

## Written evidence submitted by the Hansard Society (CSL 05)

### **Q1. Should Secretaries of State in the House of Lords be more directly accountable to the House of Commons?**

1. Ideally Secretaries of State would not be appointed from the House of Lords but in the absence of a prohibition on such appointments it is necessary to ensure that there is direct accountability to the elected House.
2. It is a long-established practice that MPs and Peers speak and vote only in the Chamber of the House of which they are a member. Secretaries of State in the House of Lords can be held accountable by relevant House of Commons Select Committees.
3. Over the last four decades Westminster has become a more committee focused legislature. However, it has not yet moved so decisively in the direction of committee-based activity that it can be reasonably said that committees are the main channel of accountability; that is still – not least in the public eye - the preserve of the Chamber.
4. Since this issue was last looked at in 2009-10, the nature of proceedings in the House of Commons Chamber has changed. In particular, the resurrection of the Urgent Question by Speaker Bercow following his election in 2009, and its continued utilisation by the current Speaker, has injected greater immediacy and topicality into daily proceedings.
5. In respect of the appointment of Lord Cameron that has prompted this inquiry, at a time of grave international crises it is inconceivable that if the Middle East descended into regional war or there were serious developments in Ukraine MPs would not be able to question the Foreign Secretary in the Chamber, but Peers would be able to do so in the House of Lords.
6. In 1982 Lord Carrington found, when the Falklands crisis erupted, that the absence of the Foreign Secretary from the House of Commons was untenable and was a factor in his resignation.
7. The nature of proceedings in the Chamber – and the ways in which these are broadcast and consumed by the media and the public – has changed significantly in the intervening decades. Consequently, the expectations of Members, the media and constituents have changed.
8. In the event of a crisis the Foreign Secretary would no doubt attend the Foreign Affairs Committee. This provides for more in-depth scrutiny than might be undertaken in the Chamber, but it involves just 11 MPs out of a Chamber of 650 Members, of which six are members of the governing party.
9. It does not afford the majority of MPs the opportunity to ask the Secretary of State questions on behalf of their constituents. This is particularly problematic in relation to scrutiny by the Opposition front bench and the leaders of the smaller parties.
10. However, reform of procedure should not be undertaken solely to address this case. Any proposed reforms should be applicable if another Secretary of State for a different department was appointed from the House of Lords. For example, ministerial accountability to the House of Commons would similarly be weakened if the Transport Secretary was in the House of Lords and unable to address Members questions regarding HS2; or the Education Secretary was unavailable to answer questions about RAAC (Reinforced Autoclaved Aerated Concrete) in schools.
11. Ultimately it is Secretaries of State who are responsible for their department's budgets, policy, and strategy. Junior Ministers who attend Cabinet - however experienced and respected they may be – are not always 'in the room' when decisions are made. The elected House should hear from and have an opportunity to question the primary decision-maker; it should not tolerate second-hand accounts via his or her representative.

12. There is a risk that if provision is made for Secretaries of State in the House of Lords to appear before the House of Commons, then Prime Ministers may see this as a green light to recruit more of their Cabinet from the House of Lords. Structuring the scrutiny model should be done in such a way as to deter Prime Ministers from future such appointments.

**Q2. If yes, what forum would be most effective for such scrutiny to occur? For example, the House of Commons Chamber, Westminster Hall or another forum?**

13. There are at least four possible forums that might be considered.
14. The Chamber: In our view the most preferable option would be for the Secretary of State to be invited into the Commons Chamber to initiate and respond to certain types of business (see Q3 below). This is also likely to be the least cumbersome and most logistically straightforward model available. When this issue was last examined by the Procedure Committee in 2009-10 the Government of the day made clear that it was not opposed to Secretaries of State appearing before the House of Commons in the Chamber if that was the wish of the House. Precedent might see him or her invited to speak from a lectern at the bar of the House; however, this would risk making the House look ridiculous. If the Minister is to speak in the Chamber better that (s)he speak from the front bench.
15. Westminster Hall: During the 2009-10 inquiry, it was evident that a significant number of MPs opposed doing anything that might confer legitimacy on the practice of appointing Secretaries of State in the Lords. As a result, the recommendations fell short of what the Government was reportedly willing to concede. The Procedure Committee settled for an experiment: two question sessions of up to 45 minutes in Westminster Hall on a Thursday afternoon as a complement to normal departmental questions each Session. The Minister was to sit at and speak from a separate table like that used by witnesses at a Select Committee rather than sit alongside the Chair (which might convey that the Minister occupied a privileged position compared to the other Members). The proposals were never piloted; following ministerial changes after the 2010 general election the reforms were no longer needed. Thirteen years later the proposals are inadequate for a House in which the restoration of the Urgent Question has significantly transformed expectations about timely Ministerial responses to events in the Chamber.
16. Grand Committee: This format is not dissimilar to that of the Chamber. It permits statements to be made and questions answered by Ministers 'whether or not a Member of the House'. However, Lords Ministers are not permitted to do so 'from the body of the committee'. Instead, arrangements are made for them to sit at the dais, to the right of Chair. However, for a significant number of MPs to participate in this format, it may be necessary for the Chamber to be used (as was the case for legislative grand committee for England when EVEL (English Votes for English Laws) applied between 2015 and 2020). If so, then there is no obvious advantage in this model compared to the conventional use of the Chamber.
17. Bicameral conferences: Either House could decide to sit in a conference to which Members of the other House may be admitted. However, given the size of each House this might require the use of the Royal Gallery which would be impractical, technically complex and expensive. It would also not address the question of the primacy of the House of Commons.

**Q3. What form should such scrutiny take? Should it be limited to certain types of business such as statements or departmental questions, for example?**

18. At a minimum the Secretary of State should be required to answer Urgent Questions, make Ministerial Statements and answer monthly departmental Oral Questions in the Chamber. The proceedings would be subject to privilege in the usual way.

19. Following completion of their question/statement session, they should not be permitted to remain on the front bench for any subsequent business unrelated to their department.
20. The Secretary of State could be required to contribute during deliberations on legislation initiated by his or her department. However, as they are not MPs the Secretary of State should not be able to move a motion or an amendment in his or her name, that should be done in the name of a junior minister. In the current Foreign Office case, participation in legislative proceedings would not be a burdensome requirement. However, it might have a deterrent effect in respect of future such appointments to departments that regularly have a large legislative agenda.
21. A Secretary of State should not be permitted to vote in the Commons and should not be counted in respect of any Commons quorum.

**Q4. How often should Secretaries of State in the House of Lords be expected to appear before the House of Commons?**

22. The number of appearances before the Commons should be naturally determined by the nature of the department's business and the tide of events. There should not be a floor or cap. To impose one would undermine the purpose of the scrutiny: to hold the Secretary of State accountable in the event of major developments internally within their department or externally affecting their department, and which engage matters of policy, legislation or finance.
23. The Government may balk at this. However, establishing a high level of expectation, combined with a degree of uncertainty about the level of demand that may exist in the absence of a cap or floor on participation, would serve to reinforce the primacy of the Commons and might have a deterrent effect.

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