

Written evidence submitted by Constitution Unit, UCL

Introduction

- The UCL Constitution Unit conducts timely, rigorous independent research into constitutional change and the reform of political institutions. Since its foundation in 1995, it has carried out extensive work on parliament and House of Commons reform, on which this submission draws.
- A recent report jointly published by the Constitution Unit and the Institute for Government set out a summary menu of options for parliamentary reform in the new parliament, as part of a broader consideration of potential constitutional change.¹
- In addition to addressing the committee's questions in this submission, we have included some thoughts – drawing on recent Constitution Unit work on the politics of parliamentary reform – about how the Modernisation Committee itself might best work.

How the Modernisation Committee might work

- The Modernisation Committee is clearly unusual in including frontbenchers and being chaired by the Leader of the House, rather than being entirely backbench like most select committees. This echoes the composition of the earlier Modernisation Committee that existed 1997-2010. The earlier committee was one of several vehicles for developing Commons reform proposals analysed in a recent Constitution Unit report.²
- That report highlighted that a key advantage for the previous Modernisation Committee over entirely backbench committees (notably the Procedure Committee) was higher implementation rates for its recommendations. Being chaired by the Leader increased reform proposals' chance of getting government support, and thus being debated.
- The same research highlighted a potential pitfall facing the new committee, in that the previous Modernisation Committee sometimes became a source of controversy between government and opposition, rather than building wide support for its proposals. Its ministerial chair led some to view the committee – fairly or otherwise – as prioritising reforms that originated from, and advantaged, the government. The committee was thus frequently criticised, and subject to formal divisions both internally and when its proposals were put to the House. To avoid a similar experience, the committee will need to work hard to build wide support.
- Early indications are that the new committee intends to work somewhat differently to its previous namesake, though this remains unclear. The original Modernisation Committee

¹ Meg Russell, Hannah White and Lisa James (2023) *Rebuilding and Renewing the Constitution: Options for Reform* (London: Constitution Unit).

² Tom Fleming and Hannah Kelly (2024) *Delivering House of Commons Reform: What Works?* (London: Constitution Unit).

operated (notwithstanding its unusual membership) like any other select committee: it conducted inquiries, gathered written and oral evidence and published reports with recommendations. Many of these inquiries and reports were wide-ranging, important and influential. In contrast, it has been suggested that the new committee will act as a 'clearing house' or 'task and finish group'. How this will work requires clarifying and explaining.

- Crucial to this will be the relationship between the Modernisation Committee and other committees. Its predecessor worked alongside the Procedure Committee, with each conducting independent inquiries. The new committee has an overlapping remit not only with the Procedure Committee but also the Standards Committee, whose topics its predecessor largely steered away from. It seems important to establish how topics and tasks will be divided with these other committees, to achieve a productive and mutually agreed division of labour, and public understanding of the system. All three committees have similar status, in terms of members having the right to set their own agendas. All three have the ability to publish recommendations and reports for consideration by the House. Although some interaction between the three committees is evident from their initial meetings, an early statement of the agreed division of responsibilities between them would be useful.
- One difficulty in the past, as already indicated and explored in the Constitution Unit report cited above, was the Procedure Committee's ability to get its proposals debated. The main gatekeeper here is the government, which substantially controls access to the House of Commons agenda (as further discussed below). To avoid these problems, it is important that the new Modernisation Committee helps facilitate discussion of proposals from the other two committees, rather than serving as a further obstacle to them.

What topic(s) do you think the Modernisation Committee should prioritise and how do they link to one or more of the strategic aims set out in the Leader's memorandum? Why would the topic(s) benefit from the attention of the Modernisation Committee?

- Of the committee's strategic aims, the Constitution Unit's most extensive body of work relates to reforming Commons procedure, as opposed to standards or working practices.
- We suggest below two broad topics of particular priority: the legislative process, and control of House of Commons time. Some further potential ideas are then listed more briefly. Footnotes indicate relevant existing work on each topic, both by ourselves and others.
- In both of these main areas, important changes can be achieved through government commitments to show self-restraint and model good practice (e.g. by providing adequate scrutiny time for bills). But the Modernisation Committee has an opportunity to encourage such behaviours, as well as to consider procedural changes that can cement or complement them.

- As noted above, the precise division of work between the Modernisation Committee and Procedure Committee is a matter for those committees to decide. We believe that all of the topics below would benefit from the attention of either or both committees.

1. The legislative process

- The now Leader of the House, Lucy Powell, argued in a high-profile speech to the Institute for Government in May 2024 that falling standards of legislative scrutiny are a major cause for concern.³ We, and many other specialists in the field, agree. It would be natural, therefore, for this to be an early focus for the Modernisation Committee – following through on the Leader’s stated priority.
- Legislative scrutiny has many functions. It provides transparency and accountability, helps to legitimise policies, and crucially allows potential flaws in legislation to be identified before it is passed.⁴ When the quality of scrutiny declines, all these benefits are compromised. An overall assessment of the health of the legislative process would be extremely valuable.
- Various factors might usefully be considered when assessing the scrutiny of primary legislation, including:
 - The quality of the government’s legislative preparation: this was highlighted in the speech by the Leader of the House. External bodies have long expressed concerns about it, but recent practice seems to have got markedly worse.⁵ Relatedly, the practice of introducing significant government amendments at late stages in the process can result in major policy changes receiving very little scrutiny. Yet this poor practice also appears to have increased in recent years. Beyond improving government behaviour, one suggestion has been the creation of a Legislative Standards Committee, to allow parliamentarians to take a view on the fitness of bills for introduction.⁶
 - For many years there have been suggestions that more legislation should be considered in draft, before being introduced, to allow potential problems to be spotted early. This ‘pre-legislative scrutiny’ process can be valuable, but it has recently become less frequent, and this should be revisited.⁷

³ Lucy Powell (2024) ‘[Keynote speech: Lucy Powell MP, Shadow Leader of the Commons](#)’, *Institute for Government website*, 14 May.

⁴ Meg Russell and Daniel Gover (2017) *Legislation at Westminster: Parliamentary Actors and Influence in the Making of British Law* (Oxford: Oxford University Press); Hannah White (2015), *Parliamentary Scrutiny of Government* (London: Institute for Government).

⁵ Meg Russell (2025) ‘[Should We be Worried About the Decline of Parliamentary Scrutiny?](#)’, *Public Law 2025* (Jan), 31-57.

⁶ Constitution Committee (2017), *The Legislative Process: Preparing Legislation for Parliament (Fourth Report of Session 2017–19)*, HL Paper 27 (London: House of Lords); Constitution Committee (2018), *The Legislative Process: The Passage of Bills Through Parliament (24th Report of Session 2017–19)*, HL Paper 393 (London: House of Lords).

⁷ See, for example, Jess Sargeant and Jack Pannell (2022) *The Legislative Process: How to Empower Parliament* (London: Institute for Government).

- The timescale within which the government invites scrutiny of legislation in the House of Commons. Recent sessions have seen an increase in the numbers of government bills expedited through the Commons in a single day.⁸ The proportion being rushed through in fewer than five days has also sharply increased, reaching 67% in the 2022-23 session (20/30 bills), compared to just 20% in 2013-14.⁹
 - Public bill committees (PBCs) can do valuable work, but various recommendations exist to strengthen their permanence and expertise.¹⁰ Evidence taking in PBCs was introduced following Modernisation Committee recommendations in 2006, but only 27% of bills from 2015-21 were subject to such evidence-taking, partly due to growing overuse of the Committee of the Whole House (CWH) procedure.¹¹ This should be rectified. Evidence-taking on bills starting in the Lords, and those properly subject to CWH (e.g. constitutional bills), has also long been called for. Beyond this, broader consideration of how to increase public involvement in the legislative process would be welcome.
 - The independent Regulatory Policy Committee has highlighted problems with the quality and timeliness of impact assessments.¹² Effective scrutiny requires MPs to have access to the information needed to understand the contents and potential implications of legislation.
 - The government has made a commitment to reduce the overuse of delegated legislation, and reliance on ‘skeleton’ or ‘framework’ bills.¹³ This is welcome, given widespread recent complaints.¹⁴ But the commitment must be followed through. One option would be the Hansard Society’s proposed new Concordat regarding the boundaries between primary and secondary legislation.¹⁵ It is also very widely agreed that there are important weaknesses in the procedures for scrutiny of statutory instruments and clear scope exists for this to be improved.
2. Control of House of Commons time
- The control of Commons time can be understood in two key ways. One is the day-by-day allocation of time when the House is sitting; the other is the control of sitting dates.
 - A number of important topics relate to the control of day-to-day Commons sitting time:

⁸ Russell (2025) – see note 5.

⁹ Russell (2025) – see note 5.

¹⁰ Meg Russell, Bob Morris and Phil Larkin (2013), *Fitting the Bill: Bringing Commons Legislation Committees into Line with Best Practice* (London: Constitution Unit).

¹¹ Sargeant and Pannell (2022) – see note 7.

¹² Regulatory Policy Committee (2024) *Corporate Report 2024* (London: Regulatory Policy Committee).

¹³ Richard Hermer (2024) ‘Attorney General Swearing-in Speech’, *Gov.UK website*, 16 July.

¹⁴ E.g. House of Lords Delegated Powers and Regulatory Reform Committee (2021) *Democracy Denied: The Urgent Need to Rebalance Power Between Parliament and the Executive*, HL Paper 106 (London: House of Lords); House of Lords Secondary Legislation Scrutiny Committee (2021) *Government by Diktat: A Call to Return Power to Parliament*, HL Paper 105 (London: House of Lords).

¹⁵ Hansard Society (2023) *Proposals for a New System of Delegated Legislation: A Working Paper* (London: Hansard Society).

- The default is for the government to control the allocation of time. Criticism of this system is long-standing; in 2009 the Wright Committee suggested that ‘it infantilises Members, and demonises Government’.¹⁶ During the Brexit process this led to major strains.¹⁷ The Wright Committee’s key suggestion – not implemented, but echoed in a recent Constitution Unit report – was that the weekly business should be subject to a vote on an amendable motion.¹⁸ This would usually be uncontentious, but could provide an important pressure valve when needed.
- The Modernisation Committee’s memo suggested that backbench business is not functioning as the Wright Committee intended. Constitution Unit research confirms, notably, that it sadly no longer serves as a route for members (including the Procedure Committee) to achieve procedural change – partly due to how it has been relegated to Thursdays by the government.¹⁹ The priority is to consider how backbench business might be strengthened, not weakened. Importantly, it is mistaken to suggest that its introduction stole time from scrutiny of government bills.
- Problems have also been identified with the allocation of opposition days. The current system leaves their timing entirely in the gift of the government; in 2018-19, this allowed the May government simply not to provide any opposition time for several months.²⁰ A preferable option would be to shift opposition days to a monthly, rather than sessional, pattern.²¹ Additionally, their distribution assumes a single large opposition party, with all others very significantly smaller; as the current parliament demonstrates, this is not always the case.²²
- Other potential changes relate to the Commons’ ability to sit, which is fundamental to its ability to hold the government to account.²³
 - The unlawful prorogation of 2019 demonstrated parliament’s vulnerability to a government which was willing to shut down scrutiny. Many believe that parliament should be given protection by being required to approve prorogation dates.
 - The Commons is highly unusual in international terms in not having a mechanism that allows a majority of MPs to request a return from recess in exceptional cases should they wish.²⁴ Various proposals have been made to address this.

¹⁶ House of Commons Reform Committee (2009) *Rebuilding the House (First Report of Session 2008-09)*, HC 1117 (London: House of Commons), p51.

¹⁷ Meg Russell and Lisa James (2023) *The Parliamentary Battle over Brexit* (Oxford: Oxford University Press).

¹⁸ Meg Russell and Daniel Gover (2022) *Taking Back Control: Why the House of Commons Should Govern its Own Time* (London: Constitution Unit).

¹⁹ Publication pending.

²⁰ Russell and James (2023) – see note 17.

²¹ Russell and Gover (2022) – see note 18.

²² Paul Evans (2024) ‘A House More Divided: Practice and Procedure in a Multipolar Parliament’, *Hansard Society website*, 15 July.

²³ These possible reforms are discussed in Russell and Gover (2022) – see note 18.

²⁴ Petra Schleiter and Tom Fleming (2020) ‘Parliamentary Prorogation in Comparative Context’, *The Political Quarterly*, 91(3), pp. 641–648.

3. Other potential topics

- There are various other topics which could be considered in addition to the priorities suggested above, some of which have been subject to recent research by others. These include:
 - o Scrutiny of international agreements.²⁵
 - o Scrutiny of financial measures.²⁶
 - o The private members' bill process.²⁷
 - o The clarity of the Commons' procedures for MPs and the public.²⁸

Are you aware of examples from other parliaments relevant to the topic(s) which may be interesting for the Modernisation Committee to consider?

- Space does not allow for detail on how other parliaments deal with the many topics mentioned above. However, this has frequently been a focus of Constitution Unit work and we would be happy to engage with such questions on specific topics.
- Nonetheless, two more general points are worth consideration regarding comparative material.
 - o First, practice in other parliaments can provide both positive and negative examples. This may sometimes offer useful inspiration, but equally sometimes cautionary tales.
 - o Second, how procedure works in practice is determined by multiple informal factors (e.g. culture and political incentives). Hence while examples from other parliaments may be a helpful source of ideas, they can rarely simply be copied wholesale.

Is there any existing work relevant to the topic(s) which you think the Modernisation Committee can build on?

- We have provided this material in footnotes throughout.

December 2024

²⁵ House of Commons Public Administration and Constitutional Affairs Committee (2024) *The Scrutiny of International Treaties and Other International Agreements in the 21st Century (Second Report of Session 2023-24)*, HC 204 (London: House of Commons).

²⁶ See, for example, House of Commons Procedure Committee (2019) *Should there be a Commons Budget Committee? (Tenth Report of Session 2017-19)*, HC 1482 (London: House of Commons).

²⁷ See, for example, House of Commons Procedure Committee (2013) *Private Members' Bills (Second Report of Session 2013-14)*, HC 188-I (London: House of Commons).

²⁸ See, for example, Paul Evans (2024) '[What was the problem with House of Commons Standing Orders in the Gaza debate? Forthwithery explained](#)', *Hansard Society website*, 27 February.