits until October, and even when Mr Hughes came before the Committee two or three weeks ago, there was still no timetable for answering it. While I commend the Lord Chancellor's change of policy—I am not having a go about that at all—I am unclear about at what point officials went to the Ministers. This was not a new policy or an unusual question. It was a question that had previously been asked by The Daily Mail. It had not been answered, because there was policy not to give the information away. So, the question comes in from Mr Davies and there is a draft answer, which I assume was, "We do not give this information away." At that point did it go to the Ministers, or at that point did it get escalated within the bureaucracy at some time, perhaps October. My suspicion, Dame Ursula, is that it was not until we had Mr Hughes in front of us that Ministers were made aware of the fact that the question was not being answered.

Chris Grayling: I suspect it was more a question of— It is not as simple as producing a list. When I started as an Opposition MP, the answer I would have got to that question was, "The information is not held centrally." I got dozens of responses such as, "The information is not held centrally," and, "It would be a disproportionate cost to get it."

Jenny Chapman: They have not gone away.

Chris Grayling: I know they have not but, believe me, you get fewer of them than you used to. I was notorious when I was first elected for asking large numbers of questions and I got huge numbers of fob-off answers.

I do not know the exact timing for that particular case, but I know that there was discussion taking place about what we should do about it. If I remember rightly, there was a request from *The Daily Mail* back in June, when I overruled and we published some information about people on the run. The question asked by Mr Davies went one stage beyond that. There was considerable anxiety in the Department about whether that was operationally releasable because they were pretty sure it covered current operations. When we answered Mr Davies' question in the end, it excluded a number of people who were subject to current operations. It was that operational issue that led to the toing and froing, from what I remember. I do not think it came to me until

relatively late in the day, and I insisted we went ahead and published that.

There will be moments, and I do not excuse them, when there are large amounts of toing and froing within the Department to say, "How do we deal with this?" In this case, it took far longer than it should have done, particularly going through the summer period.

Q98 Thomas Docherty: Mr Davies is a colleague of yours. He is a reasonable fellow. Surely you could have spoken to him either informally or formally to say, "There is a reason why we cannot give you this answer. We are reviewing the policy." What Mr Davies got was no answer whatsoever for four months. I am genuinely confused—

Chris Grayling: I can give you a previous example. I had precisely that conversation and told him that we would answer his question, because we were going to do what he had asked if we would do, but that I needed a few more days operationally before I made that public. So I do have that conversation—

Q99 Thomas Docherty: Absolutely, but on this occasion it was four months. It came to the Committee, and it was quite clear from your junior Minister and civil servant that they had no concept of the time scale for when it was going to be answered. My point here is that it is not that there was an answer given of sorts; it is that there was no response given to Mr Davies for four months. I am not clear as to whether that was because it sat with you for the best part of four months while you tried to move the policy, or because the civil servants kept it off your desk until relatively recently.

Chair: We are going to end this line of questioning after this because I am sure there are other colleagues who want to move on to other things.

Chris Grayling: The answer to that question is that it was tabled, if I remember rightly, just before the summer recess. I suspect the immediate reaction was, "This is very difficult we need to think about this and discuss it." There was toing and froing, and it did not get dealt with in a timely way before the end of the summer recess as it should have been, and I apologise for that. Questions like that should not sit that long.

Thomas Docherty: That is fine.

Q100 Mr Nuttall: We are where we are, aren't we? Let us try to see if we can move things on a little. How many unanswered written parliamentary questions are in the Department as of today?

Dame Ursula Brennan: Unanswered?

Mr Nuttall: Unanswered.

Chris Grayling: Overdue ones: five.

Q101 Mr Nuttall: How many in total, just for the record?

Chris Grayling: Just give me a moment to check that. I will have to count them up, but about 30, I think.

Dame Ursula Brennan: There are 71 live questions of which five are outstanding and four of them will be answered today.

Q102 Mr Nuttall: So five outstanding, and five therefore beyond the time. Five have gone past the deadline—is that what you are saying?

Dame Ursula Brennan: Yes.

Mr Nuttall: And that is included in the 71?

Dame Ursula Brennan: Yes, that would be.

Chris Grayling: Let me give you an example. I am sorry, but it is Philip Davies question, which has been delayed because both I and the special adviser have sent it back for a question. One of the things that I discovered—you will be aware of this—happens quite regularly is that one gets questions that suggest that a burglar, for example, has committed 120 burglaries before being sent to prison. Quite often when you look at the detail behind that—because to me that is inexplicable—it may be because he has been sent to prison and has asked for 119 offences to be taken into consideration as part of that one conviction. One of the questions that Mr Davies has asked has thrown up a similar issue, and I have asked them to go back and just check whether it is a true picture or whether it is again an example of a large number of other offences that have been taken into consideration. That should only take a few days to do, but it is quite important to get it, going back to my point at the start about having context if information is to be laid before Parliament.

Q103 Mr Nuttall: One thing I was a bit surprised at—it is very helpful to provide this guidance—is the enormous number of people who get copied into the answers. It is unbelievable: Parliamentary branch, special advisers, head of news, deputy head of news, press officers, the SCS—whoever that might be—who cleared the response, your designed press officer, and any applicable individuals in your team. After it has gone through all the other procedures, it then has to go to this copy list. If I am reading it right, the only purpose for sending it to them is to get them all to okay it. Is that right? It says here that once you have submitted the draft, those on the copy list will look at and clear the response.

Dame Ursula Brennan: There is certainly no expectation that everybody on that copy list would clear the response.

Q104 Mr Nuttall: That is what the guidance says. Are you going to amend the guidance because it says—

Dame Ursula Brennan: I think we should amend the guidance.

Mr Nuttall: —they will look at and clear the response. It is no wonder it takes a long time if we are waiting for all these people to clear it.

Dame Ursula Brennan: One of the reasons why you copy questions to other people in your team is because it will go to individuals within the Department—the person who answers the question—who specialise in that particular area. Sometimes it is important for the broader team to be aware of what is going on so that they can say, “Right, this is a topic of interest. We need to get together more information about this subject.” One of the things that we seek to do—

Q105 Mr Nuttall: I quite agree with that, but would it not be sensible to do that after—not while the time is running, but once it has been signed off?

Dame Ursula Brennan: Not necessarily, because one of the things that can be important and can be very difficult, particularly with these questions that involve lots of data, is if somebody in the team has puts up an answer about a question, and then someone else in a related team gets a related question and also puts up an answer. Then, it is quite important for somebody to be able to flag and say, “Hang on a minute, I have just answered something similar and I referred to this data. We ought to make sure we are being consistent and answering the thing in the round.”

It does make sense for people to be able to see the stuff as it is going forward so if there is a problem they can flag it before the question gets answered rather than go to Ministers and say, “I know we gave you this question to answer, but someone else has now looked at it and spotted that we failed to mention something that we had mentioned somewhere else.” It is much better if we can pick those things up as they are going along rather than afterwards.

Q106 Mr Nuttall: Clearly there has been an improvement since four weeks ago—

Chris Grayling: A bit further back than that. I think it goes back a bit further back, but I accept we are working on this—

Q107 Mr Nuttall: No, what I was referring to was when our right hon. Friend the Member for Bermondsey and Old Southwark gave us the figures four weeks ago. There has been an improvement since then, although I accept that there may have been a longer-term improvement, but he gave us a figure of 85%, or something of that order. It would seem to me, as I said at the time, that one way of doing it is to look at how many come in in a week and how many go out. As long as that one figure is looked at every week, eventually, even if you are improving by only two or three, but saying every week we must get out more than we get in, before long you will be up at 100%.

Dame Ursula Brennan: We have had our digital team create a new online tool for us so that people at all levels are able to see that now and keep much better track of what is coming in and what is happening, so that managers can see in my team what is coming in and are we keeping ahead of it, and where are PQs and where they are getting stuck. That is one way we have been pushing the performance up.

Q108 Jenny Chapman: When you talk about context, you are right, as it is very helpful to have that context. Certainly, whenever I have asked you a question, I have always asked you for three, four or five years' data, when that is possible. It is helpful because to be a responsible parliamentarian you do need that context so that you know what to do with the data. It is very important, however, that that context is applied consistently. I have just checked back through my recent questions to the Department—I have not been particularly prolific, but there have been a few—and my concern is that that context is not applied consistently. I absolutely accept your comment about wanting to show the trend for absconds. However, when you are asked about assaults or when you are asked about re-employing prison officers that you have recently paid off and taking them back on, I get the number, but I get no context. You have not given me the previous few years' data in those circumstances.

Chris Grayling: I am not sure there were any previous years' data because the prison reserve has only just been created.

Q109 Jenny Chapman: You are not answering the point. I am asking you a question about assaults and you are giving me that year's data, but you are not telling me that last year there were more or fewer, or whether the data were not collected for last year. You are not telling me anything; you are giving me that straight answer. If we are going to have contextual answers, that would be great—that is fine, and it makes it easier to ask the question if you always know we are going to get trend information, which is helpful—but we do not always get it.

Chris Grayling: That is fair enough. Maybe one of the things I should do is something I implemented at DWP: saying that if something was openly available on the departmental website, I would respond to the PQ saying that that is where the data is. So maybe I should do that.

Q110 Jenny Chapman: You do that already, but my point is that if you are going to give context when it suits you, you have to give it when it does not always suit you as well.

Chris Grayling: But with assault figures, that is part of an ongoing dataset that is published quarterly.

Q111 Jenny Chapman: No. When you are asked a parliamentary question, one of the things that frustrates this Committee is getting a link for a website back in response. We want the answer back.

Chris Grayling: Why?

Jenny Chapman: If you are going to provide three years of data on the number of people who have absconded from an open prison, you should also provide me with three years of data on other things that I might like to ask you about.

Chris Grayling: Maybe the fairest way is just to say, "Here is the full dataset; this is how you access it".

Jenny Chapman: Perhaps, but you would have to do it consistently for everything—that is the point.

Chris Grayling: That is fine.

Jenny Chapman: And that is not what has been happening.

Chris Grayling: Okay.

Q112 Sir Roger Gale: I am concerned about this generally, not specifically in relation to your Department, but I have been concerned about it for a long time. If you go to the House of Commons Library and ask for information, I have found over the years that if you say what you want it for, what depth you want it in and when you need it by, that is what you will get. I think there is a tendency for people to say, "I will put that in a named day question," and then expect to get a substantive answer, as opposed to a holding answer—we've all had holding answers until we are blue in face. Maybe we, as a Committee, Chairman, ought to look at how we handle—or how we encourage colleagues to handle—the questioning process. There has to be some system that says, "What do you want? Do you want something that we can give you a very quick answer to?" A figure out of context means nothing. Or for the sake of another couple of days or another three days of the inside of a working

week or whatever, could we expect you to give a much more substantive answer? I do not think we are generally using the process. As I say, this is not specific to your own Department. We are not using the system sensibly. You have been shadow Leader of the House, so you know exactly what I am saying. There has to be a better way of doing this.

Chris Grayling: That is a very fair point. The Department faces challenges. If you take the Department for Education, for example, it is fundamentally a head office for the education system setting out a strategy for it. It does not run the schools themselves and it does not run the local education authority facilities. However, we do run 130 prisons and a whole network of courts. You would not get a question to the DfE saying, "How many school pets are there?" but you might well get a question to us saying, "How many dogs are there currently in prison?" We have sniffer dogs for drugs, but they would be taken locally, to know how many dogs there were we would have to go round the prisons saying, "How many dogs have you got at the moment?"

Q113 Jenny Chapman: You would say, "We do not hold that information centrally."

Chris Grayling: We do not hold all information centrally, no.

Jenny Chapman: That is the answer we would get. I had about half a dozen in the last month saying that.

Chris Grayling: But if the system is working better—and half a dozen in the past month is a lot fewer than I used to get—and if the structured system gave more time to garner information, it might enable us to do that, because the way you hit the target is to say that information is not held centrally.

Jenny Chapman: That is what you are doing.

Chris Grayling: That is my point.

Q114 Mr Nuttall: Can I just ask a very quick one? Is the disproportionate cost threshold the same across all Departments?

Dame Ursula Brennan: To the best of my knowledge it is. We do not create that threshold to the best of my knowledge.

Q115 Mr Nuttall: You have no responsibility for assessing that. Someone has said—the Cabinet Office or whoever—what it is. I think it is £850 at the moment.

Dame Ursula Brennan: I think so, yes.

Q116 Mr Nuttall: That is the figure and you apply that across the Department when answering questions—

Dame Ursula Brennan: I believe so, yes.

Q117 Chair: I am just going to wrap things up. What would be, in your view, an acceptable performance? You are improving your performance. Where are you aiming to get to as a Department?

Chris Grayling: I would prefer to go for a continuous process of improvement, rather than simply saying we would go for x%

Q118 Chair: But do you think you could get within the average of other Departments?

Chris Grayling: I do not see any reason why not.

Dame Ursula Brennan: I do not see why we should not do that, but if we get a rising proportion of named day questions, that probably will not happen.

Q119 Chair: I am just going to conclude by saying something. Lots of things go on in the undergrowth of ministerial departments—we know that; we are not naïve—but I say this to your Department, and I hope it is more widely understood by others. You can get up to pretty much what you want, but you will end up before this Select Committee if your performance falls away. The reason why you have had a hard time over the Phil Davies question—I do not why, with respect, it was four months being unanswered—was because the performance was so shocking. I say this more generally, not just you, but to all ministerial departments: whatever you do and whatever games you play internally with answering parliamentary questions, that is fine, but if your performance falls below a certain level, you are going to end up before this Committee.

It is incumbent on all Secretaries of State and Permanent Secretaries to respect Parliament and to learn to love the process of parliamentary questions, because one day all of us will be back out there as members of the public, unelected and not paid by the taxpayer, and sometimes we might want to go to our Member of Parliament or we may have an issue that we need to pursue through this great place. If it does not work now, you will certainly want it to work for you when your turn comes to use it. If that sounds slightly pompous, I apologise, but Parliament is a pain in the neck, but it is a pain in the neck for a reason. It is a great place and please do improve your performance. Take Members seriously. They deserve to be taken seriously.

With that slight admonishment, can I thank you both for coming here and maintaining your excellent good humour, and I would like to be able to say that I hope we never see you again.

Dame Ursula Brennan: We hope so too.

Chair: Thank you very much.