



# **GIVING EVIDENCE TO SELECT COMMITTEES**

## **Guidance for Civil Servants**

**Cabinet Office  
October 2014**

## Contents

<b>Subject</b>	<b>Page Number</b>
<b>Introduction</b>	<b>3</b>
<b>Civil servants' evidence to select committees</b>	<b>4 – 6</b>
<b>Accounting Officers</b>	<b>7-8</b>
<b>Senior Responsible Owners</b>	<b>9</b>
<b>Provision of Evidence</b>	<b>10-12</b>
<b>Provision of Information</b>	<b>13-14</b>
<b>Status and handling of evidence</b>	<b>15-18</b>
<b>Government responses to select committee reports</b>	<b>19-23</b>
<b>General Elections</b>	<b>24</b>
<b>Managing Public Money</b>	<b>Annex A</b>
<b>SRO Accountability</b>	<b>Annex B</b>

## **INTRODUCTION**

### **Role of Select Committee**

1. Select Committees have an important role in ensuring the full and proper accountability of the Executive to Parliament. Ministers have emphasised that, when officials represent them before Select Committees, they should be as forthcoming and helpful as they can in providing information relevant to Committee inquiries. In giving evidence to Select Committees, officials should take care to ensure that no information is withheld which would not be exempted if a parallel request were made to the Department under the Freedom of Information Act.

### **Powers of Select Committees**

2. The powers of Select Committees derive from the powers of the House and from the Standing Orders. Select Committees (and their Sub-Committees) have power to 'send for persons, papers and records' relevant to their terms of reference. Enforcement of these formal powers and, in particular, the power to punish for contempt of the House, is retained by the House itself and can be exercised only by the House as a whole, not by individual Select Committees.

### **Status of the Guidance**

3. This Guidance should be read in conjunction with the Civil Service Code. It is intended to assist staff in departments deal with requests for information from Select Committees, including the provision of evidence, handling Select Committee reports and drafting responses to such reports.

## CIVIL SERVANTS' EVIDENCE TO SELECT COMMITTEES

### General Principles

4. The *Civil Service Code* makes clear that civil servants are accountable to Ministers who in turn are accountable to Parliament. It therefore follows that when civil servants give evidence to a Select Committee they are doing so, not in a personal capacity, but as representatives of their Ministers.
5. This does not mean that officials may not be called upon to give a full account of government policies, or the justification, objectives and effects of these policies, but their purpose in doing so is to contribute to the process of ministerial accountability not to offer personal views or judgements on matters of government policy - to do so could undermine their political impartiality.
6. **Accounting Officers: The Accounting Officer is the person who is accountable to Parliament for the stewardship of the department's resources.** It is for the Accounting Officer in each department, acting within Ministers' instructions, and supported by their Boards, to control and account for the department's business. Alongside this, Accounting Officers have a personal responsibility to account to Parliament (through the Public Accounts Committee) for the compliance of their departments with the principles set out in *Managing Public Money*. The PAC may seek assurance on propriety, regularity, value for money and feasibility of the use of the public money provided by Parliament to their departments.
7. **Senior Responsible Owners** of major projects can also be asked to account for the implementation and delivery of major projects for which they are responsible. Further detail is set out on page 9.
8. While staff in NDPBs and other ALBs are not normally civil servants, the principles of this Guidance should apply to them.

### Civil Service Code obligations

9. Civil servants who give evidence to Select Committees do so on behalf of their Ministers and under their directions.
10. This is in accordance with the principle that it is Ministers who are accountable to Parliament for the policies and actions of their Departments. Civil servants are accountable to Ministers. It is for this reason that when civil servants appear before Select Committees they do so, on behalf of their Ministers and under their directions because it is the Minister, not the civil servant, who is accountable to Parliament for the evidence given to the Committee.

## **Summoning of Named Officials**

11. Parliament has powers to call any individual to give evidence. However, in accordance with Ministerial accountability, where evidence relates to Government policy or action, it is given by Ministers or officials on their behalf. Officials providing evidence to Select Committees do so under Ministerial agreement and instruction. Further guidance on the position of Accounting Officers and senior responsible owners is set out in pages 7-9.
12. When a Select Committee indicates that it wishes to take evidence from any particular named official, including special advisers, the presumption is that Ministers will seek to agree such a request. However, the decision on who is best able to represent the Minister rests with the Minister concerned. It remains the right of a Minister to suggest an alternative civil servant, or additional civil servant(s), to the person named by the Committee if he or she feels that would be a better way to represent them. If there is no agreement about which official should most appropriately give evidence, the Minister can offer to appear personally before the Committee.
13. If a Committee nonetheless insists on a named official appearing before them, contrary to the Minister's wishes, the formal position remains that it could issue an order for attendance, and request the House to enforce it. In such an event the official, as any other individual would have to appear before the Committee but, in all circumstances, would remain subject to Ministerial instruction and the Civil Service Code. This would be a very exceptional action.

## **Support for witnesses**

14. Where a civil servant is giving evidence to a Select Committee for the first time, or in the circumstances set out in paragraph 11, Departments will wish to consider the support that should be made available to them, including appropriate training, briefing and whether a more experienced civil servant should attend alongside them

## **Former Officials**

15. Committees can request evidence from officials who have left Civil Service employment. However, former officials cannot be said to represent the Minister and hence cannot contribute directly to the line of ministerial accountability to the House. It is primarily for these reasons, as well as for obvious practical points of having access to up to date information and thinking, that Ministers would expect evidence on Government matters to be given by themselves or by serving officials who report to them. Former officials are covered by the same rules on attendance as others and a Committee could issue an order for attendance if it chooses. Former Officials giving evidence about their role in Government should

give evidence in accordance with the Civil Service Code and this Guidance. Further detail on the attendance of former Accounting Officers can be found at paragraphs 21 to 22.

### **NDPBs and other Arms Length Bodies (ALBs)**

16. Departmental Select Committees have an important role in examining the expenditure, administration and policies of NDPBs, and other ALBs. Members of NDPBs, and other ALBs invited to give evidence should be as helpful as possible in providing accurate, truthful and full information, taking care to ensure that no information is withheld which would not be exempted if a parallel request were made to the Body in question under the FOI Act.
17. The principal Accounting Officers of departments have responsibility for assuring themselves about the capacity and performance of the ALBs whose accounts are consolidated with their own. So, a Committee may invite the departmental Accounting Officer and/or policy officials and representatives of NDPBs/ALBs to give evidence together. Or the department may offer its official(s) to give evidence alongside the ALB.

### **Non-Ministerial Departments (NMDs)**

18. Non-ministerial departments are not headed by Ministers. Select Committees may call civil servants in NMDs to give evidence and account for their decisions and actions on issues and money for which they have responsibility and on their implementation of the guidelines or laws within which they operate. Accountability for policy decisions will normally be for sponsor Ministers. Accounting Officers of NMDs are directly accountable to Parliament (via the Public Accounts Committee) in the same way as the Accounting Officers of Ministerial departments.

### **Parliamentary Privilege and Contempt Procedures**

19. Parliamentary proceedings are subject to absolute privilege, to ensure that those participating in them, including witnesses before Select Committees, can do so without fear of external consequences. This protection, enshrined in the Bill of Rights, is an essential element in ensuring that Parliament can exercise its powers freely on behalf of its electors. Departments must not take disciplinary action against civil servants or members of NDPBs (or anyone else) as a consequence of them giving evidence to a Select Committee. Such action might be regarded as contempt of the House, with potentially serious consequences for those involved. [See Sixth Report of the Committee on Standards and Privileges, Session 2003-04, HC1055.]

## ACCOUNTING OFFICERS

### General

20. Formally the Accounting Officer is the person who Parliament calls to account for stewardship of the Department's resources. The obligations of Accounting Officers are set out in more detail in Managing Public Money:

#### **Box 3.1: standards expected of the accounting officer's organisation**

Acting within the authority of the minister(s) to whom he or she is responsible, the accounting officer should ensure that the organisation, and any ALBs it sponsors, operates effectively and to a high standard of probity. The organisation should:

##### **Governance**

- have a governance structure which transmits, delegates, implements and enforces decisions
- have trustworthy internal controls to safeguard, channel and record resources as intended
- work cooperatively with partners in the public interest
- operate with propriety and regularity in all its transactions
- treat its customers and business counterparties fairly, honestly and with integrity
- offer appropriate redress for failure to meet agreed customer standards
- give timely, transparent and realistic accounts of its business and decisions, underpinning public confidence;

##### **Decision-making**

- support its ministers with clear, well-reasoned, timely and impartial advice
- make all its decisions in line with the strategy, aims and objectives of the organisation set by ministers and/or in legislation
- take a balanced view of the organisation's approach to managing opportunity and risk
- impose no more than proportionate and defensible burdens on business;

##### **Financial management**

- use its resources efficiently, economically and effectively, avoiding waste and extravagance
- plan to use its resources on an affordable and sustainable path, within agreed limits
- carry out procurement and project appraisal objectively and fairly, using cost benefit analysis and generally seeking good value for the public sector as a whole
- use management information systems to gain assurance about value for money and the quality of delivery and so make timely adjustments
- avoid over defining detail and imposing undue compliance costs, either internally or on its customers and stakeholders
- have practical documented arrangements for controlling or working in partnership with other organisations, as appropriate
- use internal and external audit to improve its internal controls and performance.

21. The Public Accounts Committee operates slightly differently because of the special position of Accounting Officers in relation to that Committee and the direct access of the NAO to departmental records. More detailed guidance on these arrangements is set out in *Managing Public Money*. Further advice can also be obtained from the Treasury Officer of Accounts.

### **Publication of objectives**

22. The Government publishes Permanent Secretary objectives annually, at the start of the performance year. This supports the Government's commitment to improving transparency and accountability; departments should ensure that copies of the objectives are sent to departmental Select Committees and the Public Accounts Committee.

### **Summoning of former Accounting Officers**

23. Former Accounting Officers may be invited to return to give evidence to departmental Select Committees and the Public Accounts Committee on matters for which they were previously responsible. Where a Committee wishes to take evidence from a former Accounting Officer, the request should be agreed where there is a clear rationale for doing so. This expectation applies even if the former Accounting Officer has since retired.

24. In the first instance, the request should be made to the relevant department who will make the arrangements with the former Accounting Officer. Former Accounting Officers should be provided with access to relevant departmental papers and other support to enable them to be as helpful as possible to the Committee. They can also ask the Select Committee to allow them reasonable time to refresh their understanding of a past issue.



## SENIOR RESPONSIBLE OWNERS

### General

25. Civil servants appear in front of Select Committees on behalf of their Ministers and under their directions because it is the Minister, not the civil servant, who is accountable to Parliament for the evidence given to the Committee. Accounting Officers are in a special position and this is described on pages 7 and 8.
26. Senior Responsible Owners (SRO) for Major Projects (as defined in the Government's Major Project Portfolio (GMPP)) are also in a special position in that they are expected to account for and explain the decisions and actions they have taken to deliver the projects for which they have personal responsibility. This line of accountability, which should be made clear to SROs in their published SRO appointment letter, relates to implementation (not policy development) for the project though the SRO may of course have been involved throughout the development of the project.
27. In order to support Parliament's ability to hold the Executive to account, Government publishes on an annual basis a progress report on these projects. In addition, it will also publish a list of the SROs for the Government's Major Project Portfolio (as defined by the Major Projects Authority).
28. Where a Committee wishes to take evidence from an SRO of one of these major projects it will be on the understanding that the SRO will be expected to account for the implementation and delivery of the project, as defined by published SRO appointment letters approved by the relevant Minister, and for their own actions. Appointment letters will make clear the point at which an SRO becomes directly accountable for the implementation of the project in question. The SRO will also be able to disclose to the Committee where a Minister or official has intervened to change the project during the implementation phase in a way which has implications for cost and/or timeline of implementation. In this respect the SRO should also be able to disclose their advice about any such changes.
29. Accounting Officers are ultimately accountable for the performance of all the business under their control, including major projects for which an individual SRO has direct accountability and responsibility. And in this respect, if a Select Committee calls for evidence from an SRO, the Accounting Officer of the department may also be called to support the SRO at a hearing.
30. This line of direct accountability for SROs does not alter the special position and relationship of Accounting Officers with the PAC.

## **PROVISION OF EVIDENCE**

### **Accuracy of Evidence**

31. Officials appearing before Select Committees do so on behalf of Ministers and are therefore accountable to the Minister for the evidence they give. They are therefore responsible for ensuring that their Ministers are aware of the invitation and the evidence they intend to give. The civil servant will need to be fully briefed on the main facts of the matters on which they are expected to be examined. This can be demanding as a Committee's questions can range widely and can be robust in terms of questioning as they seek to hold the Executive to account.
32. Should it be discovered subsequently that the evidence unwittingly contained factual errors, these should be made known to the Committee, usually via the Clerk, at the earliest opportunity. Where appropriate, a correcting footnote will appear in the published transcript of the evidence.

### **Discussion of Government policy**

33. Officials should as far as possible confine their evidence to questions of fact and explanation relating to government policies and actions. They should be ready to explain what those policies are; the justification and objectives of those policies as the Government sees them; the extent to which those objectives have been met; and also to explain how administrative factors may have affected both the choice of policy measures and the manner of their implementation. Any comment by officials on government policies and actions should always be consistent with the principle of civil service political impartiality. Officials should as far as possible avoid being drawn into discussion of the merits of alternative policies, including their advice to Ministers. If official witnesses are pressed by the Committee to go beyond these limits, they should make clear to the Committee that they are unable to answer the questions as the line of questioning is for the relevant Minister and that they are not authorised by their Minister to go any further. Select Committees should respect this position and it is then for the Committee to decide whether to request the Minister to provide the evidence.

### **Consulting Ministers on proposed evidence (oral and written)**

34. Because officials appear on behalf of their Ministers, it is important that Ministers are made aware of the invitation and that they have an opportunity to clear written evidence and briefing material. It may only be necessary for Ministers to be consulted if there is any doubt among officials on the detail of the policy to be explained to the Committee, or on what information should be disclosed. However, as Ministers are ultimately accountable for deciding what information is to be given and for defending those decisions as necessary, their views must be

sought if a question arises of withholding information which a Committee has asked for.

### **Disciplinary matters relating to civil servants**

35. It is not the role of Select Committees to act as disciplinary tribunals. Disciplinary matters are for Departments in the first instance. A Minister will therefore wish to consider carefully a Committee's request to take evidence from a named official where this is likely to expose the individual concerned to questioning about their personal actions or the allocation of blame between them and others. This will be particularly so where the official concerned has been subject to, or may be subject to, an internal departmental inquiry or disciplinary proceedings. Ministers may, in such circumstances, wish to suggest either that he or she give evidence personally to the Committee or that a designated senior official do so on their behalf.
36. It is for the Minister to look into the matter and if necessary to institute a formal inquiry. Such an inquiry into the conduct and behaviour of individual officials and consideration of disciplinary action is properly carried out within the Department according to established procedures set out in Departmental staff Handbooks. It is then the Minister's responsibility to inform the Committee of what has happened, and of what has been done to put the matter right and to prevent a recurrence. Evidence to a Select Committee on this should be given not by the official or officials concerned, but by the Minister or by the Permanent Secretary or another senior officer.
37. In this context, Departments should adhere to the principle that disciplinary and employment matters are a matter of confidence and trust (extending in law beyond the end of employment). In such circumstances, public disclosure may damage an individual's reputation without that individual having the same "natural justice" right of response which is recognised by other forms of tribunal or inquiry. Any public information should therefore be cast as far as possible in ways which do not reveal individual or identifiable details. Where Committees need such details to discharge their responsibilities, they should be offered in closed session and on a clear understanding of confidentiality. Evidence on such matters should normally be given on the basis that:
  - (a) information will not be given about Departmental disciplinary proceedings until the hearings are complete;
  - (b) when hearings have been completed, the Department will inform the Committee of the outcome in a form which protects the identity of the individual or individuals concerned except insofar as this is already public knowledge or there is an expectation that it will become public;

- (c) where more detail is needed to enable the Committee to discharge its responsibilities, such detail will be given but on the basis of a clear understanding of its confidentiality and that it will not be made available more widely;
- (d) the Committee will thereafter be given an account of the measures taken to put right what went wrong and to prevent a repeat of any failures which have arisen from weaknesses in the Departmental arrangements.

## **SUPPORT TO WITNESSES**

38. Support should be provided to any civil service employee who may find themselves in the spotlight as a result of being called to give evidence to Parliament. Departments (and Select Committees) should be mindful of a duty of care towards employees in such circumstances and provide the necessary support.

## **PROVISION OF INFORMATION**

### **General**

39. Although the powers of Select Committees to send for "persons, papers and records" relating to their field of enquiry are unqualified, there are certain long-standing conventions on the provision of information which have been observed in practice by successive administrations on grounds of public policy
40. The Government is committed to being as open and as helpful as possible with Select Committees. The presumption is that requests for information from Select Committees will be agreed to. Where a department feels that it cannot meet a Committee's request for information, it should make clear its reasons for doing so, if appropriate in terms similar to those in the Freedom of Information Act (without resorting to explicit reference to the Act itself or to section numbers). If the problem lies with disclosing information in open evidence sessions or in memoranda submitted for publication, departments will wish to consider whether the information requested could be provided on a confidential basis. These procedures are described in pages 15 to 18.

### **Excessive Cost**

41. Although the provisions under the Code for charging applicants do not apply in the case of Select Committees, it may occasionally prove necessary to decline requests for information which would involve the department in excessive cost or diversion of effort. Ministers should always be consulted on their priorities in such cases and it may be that the Minister may wish to discuss with the Select Committee Chair.

### **Matters which may be *sub judice***

42. Committees are subject to the same rules by which the House regulates its conduct in relation to matters awaiting the adjudication of the courts (although the bar on debating such matters may be lifted if a Committee is meeting in closed session). If a matter already before the courts is likely to come up for discussion before a Committee at a public session, the Clerk will usually be aware of this and will draw the attention of the Chairman to the relevant rules of the House. Nonetheless, if a department has reason to believe that such matters may arise, they may wish to check with the Clerk that the Committee is also aware. It should be noted, however, that the Committee Chairman has an overriding discretion to determine what is appropriate in the hearing of evidence.
43. Officials should take care in discussing or giving written evidence on matters which may become the subject of litigation but which, at the time, do not strictly come under the rules precluding public discussion of sub judice questions. Such

caution should be exercised as to whether or not the Crown is likely to be a party to such litigation. If such matters seem likely to be raised, officials should first consult their departmental legal advisers or the Treasury Solicitor on how to handle questions which might arise. In any case of doubt about the extent to which details may be disclosed of criminal cases, not currently *sub judice*, the Law Officers are available for consultation. Similar considerations apply in cases where a Minister has or may have a quasi-judicial or appellate function, for example in relation to planning applications and appeals.

### **Contingent Liabilities**

44. Accounting Officers should arrange for Select Committees (and the PAC) to be informed when their organisations assume contingent liabilities when Parliament is not sitting and it is not possible to notify by a Written Ministerial Statement. The details are in *Managing Public Money*.

## STATUS AND HANDLING OF EVIDENCE

### Status of Evidence

45. Once information has been supplied to a Committee it becomes "evidence" and it is then for the Committee to decide whether or not to publish it and report it to the House. Between the Committee receiving the evidence and publishing it, certain rules apply to the public use of such evidence by the Government. Departments should be careful to observe these rules as failure to do so could amount to a breach of Parliamentary privilege. Committees are usually helpfully flexible in applying the rules but, in cases of doubt, departments should consult the relevant Committee Clerk for guidance.

46. The practical implications of these rules for departments are as follows:

- a. Oral evidence given in public session. There is no constraint on Departments using or repeating the substance of material given in public evidence sessions.
- b. Oral evidence given in closed session. Evidence given in closed sessions should not be disclosed by departments before the evidence (redacted as appropriate) has been published by the Committee.
- c. Unclassified memoranda. Memoranda provided in advance of an oral evidence session are usually published on the internet with the transcript of the oral evidence, and in due course with the Committee's report. Once they have been published, departments are free to make copies available to third parties. If a department wishes to make copies of their submitted memoranda available to third parties in advance of this, they must first obtain the permission of the Committee.
- d. Classified (protectively marked) memoranda. Similar rules apply, but naturally with the same caveat as for oral evidence given in closed session.

### Providing Sensitive Information in Confidence

47. It is to the benefit of Committees in carrying out their task of scrutinising Government activities, and to Government in explaining its actions and policies, for sensitive information, including that carrying a protective security marking, to be provided from time to time on the basis that it will not be published and will be treated in confidence. Procedures have been developed to accommodate this. The Department informs the Clerk that the information in questions can be made available only on an in-confidence basis with an explanation of the reasons. Such information should not be made available until the Committee has agreed to

handle it appropriately, either by treating it wholly in confidence or by agreeing to publish it with agreed redactions.

48. It is important when submitting such information to make clear that the papers are provided in confidence and are not for publication. Information provided to Committees in confidence will be covered by Parliamentary privilege. In cases of particular sensitivity, departments should ask to be consulted before release. It should be appreciated, however, that once evidence is given to a Committee, whether in confidence or not, it becomes the property of the Committee, to deal with as it thinks fit.

### **Handling of Sensitive Information in Oral Evidence**

49. It would clearly be inappropriate for any evidence which a department wished to be treated as confidential to be given at a public session of the Committee. If it appears likely, therefore, that subjects to be discussed at a forthcoming public session are such that the witnesses would only be able to give substantive answers in confidence, the department should discuss this with the Chairman or the Clerk. The Committee may then agree to take that part of the department's evidence in closed session.
50. If, despite such an approach, a Committee questions an official witness in public session on confidential matters, or if such matters are raised unexpectedly, the official should inform the Committee that the questions could only be answered on a confidential basis. The Committee may then decide to go into closed session or request a confidential memorandum. It is not for the witness to suggest that the Committee should go into closed session as this is wholly a matter for the Committee to decide.
51. Although in such circumstances Committees usually respect requests for redaction, they may occasionally challenge a particular request. Witnesses should therefore bear in mind when providing confidential memoranda, or in giving evidence in private, that their evidence may be published unless there is a clear justification for redaction. This justification will be expected to relate to the reasons given by the department, in the first place, for holding the evidence in private. The final decision on publication rests with the Committee.

### **Handling of Sensitive Information in Written Evidence**

52. Where information is submitted to a Committee on the understanding that it will be kept confidential, this understanding should be recorded in the covering letter forwarding the evidence to the Clerk. The letter should make clear any particular sensitivities and whether the whole memorandum or, as is often the case, particular sections are to be kept confidential.



53. Agreement has been reached with the Liaison Committee on the conditions under which information may be disclosed to Select Committees. The key points are as follows:

- Government information will be provided to Committees where the request is reasonable and relates to the work of the Committee. The release of TOP SECRET or SECRET information under these arrangements is subject to the personal approval of the responsible Minister in each case. Classification is not of itself sufficient reason to withhold information from a select committee.
- All sensitive Government documents will be kept under secure conditions in the Committee Office, where they may be inspected by Members. With the agreement of the department copies of OFFICIAL documents may be circulated to Members with appropriate handling guidance.
- Where documents classified as SECRET or TOP SECRET are required for meetings of the Committee (either deliberative or evidence in private), numbered copies may be made for each Member, but will be handed back on conclusion of the meeting.

## **NDPBs and other ALBs**

54. Committees may investigate and call for evidence from “associated public bodies” for which departments have responsibility and regularly call representatives of NDPBs to give evidence. If a department becomes aware that one of its NDPBs (or related bodies) has been invited to give evidence, it should consider whether it would be helpful to the body to discuss possible lines of questioning with the witnesses before the hearing. Departments must, however, be careful not to exercise undue influence over NDPBs or other ALBs in relation to their evidence. Any such action might be regarded as a contempt of the House, with potentially serious consequences for those involved. If the department has already given evidence to the Committee, it may also wish to consider whether, in the light of the evidence given by the NDPB, it should seek to submit further oral or written evidence. Further oral evidence is, of course, a matter entirely at the discretion of the Committee.

## **COMMERCIAL CONFIDENTIALITY**

### **General**

55. Committees may occasionally call for evidence from commercial companies, particularly those handling Government contracts. Ministers remain accountable to Parliament and the public for the functions provided to their departments by contractors. There should be no loss of transparency as to the quality and

effectiveness of services delivered. Nor should there be any relaxation in the protection of private and sensitive third party information handled by contractors. There may also be a need in the public interest to preserve commercial confidentiality to protect the business interests of competing companies and to protect the position of departments and the public purse in current or future tendering activity.

56. Government contracts will very often specify the contractor's obligations both to provide appropriate information to the public (under the Government's policies on openness) and to give necessary protection to confidential and sensitive information. Where contractors are prohibited from providing access without written consent to the details of Government contracts. Departments may find it helpful to discuss with their contractors how they can best provide a Committee with a general picture of their work without going into the commercially sensitive details of specific contracts.

57. The normal relationships between departments and their associated public bodies or with commercial contractors should usually be sufficient to ensure an awareness on the part of witnesses from such organisations of the need to deal with Committee's questions in accordance with the rules about protecting classified information. Departments may, however, wish to remind witnesses of these rules, and the options for providing sidelined evidence, before the hearing.

## **GOVERNMENT RESPONSES TO SELECT COMMITTEE REPORTS**

### **Leaked Select Committee Reports**

58. If a civil servant (or a Minister) receives a copy of a leaked Select Committee report, he or she must not make any use of it or circulate it any further. The report should be returned immediately to the Clerk of the relevant Select Committee. No copies should be taken.

### **Publication of Committee Reports**

59. Select Committee Reports are made formally to the House rather than to the Government although, given their subject matter, most of the recommendations tend to be addressed to the Government.

60. Under the terms of House of Commons Standing Order No 134, interested Departments and the media will normally receive embargoed copies of Select Committee Reports up to forty-eight hours before publication. Committees are usually helpful over this, but such advance issue is at their discretion. If publication of a Report is known to be imminent, departments may wish to contact the Clerk on an informal basis to establish the likely timetable. Generally there should be, as far as possible, close contact on an informal basis between the Clerk and a named departmental official.

### **Briefing No 10 and other Departments on Forthcoming Committee Reports**

61. As soon as possible after an embargoed copy of a Committee Report is received, a short note should be prepared on the main points, especially difficult points, with brief lines to take where necessary (bearing in mind the guidance on immediate comments on Reports at paragraphs 62 to 63. This should be emailed to the Parliamentary Clerk at No 10 to arrive before publication of the Report concerned. In the event of a Department receiving the Report only on the day of publication, a short note should still be put urgently in hand to reach No 10 on the same day. Copies of the briefing should go in parallel to other departments with an interest in the Report. This requirement stands for Reports published during the recess as well as when Parliament is sitting.

### **Preparation of Press briefing**

62. Receipt of an embargoed copy of a Select Committee report also enables departments to prepare briefing for use by Ministers and press offices for comment on the Report as soon as it published. Such immediate comment is, however, subject to certain rules and conventions and should avoid giving instant

conclusions on recommendations in Committee Reports before there has been time to consider them carefully. The briefing may consist of a Press Notice, issued to coincide with publication of the Report, or simply of material for the departmental Press Office to use in response to enquiries. In either case it should be borne in mind that journalists will be working on their embargoed copies to a similar timetable so that media enquiries may arise almost as soon as these copies are available. Any information provided should be subject at least to the same embargo date as that of the Committee's report.

63. Where a Select Committee Report concerns more than one department, the department with the major interest should co-ordinate the Press briefing, though Press enquiries may be answered by the other departments concerned on the agreed lines.

### **Immediate Comment on Committee Reports**

64. The basic principle in giving immediate comment on Committee Reports is that departments should be careful not to pre-empt or prejudge the Government's final and considered reply to the Committee's recommendations which must first be given to the Committee. This means that comments given to the media or in other statements, especially outside the House, on publication of the Report, or in the intervening period up to the delivery of the Government's reply, should not seem to anticipate that reply.

65. The general conventions are:

- a. Departments may respond immediately to correct mis-statements of fact, to provide background information, or to draw attention to particular passages in the Committee's Report or in the published Government evidence the Committee;
- b. the right of Ministers to respond publicly to criticisms of the Government as robustly as appropriate; this would include criticisms of the Committee's Report itself, inaccuracy or mis-statement in media reporting, or public criticisms made by individual Committee members;
- c. it is long standing convention that recommendations in Committee Reports should not be subject to snap responses without detailed Government assessment. Nonetheless Ministers would feel free to respond immediately to certain recommendations, either positively or negatively, where the Government's policy was established and clear, or where an early response was needed to influence fast-moving events.

## **Immediate Comment on NAO and PAC Reports**

66. Similar considerations apply to immediate comment on Reports from the Committee of Public Accounts (PAC) as with other Reports. NAO reports should be handled by departments in a way which does not pre-empt any subsequent PAC hearing.
67. Departments' public comments on NAO and PAC Reports which have financial implications, or which might affect substantively the subsequent Treasury Minute, should be cleared first with the relevant Treasury expenditure division.

## **Timing of Government Response to Committee Reports**

68. Departments should aim to provide the considered Government response to both Commons and Lords Select Committee Reports within two months of their publication. Where a report is complex or technical in its nature, or is dependent on other reports and / or external events, the response may require longer. In such cases, the Committee should be kept informed on the response timetable, through the measures set out below. For Joint Committees, the two month timetable should apply, unless longer is agreed with the Committee.
69. The two month timetable may not always be possible to achieve as Committee Reports tend to address issues which require consideration in depth and this may involve consultation both within and outside Government before a substantial reply can be provided. If it appears that preparing a response is going to take longer than it should, the department should write to the Committee (at Ministerial level to the Chairman or at official level to the Clerk) explaining the reasons and indicating the likely timetable. Only in exceptional circumstances should a response be deferred for more than six months after the Report's publication. A further option is to provide an interim response within the set period and a fuller response at a later date.
70. If these deadlines mean that a response falls due in the summer recess, the Committee may prefer publication of the Government response to be held over until Parliament reconvenes. Departments should consult the Clerk on the Committee's preference.

## **Form of Government Response**

71. In considering the form which the Government's considered response to a Select Committee Report should take, it is important to remember that the response must in all circumstances be made first to Parliament, either to the House itself or to the Committee. Replies usually take one of the following forms: (a) a Command Paper presented to Parliament; (b) a Memorandum or a letter to the Chairman of the Committee; or (c) an Oral Statement. Replies in the form of

Command Papers may be made in conjunction with an oral or written ministerial statement.

72. Where a Select Committee's recommendations concern another public body as well, that body may reply direct to the Committee or its reply may be annexed to the Government's response as appropriate.

**(a) Command Paper**

This is the form of reply on matters of substance and is addressed to Parliament as a whole, rather than directly to the Committee.

Arrangements should be made where appropriate for collective Ministerial consideration and cleared through the relevant Cabinet Committee. Collective Ministerial agreement is likely to be required if the response touches on the responsibility of other Government departments, contains new policy or is otherwise likely to be politically controversial.

Where several departments are concerned, the Command Paper may be issued either by the principal Minister concerned or by several Ministers acting jointly. Replies to Reports of the Committee of Public Accounts are always collated and presented by the Treasury.

Advance copies of any Command Paper responding to a Select Committee Report should be made available to the Committee concerned up to forty-eight hours before publication (the counterpart of the arrangement described in paragraph 57. Committees also find it helpful to be advised informally, where possible, when a reply is imminent. Advance copies may also be made available to the media. These should normally be provided on the day of publication. Any proposal to provide copies to the media more than 24 hours in advance must be cleared with No 10.

One advance copy of the final Command Paper for each Committee member and the Clerk should be provided by the department, free of charge. If significantly more copies are required, the Clerk should be advised to obtain these from the publisher in the usual way.

**(b) Memorandum or Letter to the Committee**

A Memorandum by a department to the Committee, or a letter from a Minister to the Chairman may be a more readily applicable form of response to less substantial recommendations. Unlike a Command Paper, such responses are, formally, further evidence to the Committee and are therefore subject to the usual conventions on submitted evidence (see pages 15 to 18). The Committee will normally decide to publish such Government responses itself,

either without comment or with a further commentary on the points made in the response. Alternatively, Committees may, on request, agree to publication by the department. This is usually done by the department placing a copy of the reply in the House Library and drawing attention to it by means of a written ministerial statement.

### **(c) Oral Statement**

If the Government's response is made in an oral statement on the floor of the House, whether in a separate statement or as part of a wider Ministerial speech, the Department should write to the Committee as early as possible drawing their attention to the statement and, if appropriate, making it clear that no further written reply is envisaged.

## **Select Committee Statements**

73. Chairs of Select Committees may make oral statements in the House, to publish a report or to launch an inquiry. When such statements are made, it is courteous for a Minister from the relevant department to be on the front bench. There is no automatic expectation that Ministers should themselves ask a question but should they wish to do so, departments should adhere to the existing convention that they should not pre-empt or prejudge the Government's final reply. Ministers may, however, draw attention to and correct any errors of fact or misleading media reporting and respond to any direct criticisms of the Government, Ministers should not generally respond directly to any recommendations, although they may restate existing policy on the subject, in line with the guidance above.
74. Should Ministers wish to make a substantive comment, the Opposition should be alerted as Shadow Ministers may also wish to respond. The Speaker's Office should also be notified. Any contributions from Ministers must be in the form of a question, rather than a statement. There is no right of reply to the statement itself or to any other question.

## **GENERAL ELECTIONS**

### **Dissolution of Parliament**

75. Select Committees set up by Standing Order continue in existence until that Standing Order is amended or rescinded. However, when Parliament is dissolved pending a General Election, membership of Committees lapses and work on their inquiries ceases. The point of contact for departments continues to be the Committee Clerk who remains in post to process the basic administrative work of the Committee (including the publication after dissolution of any reports which the Committee had authorised prior to dissolution). Departments should continue to work, on a contingency basis, on any outstanding evidence requested by the outgoing Committee and on Government responses to outstanding Committee Reports. It will be for the newly-appointed Committee to decide whether to continue with its predecessor's inquiries; and for the incoming administration to review the terms of existing draft responses. As it is also for the newly-appointed Committee to decide whether to publish Government responses to its predecessor's Reports. An incoming Government may wish to publish such responses itself by means of a Command Paper (see paragraph 72(a)).

### **Papers of a Previous Administration**

76. There are well-established conventions which govern the withholding of policy papers of a previous Administration from an Administration of a different political complexion. These were set out in a Parliamentary answer from the Prime Minister on 24 January 1980 (Official Report, Columns 305—307). Since officials appear before Select Committees as representatives of their Ministers, and since Select Committees are themselves composed on a bipartisan basis, it follows that officials should not provide a Committee with evidence from papers of a previous Administration which they are not in a position to show to their present Ministers. If such evidence is sought, Ministers should be consulted. Where Ministers propose to make an exception, it would be necessary to consult a representative of the previous Administration before either showing the papers to present Ministers or, with Ministers' authority, releasing information from them to a Committee.



**Managing Public Money (2013)**

**<https://www.gov.uk/government/publications/managing-public-money>**

## **SRO Accountability**

### Background

1. Strong leadership with clear accountability are two of the key components of successful project delivery. Project leadership comprises the Permanent Secretary; Senior Responsible Owner (SRO) and Project Director. This note sets out how accountability is being strengthened and what we are doing to help Project Leaders deliver on that accountability (see also paragraphs 25 to 30).

### SRO Accountability to Parliament

2. The Civil Service Reform Plan contained a number of actions designed to sharpen accountability. To support this work, a review was undertaken of the existing guidance and principles which govern the nature of Ministers and Civil Servants interaction with Select Committees. The revised “Osmotherly rules” precisely define who is accountable to Parliament and in what circumstance. They restate the primacy of the principle of Ministerial accountability but widen the definition of those civil servants who may have a direct accountability to Parliament to include SROs for major projects (as defined by the Government’s Major Project Portfolio (GMPP)).
3. SROs will be personally accountable to Parliamentary Select Committees and be expected to explain the decisions and actions they have taken during the period they are responsible for delivery of their project. This could include where a Minister and/or an official has intervened to change the project during the implementation phase in a way which has implications for the cost and/or timeline of implementation. The SRO will also be able to disclose their advice about any such changes. It is important to be clear that SRO accountability relates only to implementation, it will remain for the Minister to account for the relevant policy decisions and development.
4. Accounting Officers are ultimately accountable for the performance of all the business under their control, including major projects for which an individual SRO has direct accountability and responsibility. And in this respect, if a select committee calls for evidence from an SRO, the Accounting Officer of the department may also be called to support the SRO at a hearing. This line of direct accountability for SROs does not alter the special position and relationship of Accounting Officers with the PAC.

### The SRO’s responsibilities

5. The SRO has personal responsibility for delivery of the project, and should deliver the objectives and policy intent; ensure the project is governed responsibly; and influence constructively the context and operating environment of the project. Each new SRO will receive a Letter of Appointment tailored to their individual

circumstance. The letter will be issued jointly from the Permanent Secretary and the CEO of MPA (in his role as Head of Profession for Project Delivery) and approved by the relevant Minister. The letter will be published and clearly state:

- The point at which the SRO becomes accountable for the project;
- The tenure of the role linked to a key milestone on the project;
- The extent and limit of their accountability;
- A clear statement of the status of the project, identifying material issues and constraints;
- The SRO's objectives and performance criteria establishing the clear link between project delivery and the core purpose of the policy;
- Decision powers, controls and delegated authority;
- Key interfaces and relationships particularly with the business owner of the delivered project.

#### Equipping Project Leaders to deliver

6. In order to help SROs deliver their accountability we will ensure:

- Project teams will be equipped with the skills and capabilities necessary to deliver the project. Internal resources will be supplemented as necessary with external resources. The MPA will assist Departments as required to access resources; and
- The controls environment will be tailored for efficient and effective project execution and become a part of the full project transparency/assurance regime.

#### Appointment & Retention

7. Prior to an SRO appointment, MPA will work with departments to agree whether the appointment should be full-time, the presumption for the major projects, or, if not, what the appropriate time commitment should be.

8. The CEO of MPA (Head of Profession for Project Delivery) or his deputy will sit on the appointment panels for Project Leaders on the most significant projects. This would not mean the CEO of MPA would have a "veto" but rather that he would have an equal say in the appointment. This appointment process will begin in October 2014.

9. We are building a more effective retention system, ensuring SRO career paths are appropriately progressed and rewarded. We will, ensure that staying in a role will not play against an individual's career progression and that Pivotal Role Allowance is better targeted.