

Procedure Committee

Oral evidence: Exiting The EU: scrutiny of delegated legislation, HC 386

Wednesday 21 February 2018

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Members present: Mr Charles Walker (Chair); Bob Blackman; Mr Peter Bone; Dan Carden; Bambos Charalambous; Sir Christopher Chope; Chris Elmore; David Evennett; Mr Ranil Jayawardena; Melanie Onn; Alison Thewliss; Mr William Wragg.

Questions 136-173

Witnesses

I: Dr John Benger, Clerk Assistant, and Paul Evans, Clerk of Committees, Chamber and Committees Team, House of Commons Service.

Written evidence from witnesses:

- [Written evidence submitted by the Clerk Assistant, House of Commons](#)

Examination of witnesses

Witnesses: Dr Bengier, Clerk Assistant; and Paul Evans, Clerk of Committees, Chamber and Committees Team, House of Commons Service.

Q136 **Chair:** Thank you very much for coming to see us. We shall try to be short and sharp in our questions, because I understand that there is going to be a vote soon. Sifting Committee: broadly, a very good idea, because it is ours. Dr Bengier, you obviously think we need to do some work on setting its parameters. The Government's draft Standing Orders are just that: draft Standing Orders clearly prepared with not a great deal of time to give them a lot of thought. Obviously, we could be hugely ambitious about where we want this to go, and you have put together a very ambitious paper. I think some of it is a bit too ambitious right now, because of the time constraints we are dealing with. Could you very briefly set out where you think the Standing Orders could be strengthened, and strengthened in a way that means there is a reasonable chance that the Government will accept them without kicking up too much of a fuss?

Dr Bengier: That is very helpful, thank you Chair. The first thing—the easy thing to do, but really important—is the timing that has been allotted to the sifting Committee. I just do not think that 10 sitting days is quite enough to give everyone a chance to look at these things in any degree of serious detail. Let us say a whole crop of instruments came in on the Monday, and the sifting Committee was meeting on the Wednesday. Realistically, it would be very difficult for the staff—although they are very good and very quick—to turn round those instruments for a Wednesday meeting. You would automatically be going well into the next week before the Committee even had its first look at them. The Standing Order says that they are entitled to discuss them with the JCSI and the departmental Select Committees, and to go to the Government for clarification and so on, but it is hard to see how that could be a fruitful dialogue when you are already most of the way through the process before you even start it. In line with the brief that you have set me, if that were extended from 10 to 15 sitting days, that would give you that extra breathing space to do those consultations and to at least have a reasonable chance of getting through that process and getting answers back. That would be the first thing.

The second thing is that I know quite a bit of the evidence that you have had suggests that the findings of the sifting Committee, if it wanted to upgrade a negative instrument to an affirmative instrument, should be in some way binding. That is effectively the practice for the Regulatory Reform Committee in its terms of reference and statute. A more moderate position might be to say that, when the Government disagrees with the sifting Committee and decides to go ahead with a negative anyway, it has to at least set out its reasons in some transparent form—in some way that



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Members could see and, if necessary, table a prayer, or the Committee could table a prayer, and so forth. That would be a compromise position.

Q137 **Chair:** I will let colleagues come in, but the first thing is that the Government's original offer was 10 calendar days and we got them to commit to 10 sitting days. The bit about the Government not having to accept the findings of the Committee was based around the fact that the Committee could say, "Right, we want them all as affirmative. Thanks very much. We are going home now. See you in two years' time."

Dr Bengier: Indeed, which is more of a risk if you have 10 days and you have not got time to do it properly.

Chair: That is why, on the Order Paper, we suggested that if the Government was in disagreement with the findings or the recommendations of the Committee, it would have to notify the Committee as to why it was in disagreement and tag the Order Paper that that SI was going through without an agreement reached. But I take what you are saying.

Q138 **Mr Jayawardena:** This 15-day suggestion, as the Chairman said, has already been expanded once. Could it not be seen as an attempt to create the opportunity for people to add additional delay in an obstructive way rather than in the helpful way that you have suggested?

Dr Bengier: It would only really bite at the very end of the process. There is a whole cycle of these things constantly coming round. There will be an awful lot of these, week in, week out. When they finish, it only matters literally at the very end of the process, where in any case, under the provisions already there, you have an urgent procedure that the Government can resort to at the very end. If we have a final pile-up and just a few days to go, they will use the urgent procedure.

Q139 **Mr Jayawardena:** Your point a moment ago, and in your paper, is that if it was 10 days, the Committee would be more likely to simply say it should be affirmative. Why would they not still do that under 15 days? Where could you end up having to take it to try to remedy that? Even if they did, what is the risk? Is it that the Government says, "You're taking the mick and we're going to do it under the negative procedure anyway"?

Dr Bengier: That is a bit extreme. The Government—

Mr Jayawardena: I am trying to push it to the extreme.

Dr Bengier: You are absolutely right. The sifting Committee may well take an almost default position and say, "It is all very important. It is all Europe. We can't just do this or that." There is a finite capacity on the part of the House to absorb this stuff. There is a finite capacity to have endless Delegated Legislation Committees and to have things coming to the Floor of the House. There are some natural checks and balances in there. I am not sure that the Committee would make itself hugely popular if it just had colleagues shunting off to DL Committees all the time. There will be some checks and balances there, but no, I do not think there is anything you can do to stop the Committee wanting to do a lot of upgrading, if it really



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had a mind to do so. I just don't think the 10-day period particularly stops that. I think it is more likely that, with a bit of time to hear the Government's position, they will say, "We do now understand this; they might be happier actually with a negative."

Q140 Mr Jayawardena: One final question. It is 10 sitting days, so that could run over three or more weeks. Why is it not possible to do consultation over potentially three different weeks?

Dr Bengier: Obviously, everything is possible. We could do it in no time at all. One thing that is worth thinking about is who the people are that we are consulting. Members are very alert to these things and the Select Committee system teams all work in the same place as we do and we can get messages around. It may well be that the National Farmers Union is all over this, because they have a public policy chief and have someone who can be reviewing these. Actually, when you get below that level of consultation—when it is more local groups and individuals and so on—realistically, it is going to be very difficult for them to catch these things particularly quickly. I would have just thought that, for outside people, there may be just a little bit more scope for them to engage with the consultation process. Actually, it is the same even for Select Committees, if your Committee meets on Tuesday and the sifting Committee is meeting on the Wednesday. It would be very difficult for a Select Committee to take a view if their weeks are out of sync. I happen to think three weeks is more plausible.

Q141 Mr Jayawardena: Although this could be three weeks anyway.

Dr Bengier: It could be three weeks, but it might not be.

Q142 Mr Jayawardena: Arguably, some of these outside bodies are better resourced than we are.

Dr Bengier: Well, maybe.

Q143 Mr Wragg: On the issue of outside bodies, is this system not being set up for scrutiny by parliamentarians and therefore what lends itself best for scrutiny by parliamentarians is the system that should be adopted?

Dr Bengier: I think, first and foremost, it is a system by parliamentarians, but there will potentially be a lot of very technical material in these things. We don't really know exactly what these instruments are going to look like, but there may be ones where your normal constituency mailbag and your normal areas of expertise are not necessarily relevant, and there may be ones where actually it isn't so obvious—there could be an animal welfare thing where we actually need some more professional input. You are right that parliamentarians will want to make that judgment but, as I understand the Government's position anyway, they are quite keen that it should be an informed judgment and that the material should be available outside, hence the additional period before they are formally laid.

Q144 David Evennett: Can I just follow up on that? It is very interesting and I understand the points you are making, but surely they could do written evidence. A large number of people outside are well-resourced, as has



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been said, and therefore it may be that they could send in written evidence. I think we would prefer to see that because then we can take the information and read it ourselves.

Dr Bengier: I think by and large it will be a paper-based process.

Paul Evans: Even if we extend it to 15 or even 20 days, it would be a written-based process. I would have thought there is no realistic prospect of taking oral evidence, except in the most exceptional cases, or possibly from a Minister on a particularly tricky point. I think we are assuming that it will be a written-based process of evidence-taking.

Q145 **David Evennett:** My other point is this: is five staff enough to do the work? We have been advised—you are the experts—that your staff work extremely hard and are very professional. We are so grateful to them, but is five enough to do the amount of work that we are expecting to have?

Dr Bengier: To some extent, we will have to wait and see, because we don't know what the work is and we don't know what the Committee will do, but I actually think it is, partly because of the way they are set up. Most of these people will be based in Tothill Street where we have all our Departmental Select Committee teams. All Committees have policy specialists and Clerks. We have a bunch of lawyers. We have the JCSI people. We have colleagues in the Lords. The lawyers are very well-networked. They can talk to each other. We have got the Clerk advisers on the European Scrutiny Committee. We have a lot of embedded knowledge about the original European propositions that are being translated into UK law. My hunch is that we will be okay, but if we find three or four months in that we are not, we will come back and say, "We cannot quite do it, we need a little bit more resource." I am fairly optimistic that we will cope with it.

Paul Evans: I am inclined to demur slightly from my senior colleague.

Q146 **Chair:** I thought you raised your eyebrows slightly.

Paul Evans: I would have to manage this team. The honest answer is that it is a bare bones provision. If the Committee took the narrowest view of its remit, as set out in the draft Standing Orders, it would probably be adequate. If the Committee wished to take a more expansive view of its remit, you would probably soon be running up against resource issues. I would like to think—this Committee would be covering every subject under the sun—that we would do that by a pretty flexible way of drawing on expertise that we already have from the other Select Committees, but that might eventually require a bit of backfill to replace that resource when we are drawing on it in Committee. It depends on how extensive a view they take on their remit.

Q147 **Chair:** Dr Bengier, you sort of touched on this in your note, because I think I am right that you said that the contingency fund will cover the first year of operation, and then one will have to look at forward resourcing for the remaining years.



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Dr Bengier: Yes; this is an additional Committee. The House of Commons Commission normally funds additional fresh activity. I think that it will do that—

Paul Evans: But we wouldn't need a supplementary estimate for the first year.

Dr Bengier: We would not need a supplementary estimate. I should have added our colleagues in the Library to that long list of people that we can draw on. The Library research and information team is also now co-located with Select Committee teams. We have some superb researchers in the Library who we can also ask for help.

Q148 **Alison Thewliss:** I want to pick up the point about taking evidence and interested parties. How do you see the process of informing those interested parties that something is going on and that they might want to submit evidence? My concern that I am picking up from organisations in my constituency is that there are huge levels of complexity around Brexit, but if we do not know to draw on the expertise, we might miss things that we might otherwise think are less important. How do we get the right people to give the evidence to us that we need?

Dr Bengier: We have been thinking about this, and I am going to hand over to Paul, who has been leading on it.

Paul Evans: We realise that we will have to be quite innovative, especially given the timeframe—even if it is slight expanded—about how we set about this. It will not be for the Committee to laboriously draw up terms of reference, send out questions to invited witnesses and put up press notices. We have to have a thing that triggers straight away: here is an SI; we have a mailing list, but everyone will be able to see it; they will know where to look and can find it straight away; this is how you submit evidence. We are working with a charity that is engaged in democracy and digital stuff to think about how we might create a more forum-based approach, rather than conventional evidence, and we would say that people could just put into it.

Q149 **Chair:** Which charity is this?

Paul Evans: It is a charity called Doteveryone. It was founded by Baroness Lane-Fox. It is interested in helping to spread the digital message in democracy. We are looking to it to come up with some ideas. As I say, we want a quick trigger mechanism, a very easy way to submit evidence and a way in which that evidence can be chunked up. If the NFU put in a bit of evidence saying, "This is great for milk prices", someone else can see that immediately and say, "No, actually they are wrong; they've got their facts wrong. This is terrible for milk prices", or whatever needs to be said, so we have a more dynamic system of taking evidence.

Q150 **Chair:** One of your recommendations in your paper is for the Government to have a dedicated website where it can put up these SIs, so people would have a single point to go to and monitor. Is that right? Have I read that correctly?



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Paul Evans: Whether it is the Government or us, or some joined-up way of doing it, which we did with the first iteration of the petitions website, we definitely need something like that.

Q151 **Alison Thewliss:** It strikes me that perhaps there is press and media work that ought to go into that, too, to inform that the website is there and so they know to look for it.

Paul Evans: Yes, absolutely. We are much better at that than we used to be.

Alison Thewliss: Yes, the digital stuff comes on leaps and bounds all the time.

Paul Evans: But you are right that we need to make sure that everybody knows that this is there and we can alert people as efficiently as possible.

Q152 **Mr Bone:** Obviously the Joint Committee on Statutory Instruments will carry on looking at these. I had the pleasure of serving on that Committee for a number of years. They are very quick meetings. Are we anticipating that same sort of procedure with this Committee?

Dr Bengier: One of the benefits of the JCSI is the high faith in the technical advice that it gets. That will have to happen in a very similar way. There is a very good balance between very expert officials and Members providing oversight and saying where it goes out of control. To me, that is the likeliest model. As you say, the JCSI turns things round very quickly and efficiently and it is a sort of process. I think that is what the Government envisage for this.

Q153 **Mr Bone:** Because most of the problems in that Committee are more cock-up—they are not politically motivated. I would have thought that the Government would not want a Committee that is constantly saying, “You’re trying to politically gerrymander something”. I accept there may be things where they make a mistake or whatever. I understand why you want to make it 15 days, but I do not see the Committee itself getting particularly bogged down.

Paul Evans: I think there are more grey areas in this testing process. I think it will be slightly more complex, and political judgments are more likely to be needed. That said, we would have to see how it worked. The technical advice will be what the Committee relies on. I imagine that it will only focus in on a few things that are controversial.

Q154 **Mr Bone:** So it is a bit like in cricket where there is a decision that is a grey area—

Paul Evans: It’s the TMO.

Mr Bone: Exactly—rather than something where clearly the Government are trying to do something wrong. It will really be about those grey areas.

Dr Bengier: If the Government overturn the Committee’s decision, they are taking a political risk. It is not free when they do that.



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Chair: The Government did say that they would work with the Committee to ensure that it could operate effectively in its scrutiny. It is not impossible that the Government will come back and throw their hands in the air and say, "15 days—it's an outrage. We won't consider it", but it is more than possible that they might be willing to consider 15 days, and the Committee needs to recognise that. We cannot obviously speak for the Government.

Q155 **Bambos Charalambous:** Is there any prospect of any early warning of an SI arriving, as that could help with the 10 or 15 days? To give an example, a Bill on the energy price cap will be introduced at some stage—it was in the Queen's Speech and it has been considered by the BEIS Select Committee, so I know that it is coming sometime soon. Is there any prospect of an early warning for SIs that could help with preparation, as well as for warning witnesses and getting evidence together?

Dr Bengier: It would be very helpful for everyone to know these things and that we've got something coming up, including just for managing workloads but, in practice, however you cut it, this volume is coming in. Whether you get advance notice does not help with the overall volume, but it might help with planning and negotiating with other Committees and stakeholders.

Paul Evans: John and I were saying that we would prefer these things to be called a "proposal" for a negative instrument, rather than a "draft" negative instrument, which is a bit confusing. It is not clear whether the Government will produce advance drafts of the proposals for consultation—they would be wise to do that if they could and had the resources and time to do it. When they have consulted with the stakeholders, they could produce the thing they want to make for the Committee to consider. If, for example, there was possibly quite a lengthy period of consultation on the milk regulations before the final draft was put forward, that would provide much more time and the Committee could engage with that process itself, informally, if it wished to.

Dr Bengier: I can see we are getting into terrible clerkly obfuscation here with proposed draft negatives. All I can say is that Martyn knows all about this. A draft negative is a thing. It is a term of art. The JCSI memorandum mentions that. It is quite a rare form of instrument. We think that the Standing Order is slightly confusing in talking about laying drafts of negatives, and there might be a case for having the word "proposed" in there somewhere, to make a bit clearer what it is we are talking about.

Q156 **Bambos Charalambous:** Volume aside, if there was some advance notice that could be properly scrutinised, that would help with the timings.

Paul Evans: Absolutely. It couldn't possibly hinder.

Q157 **Sir Christopher Chope:** Dr Bengier referred to the example of an SI being laid on a Monday, and the difficulty of getting something sorted out by Wednesday the following week. Is there any day of the week for which



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we could say, "The SI shall be laid by such and such a day on that particular week", and that would enable 10 days to be realistic? At the moment we are envisaging the instruments being able to be laid on any sitting day.

Paul Evans: You just made me think, Sir Christopher, that the Lords have a two-weekend rule for Bills. You might adopt something more like that—perhaps a three-weekend rule. That would slightly address Mr Jayawardena's question about a recess intervening, when 10 sitting days might take you from July to September. Having three weekends, expressed like that, might address that.

Dr Bengier: From the Government's point of view, some Departments will be dealing with these things all the time, and they will be very slick at turning around queries from the sifting Committee and saying, "Oh yes, that's the sifting Committee." Others will get very few of these things. We know from dealing with questions and things like that that the smaller Departments, which do not get as much experience, tend to respond more sluggishly just because they have less experience. Personally, I do not think 15 days ought to be a major problem for the Government if they get into the swing of it. It is only at the very, very, very end of the process that it will make any difference at all, and by then we will be so near to finishing that I think everyone will be prepared to give it a fair wind for the last few days. But there is that point that not all Departments will be as slick as the best on dealing with queries and having a dialogue with the sifting Committee.

Q158 **Chair:** I should know this because we were involved in the drafting, but there is an emergency procedure, isn't there, that allows the Government to disapply even in what we have proposed? If the Government feel they just cannot wait 15 days, they can say, "Look, we just can't wait 15 days."

Dr Bengier: Exactly. I suggest in my paper that you might like to ask them for an explanation of why that is. I think they would be fine about that.

Q159 **Chair:** We are trying to be helpful. We are trying to get good legislation through and to make sure that it is not necessarily contested in the courts because it has not had parliamentary oversight.

With colleagues' indulgence, may I ask a question about joint working? We have this great sifting Committee, which I and others hope might become a permanent feature of the House of Commons over time. Let us say it goes to 15 days and there is plenty of time—15 days is nearly a whole calendar month. What sort of framework should we suggest for the sifting Committee to work with, say, the EFRA Committee?

Paul Evans: The draft Standing Order empowers the new Committee to ask for an opinion. Again, we are conscious that we have to move very fast. A lot of this work—making contacts and getting things moving—can be done at official level. If there is a really tricky point about milk prices or whatever that the sifting Committee thinks needs further elucidation, we

should make sure that the EFRA Committee has a chance to look at it. Seeking opinions will probably be a last resort, but we need to be very clear. Mary Creagh asked about this in the Liaison Committee a while ago.

Q160 **Chair:** And she raised it in debate, I think.

Paul Evans: Yes. We will give an undertaking, clearly, that we will expect to make the contacts at official level and to say as soon as we have sifted the thing and had a look at it, "This is something your Committee might be interested in. Here are the main points." We will draw it to the attention of the Committee, and they can decide whether they want to take it up or take it further or do an inquiry. Of course, departmental Select Committees and other Committees will be perfectly free to look at the instrument after the decision has been made by the sifting Committee about its status. They can inquire into issues. They will have to be pretty quick on their feet, but they can do that. It does not have to be done within the 10 or 15-day period.

Q161 **Chair:** Some colleagues are so enthused by the idea of the sifting Committee—so excited and engaged with the concept—that they want to see its remit expanded to cover the statutory instruments coming out of the Trade Bill. Some colleagues on this Committee see that that might create problems, because the sifting Committee is specifically established to look at the EU (Withdrawal) Bill. What do you see as the possibilities for expanding that Committee's remit and the dangers of trying to do so before it is even created?

Dr Bengier: Before it is created, it might be tricky. You need to see where the Bill gets to after it is finished in the Lords anyway—who knows?

I personally think there are already an awful lot of Committees looking at statutory instruments. You have got the Joint Committee on Statutory Instruments and this new sifting Committee. In the Lords, you have got the Delegated Powers and Regulatory Reform Committee and the Secondary Legislation Scrutiny Committee. There are already a number of bodies looking at statutory instruments. As Paul said, departmental Select Committees might pick them up, and so on.

I would have thought—I don't know—that the Government might be quite attracted to the idea of not creating numerous Committees to look at numerous things when they have got expertise located in one place. They might be quite similar types of thing, so I wouldn't rule it out. Without seeing them, I would have thought it was quite sensible.

Paul Evans: I do not think it is an implausible proposal in practical terms. I have very little grasp of the volume of stuff that will come through in the other Brexit Acts in due course, but in practical terms it is not a problem to give this Committee a wider remit to deal with these things. There are probably some complex definitional issues involved in making sure they stick to the transfer. If it is about transferring the *acquis* into UK law, you have to define that somehow. It is probably a bit tricky, but not impossible, I would have thought.



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Q162 **Mr Bone:** To expand on that, ignoring the European Union business, this is obviously a parliamentary review of something the Government is doing—deciding that a negative instrument might be an affirmative one. I see no reason why that cannot be expanded later to the whole of parliamentary procedure. It seems to be a very good check and balance. Going back to new primary legislation, does it not normally say in primary legislation whether any regulations made are by the affirmative or negative procedure? Doesn't it actually say that in the Act?

Dr Bengier: Yes, it will. Whether we do things by affirmative, negative or super-affirmative procedure is stipulated in the Act.

Paul Evans: But not in the withdrawal Bill.

Q163 **Mr Bone:** Exactly. But any new thing is, to a certain extent, covered.

Paul Evans: Yes. To take your earlier point, Mr Bone, reformers' main complaint about delegated legislation is that too much negative stuff never gets debated. Even if a Member raised the issue, it is in the Government's gift whether it ever gets voted on. Obviously, you could transfer this model to say—

Q164 **Mr Bone:** That would be the advantage, wouldn't it?

Paul Evans: Yes, to guarantee a debate if sufficient Members persuaded a Committee that that is what is needed.

Q165 **Chair:** It would be nice to see whether the model worked before committing it to other areas of parliamentary life.

Paul Evans: Yes.

Q166 **Mr Jayawardena:** Quite apart from the principle that some people have relating to the future direction of this, isn't the problem that there is a principle at stake here, which is that this was agreed by all sides of this very complicated debate specifically for the incorporation of the acquis with respect to the European Union (Withdrawal) Bill? Any widening of that could lead it to be widened in any direction, which would undermine the principle of what has been agreed thus far.

Dr Bengier: That is a very good question. We are looking at the rapid assimilation of a huge body of law into UK law, which is a very unusual circumstance. If you look at the history of statutory instruments—you probably wouldn't want to—two of the great surges were around the world wars, with the Defence of the Realm Act 1914 and the Emergency Powers (Defence) Act 1939. In those critical circumstances, Parliament took the decision that they would allow a major expansion of secondary legislation. In a sense, we are in a not dissimilar situation here, in that a lot needs to be done very quickly. It is exceptional.

Paul's point touches on a more structural weakness, as perceived by lots of commentators, which is that the system of scrutiny of secondary legislation is not to everyone's satisfaction. Your Committee might at some stage want to take a long, hard look at things like the negative procedure and parliamentary scrutiny. In terms of the technicalities of the sifting of



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negatives and affirmatives under these other Brexit Bills, it may well be that they do something similar in the parent Acts, and that with a bit of skilful drafting you can put it the way of this Committee and have just one sifting Committee.

Q167 Mr Jayawardena: So you are still saying that there is no need to change what is set down for things potentially to happen, and that we don't actually need to re-open this at all?

Dr Bengier: I think that's right within this Bill. I do not think the Government would be wanting to amend this Bill to take account of future Bills as yet not seen. I do not know about that. My judgment would be that it would be tricky but possible.

Paul Evans: At the moment, the remit is limited to things made under schedule 7 of the proposed Act. If the Government chose to use the same mechanism broadly for other Brexit Bills, it could incorporate them and refer them, and the Standing Order would then have to be tweaked at that point.

Q168 Mr Jayawardena: Yes. Actually, I misunderstood you. It is very clear that those other matters are very, very different, by function of not being under this Act.

Dr Bengier: Yes, so something would have to be done make it work.

Q169 Mr Jayawardena: So it would be breaking the principle that has been established?

Paul Evans: I wouldn't answer that question if I were you.

Dr Bengier: Thank you, Paul. My legal adviser tells me not to answer that question.

Q170 Chair: You are two very wise and experienced sages. I would just like to ask this question. This Committee established the Petitions Committee. We put in place the functions of that Committee and the Chair, and said we would keep an oversight of its activity. It has flown. It has found its feet, it has a hugely competent Chair and it is getting through its work. In a sense, it is developing its remit as it goes along. The sifting Committee is at the moment a temporary Committee, but however long it lasts, with the right Chairman and the right Committee, do you see that things will emerge organically from it in a sense? Yes, there will be Standing Orders on what it can do, but within those Standing Orders, do you see that the Committee will grow in confidence and find its own path to some extent?

Dr Bengier: I think that that is why the Committee has the advantage of quite a broad term of reference that does not say, "You'll look at it under these six headings and none others." It will set its own terms of reference. None us really knows what a lot of this will look like. The Government itself quite frankly admits in its delegated powers memorandum that it is not sure what it will all look like—it depends on negotiations apart from anything else. Personally, I think it is rather a good thing that the

Committee has the autonomy to make its own framework. That will emerge quite quickly, I imagine, because patterns will emerge.

In terms of legacy, you are absolutely right about the Petitions Committee. No single thing has more improved parliamentary engagement with millions of people. More than 11 million people have petitioned on that website—it might be lot more, but it is at least 11 million—which is just vast compared with our outreach efforts before. The Doteveryone proposition of quick comment evidence going rapidly into the public domain may have some legacy value. We are trying it on this without anything else to model it on, and with an offer of help from a sophisticated organisation. We have seen on social media that rapid comment and evaluation is very much a modern trend, so there may be some legacy benefit from the sifting Committee as well.

Q171 **Chair:** What comes through the paper that you both prepared—I take it you both prepared the nine-page submission?

Dr Bengler: Yes.

Paul Evans: We spoke to each other.

Q172 **Mr Walker:** What came through the paper is that, actually, one of the Committee's strengths could be that its remit is not too closely drawn or defined. Do you think, therefore, that it would be a mistake, as the Procedure Committee, to come up with a prescriptive set of rules at this moment that could curtail it?

Paul Evans: That is the way my prejudice lies. Organic development is often more effective and efficient in Committees. Your example of the Petitions Committee is a good one. It has chosen to do its job. The Backbench Business Committee is another example. It was not given a very precise set of terms of reference, and it developed very successfully, essentially in conversation with Members of the House, ways of doing its job which command broad consent and respect, and which are innovative and flexible. There is always much to be said for that.

Dr Bengler: It is not uncommon for Committees to strain at their terms of reference if they are too narrowly drawn.

Q173 **Chair:** Is the Committee content that we have grilled the witnesses to the point of crispiness or are there further questions? Are we happy? Yes.

I thank the two of you, Paul and John, for coming. Thank you so much, and thank you for the huge amount of work that went into your paper.

Paul Evans: There is more to come.

David Evennett: We look forward to it.