

# Select Committees under Scrutiny

Case studies from the 2010-15 parliament

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# Introduction

This paper is published to accompany our report, *Select committees under scrutiny: The impact of parliamentary committee inquiries on government*.<sup>1</sup> That report presents the key findings from our research on parliamentary committees during the 2010-15 parliament. This paper sets out our detailed findings about the three case studies which formed the core of our research evidence: the departmental Defence and Home Affairs committees, and the Parliamentary Commission on Banking Standards – a temporary joint committee with Commons and Lords membership.

Most parliamentary committees are highly active, but there is relatively little evidence about what impact, if any, all this activity has on the functioning of government.<sup>2</sup> Our research focused on parliamentary committees' use of inquiries – looking at how inquiries were conducted and what impact they could have on ministers, civil servants and the processes of government. We were particularly interested in identifying what, if anything had changed about the way committees were working in the 2010 parliament and the effect this had on their impact.

For each case study committee we use the qualitative data we have collected to consider four specific questions:

- what factors shaped the committee's approach?
- what were the committee and its members trying to achieve?
- what approach did the committee adopt?
- what worked well and what was less effective?

To answer these questions we have compared the evidence provided by different categories of interviewees: members and chairs; committee staff; ministers and civil servants; and other people with an interest in the work of the committees.

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<sup>1</sup> White, H., *Select committees under scrutiny: The impact of parliamentary committee inquiries on government*, Institute for Government, London, 2015

<sup>2</sup> White, H., *Parliamentary Scrutiny of Government*, 2015, retrieved 25 May 2015,

<<http://www.instituteforgovernment.org.uk/sites/default/files/publications/Parliamentary%20scrutiny%20briefing%20note%20final.pdf>>

## Key features of our case study committees

Characteristic	Defence	Home Affairs	Parliamentary Commission on Banking Standards
<b>Type of committee</b>	Departmental select committee	Departmental select committee	Ad-hoc joint committee – Commons and Lords
<b>Subject matter</b>	Ministry of Defence policy, administration and expenditure	Home Office policy, administration and expenditure	Standards in the banking industry
<b>Chair (dates in office)</b>	James Arbuthnot MP (July 2005 to May 2014)  Rory Stewart MP (May 2014 to March 2015)	Keith Vaz MP (July 2007 to March 2015)	Andrew Tyrie MP (July 2012 to June 2013, when the PCBS ceased to exist )
<b>Method of appointment: chair</b>	Elected by the whole House	Elected by the whole House	Agreed by usual channels (previously elected chair of the Treasury Committee)
<b>Method of appointment: members</b>	Elected within party groups	Elected within party groups	Agreed by usual channels (Commons members all previously elected members of the Treasury Committee)
<b>Party affiliation of chair</b>	Conservative	Labour	Conservative
<b>Membership (excluding chair)</b>	11 (4 Conservative, 1 Liberal Democrat, 1 Democratic Unionist, 5 Labour)	10 (5 Conservative, 1 Liberal Democrat, 4 Labour)	4 MPs (1 Conservative, 1 Liberal Democrat, 2 Labour), 5 Peers (1 non-affiliated (archbishop), 1 cross-bench, 1 Conservative, 1 Labour, 1 Liberal Democrat)
<b>Staff</b>	6 full-time equivalent (2 clerks, 2 committee specialists, 2 administrative). Media officer shared with other committees.	6 full-time equivalent (2 clerks, 2 committee specialists, 2 administrative). Media officer shared with other committees.	Exact staffing model varied over the course of the inquiry but averaged 20 to 25 full-time equivalent staff. Total staff working over the lifetime of the commission were: 1 chief of staff and 1 deputy chief of staff, 1 Lords clerk, 3 second clerks, 16 commission specialists (14 seconded from outside Parliament), 1 media officer, 10 administrative staff.

## The Defence Select Committee

The Defence Select Committee (DSC) is a permanent select committee, established by standing order with a remit to scrutinise the policy, administration and expenditure of the Ministry of Defence (MoD). Historically the DSC has been seen as one of the more important committees because of the national importance of defence as an issue. During the last parliament, it had Conservative party chairs: first James Arbuthnot MP and then from May 2014 Rory Stewart MP.

In the recent past the DSC has taken a conventional approach to its scrutiny task – following the traditional model of inquiries – with a call for written evidence followed by oral evidence sessions and the publication of a report. This is why we selected it as a case study.

### What factors shaped the committee's approach?

The DSC's role of scrutinising the MoD was a challenging task because, for a number of reasons, the department is particularly difficult to scrutinise. We identified four main reasons for this.

Firstly, it is a **large and complex** department which comprises the armed forces (numbering nearly 166,000 at 1 April 2014) and a civilian workforce, including support and infrastructure functions (numbering 62,500 at 1 April 2014). It has seven staff at permanent secretary grade and many personnel geographically dispersed across the UK and around the world. It is a significant challenge for a committee of 12 members, with a staff of five or six, to maintain oversight of an organisation of this size and complexity. Additional scrutiny is provided by the Public Accounts Committee (PAC) which uses the outputs of the National Audit Office (NAO) to hold the MoD to account – particularly on procurement matters.

Second, the MoD spends a large chunk of its budget on the procurement of high-value military equipment. (£5 billion of new equipment was delivered in 2013-14). The department is understandably anxious to maintain **commercial confidentiality** around its procurement processes to avoid affecting the value for money it is able to achieve. But this is problematic for scrutiny given the 'longstanding weaknesses' which the NAO has identified over time in the MoD's Defence Equipment and Support department.<sup>3</sup>

Another problem with scrutinising defence, including in relation to procurement, is the **long timescales** involved. This can be an advantage – giving more time for the committee to intervene on any given topic – but can also make it difficult for the committee to know the optimum time to intervene or to have any realistic chance of shifting the course of the MoD super-tanker once it has set off in a particular direction.

Finally, but perhaps most significantly, military matters naturally attract **secrecy**. While armed forces are deployed in theatre there is reluctance on the part of the MoD and of the committee to discuss operational matters which might give assistance to the 'enemy'. Members of the armed forces are contractually debarred from talking to outsiders about their work. And the MoD is usually reluctant to discuss publicly the analyses of current and emerging threats which shape its policymaking.

While the need for secrecy in matters of defence is often justified, many of those we spoke to felt that the culture of the Ministry of Defence was unnecessarily secretive. Former MoD minister and former chair of the DSC, James Arbuthnot remarked that 'the Ministry of Defence, as everyone within the Ministry of Defence would acknowledge, would classify a lunch menu if they could', while former Defence Minister, Sir Nick Harvey MP described the MoD as 'quite stunningly opaque', argued that it ought to divulge more information, and noted how difficult this made the DSC's job. 'I'm acutely aware from observing the MoD from outside and then being in there for a while, how amazingly secretive it is, how little information, particularly financial, the select committee has got at its disposal. And therefore what a tough job it has actually asking pertinent questions in a timely way.'

Alongside the four factors which make scrutiny of the MoD particularly challenging, we identified a number of further factors which affect the DSC's approach to its scrutiny, all relating to personalities and relationships. These

<sup>3</sup> Defence and Equipment Support is responsible for the procurement of military equipment and maintaining it on behalf of the UK's Armed Forces. In 2014 it was converted into an ALB. National Audit Office, *Departmental Overview: The performance of the Ministry of Defence 2013-14*, December 2014, retrieved 21 January 2015, < <http://www.nao.org.uk/wp-content/uploads/2014/12/Departmental-Overview-Ministry-of-Defence.pdf> >

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were: the attitude of the Secretary of State for Defence (and consequently of the department) to the committee; the personality of the chair and their relationship with the Secretary of State; and, the nature and background of the committee's membership.

As in any organisation, tone from the top is a key determinant of the MoD's culture (alongside the inevitable influence of military ethos and hierarchy). The **influence of the Secretary of State** over the attitude of the department to parliamentary scrutiny was raised repeatedly by members as a factor affecting their work. Committee member, Madeleine Moon MP, said for example:

We had huge problems with [one] Secretary of State, who basically tried to close the Ministry of Defence down to anything in the public domain, and in particular to the Defence Select Committee. And responses to parliamentary questions became one line. You literally had to take it up through FOI [Freedom of Information]; a PQ wouldn't get you what you wanted... in fact, I was criticised by a minister at an informal meeting, and he criticised me for wasting civil servants' time by constantly putting in questions. And James [Arbuthnot] actually stopped him in his tracks and said, 'Well, if you were more honest, perhaps then we wouldn't have to ask the questions, and actually her questions revealed eventually what you were trying to hide.'

Across our case studies, a number of different factors were identified by those we spoke to as important in shaping the attitude of different secretaries of state towards scrutiny, including: the circumstances in which the minister came into office, their prior experience of parliamentary committees and their relationship with the chair of the committee. In this case study it was particularly clear that the attitude of the Secretary of State had had a significant impact on the ability of the committee to scrutinise the MoD. We were told that, following a number of leaks (none of which were attributed to the DSC), the Secretary of State mentioned by Madeleine Moon had explicitly prohibited civil servants from speaking to the DSC except with formal permission from ministers. This edict had made it particularly difficult for the DSC to access information from MoD civil servants.

The strict control over information flowing out of the MoD to the DSC made the committee very dependent on the skills and attitude of the individual in the role of liaison officer – the civil servant responsible for acting as an interface with the select committee. If the civil servant in this role is not well established or networked within their department, or if they do not have a proactive and helpful attitude to requests from a committee, then they can seriously restrict the committee's interaction with the department. And as one interviewee noted, there is 'not much upside' for a civil servant in assisting a parliamentary committee unless their department deliberately fosters a culture of co-operation with Parliament. A culture of co-operation has not been identifiable within the MoD during the majority of the last parliament. Members told us that the MoD's attitude to the committee had been reflected in a number of dismissive responses to its reports. Madeleine Moon commented, 'The response to our committee reports became insulting! They were outrageously contemptuous in their responses to our reports'.

The **characteristics and experience of the chair and members** of the DSC also emerged as significant in shaping the DSC's approach to its inquiries. James Arbuthnot MP first became Chair of the DSC in 2005, being appointed by the whips after losing his position as Shadow Secretary of State for Trade and Industry. When the system for appointment of chairs changed in 2010, he stood successfully for election to the committee and continued to serve until May 2014, when he stood down as a precursor to standing down from Parliament in 2015. Rory Stewart MP, a first-term member who was then a member of the Foreign Affairs Committee, successfully stood (against a number of existing committee members) in the resulting by-election. As the research for this report was conducted very shortly after Rory Stewart MP took over as chair in May 2014, our analysis looks exclusively at James Arbuthnot MP's period of chairmanship.

James Arbuthnot was evidently a widely-respected chair of the DSC. Committee members spoke warmly about his style of leadership, knowledge and expertise.<sup>4</sup> Members of his own party valued his political track record as

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<sup>4</sup> Labour member of the DSC, Madeleine Moon MP, told us, 'You have to have a chair who commands the authority of the Committee, and, without being heavy handed at all. And James was spectacularly good at doing that, and incredibly honest. You know, this man had been a chief whip, he'd been a government minister. You could say he was the personification of somebody who was partisan. But never a whiff, never. And that's the real gift of select committees, that no matter what you've been, no matter what you've done, when you get in a select committee, the priority is your responsibilities for holding the government to account... [You have to trust your chair] to be an honest broker and to find the way forward for the Committee when the Committee is unsure of where it is going and the right thing to do. And to use their knowledge and expertise to hold the Committee in a unified place. And James had that in bucketfuls.'

Shadow Chief Whip during the difficult 1997 parliament, while members of other parties saw him as an ‘honest broker’ who never allowed party politics to affect his judgement. His experience as Minister of State (procurement) in the MoD between 1995 and 1997 was seen by all as increasing his knowledge and credibility. He himself ascribed his wish to chair the DSC to his experience as a minister, when he had found that appearing before a select committee was a much more testing experience than answering questions in the House ‘and so it struck me, when I was in front of the Defence Select Committee, “that’s the job I want when I grow up”.’

The membership of the DSC was another factor affecting its approach. Except in relation to some specific issues, such as the nuclear deterrent, and more recently debates over the percentage of gross domestic product (GDP) that should be devoted to defence matters, defence is not a very party-political policy area. While they might differ on some of the details, all the main political parties are signed up to the principle that defence of the realm is important and acknowledge that defence industries are an important sector within the UK economy. Similarly, while they all have different areas of specific interest, the current members of the DSC are all essentially supportive of the defence agenda. This affects their approach to scrutiny. There are no anti-military voices. While some members of the DSC do have a constituency interest in defence,<sup>5</sup> for others defence is a personal or professional area of interest which they feel they need to expend effort developing and maintaining.

## What were the Committee and its members trying to achieve?

### Chair

As Chair of the DSC James Arbuthnot had a clear vision of what he was trying to achieve. He told us his aim was ‘to work for the good of the country to make sure that defence was run as well as it possibly could be by the Ministry of Defence’. He argued that from his point of view, short-term impact on government was less important than establishing the DSC as an authoritative body which was seen to be fair and to listen to the evidence it took. In pursuing this vision he placed a strong emphasis on the importance of *how* the Committee went about its task. He underlined the importance of fairness and consideration to witnesses, recognising that ‘the people who do these jobs are doing them out of a sense of patriotism and the ministers and civil servants and military officials are good people and they’re doing their best’. His success in this was reflected in witness accounts of giving evidence to the DSC, which witnesses found a civilised and courteous experience in comparison to other committees. One described it as ‘inquisitorial rather than adversarial’.

In his second term as chair (2010 to 2014) Arbuthnot developed this broad vision to focus specifically on shaping the MoD’s approach to the next Strategic Defence and Security Review (SDSR). The origin of this focus was in the Committee’s criticisms of the way the previous SDSR process had been conducted and a wish to stimulate ‘a general process of continuous improvement... in the MoD at a time of great difficulty, reductions in money and reductions in staff.’ Arbuthnot and the committee staff were obviously successful in sharing this vision and getting committee members to sign up to it, because all the members we spoke to referred to it as the framework which had structured much of the Committee’s inquiry programme during the last parliament. The staff identified additional policy themes, including the Armed Forces Covenant and emerging threats, together with ongoing attention to operations.

### Members

Members listed a wide range of motivations for their involvement with the DSC. Many of the motivations mentioned had a public service element of one kind or another. This is interesting because, across all our case studies, many non-parliamentary interviewees assumed that members’ prime motivation for participating in committee work was self-interest. Undoubtedly this was a factor. Membership of the DSC was seen to convey personal status and prestige. As one interviewee put it, ‘When people ask “Are you a minister?” you can reply, “No, but I’m a member of the Defence Select Committee”.’ The DSC has traditionally been seen as one of the more important and therefore more prestigious committees, in part because of the national importance of defence as an issue. Another factor which has historically made the DSC an attractive committee for members has been its greater propensity to

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<sup>5</sup> For example Gisela Stuart MP had the Centre for Defence Medicine in her constituency, Birmingham Edgbaston, and Bob Russell MP’s seat of Colchester had one of the largest residential military populations of any constituency.

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travel than ‘domestic’ committees, although one member emphasised that such travel was rarely glamorous unless one had a particular interest in helicopters.<sup>6</sup>

While admitting the personal benefits of DSC membership, all members highlighted other motivations. Gisela Stuart MP said that she was partly motivated by a wish to ensure that the Labour party had members who had the knowledge and credibility to participate in wider debates about defence. Madeleine Moon mentioned the importance of women having a voice on defence issues and a wish to focus on the moral stance behind military action. As defence is not a devolved issue, a slightly higher proportion of its members are from the regions (25% vs 16% of the House as a whole). Dai Havard MP explained that his wish to join the DSC had arisen partly from the fact he knew that if he did so he wouldn’t be ‘falling over’ elected members of the Welsh Assembly, because defence was a reserved issue. He was also motivated by the ‘intrinsic importance’ of the subject and its ‘potentially huge social and economic footprint.’

The members of the Committee we spoke to all told us that among the most important things they were trying to achieve was to inform the rest of the House about defence, and to increase the capacity of the House as a whole to scrutinise defence issues. There was a sense in which they saw themselves as parliamentary advocates for the significance of defence issues. Gisela Stuart told us, ‘I think you’ll find that the majority of people on the Defence Committee would say that defence of the realm is the first duty of the state and oversight of that must be one of the key duties for Parliament.’

In comparison to other committees (which tend to be more externally focused) it is notable how much emphasis DSC members put on the importance of their work within Parliament. The reason most frequently given for this was the low level of expertise within the House on defence matters. As we noted above, this may be because apart from members who have prior experience of the military or defence industries when they join the House, most members will not have any particular impetus to expand their knowledge of defence issues as they will not arise particularly frequently in their constituency business (unlike other domestic issues like immigration or housing which will arise frequently).

On the other hand, the DSC focus on informing the House could be seen as a largely unconscious response to the difficulty the Committee experiences in influencing the MoD. Perhaps the more tangible impact of informing their colleagues through holding evidence sessions and publishing reports was seen as a more achievable aim for the DSC than influencing the seemingly impenetrable MoD.

A second notable thing about the aims expressed by DSC members was their sense of being within the defence establishment – to the extent that they saw it as their role to advocate for the importance of defence as a policy area. This attitude tends to be characteristic of the select committees covering less party political subject areas – international development and foreign affairs being other examples. These committees have to work harder to ensure that they are giving their departments the scrutiny they deserve, despite being basically signed up to their overall policy aims. Jon Thompson, Permanent Secretary of the MoD told us that one consequence of the Committee’s overall enthusiasm for the role of the MoD was a tendency for them to recommend that the Department should do more of everything. ‘They seem to live in a resource unconstrained world, and that’s a problem. I think pretty much every time I’ve been before them, they say “Well why don’t you do more on that?” And the answer is, “Because in the end I’ve got a limited amount of money and I have to prioritise”.’

Members mentioned connecting with the public through the media as something they were trying to achieve, but not a particular priority. Nonetheless there was a sense in which the Committee felt a responsibility to sell the idea of defence to a public sceptical of its value. This was particularly the case in the wake of unpopular wars in Iraq and Afghanistan; concern for military casualties combined with a focus during commemorations of World War One on the futility of war; and, austerity and public sector spending cuts.

### What approach did the Committee adopt?

Of our case studies the DSC’s approach to its inquiries was probably the closest to what might be thought of as that traditionally taken by select committees. Each inquiry tended to follow a familiar pattern over a period of

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<sup>6</sup> The travel involved in membership of the DSC makes it more of an attractive prospect for MPs with safe seats than for those with smaller majorities who are likely to feel the need to spend more time in their constituencies.



several weeks or months: a call for evidence, followed by a series of oral evidence sessions (culminating in one with government representatives), followed by the production of a report. But the committee also adopted some innovative practices in response to the particular circumstances in which it was working and what it was trying to achieve.

In this section we highlight some of the key elements of the DSC's approach that those we spoke to saw as characteristic of the Committee, and then identify some of the specific practices the Committee used.

## Approach

### **Consensual style of chairmanship**

The DSC seems to have been a remarkably consensual committee. In part this was due to broad cross-party consensus on the importance of defence but it seems also to have been the product of James Arbuthnot's approach as chair. Arbuthnot's fair and non-partisan style of chairing seems to have been crucial in enabling a cross-committee consensus to emerge around the strategic focus he had proposed, which gave internal coherence to its work. Private committee meetings were a key mechanism for achieving this, enabling members to discuss their different perspectives openly and develop a plan together in a collaborative way. Members highlighted whole-committee seminars at the start of the parliament as important in formulating and fleshing out an agreed plan for the parliament. One member told us that the fact that the committee had issued a press notice early in the parliament, which set out its agreed plan, had created a sense of accountability to the public for its delivery.

### **Tendency towards either retrospection or blue skies inquiries**

One of the most significant factors affecting the DSC's approach was the culture of secrecy cultivated by the MoD. This meant that the Committee's scrutiny of the department's decision-making and deployments had to be mostly retrospective. However, in 2012 the Committee did try to take a forward-looking approach by focusing some of its inquiry work around the forthcoming challenges that would need to be addressed by the next Strategic Defence and Security Review, expected in late 2015. What was most difficult for the DSC, it seems, was to undertake inquiries about the MoD's current activities.

### **Dysfunctional liaison with the MoD**

Members were evidently deeply frustrated by the MoD's default lack of openness and suggested that it had counterproductive effects. While it is usual for departmental select committees to access their department through a specific civil servant (in the DSC's case the Departmental Liaison Officer), those scrutinising less-sensitive policy areas are usually also able to approach and speak to civil servants directly, for example, if a member wants an informal briefing on a policy topic or if the chair wants to work out whether an inquiry idea is worth pursuing. In practice such liaison was impossible for the DSC during much of the last parliament. In this context, isolated examples of a more constructive approach from some individuals (such as a time mentioned by staff when the Chief of the Defence Staff had attended an informal seminar and given useful ideas about priorities for future inquiries) were identified as disproportionately useful.

### **Member immersion in military matters**

Many members told us that they had responded to the difficulty of knowing about military matters by immersing themselves in defence issues. DSC members certainly seem to spend a larger proportion of their discretionary time than members of other select committees engaged in activities related to their committee's policy area. Most have participated in the Armed Forces Parliamentary Scheme, are members of defence-related all-party parliamentary groups (APPGs), frequently attend seminars and events at the Royal United Services Institute (RUSI) and other think tanks, and take up opportunities to visit military establishments in the UK and overseas. Some are also members of the North Atlantic Treaty Organisation (NATO) Parliamentary Assembly.

### **Significance of overseas travel**

Dai Havard argued that because of the difficulty of understanding the MoD it was particularly important for the DSC to be able to travel, so that at least they could visit troops on deployment. As a consequence he was

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concerned that cuts in the select committee travel budget could have a disproportionate impact on the ability of the DSC, as compared to other committees, to do its job. The published figures for committee expenses show that the DSC spent twice as much as the Home Affairs Committee (HAC) over the course of the last parliament, largely because of the greater costs it incurred for overseas travel.<sup>7</sup>

### Specific practices

#### Use of private meetings

One way the DSC adapted its approach to the MoD's secrecy was to hold a slightly greater proportion of its meetings in private than other committees would normally do. This included informal private meetings as well as formal private evidence sessions, of which it held 30% more than the HAC during the last parliament, for example.<sup>8</sup> Private meetings enable representatives of government and others to speak frankly to a committee, and some of those we spoke to within the MoD felt there was even greater scope for the Committee to make use of this tool. By comparison the Intelligence and Security Committee (the statutory committee of Parliament<sup>9</sup> that oversees the UK intelligence community) holds almost all its evidence sessions in private.<sup>10</sup> That the DSC resisted holding a greater proportion of its formal evidence sessions in private was a reflection of its focus on the public aspect of its accountability role. The Committee was conscious of the need to balance its ability to gain a fuller understanding of an issue with the need to explore that issue on the public record. Hearing material in private also made it very difficult for the Committee to make use of what they hear. We heard that the Committee pressed the MoD to find ways of exposing more of its inner workings to public scrutiny, on one occasion facilitating this by taking evidence in private, and then publishing a transcript with redactions agreed with the MoD.

#### Use of specialist advisers

Another strategy for coping with the difficulty of knowing about the world of defence was a particular use of the power, given to all departmental select committees, to appoint special advisers. Most committees appoint such advisers on an ad-hoc, time-limited basis when they have decided to undertake a particular inquiry and wish to supplement their expertise in that area.<sup>11</sup> The DSC used special advisers differently from most other committees. Firstly, it appointed a relatively-high number of advisers (more than twice as many as the HAC in the last parliament for example: 17 in comparison to 7). Second, it retained a number of its advisers for several sessions, rather than appointing them for specific inquiries.

Based on their knowledge and experience, DSC advisers provided input into decisions about what inquiries the committee might undertake and what witnesses they might call, as well as advising once they were underway. Both staff and members told us that they found the input of advisers useful. Some external interviewees however, questioned whether the DSC's advisers had always been senior enough to be aware of really strategic issues. They also questioned whether the experience of the Committee's advisers was always fresh enough to ensure that it was up to speed on current issues, in a field where threats and challenges were changing rapidly. One of the

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<sup>7</sup> In the years for which financial data is available (2010-11 to 2013-14) the HAC cost £161,000 in comparison to the DSC which cost £390,000. Parliament UK, *House of Commons Sessional Returns for 2010-12, 2012-13 and 2013-14*, Parliament UK website, retrieved 26 May 2015 <<http://www.publications.parliament.uk/pa/cm/cmsesret.htm>>

<sup>8</sup> According to the Committees' respective entries in the Sessional Returns, the DSC held nine meetings wholly or partially in private in comparison to the HAC's seven.

<sup>9</sup> The Intelligence and Security Committee of Parliament (ISC) was first established by the Intelligence Services Act 1994 to examine the policy, administration and expenditure of the Security Service, Secret Intelligence Service (SIS), and the Government Communications Headquarters (GCHQ). The Justice and Security Act 2013 reformed the ISC, making it a Committee of Parliament, providing some additional powers and increasing its remit (including oversight of operational activity and the wider intelligence and security activities of government). Members of the ISC are appointed by Parliament and the Committee reports directly to Parliament except on matters which are deemed to be national security sensitive, on which it reports to the Prime Minister.

<sup>10</sup> On 7 November 2013 the ISC held its first ever public evidence session with the heads of MI5, GCHQ and SIS. The Committee's website states, 'While the highly classified nature of the ISC's work means that the majority of its evidence must be heard in closed sessions, so as not to risk damaging national security, the Committee intends to hold further public sessions in future.'

<sup>11</sup> Although those committees (like Home Affairs) who undertake a series of rapid, reactive inquiries now find it difficult to fit recruitment of advisers into the accelerated timetable which they have adopted.

Committee's longstanding advisers during the last parliament had retired from the RAF almost 10 years previously, but the majority of those it was retaining by the end of the parliament were either experienced academics or former military personnel who had retired within the previous five years.

### **Use of social media to gather evidence**

In the last parliament the DSC explored the use of online tools and social media as another means of gathering 'grassroots' evidence from service personnel and their families.<sup>12</sup> The use of social media tools provoked concern from the MoD, and subsequently some alarm from members, about the nature of other material posted on the forum concerned, but was judged by most to have made a useful contribution to their inquiries. James Arbuthnot highlighted the public engagement the Committee had achieved through its inquiry into the education of service children as one of the highest impact activities that it had undertaken.

### **Mechanisms to expand capacity for scrutiny**

The DSC expanded its scrutiny capacity in two main ways. One approach was to create a permanent role for an NAO secondée on the staff of the Committee to assist in particular with the scrutiny of procurement issues. A number of members spontaneously referred to the positive impact this had had on the Committee's scrutiny capacity. Another was the use of informal rapporteurs – members who took the lead on specific inquiries, making visits on their own, and then reporting back to be questioned by the whole Committee. This expanded the capacity of the Committee to gather evidence and enabled members to pursue areas of particular interest. Madeleine Moon commented, 'I don't know why we're not [using rapporteurs] more', making a comparison with the NATO Parliamentary Assembly which did so regularly.

### **Quality assessment of government responses**

On two occasions where the Committee felt that the responses it had received from the Government to its reports were inadequate, it responded by refusing to publish them and instead sending them back to the MoD. The Committee decided to do this privately – to hold the possibility of publicly criticising the MoD in reserve and to give the department an opportunity to improve its response.

### **Regular follow up**

Another relatively unusual practice adopted by the DSC was to ask the MoD for a progress report on implementation of its recommendations six months after the Government had responded to a report. Although many select committees do make an effort to follow up on their recommendations it is relatively unusual for this to be done in such a systematic manner.

## **What worked well and what was less effective?**

### **Informing Parliament on defence**

It is impossible for us to measure the impact which individual committee members had as 'experts' on defence within the House. However, we can draw some conclusions about the likely effectiveness of the Committee's traditional model of a select committee inquiry in informing other members. MPs are extremely busy people and reading the reports of committees, of which they are not members, features very low on their to-do lists. As one interviewee told us, the Foreign Affairs and Defence Committees had both produced reports on Afghanistan in the last parliament yet he would be surprised if any members of those committees had read the other committee's reports. Although committee staff would probably have read the relevant reports of other committees, this remark highlights how difficult it can be to reach members even on subjects in which they have an obvious interest.

It also touches on another important issue: the fact that the Commons select committee system mirrors the departmental structure of Whitehall. While this is important in ensuring that all policy areas have a parliamentary entity with responsibility for scrutinising them, it also means that the committee system has a tendency to replicate Whitehall's propensity to make and implement policy within silos. Parliamentary committees have significant

<sup>12</sup> For example, for its inquiry into the education of service children the DSC used the 'Army Rumour Service' (a web forum for serving members of the army and their families) to publicise an online consultation run by the NAO on behalf of the Committee. This attracted over 1,000 responses.

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unrealised potential to look at cross-cutting policy issues in a more joined-up way – through joint inquiries, or at least joint evidence sessions – which could help challenge ‘silosation’ in government.

A more reliable (but still uncertain) way to get other MPs to focus on a committee’s report is for it to be debated in the House. Since the creation in 2010 of the Backbench Business Committee (BBCom) the main way for a committee to secure time on the floor for a report to be discussed is by making a bid to BBCom for a debate in backbench time. Another strategy is to make a bid to the Liaison Committee for an Estimates Day debate.<sup>13</sup> It was previously much easier for the DSC to find time to debate their reports, and more straightforward than for other committees. This was because before BBCom was created there was a convention that on five days in each session, the Government would give time for debates on defence matters. When BBCom was created the time assigned for these debates was rolled into the time given to BBCom to allocate, so the guaranteed slots for discussion of defence matters were lost. As Dai Havard told us:

We have none of that [pre-allocated time] now. That was given over to the backbench business committee. So you've got to fight for getting some time and it's probably going to be in Westminster Hall not in the Chamber. So here we are. We're producing these reports. We're making these reports to Parliament. But the structural process that forces them into the light to be debated is, at best, a one and a half hour debate in Westminster Hall, that those who were already interested in turn up to. So what effect you're having in terms of your main goal, which is to inform the parliament, I think there's an interesting debate about that.

There was a sense among members that, given the importance of defence, it was inappropriate for them to have to apply to BBCom for debating time, and we heard that they had been reluctant to do so. In total, over the course of the parliament the DSC launched one report in the House, secured just four Backbench Business Committee debates and one Westminster Hall debate. On the other hand the DSC did manage to secure two Estimates Day debates – out of a total of 27 over the course of the parliament – slightly over the average for departmental committees.<sup>14, 15</sup>

### Ensuring defence was ‘well run’

The MoD’s lack of openness meant that the DSC had difficulty finding out what was going on in the department. Interviewees suggested it was therefore difficult for the committee to present the Government with any new **evidence** about the way the MoD itself was working. Professor Jon Louth, a Senior Research Fellow at RUSI and Adviser to the DSC said, ‘The Government in terms of the defence agenda very seldom sets out either its evidence or its way of thinking. It just glibly tracks left or right, usually around input costs frankly. And it’s very difficult for the select committee or informants to the select committee to offer competing narratives.’

The occasions when the Committee could gather evidence to challenge the Government’s decision making were when it was able to collect evidence from outside the department. The use of social media tools was important here. James Arbuthnot cited the Committee’s inquiry on the education of service children as having ‘galvanised ministers’ because it had presented them with fresh evidence of the views of the armed forces and their families on this subject, which had been gathered through an online forum.

Examples of where the DSC’s **analysis** or that provided by witnesses had had an identifiable impact on government were also relatively thin on the ground. James Arbuthnot argued that it was possible for committees to have this type of impact in the right circumstances. ‘If a government is undecided about something on the margins,

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<sup>13</sup> The Liaison Committee, made up of the chairs of all the select committees, is responsible for selecting six select committee reports in each session as subjects for debate on Estimates Days, when the House is asked to vote on the Government’s spending plans.

<sup>14</sup> Sixteen select committees had reports debated on Estimates Days during the 2010-15 parliament. There were 27 debates in total. Work and Pensions and Communities and Local Government were the only two committees to have three reports each debated. Seven committees, including the DSC and HAC, each had two reports debated. Seven committees each had one report debated and the remainder had no reports debated. (data supplied by the House of Commons Scrutiny Unit).

<sup>15</sup> DSC reports were mentioned on the order paper (or ‘tagged’) as relevant on a further seven occasions in relation to debates on various stages of legislation and to one debate each in government and opposition time. (Figures from Defence Committee, *Towards the next Defence and Security Review: Part three, twelfth report of Session 2014-15*, 2015, Parliament UK website, p.37, retrieved 25 May 2015, <http://www.parliament.uk/business/committees/committees-a-z/commons-select/defence-committee/inquiries/parliament-2010/towards-the-next-defence-and-security-review-part-three/>).

then a committee report coming down responsibly and in a balanced way on one side of that margin might help the government to say, “Oh yes! I think on balance that's probably right!” Dr Louth argued that it was possible to identify evidence that the Committee’s analysis of proposed force reductions in 2011 and of future decisions on aircraft carriers had influenced the MoD’s decision-making process. Members felt that the use of rapporteurs had increased the Committee’s capacity for both evidence gathering and analysis, as well as enabling them personally to pursue areas of particular interest.

The most frequently identified examples of DSC impact related to **openness**. The opacity of the MoD meant that the Committee’s formal accountability role was seen, particularly by outsiders, as a particularly valuable means of getting the department to put information on the public record. The MoD Permanent Secretary, Jon Thompson also agreed that this was an important role saying, ‘I could exist in this building every day of the year. I'd never have to go and be accountable externally at all if it wasn't for them and the PAC.’ That said, members felt that they had also achieved impact by conveying their concerns to senior figures in private meetings.

Helping the department to **learn lessons** was seen by Committee as an important role, particularly in relation to operational deployments. A number of members cited the example of the DSC inquiry into the deployment of troops into Helmand as an inquiry which had identified important lessons and situated the deployment in an historical perspective. Government interviewees agreed that such inquiries drew sensible conclusions but questioned their usefulness after the event, by which time they were wrestling with new and different issues. Jon Thompson commented for example that ‘telling me that three years ago I probably should have done something else is not value adding’. Sir Nick Harvey identified timeliness as a key limitation for the committee.

*They tended always to be looking back at things some time later. So for example they produced a relatively scathing report about the SDSR [Strategic Defence and Security Review] process, long after the event. It was quite a good report. The criticisms it made were quite valid, as I said on the floor of the House. But in a manner of speaking, so what? The horse had bolted as it were.*

The importance of departments identifying learning from policy failures and successes was recently highlighted in the Civil Service Policy Profession Board’s report *Twelve Actions to Professionalise Policymaking*.<sup>16</sup> Parliamentary committees clearly have significant potential to help departments learn lessons. Parliament and government need to work together to maximise the ability of committees such as the DSC to fulfil this potential – making sure they have the right information to do so and engage in the most constructive way.

Members and ministers both agreed that the **process** of government was affected by the DSC’s role in holding government representatives to account because, as James Arbuthnot put it:

*It forces the witness to know their brief and if you're going in front of a select committee and you want not to look stupid, you need to know what it is your policy is and why it's your policy. And that might help to change your policy and to get it more properly thought out. And it might help the process of government.*

However, Sir Nick Harvey noted that in some instances this impact was relatively short-lived. ‘I'd crammed up for the exam and I had forgotten it all afterwards. So probably by the time the report came up, it made little sense to me.’

Given the strength of the narrative which emerged from committee members about the DSC’s focus on influencing the Government’s processes around the next Strategic Defence and Security Review (SDSR) it was notable that no government interviewee recognised this as a logic emerging from the Committee’s work. Jon Thompson argued that the Committee ought to have been more proactive about engaging with the MoD about areas for inquiry where the department might have benefited from the Committee’s input, while acknowledging that that should not be the only source of their ideas. But it was not clear that such engagement would have been welcomed by ministers during the last parliament.

A number of interviewees spoke about the DSC’s practice of asking the MoD for a progress report on recommendations six months after the Government had responded to a DSC report. Staff thought that this principle of DSC follow up had become embedded in the MoD’s internal processes, citing an update on one issue which had been produced proactively by the department. Both staff and members argued that from their

<sup>16</sup> <[https://civilservicelearning.civilservice.gov.uk/sites/default/files/twelve\\_actions\\_report\\_web\\_accessible.pdf](https://civilservicelearning.civilservice.gov.uk/sites/default/files/twelve_actions_report_web_accessible.pdf)> retrieved 7 June 2015.

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perspective the practice had had a positive effect on driving the MoD to implement the recommendations it had accepted. Staff also felt that the department had been surprised when the Committee had taken a stand by returning a government response which they deemed to be inadequate, and staff and members felt that this practice had had a positive effect on subsequent responses.

In many policy areas, a select committee forms one part of a rich tapestry of regulators, civil society organisations, think tanks, unions and others involved in scrutiny and policy development. In the field of defence that tapestry is somewhat threadbare. The DSC and PAC are among the only players with a formal scrutiny role in relation to the MoD.<sup>17</sup> The other main players working alongside them are family and veterans organisations, such as Help for Heroes and the Royal British Legion; a few think tanks and non-governmental organisations (NGOs) including RUSI, Ditchley Park, Transparency International and Saferworld; and a handful of academics. These actors presumably find it even more difficult than the DSC to access accurate, timely information about the MoD on which to base their scrutiny. In consequence the MoD doesn't have many actors to whom it feels accountable or who might make a positive contribution to its thinking and policy development.<sup>18</sup> This makes the DSC's relationship with the MoD 'much more monolithic' and makes it more difficult for the Committee to influence the department through other actors – shifting the **context** in which government operates as other select committees might be able to do.<sup>19</sup> The limited nature of the civil society community in defence also arguably makes the DSC's accountability role and potential contribution to policymaking more important.

The main way it might have been possible for the Committee to influence the context in which the MoD operated was by using the media. This was a tool which it used sparingly with an emphasis on building pressure by 'just leaving little trails around the media'<sup>20</sup> rather than seeking headlines. Talking about select committees in general, James Arbuthnot said:

*I think that publicity can be valuable and instantly reactive things can be important, but probably not in defence... you have to have some publicity for a select committee. It's just that I try to be much more measured and slow burn... the Government is more likely to respond to something that has a background of pressure put on the Government from publicity.*

We heard one example of a time when an external event contributed to the attention paid by the media to a DSC report. The shooting down of Malaysian Airlines flight 17 over Ukraine in July 2014 occurred just as the DSC was about to publish a report on NATO's role in relation to Russia's annexation of the Crimea and ongoing violence in Ukraine. Staff suggested that this media attention, which was sustained by ongoing developments in Ukraine over the following summer, had significantly increased the impact of the report, including on the NATO summit which took place in Wales that September.

Government representatives were relatively negative about the overall impact that the DSC had had, and did not identify any specific changes in policy or practice that they would attribute to the Committee during the last parliament. In part this could be because of the Committee's low-key approach to influencing, which made it even more difficult to identify whether or not the Committee had an impact. Another factor might be reluctance on the part of government to attribute change to the Committee. But members were similarly negative about the impact they had been able to have. For example, Gisela Stuart told us, 'Essentially all we can do is when things go wrong, say so... and on occasions we have kind of called for things, but only once we knew they were going to happen.'

James Arbuthnot argued that the DSC's main achievement during the last parliament had been 'fairness, steadiness, value, rather than impact'. In this he seemed to have been emphasising the importance of establishing the DSC as an actor within our system of democratic government with an important and valued role to play. This

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<sup>17</sup> Around a third of the DSC's inquiries were forward looking, either horizon scanning to explore emerging issues facing the MoD or seeking to inform policy development. This is one way in which the DSC's scrutiny of the MoD differs from that conducted by the Public Accounts Committee, whose scrutiny is almost entirely retrospective.

<sup>18</sup> Interestingly, defence is an area in which Parliament has recently sought to assert a greater role for itself by establishing the principle that the prerogative power to commit British armed forces to armed conflict abroad should be subject to an explicit vote in the House of Commons. However the DSC did not play a significant role in securing this change.

<sup>19</sup> Adviser to the DSC, Professor Jon Louth, said that sometimes people sent in information or briefed the Committee off the record, then the Committee reported their views unattributed and those same people analysed the results describing this as 'a lovely interdependency'.

<sup>20</sup> Professor John Louth.

could be understood as an impact on the democratic context in which government operates. It is unfortunate that during the last parliament the MoD seems to have been so ready to dismiss the DSC's efforts to fulfil its democratic role in scrutiny.

## Summary

As we have seen, the DSC normally adopted what can be seen as a traditional model of inquiry but innovated within that model in its attempts to achieve impact on the MoD. Although the Committee used some specific approaches that proved useful, such as regular follow-up on government responses, its overall impact on the MoD was limited. This was for two reasons: the particular difficulties involved in scrutinising the MoD; and the Committee's decision to focus on informing Parliament as a means of influencing government – a difficult strategy to realise.

### The Home Affairs Committee

The Home Affairs Committee (HAC) – a permanent select committee established by standing order to scrutinise the policy, administration and expenditure of the Home Office – has historically been seen as one of the most important in the House of Commons. In recent years it has had a series of high-profile chairs, Chris Mullin MP, John Denham MP and, in the last two parliaments, Keith Vaz MP who established a prominent public profile. Under Keith Vaz's chairmanship the HAC innovated with the model of a select committee inquiry, adapting it in order to be able to respond rapidly to emerging events and produce short-term impacts. We selected the HAC as a case study because of this innovative approach.

#### What factors shaped the Committee's approach?

We identified four main ways the nature of the Home Office as an organisation, and the policy areas it encompasses, shaped the approach taken by the HAC to its work.

The Home Office is a **large and varied** organisation, with around 31,000 full-time equivalent (FTE) staff organised into seven directorates. In addition to oversight of the National Crime Agency, it currently has six arm's-length bodies (ALBs) and sponsors over 20 other bodies. Until recently it also had two executive agencies (the UK Border Agency and HM Passport Office) although both were brought back into the Department during 2013-14. The department covers a broad range of policy areas – countering terrorism in the UK; policing and crime reduction; asylum, immigration and nationality; passports; and licensing functions in relation to alcohol, firearms and the private security industry – with total expenditure in 2013-14 of £12.3 billion.<sup>21</sup> It was obviously a challenge for the HAC, with 11 members and six staff, to scrutinise an organisation of this size and complexity.

Every organisation has a particular **culture**. A number of those we spoke to told us that the Home Office had a defensive attitude to scrutiny. Julian Huppert MP compared it unfavourably with the Ministry of Justice. He told us that many people who interacted with the Home Office found that 'it assumes that people are out to get it which is not helpful in terms of conducting some sort of scrutiny. Too much scrutiny tends to happen in the form of pitched combat rather than Home Office being able to say, "Look we actually don't know the answer on this we'd be interested in your views"'.<sup>22</sup> The HAC's approach to scrutiny was inevitably shaped by the culture of the Home Office. The Home Office's culture may also have been affected to some extent by the HAC's approach to scrutiny.

The nature of the policy areas within the remit of the Home Office also affected the approach of the HAC. Home affairs issues, particularly immigration and civil liberties, have long been **politically contested** in the UK. The media pay a lot of attention to home affairs and issues of relevance to the Committee receive relatively high levels of coverage. Most MPs also have a lot of interaction with their constituents on home affairs-related issues including immigration, policing and passport issues. This means that membership of the HAC is attractive to members. It gives them a platform to comment on issues with a high political profile,<sup>23</sup> and to be seen by their constituents to do so.

Another factor affecting the approach taken by the HAC was the wider context in which it was operating. There is a **strong civil society** operating in the policy areas which fall within the remit of the Home Office. This includes unions and professional membership organisations (such as the Police Federation), think tanks, academics and NGOs. This presented a challenge because it meant the HAC had to compete with these other actors to establish a unique contribution within the field of home affairs. It was also a benefit because civil society organisations that were engaged in constant scrutiny of the Home Office provided the HAC with a rich seam to mine for ideas for inquiries and evidence, and a wide field of actors to engage with and influence.

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<sup>21</sup> National Audit Office, *Departmental Overview: The performance of the Home Office 2013-14*, NAO website, November 2014, retrieved 5 March 2015 <<http://www.nao.org.uk/wp-content/uploads/2014/11/The-performance-of-the-Home-Office-2013-14.pdf>>

<sup>22</sup> Another interviewee described the Home Office as 'a peculiarly thick-skinned, deaf, blind beast' which 'takes no notice of what other people think' and is consequently very hard to influence.

<sup>23</sup> We were told that Mark Reckless had commented that one of the strongest factors weighing against his decision to switch from the Conservative party to UKIP and trigger a by-election was that he would lose his seat on the Home Affairs Committee.



Alongside the aspects of the Home Office as an organisation and home affairs as a policy area which shaped the HAC's approach, we identified two other key influencing factors: the personality and approach of the chair; and the Committee's relationship with the Secretary of State.

Keith Vaz's **style of chairmanship** was seen by almost all interviewees as very influential in shaping the HAC's approach to its work. With ministerial experience behind him, he was seen as an example of a member who had chosen to pursue his parliamentary career through a select committee route. As a Labour member originally appointed as chair by the government whips in 2007, he benefited from the decision taken in 2010 (under the Coalition Government) to allocate the chair of the HAC to the Opposition. This meant that he was eligible to stand under the new system of elections for committee chairs. Over his two terms Keith Vaz built a high public and parliamentary profile. As one interviewee put it, 'In truth, there's a handful of select committee chairs who have, I would say, more of a public profile than members of the cabinet. If you think about Margaret Hodge, if you think about Keith Vaz, I bet most commentators would name them before they would name two thirds of the Cabinet.'

Keith Vaz told us that his experience as chair had differed between the two parliaments. One reason for this was the change of government. As an opposition chair he felt greater freedom to exercise his independence than when he had been a member of the governing party.

More generally staff and other members agreed that the introduction of elections had enhanced members' confidence and sense of their own status, which had affected the way the Committee went about its business. In addition, Keith Vaz felt that the advent of the Coalition Government had provided greater opportunities for select committees to achieve impact because of the greater political and media focus on what was going on in Parliament.

The **Committee's relationship with Home Office ministers** was seen as another important influence on its approach. The job of Home Secretary is acknowledged to be one of the most difficult in British politics and Theresa May MP was very unusual in remaining in post for an entire parliament.<sup>24</sup> Interviewees attributed her longevity to her low-key political style which they felt was designed to take the heat out of controversial issues by focusing on substance rather than politics. Her relationship with the HAC was generally seen as cool but respectful. Committee members felt that although she always responded to their requests she was not overly keen to give evidence. 'She does come but I don't think she really likes it... I don't think she likes being questioned [that] is actually the underpinning problem.' Her approach when giving evidence to the HAC was described as 'very careful in her language, very thoughtful about her answers, and a measured style'.

Keith Vaz expressed regret that ministers had not seen the HAC as an ally who could make a constructive contribution to areas of government concern. 'I think [the Government] think we are a real problem and I think that they don't realise we're the allies of ministers. We can actually help them if they are constructive.' He gave an example from the previous parliament when the Committee's inquiry on indefinite detention periods had had mutually beneficial outcomes for the Committee, who had had their recommendation accepted, and the Government, who had had a tricky political issue closed down by accepting the HAC's cross-party consensus on the best approach. Others we spoke to found their attitude less surprising given the personal and political risk associated with appearing before the HAC – a factor noted by numerous interviewees.

## What was the Committee trying to achieve?

### Chair

Keith Vaz articulated four main sorts of impact which the HAC was aiming to achieve. The first was 'acreage of news' – aiming to maximise media coverage of the Committee's work so 'the public are aware of what we are doing'. The second was to pursue short-term change in the way government approached an issue. Examples of success in this regard cited by committee members included reversals in policy, resignations of high-profile figures or the abolition or restructuring of organisations. The third impact Keith Vaz cited was longer-term change, which he saw as the cumulative result of the Committee's activity. His fourth aim was to connect Parliament with the

<sup>24</sup> By contrast the 2005-10 parliament saw four successive Home Secretaries: Charles Clarke MP, John Reid MP, Jacqui Smith MP and Alan Johnson MP.

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public to demonstrate that elected representatives cared about what was happening in the country and 'to ask the questions the public would like to ask in a simple and straightforward way'.

### Members

The committee members we spoke to generally agreed with the chair's description of the Committee's aims. In practice the first two aims seem to be prioritised more frequently than the second two. They also mentioned personal aims. Julian Huppert MP, for example, saw the HAC as a mechanism for getting work done in neglected areas citing drugs policy, asylum, and mental health and policing.

## What approach did the Committee adopt?

### Approach

#### Independent style of chairmanship

In a number of ways, Keith Vaz's approach to chairing the HAC differed from the norm of committee chairs. He was highly active in the media and established a prominent role for himself as a commentator on home affairs issues.

In comparison to other chairs he seems to have operated to an unusual extent without the explicit consent of the Committee, for example, by announcing new inquiries into topical issues as soon as they emerged, without waiting for a meeting of the Committee. This was a break from normal select committee practice, which has traditionally prioritised the maintenance of committee cohesion by securing cross-committee agreement to such actions through decisions taken at formal committee meetings. In practice this norm has been loosening over time in many committees, partly in response to the accelerating pace of modern communications, but the HAC probably stretched the previous model to its furthest extreme. The benefit of this change was to increase the speed and agility of the Committee in responding to events, and Keith Vaz seems to have been adept at keeping his committee members on board with this approach.

Another unusual aspect of Keith Vaz's chairmanship was that rather than rely primarily on his committee clerk and staff supplied by the House authorities, he used his personal office staff to support his committee work to a significant extent – particularly to facilitate his interaction with the media.

#### Reactive and accountability focused

Rather than adopt a highly systematic approach to its scrutiny task, the HAC opted to prioritise rapid response to topical issues arising within its remit. This meant that events arising were a key driver of its schedule and choice of inquiries. There was no shortage of these. The nature of the policy areas covered and services delivered by the Home Office meant that short-term problems and scandals arose frequently.

Methodology was central to the Committee's approach. Most other committees develop their programme of work by first deciding on their scrutiny priorities, and then selecting standard evidence-gathering approaches to inform outputs in the form of reports and recommendations. The HAC tended to shape its programme by prioritising the investigation of issues that were susceptible to its preferred methodology – that of rapidly convened oral evidence sessions likely to attract a high degree of media attention. The Committee did select policy areas for longer-term strategic inquiries or blue-skies investigations, but these inquiries frequently gave way to more immediate priorities. So the HAC's programme was largely driven by *how* it went about its scrutiny rather than *what* it scrutinised. This was reflected by the committee staff who, when asked to agree a description of the Committee's shared vision of the impact it was trying to achieve, came up with a process-focused description: 'public spotlight as a tool of scrutiny'.

#### Media as principal audience

Perhaps more than any other select committee during the last parliament apart from the Public Accounts Committee, the HAC treated the media as its main audience. The Committee's approach was driven by the assumption that government would not be influenced by its work unless pressure was exerted by media coverage. Julian Huppert MP's description of the way the HAC selected its inquiries was 'if the media are covering something, we do something on it. And if there are gaps within that and a member wants to do something, we do

something'. The HAC also wished to attract public attention to its work (to show that 'something is being done' about issues of concern to the public) and saw media coverage as important for achieving that.

### Specific practices

#### Prioritising topical issues

The 'normal' method of a select committee inquiry is to issue a call for evidence, gather written evidence and then schedule a series of oral evidence sessions before issuing a report. The HAC's focus on maintaining the topicality of its work turned this model on its head. In theory, the HAC shaped its agenda of evidence sessions around the main inquiries it had launched, reserving a portion at the end of each scheduled evidence session for 'topicals'. Very often, in practice, this agenda was disrupted by events or news stories which led to the announcement of one-off sessions to be held at short notice, whether or not the Committee already had a relevant inquiry underway.

According to those involved with the Committee, however high-profile the Committee's proposed witnesses were, it was normally possible to arrange and hold ad-hoc sessions within a week. Working at speed meant that it was possible for the HAC to operate 'within the news cycle', providing material which the media could report while a news story was still 'live'. It has long been a complaint of committee chairs and members that the practices and procedures of Parliament hinder the ability of committees to work at speed and attract media attention to their work, so the HAC was widely admired by members. It was considered largely unique in consistently achieving this level of currency, although some other committees occasionally managed a similarly-quick response on particular issues.

#### Frequent single evidence session inquiries

The HAC ran 109 inquiries during the last parliament (almost three times as many as the DSC's 38). Approximately half of these (55) consisted of just a single evidence session. Frequently such ad-hoc sessions remained one-offs and some did not result in a report. On other occasions one-off evidence sessions highlighted a wider issue on which the HAC decided that it wished to take further evidence or even launch a full inquiry. In such cases written evidence was sometimes solicited alongside the Committee's programme of evidence sessions.

#### Alternative types of output

The HAC did produce typical select committee reports – rehearsing all the evidence received by the committee on a certain subject and drawing conclusions – but it also regularly produced shorter reports which were more media-friendly with fewer and punchier recommendations. Keith Vaz told us that he liked to ensure that all HAC reports included one 'killer recommendation' and that he could often anticipate what that would be before the committee inquiry began, although he would sometimes change his mind as the inquiry progressed.

For the HAC, evidence gathering through oral evidence sessions was not just a way of developing outputs but was itself an output, which contributed directly to the Committee's two main aims of achieving media coverage and short-term change. The way that the HAC conducted its oral evidence sessions evolved to contribute to these aims. For example it affected their choice of witnesses. The Committee's chair and members told us that they tended where possible to choose high-profile witnesses who would attract media interest. This included people in positions of power, celebrities and people already subject to a media focus.<sup>25</sup> They also had a preference for witnesses who were more likely to say something remarkable or who they saw as weak, on the ropes and likely to be affected by the pressure of a select committee hearing. Either type of witness was more likely to say something interesting, which would provide material for the media to report.

Particularly with the most high-profile witnesses, the HAC's style of questioning tended towards the confrontational and challenging because this style was more likely, at least in the short term, to generate sound bites suitable for headlines. It was also more likely to exert the type of pressure on individuals and organisations that contributed to short-term changes such as high-profile resignations and apologies.

<sup>25</sup> For example, in 2012 the comedian Russell Brand was called to give evidence to the HAC on drug addiction. As part of its inquiry into child sexual exploitation in Rotherham, the HAC took evidence from Shaun Wright, South Yorkshire Police and Crime Commissioner, who was already under pressure to resign having been the former Cabinet Member for Children on Rotherham Council during the period under investigation. In September 2014, around a week after giving evidence, he did so.

### **Grass-roots evidence**

On the other hand Keith Vaz also mentioned that he thought it was important for the HAC to hear from members of the public or those working at the grassroots. Inevitably these sessions attracted little press attention and did not contribute to the Committee's media profile, but they did contribute to its understanding of issues and connected it directly with members of the public. More high-profile evidence sessions could contribute to the same aim by creating media coverage which the public would see.

### **Media interaction**

Before, during (via Twitter) and after evidence sessions, the chair and members of the HAC made themselves available to the media for comment. They often gave personal views on the evidence the Committee had taken. This approach was a departure from a more traditional select committee mode of operation, in which the chair of the Committee would be the sole media spokesman and speak only on the basis of recommendations agreed by the Committee as a whole. Again this mode of operation has been loosening in recent years across the committee system, not least because of MPs' increasing engagement with various forms of social media, but the HAC is one of the committees which has moved furthest away from the original model.

### **Limited use of specialist advisers**

In comparison to other select committees, the HAC made relatively-limited use of specialist advisers to enhance its expertise in relation to specific inquiries (appointing seven in the last parliament in comparison to 17 appointed by the Defence Select Committee). This may be partly because it would often have been impossible to identify a requirement for expertise, and find and recruit an appropriate expert within the timeframe of its inquiries. Keith Vaz admitted that greater use of specialists might have been useful for the Committee. 'I think we do need more specialists appointed. We've hardly ever had a specialist, even on the landscape of policing. We're not police officers. We don't know how it works.'

### **Visibility of party politics**

Because of the party-political nature of the policy areas covered by the HAC, its members tended to be seen as operating in a more party-political way than members of other committees. In general, select committees try to achieve a political consensus in their reports, because they are aware that this makes their conclusions more influential, and many parliamentarians speak of 'leaving their politics at the door' when they enter the committee room. Although it was rare for the HAC to publish minority reports, divisions on amendments to draft reports were a fairly regular occurrence and the politics of its members tended to be more visible in the questions they asked in oral evidence sessions.<sup>26</sup>

### **Cross-committee working**

The HAC was involved in a one-off instance of cross-committee working during the last parliament. In July 2013 the House asked the European Scrutiny, Home Affairs and Justice Committees, to undertake a joint inquiry and report on the opt-outs from EU justice and home affairs provisions. The resulting report was seen in Parliament as very useful and as informing the highly-contentious debate on the subject, but was remarkable mainly for its exceptional nature. There is much more scope for cross-committee working on cross-cutting policy issues.

## **What worked well and what was less effective?**

Keith Vaz's vision was to promote the profile of the HAC by maintaining the topicality of the Committee's work. This contributed to a focus on reactive work (as opposed to the development of an independent agenda or 'blue skies' inquiries) as well as on speed of response to fit within the constraints of the modern news-cycle. Some of those we spoke to felt that the HAC's reactive approach meant its work was unsystematic and focused on

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<sup>26</sup> A minority report is an alternative report published alongside a committee's main report when one or more members of the committee find themselves unable to agree with the main report. Committees usually strive to avoid minority reports which are seen as substantially weakening the impact of the main report.

accountability rather than forward-looking, systematic and investigative. Some felt that its focus on speed meant it undertook too many inquiries at any one time, and that not all its inquiries were pursued in sufficient depth.

Interviewees inside and outside Parliament saw Keith Vaz as a skilful and subtle politician, adept at manipulating the media to his own ends, although opinions differed as to whether his media focus and ‘showmanship’ were effective tools for achieving impact, or an inappropriate hijacking of the Committee as a means of attracting personal publicity. One member of the HAC told us, ‘There are certainly times when it can feel a bit like the Keith Vaz show.’ But in practice members of the HAC seemed to have been happy to accept a loss of influence over the Committee’s agenda as a trade-off for the profile they gained from the profile that Keith Vaz’s approach secured for the HAC.

### Media coverage

In terms of ‘acreage’ of media coverage, the HAC was one of the most successful committees in the last parliament – a fact that almost everyone we spoke to commented on. Many members and external observers admired the media profile which the HAC had achieved. Liam Byrne MP, a former Home Office Minister, told us that this had made a real difference to the impact of parliamentary scrutiny.

*If you look at the way that Mr Vaz's select committee has now mastered the art of writing very short reports as well as very large reports. And they're able to convene witnesses inside the news cycle and that is a real skill. That is a real change in the way that select committees do their work. So it's near real-time policy scrutiny. That is new. And it's very healthy.*

Some of those we interviewed expressed reservations about the HAC’s focus on attracting media attention. The former Home Office Minister, Nick Herbert MP told us that he feared the HAC had been ‘trivialised’ by ‘tactical shallow reports that are designed to get [the HAC] in the news’. Steve White, Chair of the Police Federation of England and Wales, suggested that a media focus might be incompatible with achieving effective change. ‘They do a lot in quick time because they respond to events and want to do the quick media sound bites stuff, as opposed to arguably making a difference.’

Media focus obviously does not preclude having a beneficial impact but the concern expressed here was that the longer-term impact of the Committee’s activity was forgotten in the wish to attract attention. This was also a consequence of the HAC’s tendency to work reactively. One interviewee told us that the HAC’s tendency to focus on what had gone wrong meant that they did not spend much time thinking proactively about how to make things better. ‘Select committees in my experience either do strategic things or do opportunistic things, and the Home Affairs Committee in its current manifestation is completely opportunistic and very often it does alight on genuine scandals and expose them. And that's sort of where it stops.’

### Short-term change

The quick hit of accountability provided by a HAC evidence session did, in some cases, contribute to short-term changes in the form of resignations and apologies from individuals examined by the Committee (described by committee members as ‘scalps’). In terms of contributing to identifiable short-term change the HAC could probably claim to have had a better record than most select committees in the last parliament. Examples cited by staff and members included: the resignations in September 2014 of Joyce Thacker, Children’s Services Director at Rotherham Borough Council, and former Rotherham councillor and Police and Crime Commissioner, Shaun Wright, in relation to their roles during a period when child sexual exploitation had taken place in Rotherham; the resignation in October 2014 of Dame Fiona Woolf from her chairmanship of the independent panel inquiry established to examine how the UK’s institutions had handled their duties to protect children from sexual abuse; and the abolition of the UK Border Agency (UKBA) and HM Passport Office.

### Long-term change

Staff were able to identify examples of longer-term changes which had resulted from the HAC’s inquiries, including raising the profile of important issues such as the localised grooming of children for the purpose of sexual exploitation. But the tendency of the HAC to adopt a reactive approach to its brief tended to militate against planning for longer-term goals, as the steps towards these were often displaced by shorter-term priorities. In practice little of the Committee’s approach seemed to have been designed to deliver defined long-term impacts – which require planning and follow up. The Committee seems to have worked on the assumption that longer-term

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impacts would follow from an accumulation of shorter-term impacts, although this is not an assumption they visibly tested. Keith Vaz acknowledged that it would be beneficial for all committees to set out a clear work plan at the start of the parliament. Julian Huppert MP also commented that because of the HAC's crowded schedule 'what never happens is a long-enough chance to think strategically... There isn't really a chance to work out what we are trying to achieve here, the objectives'.

### Public engagement with Parliament

In terms of public engagement, the final aim cited by Keith Vaz, any success the Committee has had has derived from its normal work programme and high media profile. We did not hear that it had undertaken any separate efforts at public engagement.

### Other forms of impact

Those we interviewed told us that by requiring witnesses to explain themselves to the Committee, or taking evidence from experts, the HAC sometimes put new **evidence** in the public domain. The academics we spoke to value the Committee as a forum to raise the profile of their research and a means to feed their research findings into the policymaking process.

Some of those we spoke to expressed concern that the HAC's focus on currency could have a negative effect on its interaction with its witnesses and the evidence it was able to gather. Because evidence sessions were often called at short notice, there was often relatively little time for written evidence to be produced or for witnesses to prepare. While this might have been an advantage for those who were being called simply to give an account of recent events drawing on their own memory, others might have been able to provide better evidence given a longer timeframe. This was particularly true for organisations, including the Home Office, that were in the middle of managing crisis situations when requests for evidence were made. We heard that rapid inquiries created particular difficulties for small community organisations which lacked the capacity to respond at speed and larger membership organisations which, given more time, would have been better able to canvass the views of their members. We also heard about instances when vulnerable witnesses due to give evidence had been cancelled at short notice because a more high-profile opportunity had arisen – obviously not a desirable outcome for 'ordinary' witnesses, for whom giving evidence to a parliamentary committee would have been a daunting prospect.

The volume of written evidence received by the Committee dropped over the course of the parliament, perhaps because certain inquiries concluded before potential witnesses were even aware that they had begun. Staff expressed concern that Parliament's definitions of what committees could treat as evidence, while offering important protections, were restrictive for a committee like the HAC which prioritised working at speed. The HAC often gathered information on visits which they could not treat as formal evidence because it had not been officially transcribed to create a formal record – which was frustrating for members. They also thought that social media tools held great untapped potential for them in terms of evidence gathering.

It was also evident that the tendency for members of the Committee to act in a relatively party-political way had an impact on the evidence they could collect. Steve White of the Police Federation noted the impact this had on witnesses.

Is it party political? Absolutely. You'll have the [members] grandstanding in a 'I'm going to say that because I'm going to show that I am supportive of government policy around this area'. And then you've got the other side doing the complete opposite. And you just think, we've just been used as an opportunity for them to say what they want to say from a political perspective as opposed to [them] actually being genuinely interested.

Those we spoke to saw the HAC's most important form of impact as its contribution to the accountability process. Rapidly convened oral evidence sessions, often conducted in the full glare of the media, were seen an effective way of achieving 'quick hits' of accountability. We heard evidence that the HAC had increased the **openness** of government and other organisations by requiring them to give an account of themselves before the Committee. Steve White argued, 'There needs to be some kind of body that has a role in public accountability, that should be able to be inquisitorial... and without a select committee, I can't imagine how else that would happen.'

The extent to which the HAC's evidence sessions were the most effective forum for **lesson learning** is less clear. Many interviewees with experience of being held accountable by select committees emphasised their awareness

of the personal risk associated with the experience. For example Damian Green MP, a former Minister of State for Immigration and Minister for Policing, Criminal Justice and Victims, told us:

Part of the value of Parliament is that it's one of the very few places where a minister can lose their job in a couple of minutes. It can literally be that dramatic. And that could be in front of the select committee or in front of the whole House. One bad speech, one evidently-floundering session, and that's your lot. And as I say, all sensible ministers are very cognisant of that.

A strong awareness that you could be about to lose your job is unlikely to be the best frame of mind in which to learn lessons from your past experience. And the HAC has a reputation as a particularly challenging committee to give evidence before.

We were told that Keith Vaz tried to ensure that members adapted their questioning style to the witnesses before them, so that victims and experts were not subject to the same tough questioning as those who appeared to account for their mistakes. However, in some of the Committee's high-profile evidence sessions, establishing culpability and securing short-term consequences seem to have been higher priorities than working out how to prevent the same problem recurring. This was not helped by the fact that when evidence sessions were convened at short notice, committee members had less time to acquaint themselves with the context and background of the issue they were examining so were forced to focus on the immediate issue. One member told us that he thought the HAC would have achieved more if members undertook questioning 'as a pack' rather than as a set of individuals. This was made more difficult by the tendency of members to pursue personal agendas rather than an agreed committee line of questioning.

In terms of the HAC's less reactive work we heard examples of inquiries which had raised the profile of previously low-profile issues and established them on the Government's agenda, such as localised grooming. However Julian Huppert told us it was frustrating that the constant flow of 'things that just come that... you couldn't plan for' meant it was 'harder to do the sort of work which I think select committees are often better at, which is the longer-term where actually we should really now think about an area that hasn't been thought about much'.

In terms of affecting the **processes** of government, the Committee has undoubtedly had an effect. For example, the pressure of its constant focus on UKBA (combined with the Home Office's own internal monitoring and reports of the independent inspector of UKBA) seems likely to have contributed to the Government's decision to take the agency back into the Home Office. Although this was an identifiable change in the landscape, it was not obvious that it would lead to the longer-term improvement in the administration of visas and immigration which the Committee sought. As one committee interlocutor told us:

Keith Vaz would certainly claim credit for the abolition of the UKBA. Now, he regards that as a result. I would say it's a possible vehicle to achieve the result you want, which is improved Home Office visas and immigration operation. But it's a mistake to regard that as a result in its own right. So it's an impact but it's not necessarily a good impact. I also think that that has been achieved at the expense of some pretty serious damage to morale within the organisation.

A number of those we spoke to described the impact of the HAC in terms which could be understood as impact on the **democratic** system. These comments were centred on the frequency with which the HAC was seen to be 'doing something' by using its status and powers to convene an evidence session to address an issue of public concern. A member of staff cited as an example the oral evidence session convened by the HAC during the parliamentary recess in summer 2011 to take evidence from the police about the riots that had broken out across England. 'Everybody else was out of the country, and the Committee managed to get itself together. And the police were being clearly held to account for what was happening. And I actually felt that was really important for public confidence and good for Parliament.'

## Summary

The HAC went further than the DSC in its innovation by adapting the traditional model of inquiry to create a more reactive, media-focused model, shaping its agenda in response to events arising and prioritising speed of response. Many of those we spoke to felt the Committee had found the Holy Grail long sought by most committees – the ability to operate within the news cycle – and the its high media profile made it highly effective at achieving short-term impacts. Others we interviewed identified risks associated with the Committee's approach – including

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difficulties in retaining a focus on long-term impact and in creating an environment which was conducive to problem solving and learning lessons.



## The Parliamentary Commission on Banking Standards

The Parliamentary Commission on Banking Standards (PCBS) was established by Parliament at the instigation of the Government in response to calls for a public inquiry following the London Interbank Offered Rate (LIBOR) fixing scandal. It was a different type of parliamentary committee to those in our other two case studies – an ad-hoc joint committee established to undertake a specific task, rather than a permanent committee with an ongoing remit to scrutinise a government department.

The Government's decision to ask Parliament to establish a commission was the result of the particular circumstances at the time, which we explore below. In choosing this option it rejected various alternatives, including asking an existing select committee to undertake the task, establishing a public inquiry or tasking a policy commission (like the Independent Commission on Banking which preceded it).

The remit of the PCBS, established in July 2012, was originally to make recommendations for legislative and other action to be taken on the professional standards and culture of the UK banking sector, including in relation to corporate governance, transparency and conflicts of interest.<sup>27</sup> Very soon afterwards the Commission was asked to conduct pre-legislative scrutiny of the Government's own legislative proposals, in addition to making its own recommendations for legislative action on conduct issues. The Government's proposals – in the form of the draft Banking Reform Bill were published in October 2012. In the end the PCBS inquiry lasted just under a year, with the last of five reports being published in June 2013.

We selected the PCBS as a case study because it encapsulated some of the most significant areas of innovation in parliamentary committee powers and practices during the last parliament.

### What factors shaped the Commission's approach?

We identified four main factors which influenced the approach the PCBS took to its inquiry.

Firstly, the approach which the Commission took to its inquiry was significantly shaped by the **political circumstances in which it was established**. In the wake of revelations about the fixing of LIBOR, which came on top of the financial crisis, there was widespread public disquiet about behaviour in the UK's financial sector. This created strong pressure for some sort of public inquiry. The party political debate was over what form that inquiry should take.

The Government needed an approach which would be publicly acceptable and draw the sting of the Labour party's narrative about cronyism between the Conservative party and their financial backers in the City. The Opposition called for a full public inquiry under the Inquiries Act 2005 but, with the Leveson Inquiry still underway, there was limited appetite in government for another judge-led inquiry. The Government argued that judge-led inquiries should only be established when other forms of investigation had completely failed, which they said was not the case in this instance because the Financial Services Authority (FSA) and US Justice Department had conducted effective investigations into the LIBOR issue.<sup>28</sup> The Government also argued that a judge-led inquiry would be delayed by the possibility of criminal investigations, the unstated implication being that this would be less of an issue for a parliamentary inquiry,<sup>29</sup> and that it would undermine public confidence in politicians if they who 'were

<sup>27</sup> The creation of the Commission required an order of each House. For the full text of the orders see, House of Commons, *Votes and Proceedings of the House of Commons*, Parliament UK website, 16 July 2012, retrieved 3 June 2015, <<http://www.publications.parliament.uk/pa/cm201213/cmvote/120716v01.htm>>; House of Commons, *Votes and Proceedings of the House of Commons*, Parliament UK website, 17 July 2012, retrieved 3 June 2015, <<http://www.publications.parliament.uk/pa/cm201213/cmvote/120717v01.htm>>

<sup>28</sup> House of Commons, *Debates 5 July 2012, Col. 1133*, 2012, Parliament UK website, retrieved 3 June 2015, <<http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm120705/debindx/120705-x.htm>>

<sup>29</sup> House of Commons, *Debates 5 July 2012, Col. 1134*, 2012, Parliament UK website, retrieved 3 June 2015, <<http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm120705/debindx/120705-x.htm>> Parliament also makes strenuous efforts to avoid prejudicing matters which are 'sub judice' (technically the period when someone has been charged in a criminal case, or, in a civil action, when a case has been set down for trial), although the sub judice rule may be relaxed at the Speaker's discretion and need not prevent the consideration of legislation.

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created to hold power to account' did not 'have the confidence to investigate scandals such as this'.<sup>30,31</sup> A committee of experts, the Independent Commission on Banking led by Sir John Vickers, had already made recommendations about how the UK banking sector should be reformed in the wake of the financial crisis and the Government had committed to introducing legislation to implement its recommendations. The Vickers Commission could have been re-formed and re-tasked by the Government to look at the issues raised by LIBOR, but the idea of a parliamentary inquiry held greater attractions for the Government.

Asking politicians, rather than a judge or subject matter experts, to conduct pre-legislative scrutiny on the draft Banking Reform Bill (alongside their own recommendations about ways of tackling professional standards and cultural issues) had a number of perceived advantages. The issue of banking standards was one which politicians were relatively well placed to consider: it was policy related and high profile with strategic economic and political implications. The involvement of politicians was seen as likely to smooth the eventual passage of the bill through Parliament as contentious issues would be identified at an earlier stage. A parliamentary inquiry was certainly likely to be quicker<sup>32</sup> than other forms of inquiry, which was seen as important both for the city (to avoid the financial sector being subject to a prolonged period of uncertainty) and for the Government (so the issue could be dealt with as quickly as possible). Being quicker, a parliamentary inquiry was likely also to be much cheaper than other forms of inquiry, with the added advantage that it would draw on existing infrastructure and staff rather than having to be set up entirely from scratch.

Andrew Tyrie MP, the Chair of the Treasury Select Committee (TSC) and eventual Chair of the PCBS, initially argued against the establishment of a commission and favoured either a reconstitution of the Vickers Commission or the provision of additional resource to the TSC inquiry into LIBOR which was already underway. But for the Government the risk was that a 'normal' select committee inquiry would not be seen as a sufficiently significant response to public concerns. A new committee set up for the specific purpose of examining banking standards would attract more kudos, and creating a joint Commons and Lords committee would enable it to draw on the expertise of peers with relevant experience in the financial world. Calling this body a 'parliamentary commission' rather than a 'joint committee' had little practical effect but contributed to a sense of its novelty and importance within Parliament.<sup>33</sup>

**The strong government support** for the Commission was the second key factor determining its approach. This support was demonstrated in two main ways. First was the commitment from the Chancellor to 'provide the Committee with the resources that it needs to do the job'. This effective blank cheque meant that it was possible for the Commission to make real use of the formal power it had been given to appoint specialists and staff with knowledge and skills not otherwise available among parliamentary staff, including counsel. The published figure for the overall cost of the Commission is £980,000. This figure represents the marginal cost to Parliament of running the Commission and as such excludes certain costs for staffing, security and office space which were met by the House of Commons from its normal budget for running ad hoc committees. The figure excludes the cost of nine members of staff who were seconded from outside Parliament (from the Treasury, Bank of England, Treasury Solicitors' Department and other organisations) at no cost to the Commission, although of course their salaries

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<sup>30</sup> House of Commons, *Debates 5 July 2012*, Col. 1136, 2012, Parliament UK website, retrieved 3 June 2015, <<http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm120705/debindx/120705-x.htm>>

<sup>31</sup> Although it is framed in very party political terms, the Opposition Day debate on 5 July 2012 is a useful resource in terms of understanding the reservations which members have about the investigative abilities of parliamentary committees. Concerns cited included: the potential for misuse of privilege by witnesses (Chris Bryant MP Col.1126); that committees are not good at 'getting to the bottom' of issues (Sheila Gilmore MP Col. 1130); members do not have the skills to carry out a 'deep inquiry' (Bill Esterson MP Col.1143); and, that the public would have more confidence in a judge-led inquiry (Nigel Dodds MP, Col.1131) particularly because membership of an ad-hoc committee would normally be determined by the whips (Clive Efford MP Col. 1141). House of Commons, *Debates 5 July 2012*, 2012, Parliament UK website, retrieved 3 June 2015, <<http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm120705/debindx/120705-x.htm>>

<sup>32</sup> House of Commons, *Debates 5 July 2012*, Col. 1134 and 1135, 2012, Parliament UK website, retrieved 3 June 2015, <<http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm120705/debindx/120705-x.htm>>

<sup>33</sup> Outside Parliament of course it is common for an inquiry to be titled a 'commission'.

continued to be paid by their home organisations.<sup>34</sup> The Commission's average staffing complement over its one-year inquiry was 20 to 25 full-time equivalent staff, and the chair and members were supported by more than 20 additional specialist advisers.<sup>35</sup> The secretariat was headed by an experienced Commons Clerk, Colin Lee, who took on the role of Chief of Staff, managing the team and acting as the principal parliamentary adviser to the chair and members of the Commission. The PCBS was considerably more expensive to run than a normal select committee inquiry (which would usually involve only one or two staff), but cheaper than most equivalent public inquiries.<sup>36</sup>

The second indication of government support was George Osborne's implicit assurance that the Government would accept the recommendations made by the Commission. Osborne stated in a parliamentary debate that asking the Commission to report by the end of 2012 would mean 'that we can amend our banking bill to take on board its recommendations at the beginning of next year'.<sup>37</sup> It is unusual for a parliamentary committee to begin its work with such a strong assurance in place and this reflected the political pressure the Government was under to show it was taking banking standards seriously. The assurance changed the terms of trade between the Government and the committee,<sup>38</sup> as Deputy Governor of the Bank of England, Andrew Bailey, told us, 'The PCBS was a bold step in response to a major problem. It involved more of a transfer of the role of policy initiation to Parliament in a way that we do not normally see, but it was handled effectively by Parliament and the Government.'

**The appointment of Andrew Tyrie MP as chair** was the third key factor affecting the commission's approach. Tyrie was an economist with experience of working in the financial sector who had served as an adviser to Nigel Lawson and John Major when they were both chancellors, and as Shadow Chief Secretary to the Treasury under Michael Howard. He already had well established relationships with many of the key interlocutors of the Commission, from the Treasury to the Bank of England and national and international regulators as well as in the commercial sector. He had developed a strong reputation both inside and outside Parliament, first as a member and then as the first elected chair of the Treasury Committee. He was generally seen as a safe pair of hands who was capable of navigating the political issues involved in order to deliver a credible and technically workable outcome.

Although initially reluctant to chair the Commission, Andrew Tyrie was seized by the importance of the issue to be investigated. He accepted the Government's request to become chair but only once he had established, following a fractious debate in the Commons on 5 July 2012,<sup>39</sup> that there was support from all the major political parties for

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<sup>34</sup> House of Commons Liaison Committee, *First Report of Session 2014-15, Legacy Report: Annex C: Parliamentary Commissions – Note by the Chair of the Treasury Committee and former Chair of the PCBS, Andrew Tyrie MP*, March 2015, retrieved 26 May 2015, <<http://www.publications.parliament.uk/pa/cm201415/cmselect/cmliaisn/954/95402.htm>>

<sup>35</sup> The Chancellor's blank cheque also placed a responsibility on the shoulders of Andrew Tyrie MP to monitor and control the costs of the Commission if he wished to demonstrate that parliamentary commissions were cheaper than public inquiries.

<sup>36</sup> In an answer to a parliamentary question in November 2012, the Cabinet Office provided details of the costs of the 17 public inquiries held over the previous 10 years (some of which were ongoing). The four most expensive inquiries related to the troubles in Northern Ireland (Bloody Sunday at £191.5 million, Rosemary Nelson Inquiry at £46.46 million, Robert Hamill Inquiry at £33 million and Billy Wright Inquiry at £30.5 million). Four other inquiries cost over £10 million (the Shipman Inquiry at £21 million, the Baha Mousa Inquiry at £12.99 million, the Al Sweady Inquiry at £12.5 million and the Mid Staffordshire NHS Foundation Trust Inquiry at £11.75 million). The remaining nine inquiries ranged in cost from £1.4 million (the ongoing Azelle Rodney Inquiry) to £6.1 million (the Iraq Inquiry).

<sup>37</sup> House of Commons, *Debates 2 July 2012, Col. 614*, 2012, Parliament UK website, retrieved 3 June 2015, <<http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm120702/debindx/120702-x.htm>>

<sup>38</sup> The Chancellor's assurance also significantly altered the way the Commission was seen by external observers and those who gave evidence to it. As one witness put it, 'One of the reasons I [was] so enthusiastic about... appearing before the Parliamentary Commission is I felt this was a way of getting stuff done... a window to get things done, to get things on the statute book. The time and attention of both Houses was focused on this issue, so it was very important, if you have been thinking about these issues as I had for 10 years, that you use the window to give people the best advice that you can provide. What they do with that you can't determine, but at least you've given it. You've set it out.'

<sup>39</sup> During Prime Ministers Questions on 2 July 2012, in response to a sedentary intervention from the Shadow Chancellor, Ed Balls MP about the Government's rationale for resisting a public inquiry, the Prime Minister retorted, 'No one would like to see him in the dock of a courtroom more than me, but the job here is to get on with it, find the answers and put them into law.' This remark raised political tensions over the issue which developed further during a subsequent debate on 5 July. House of Commons, *Debates 2 July 2012, Col. 590*, 2012, Parliament UK website, retrieved 3 June 2015, <<http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm120702/debindx/120702-x.htm>>

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him to do so. In the end the Commons motion to establish the Commission was signed by the Leader of the Opposition and the Shadow Chancellor as well as the Prime Minister, Deputy Prime Minister and others.

The fourth factor affecting the approach taken by the Commission was its **membership**. Mark D’Arcy, the BBC Parliamentary Correspondent, told us, ‘The PCBS was different because of the calibre of its membership... Its members were strong, and independent and tactically astute.’ This was in part due to the process by which the membership was chosen, which was unusual because of the direct involvement of the Chancellor and Shadow Chancellor, and the influence of Andrew Tyrie (derived from the Government’s strong wish for him to chair the commission).

Joint Commons and Lords committees are normally large, sometimes with over 20 members appointed by the whips, and include a government majority.<sup>40</sup> Tyrie was keen to keep the size of the Commission down. His preference was for a total of six members but an eventual compromise was reached at 10.<sup>41</sup> From the Commons Andrew Tyrie saw merit in inviting participation from members of the TSC who had already worked on many of the issues and some of whom had experience in the financial sector. When it came to the Lords, the Opposition objected to the fact that the normal party composition of a Lords committee of five (two Conservatives, a Labour Peer, a Liberal Democrat and a Cross-bencher) would have given the Government an overall majority on the commission. The issue was resolved by replacing one Conservative peer with the relatively new Bishop of Durham, Justin Welby (shortly afterwards appointed Archbishop of Canterbury) who had relevant expertise having previously worked as a derivatives trader.<sup>42</sup>

### What were the Commission and its members trying to achieve?

As a committee established specifically to undertake a particular inquiry, with terms of reference clearly set out in orders of the two Houses, the PCBS stood a greater chance than many parliamentary committees of achieving consensus over the aims of its inquiry.

#### Chair

Andrew Tyrie told us his view was that the aim of the PCBS should be to deliver an intelligent analysis of the issues around banking standards, which would lead to incremental changes that would improve the banking system. It was important to him to deliver recommendations which were credible and which could be implemented. He had resisted the idea that the Commission should consider the ‘ethics’ of the banking industry, eventually compromising on the use of the term ‘culture’ which, as he saw it, resulted from ‘professional standards’ that could be enforced through regulation. He concentrated on developing forward-focused proposals, including amendments to the draft Banking Reform Bill, and avoiding a retrospective ‘witch hunt’.

A very much secondary but linked aim for Tyrie (as a longstanding advocate of Parliament’s role in relation to the Executive) was to demonstrate that Parliament was capable of delivering results from an inquiry of this nature, as

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<sup>40</sup> The usual size of joint committees reflects the opportunity for patronage they provide for the whips who decide who serves on them. A high-profile committee such as the PCBS might have been a prime opportunity for the exercise of such patronage.

<sup>41</sup> Andrew Tyrie MP has since reportedly written in a letter to the Chair of the Liaison Committee, ‘A small number of highly-motivated members will make the time and effort to attend more meetings, they will bond better and faster and maintaining consensus is far easier.’ Parker, G., ‘MPs need more powers to hold the powerful to account, says Tyrie’, *Financial Times*, 29 March 2015

<sup>42</sup> The final membership of the Commission was Mr Andrew Tyrie MP, (chair, Conservative MP for Chichester, former financial sector economist and chair of the Treasury Committee), the Most Reverend and the Right Honourable Archbishop of Canterbury (non-affiliated peer and former city trader), Mark Garnier MP (Conservative MP, former investment banker and Treasury Committee member), Baroness Kramer (former banker and Liberal Democrat peer), Right Honourable Lord Lawson of Blaby (former Chancellor and Conservative peer), Mr Andrew Love MP (Labour/Co-operative MP and Treasury Committee member), Right Honourable Pat McFadden MP (Labour MP and Treasury Committee member), Right Hon Lord McFall of Alcluith (Labour/Co-operative peer and former chair of the Treasury Committee), John Thurso MP (Liberal Democrat MP, business man and Treasury Committee member) and Lord Turnbull KCB CVO (Cross-bench peer and former Cabinet Secretary).

an alternative to a public inquiry.<sup>43</sup> The Commission also provided an opportunity to experiment with the joint committee model which he had long seen as cumbersome and ineffective.

## Members

Members of the PCBS from both Houses told us that their involvement in the Commission had been primarily driven by a sense of the importance of raising banking standards and public confidence in those standards. There was a strong consensus between them about their main goal: to make recommendations which would achieve reform of the banking industry by improving professional standards and thereby restore public trust in the industry. But the members all had other motivations for participating in the inquiry and these led them to prioritise different aspects of the overall goal. Other motivations mentioned to us included: a wish to hold bankers to account in public for the problems they had caused; a desire to provide catharsis for the public; and the hope of motivating banks to increase lending to small to medium enterprises (SMEs).

Other reasons individual members became involved in the Commission were more personal. A number were attracted by the relative freedom implied by the Commission's terms of reference which, combined with the reduced constraints on time and resource in comparison to select committee work, they saw as allowing them to really 'dig into' the issues. Working with senior colleagues from both Houses was another attraction. Involvement in the Commission gave members opportunities and a platform to build their knowledge and their reputation in relation to a specific policy area with colleagues and the media. Most, if not all, shared the sense of responsibility felt by Andrew Tyrie, that since the inquiry had been entrusted to Parliament, it was up to them to demonstrate that that trust had been well placed by doing a good job. They all expressed a high degree of commitment to the PCBS which was reflected in the long hours they devoted to it. Commission member, John Thurso MP, told us, 'I don't know what I signed on for, but it was a hell of a lot more in reality. I mean... at the peak of it, it was consuming at least three days a week if not into a fourth. And one was already doing a seven-day week with the normal stuff.'

## What approach did the Commission adopt?

The inquiry the PCBS undertook bore many similarities to those undertaken on a smaller scale by departmental or joint committees, but also had some notable differences. These differences in approach, which we explore in more detail below, were not accidental but were deliberately designed into the Commission by those involved. In this section we highlight some key elements of the PCBS's approach and some of the specific practices it used.

### Approach

#### Directive style of chairmanship

Andrew Tyrie's chairmanship had a significant impact on how the PCBS inquiry developed. In terms of the process of the Commission's inquiry – how it should go about collecting and analysing evidence – much of the impetus came from Andrew Tyrie. His assessment – based on first-hand experience - of the shortcomings of the existing joint committee model led to the Commission being smaller than most joint committees, being Commons-led and governed by Commons rules of procedure,<sup>44</sup> and receiving technical support from the private sector, Civil Service, the Bank of England and lawyers. His detailed proposals for means of gathering evidence were agreed to by other members of the Commission.

In terms of areas for examination, the Commission's focus was heavily shaped by its terms of reference – which drove its initial concentration on pre-legislative scrutiny of the draft Banking Reform Bill. As the Commission's inquiry progressed other issues emerged around the core terms of reference – some proposed by individual members of the Commission, others identified from events arising – so to an extent, what it was trying to achieve evolved over time. Retrospectively some members of the Commission felt that it had not addressed every area they might have wanted it to – nor indeed made all the recommendations they might have wished. Given the highly party political circumstances in which the Commission was set up and the time pressure under which it was

<sup>43</sup> Tyrie, A., *Government by Explanation: Some ideas from the select committee corridor*, Institute for Government, 2011, retrieved 28 January 2015, <<http://www.instituteforgovernment.org.uk/publications/government-explanation>>

<sup>44</sup> Unless otherwise agreed, joint committees follow Lords select committee procedure, regardless of which House the Chair belongs to. For example, joint committees normally follow the practice of the House of Lords with regards to use of the chairman's vote, and the Lords method of deciding a question if a vote is equally balanced.

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conducted it was to an extent inevitable that all members of the Commission felt they had compromised in some way. In these circumstances Tyrie used a number of strategies to maintain a sense of common purpose, which we discuss in more detail below.

### **Focus on achieving consensus**

Commission members were conscious of the importance of producing unanimous reports. As Lord Lawson put it, 'If the Commission's report were not unanimous it would be much easier for the Government to disregard it.' The first strategy Tyrie used for maintaining consensus was simply an emphasis on the value of achieving an outcome to which all could sign up. He observed to us that there were some recommendations which he himself would not have included, and others on which he would have gone further, but that he saw his role as delivering a set of recommendations on which the whole Commission could agree (rather than the vision of the chair, as with some non-parliamentary types of inquiry). He felt that the earliest phase of the Commission's inquiry was the most crucial for maintaining consensus. Once the PCBS had published its first report, with agreement from all parties, the risk of it being derailed by party politics was significantly reduced.

Another consensus-building strategy, which reflects the normal practice of select committees, was to maintain the privacy of committee discussions about emerging conclusions. Unlike other more technocratic forms of inquiry such as the Vickers Commission, parliamentary committees do not tend to include a stage of public consultation to test their emerging conclusions and recommendations. The Commission relied on informal, private testing of its emerging recommendations with expert figures. This had the advantage of not publicly exposing differences between members, which might have made it more difficult subsequently to achieve a consensus.

Tyrie was also able to use the Commission's power to create panels to examine specific subjects as a means to maintain consensus and buy-in among members, as we discuss later.

### **Emphasis on evidence collection**

The chair's aim of producing an intelligent analysis linked to credible conclusions drove a focus on collecting a comprehensive and detailed set of evidence. This, combined with the use of panels to allow members to pursue particular areas of interest and the fact that the Commission decided to examine a number of issues which arose during the course of the inquiry (including allegations that failures at HSBC had allowed it to be used for money-laundering and later LIBOR settlements) meant that it gathered a very large amount of written and oral evidence. Much of this was provided voluntarily by individuals and organisations wishing to inform the Commission's deliberations, but some was requested specifically by the Commission. It never used the formal powers which it had been given, like almost every select committee, to require the provision of 'persons, papers and records', but relied on informal pressure, backed by an implicit threat of public embarrassment that would result from a lack of co-operation.

### **Strong work ethic**

There was an ethic of hard work among the staff and members of the Commission. This was driven by two key factors: the challenging objectives which the Commission set itself in terms of evidence gathering and the short timescale, in comparison to most public inquiries,<sup>45</sup> in which they had to deliver. The timescale imposed by the Government was originally an extremely ambitious six months, but the inquiry eventually lasted closer to a year.<sup>46</sup> Tyrie was keen to challenge what he saw as the House service's traditional 'black box' approach to staffing, in which briefing and reports were produced entirely by staff after initial consultation with members. He wanted the staff team and the commissioners to be integrated and work together to produce the Commission's outputs. Staff commented on the remarkable extent to which he involved himself in contrast to a 'traditional' select committee Chair.

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<sup>45</sup> However, the Commission's inquiry was longer than most select committee inquiries.

<sup>46</sup> The PCBS was established in July 2012. Its original timescale was to deliver recommendations about the Banking Bill by 18 December 2012 and recommendations on the wider issues of banking culture 'as soon as possible thereafter'. The Commission subsequently secured a number of extensions to its timetable, eventually delivering its final report in June 2013.

## Influence of peers

Although, unlike most joint committees, the PCBS followed Commons procedures, a number of those we spoke to noted that the style of its proceedings was affected by the involvement of peers. One interviewee told us:

The approach and tone of the Parliamentary Commission was more Lords-like than it was Commons-like... The Lords for whatever reason tend on average to have a bit more experience and there's a bit less playing to the gallery. And therefore they're better at giving the impression at least of you being there to tip out what's in your head into their report, rather than aiming to catch you out for what's inside your head.

## Influence of the Treasury Committee

Half the members of the Commission, including the chair, were also members of the Treasury Committee. Always seen as one of the most important parliamentary committees, the TSC had grown in confidence and profile over the previous decade or so, taking on additional powers<sup>47</sup> and a more proactive approach to its remit. A number of the issues addressed by the Commission were ones which the TSC had investigated and made recommendations about in the past. Some of those we interviewed felt that at times such prior concerns distorted the Commission's focus on its actual terms of reference and drove it towards particular conclusions and solutions.

### Specific practices

#### Exploiting networks

A significant benefit of Tyrie's chairmanship and the high-profile membership of the Commission was the pre-existing relationships that members brought with them in Westminster, Whitehall and across the financial sector. Personal contacts were helpful in enabling Tyrie to attract external resources to support the Commission, often personally securing staff on secondment from organisations including commercial banks, the Treasury, the Bank of England and Treasury Solicitors at favourable rates (or in some cases for free) as well as securing the services of a wide range of special advisers to the Commission. Pre-existing relationships – many established through the work of the Treasury Committee – were also important in enabling Andrew Tyrie to network and influence both during the Commission process and afterwards. For example, Sir John Vickers described how Andrew Tyrie, with whom he had previously engaged during the process of the Independent Commission on Banking, had said it would be helpful if he would express publicly his support for the 'electrification' proposal in the Commission's first report, to reinforce the ring-fence by a reserve power to separate a bank's deposit-taking and investment arms. '[He said,] "It will make a difference if it's known that you agree.'

#### Use of Counsel

Following discussions with Commons clerks, Andrew Tyrie argued for and secured a number of novel powers for the Commission. These included the controversial power to invite specialist advisers (including counsel appointed as specialist advisers) to examine witnesses on behalf of the Commission. This had been contemplated in the past but not used in modern times by select committees.<sup>48</sup> Even within the Commission itself members were divided about whether and how the power should be used. This debate continued over the life of the Commission with a process of ongoing experimentation with different approaches in different sessions. In the end the Commission used the power (and funds) afforded to it to appoint a Queen's counsel (QC) and another barrister as specialist advisers. They in turn brought the services of teams of more junior barristers. The barristers were used mainly by the Commission, but also by the panels on HBoS Plc and mis-selling, to develop and in some cases ask questions during oral evidence sessions.

<sup>47</sup> For example, the right to conduct pre-appointment hearings with members of the Monetary Policy Committee of the Bank of England and a statutory veto over the appointment and dismissal of the three members of the Budget Responsibility Committee of the Office of Budget Responsibility.

<sup>48</sup> Committees considering private and hybrid legislation allow QCs to question petitioners but non-members have not been allowed to question witnesses in select committees in modern times.

### Use of panels

Another power given to the Commission was to appoint panels – a form of sub-committee with a quorum of one member and the power to take evidence (including using commission-appointed specialists) but not to publish their own reports. Tyrie used the panels as a means to maintain consensus on the Commission, allowing members to pursue areas of personal concern in more detail (even if no other member was interested) and to feed the results informally into the overall conclusions of the Commission. However the fact that the panels had been created without the usual power afforded to sub-committees to report to the main committee caused some discontent among members. Only allowing panels to feed back their conclusions informally to the main Commission was a deliberate move designed to avoid the risk that panels (some of which heard large amounts of evidence with only one, or very few members present) might place competing views and recommendations on the public record, undermining the ability of the Commission to present a consensual final report. But some members felt that it meant that the evidence they had collected was not fully reflected in the final analysis.

### Virtual decision-making

The final novel power granted to the Commission was to make decisions ‘virtually’, that is, without a quorum of members of the Commission physically present in the room. This was designed to enable the Commission to work at speed. In practice the Commission did not make much use of this power, and experienced some technical difficulties when it tried to do so, but the Liaison Committee recently recommended that a similar power be extended to all select committees.<sup>49</sup>

### Evidence taking in public

Like most parliamentary committees the PCBS prioritised the taking of evidence in public. But members’ focus on assuaging public anger about the banking crisis meant they were even more keen than usual to hold senior representatives of the industry publicly to account for their actions. In this the Commission contrasts with other inquiries, such as the Independent Commission on Banking, which took its evidence in private to allow witnesses to speak frankly. Sir John Vickers told us, ‘It would not have helped our process to take evidence in public. It would have been a circus and uninformative.’

## What worked well and what was less effective?

### Inquiry process

Although the scope and limits of the Commission’s inquiry were set out in its terms of reference, the question of exactly what the Commission should address evolved over time, in part because the Commission extended its scope to encompass new issues as they arose. Staff said that at times this meant it was difficult for them to interpret the will of the Commission. Some members told us that at times they were not clear when and how their priorities would be addressed. At times, particularly early in the inquiry, these concerns took on a party-political edge, which they felt threatened to derail the process.

### Reforming banking standards and restoring public trust

In terms of the Commission’s main goal of reforming banking standards and restoring public trust in the industry, the jury is still out. The Commission itself was always realistic about what could be achieved. In a press release to accompany the Government’s response, issued in July 2013, the Government said it ‘endorses the principal findings and intends to implement the PCBS’s main recommendations to address the failings the Commission identified on individual accountability, corporate governance, competition and long-term financial stability’.<sup>50</sup> In

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<sup>49</sup> ‘We recommend that standing orders be amended to enable committees to make all decisions other than consideration of reports, which they could properly make at quorate deliberative meetings through any form of communication provided that all members have been given sufficient notice and any decision is supported by a majority of the committee.’ House of Commons Liaison Committee, *First Report of Session 2014-15, Legacy Report*, paragraph 98, March 2015, retrieved 26 May 2015 <<http://www.publications.parliament.uk/pa/cm/201415/cmselect/cmliaison/954/95402.htm>>

<sup>50</sup> Treasury and the Department of Business, Innovation and Skills, *Press release: Government responds to Parliamentary Commission on Banking Standards*, 8 July 2013, Gov.uk website, retrieved 26 May 2015, <<https://www.gov.uk/government/news/government-responds-to-parliamentary-commission-on-banking-standards>>



practice some of the Commission's main structural recommendations are still being worked through and implemented by the regulators, so it is far too early to judge how they may affect behaviour and standards in the industry. Restoring public trust is a step further removed. What our research has identified are the views of many of those within the industry, and those who habitually observe it, about the impact of the PCBS process and the short-term impact of its outputs.

Among those we spoke to there was a consensus that overall the PCBS had achieved its objectives. We now go on to discuss their more detailed views of the impacts the Commission had.

A number of external interviewees mentioned the breadth and volume of the **evidence** which the PCBS gathered.<sup>51</sup> The Commission was able to use the knowledge and expertise of its chair and members to identify what issues to focus on and which experts and figures from the financial sector they should speak to. This process was assisted by the large team of external secondées and special advisers who brought knowledge, experience and skills. Andrew Tyrie was conscious that, although some of the parliamentary staff available to him had previous experience on the Treasury Committee, scarcely any had significant knowledge of banking or the financial sector more widely. He has since argued elsewhere that the absence of a cadre of staff with financial and economic skills in the Commons department which supports committees is a major lacuna.<sup>52</sup> Seconded staff were brought in for their specific areas of knowledge at the start and as these gaps became apparent over the course of the inquiry. Another resource provided by some external staff was experience of other inquiry processes, including legal processes and public inquiries. Parliamentary staff felt that the ideas these staff provided were helpful in developing 'usual' select committee procedures to suit the particular objectives of the Commission, the most obvious example of this being counsel. Seconded staff also increased the capacity of the staff team. This was important because the use of panels increased the workload of staff and members exponentially.

While it had many benefits, the use of large numbers of other external staff was not without its drawbacks. The evolving nature of the inquiry and the style of the appointment process – often facilitated through the chair's personal contacts – sometimes made it difficult to ensure that the needs of the Commission were well matched with the skills and experience of the staff recruited. Some of those who were available to join the Commission at short notice were not necessarily those best placed to contribute to its aims. The process of recruiting and managing external staff consumed a considerable proportion of the chief of staff's time – time which was already at a premium given the scope of the work which the Commission was seeking to undertake. He and the other parliamentary staff found they had little time to induct external staff, some of whom had no experience of operating in a political environment and found it challenging to understand parliamentary conventions and the role they were expected to play, for example the importance of maintaining political neutrality and the Parliament's heavy focus on evidence as the basis for argument. And while the knowledge and expertise contributed by the external staff was considerable, some lacked other skills often taken for granted among parliamentary staff such as the ability to draft written material clearly and rapidly.

The Commission's evidence gathering was seen by most in a positive light as having effectively 'exposed the issues' which the PCBS had been set up to consider. It was seen as an indication of the Commissioners' hard work and thoroughness. Some suggested that it had increased the seriousness with which they took the Commission's conclusions. But there were criticisms. On the one hand some of those we spoke to argued that the Commission had not heard enough evidence from individuals who might challenge prevailing narratives about the financial sector. The journalist Joris Luyendijk argued that the Commission had not heard from anyone who would fundamentally challenge the 'concentric circles of complicity surrounding the dogma that it is desirable and feasible for Britain's future to lie with the big financial sector'. On the other hand, one interviewee told us, 'It was a bit one sided because it was almost "We need to find out what's evil about banking, therefore we'll ask people to tell us what's evil about banking." Nobody asked the question "What's great about British banks and what works?"' The

<sup>51</sup> According to the House of Commons Sessional Returns for 2012-13 and 2013-14 and the Commission's reports, it heard from a total of 252 witnesses (103 of whom appeared before the main Commission and 149 in front of panels). Of these 33 were ministers and civil servants. The Commission printed or placed on the internet nearly 5,000 pages of evidence and reports. Parliament UK, *House of Commons Sessional Returns for 2010-12, 2012-13 and 2013-14*, Parliament UK website, retrieved 26 May 2015 <<http://www.publications.parliament.uk/pa/cm/cmsesret.htm>>

<sup>52</sup> Tyrie, A. *The poodle bites back: select committees and the revival of Parliament*, forthcoming, Centre for Policy Studies, 2015

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fact that we heard criticisms from both quarters perhaps implies that the Commission struck a reasonable balance in its choice of witnesses.

In contrast some saw the scope of the evidence examined by the Commission as unnecessarily wide, reflecting an overly-broad interpretation of its terms of reference which ran the risk of overlap with other inquiries. As discussed above, part of the reason for the Commission's broad interpretation of its terms of reference was to allow different members to explore their areas of particular interest and enable the chair to maintain a consensus. The need to encompass differing interests and priorities is one disadvantage of a parliamentary-style inquiry over either a more technocratic, expert-led inquiry (such as the Independent Commission on Banking) or one led by a single figurehead, as with most judge-led public inquiries.

Where it was used, the use of counsel affected the Commission's evidence gathering process. Counsel brought knowledge and experience of legal processes and public inquiries which differed from the usual parliamentary approach and raised novel questions about established parliamentary procedures, which led to some developments and changes in the way the PCBS gathered its evidence. Lawyers brought skills in analysing primary documentation, forensic questioning and an attention to nuance and detail which most members would find hard to replicate, although Commission members tended to be more capable than average. But Commission members themselves acknowledged that counsel had increased what they had been able to achieve in terms of questioning. 'The QC just utterly shredded [the witness]... It was a good piece of work. But had we been left to our own devices we wouldn't have achieved that.' The tendency of barristers is to ask questions to which they already know the answer – eliciting confirmation or denial to establish facts. Their most significant contribution was therefore looking back at past events to establish 'who had done what to whom', including by systematically assessing large volumes of written evidence.

What Counsel were less good at was asking open questions, a technique more typically used by MPs in an oral evidence session which generates the discursive answers that can be more revealing of a witness's attitudes and views, and are more useful for quotation in reports. Engaging and instructing counsel was also time consuming. So the use of counsel was not an unmitigated benefit – a fact acknowledged by the Liaison Committee which has rejected the idea that all departmental select committees should be given this power.

In some respects the PCBS could be seen as pushing the typical model of a select committee inquiry closer to that of a public inquiry, in particular in its use of Counsel to gather evidence. As we have seen, this enabled the PCBS to gather detailed evidence from large quantities of written evidence obtained directly from financial institutions using the Commission's power to send for papers, persons and records. It also allowed a different style of questioning of witnesses which, particularly in the case of its work on HBoS Plc, elicited information which informed the Commission's conclusions. However, the new practice of using Counsel was adopted without any of the additional protections for witnesses which would be typical of a public inquiry. Witnesses were not permitted to give evidence with their own counsel sitting alongside them. In some cases they were not given notice of the areas in which they would be questioned or much notice to prepare for their evidence. There was no process of giving notice in advance to those who would be subject to criticism in the Commission's report, and no right of reply. We heard that these issues were discussed within the Commission, but no remedy was found – in part because of the limited time available. As a result, particularly for those with previous experience of public inquiries, the disparity in the Commission's treatment of its witnesses was marked. We heard that some of those who gave oral evidence to the Commission felt that its approach raised questions of fairness. At the end of the last parliament the Liaison Committee implicitly acknowledged one aspect of this risk and recommended that committees be given the power to alert those likely to be criticised in a committee report in advance of its publication.<sup>53</sup>

The majority of those we spoke to felt that the PCBS had succeeded in producing a credible **analysis** of the issues. The Commission's unusual degree of access to high-quality external advice, both through external secondées and the personal contacts of the chair and other members, enhanced its ability to develop and test its

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<sup>53</sup> House of Commons Liaison Committee, *First Report of Session 2014-15, Legacy Report*, paragraph 47, March 2015, retrieved 26 May 2015 <<http://www.publications.parliament.uk/pa/cm201415/cmselect/cmliaisn/954/95402.htm>>

analysis and informally to check the credibility of its recommendations.<sup>54</sup> Most saw the main value of its analysis as being in its political realism. It presented a cross-party consensus about the best way of driving higher standards of behaviour in the banking sector.

There are some indications that the vast quantity of evidence collected by the Commission may have had a slightly detrimental effect on the quality of the analysis it was able to undertake, simply because of the time constraints imposed by the 'out date' to which the Commission was working (although in practice this was shifted a number of times). The staff and members simply spent so much time collecting evidence, that they did not have as much time as they would have liked to analyse it and reflect it in their reports. Andrew Tyrie told us that at the start of the inquiry he was keen to produce a 'different kind of report' which would be shorter and punchier than the typical product of joint-committee inquiries. But the Commission took an explicit decision to produce a more typical committee report rehearsing the evidence received. One factor in this was the wish of the members who had led on all the different panels to see the evidence they had taken reflected in the Commission's conclusions and recommendations. In practice anyway the limited time available meant it would have been impossible to boil down the Commission's conclusions into a punchier format. In the end, without annexes, the main body of the PCBS's final report *Changing Banking for Good* ran to 524 pages with 165 conclusions and recommendations.<sup>55</sup> One interviewee observed, 'There's clearly not 165 things that are important. Actually there's probably five things that are important. And to actually come down and say, "These are the five things that we need to change", I think you are likely to have more impact with that kind of way of doing it.'<sup>56</sup>

Some of those we spoke to have been involved in the implementation of the Commission's recommendations. Some noted that a few of the PCBS's recommendations had led to unintended consequences but the consensus seemed to be that the vast majority were coherent and implementable.

Several of those we spoke to saw the PCBS as the twin of the Treasury Select Committee, which they thought had significantly increased the degree of **openness** involved in the process of their accountability to Parliament. One told us:

I think frankly the rules of the game have changed... the problem is that I don't think we're quite clear on what the rules of the game are. But I think they've changed. Certainly I take a view that we have to be more open with select committees than would have been the case in the past. Because if you go to the Treasury Select Committee and say, 'Sorry I can't tell you that because it's confidential', good outcomes don't come from that. And it's not just personal. It's also for the institution. Because MPs then think well this is just a secretive institution, it doesn't tell us anything, how can we hold this thing to account? And it's a good point.

It seems that the very existence of the Commission and the process of its inquiry had an impact on the banking industry. It put information on the public record which had not previously been available and which will provide future historians seeking to understand the financial crisis with a rich resource. Its capacity to do this was enhanced by the use of QCs who brought particular skill in forensic questioning, and some witnesses felt that the fact that the Commission was a joint committee with the House of Lords made the style of its questioning better suited to promoting openness.

Those we spoke to told us that many people in the financial sector were already used to having to give evidence to the Treasury Select Committee and Lords Economic Affairs Committee, so the experience of appearing before Parliament was not novel. But for the banks it was a relatively unusual experience for problems in their industry to be the main focus of such a high-profile parliamentary inquiry. What was most unusual for them was giving evidence in a context where they knew that the Commission's recommendations (based on the **lesson learning** it had undertaken) would almost certainly be implemented by the Government. Andrew Bailey, Deputy Governor of the Bank of England told us:

<sup>54</sup> Andrew Tyrie MP told us that in his view access to external advice was the Commission's most important innovation, including because of the way it shaped the evidence gathering process.

<sup>55</sup> Several interviewees commented that the main report did not seem to have all been written in the same 'voice' and had evidently had a number of different authors.

<sup>56</sup> A summary press release was issued when the final report was published which succinctly summarised the conclusions and recommendations.

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The PCBS took some bold and welcome steps, in terms for instance of introducing much stronger personal responsibility for senior bankers. The reaction from the industry was in my experience mixed, with a recognition of the issue, but sometimes a pained 'do we have to do all of this?' I have been clear that this is the will of Parliament, it is not a pick and mix.

For some individuals the Commission's inquiry process had very real personal consequences, the prime example being James Crosby who surrendered the knighthood he had been given for 'services to the financial industry' after a coruscating report from the Commission.

One of the aims of members of the Commission was to restore public trust in the banking sector by raising standards in the industry. Success in this regard might be understood as changing the **context** of the Government's regulation of the banking sector. Although it is impossible to track how public confidence might be affected in the long term by the PCBS's recommendations (alongside all the other factors that will affect it), those we spoke to made some comments about the impact which the process of the inquiry itself may have had.

The primary contextual impact claimed for the Commission was that it had a cathartic effect for the public. Watching the bankers, whom the public had been told were responsible for the financial crisis, held to account before Parliament was seen to have been important. One member of staff suggested that the Commission's approach had contributed towards a change in the way that the banks had framed their marketing, which was now more focused on informing the public about financial products and, for those such as TSB without an investment banking arm, about how they existed for the benefit of customers.

Although some commission members spoke about the importance for the public of the inquiry, the PCBS did not make any particular efforts in the area of public engagement. While it engaged with the media in the usual way of select committees, and was the subject of considerable press attention (particularly in the business pages and industry press) its focus was on making recommendations to the Government about the regulation of the financial sector rather than on engaging the public with its process or findings. Commission member, Andrew Love MP, said that if the Commission had had more time available, this was an area on which he would have liked to see more focus.

I think we had very little impact on the public debate. I was very disappointed that much of our report fell on deaf ears... it was disappointing that we didn't have a wider debate about some of the things we were suggesting because I think it was an important contribution. Whilst it wouldn't be easy to sell a complex report of that nature to the public, I think it would have been good if we'd put in more effort and time and focus put in in ensuring that there was some form of public debate.

### Proving parliamentary capacity to run a major inquiry

The main impact which the Commission had on the **process** of government was in demonstrating that Parliament could effectively run an inquiry into an issue that might otherwise have been the subject of a public inquiry. Overall there was a consensus among those we interviewed that the Commission succeeded in doing so. They also noted the advantages and disadvantages of the model which it demonstrated.

The involvement of politicians with diverse personal and political interests meant that the PCBS probably ranged more widely and was less focused than a public inquiry might have been. But the fact that the Commission was a parliamentary inquiry meant that its members understood the practicalities of the legislative process, produced politically-workable recommendations and had a unique level of access to the legislative process when it came to getting them implemented. When they formulated their proposals they knew that they would not be able to delegate responsibility for seeing them implemented to others, instead they personally would have to defend their recommendations in parliamentary debate.

One of the most significant factors contributing to the Commission's impact was the way commissioners followed up their recommendations on the Banking Reform Bill as it passed through Parliament, even after the PCBS itself had been disbanded. The Bill, on which the PCBS had conducted pre-legislative scrutiny, passed quickly through its Commons stages without much amendment. In the Lords however, members of the Commission formed a powerful lobby which succeeded in mobilising their lordships to strengthen the Bill's provisions in line with PCBS recommendations. Considerable planning and organisation went in to enabling commissioners to deploy the expertise they had gained and to marshal the arguments they had developed to bring pressure upon the Government. A coalition including a former Conservative Chancellor (Nigel Lawson), a cross-bench former

Cabinet Secretary (Andrew Turnbull) and the Archbishop of Canterbury proved particularly difficult for the Government to resist, not least because Labour peers were keen to lend support to amendments on which the Government might be defeated.<sup>57</sup> Although the Government had implicitly committed to adopting the Commission's recommendations, this led to the final Financial Services (Banking Reform) Act being stronger than the Government might have anticipated. Most significant was the creation of a reserve power enabling regulators to enforce separation between the deposit-taking and investment arms of banks – the so-called 'electrification' of the ring-fence which the Vickers Commission had proposed.

Over a longer time frame, follow-up was one of the biggest problems encountered by the Commission. Like most public inquiries and commissions (but unlike departmental select committees) the PCBS ceased to exist at the moment it laid its final report before Parliament and its staff were dispersed to other roles. This has made it relatively difficult for the Commission to follow up its recommendations, especially as several of its members had since moved on to busy jobs. The Treasury Committee has largely taken on the mantle of tracking their implementation<sup>58</sup> – after all, half of the Commission's membership was drawn from the TSC – but it has limited time to do this alongside its existing, busy programme and most of its staff have had to get up to speed with the subject matter covered by the Commission almost from scratch. The Lords Economic Affairs Committee has also played a role. Andrew Tyrie himself has also continued to use his extensive network to track and push PCBS's recommendations and, where possible, brought commission members together to review progress.

The Government has publicly argued that the PCBS was a success. In the statement which accompanied its response to the final PCBS report, it said: 'The Government's response means that the PCBS's conclusions are being implemented less than a year since it was set up in the wake of the LIBOR scandal last summer. This vindicates the judgement that a parliamentary commission would be swifter and more appropriate than a lengthy public enquiry.' Nonetheless, the independent course plotted by the Commission made its inquiry a somewhat uncomfortable experience for the Government. As Lord Lawson put it, although the Commission's recommendations were not as radical as they could have been, 'it was more radical than I think the Government had bargained for'. Consequently there seems to be a palpable lack of enthusiasm in government for a repeat of the experience.

Within Parliament itself the Commission established a strong reputation. Among staff of the House, the Commission was also seen as an important piece of work which provided a valuable opportunity to experiment with alternative approaches to committee inquiries, albeit one which distorted the efforts of the Committee Office for a time by absorbing considerable focus and resource. Both members and staff described the workload as 'absolutely extraordinary'. The accepted view appears to be that it would be difficult for the Commons Committee Office, as currently configured, to resource more than one similar Commission at any one time.

Among most MPs and peers we spoke to the view was that the Commission proved that Parliament was capable of running a major one-off investigation into a significant issue and delivering a credible outcome relatively quickly and at lower cost than a public inquiry.<sup>59</sup> A further marker of its success in parliamentary terms is the fact that other chairs have since brought forward proposals for commissions on other subjects. The most advanced proposal was that of Bernard Jenkin MP, the Chair of the Public Administration Select Committee, for an inquiry into the future of the Civil Service. It seems there was little government support for this suggestion. The circumstances which made the Commission possible, especially the Government's commitment to implement the Commission's findings, were unusual. And the prospects of the exercise being repeated in the near future seem low.

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<sup>57</sup> Ironically Andrew Tyrie found that the support of Labour peers for PCBS-sponsored amendments in the Lords actually made his life harder, as he was subject to greater peer pressure from backbench colleagues not to sponsor defeats that might weaken the government.

<sup>58</sup> Treasury Select Committee, *Seventh Report of Session 2014-15: Implementing the recommendations of the Parliamentary Commission on Banking Standards*, HC 768, Parliament UK website, October 2014, retrieved 26 May 2015 <[http://www.parliament.uk/documents/commons-committees/treasury/PCBS\\_Report.pdf](http://www.parliament.uk/documents/commons-committees/treasury/PCBS_Report.pdf)>

<sup>59</sup> House of Commons Liaison Committee, *First Report of Session 2014-15, Legacy Report: Annex C: Parliamentary Commissions – Note by the Chair of the Treasury Committee and former Chair of the PCBS, Andrew Tyrie MP*, March 2015, retrieved 26 May 2015, <<http://www.publications.parliament.uk/pa/cm201415/cmselect/cmliaisn/954/95402.htm>>

### Summary

The PCBS was a novel form of parliamentary committee, a development from the standard model of a joint Commons and Lords committee, which enjoyed several new powers and employed innovative working practices. The Commission's innovations did contribute to its impact, which was considerable, although they also had attendant risks. But the most significant factors contributing to the Commission's impact were its political backing, resourcing and the expertise and relationships brought to the table by its chair and members.

# Conclusion

Each of our case study committees innovated during the 2010 parliament, but in quite different ways. The Defence Committee largely followed a traditional model of inquiry, but used some innovative practices within that model. The Home Affairs Committee adapted the traditional model of a committee inquiry to deliver particular types of impact. The Parliamentary Commission on Banking Standards was an attempt, successful in many ways, to conduct a whole new model of parliamentary inquiry.

Our research shows that while all committees have the potential to deliver a range of different kinds of impact on government, in practice certain approaches to inquiries tend to be better at delivering particular types of impact than others. There is no single model which will be appropriate for all committees, let alone all inquiries, and committees need to be clear about what outcomes they are trying to achieve when they decide what approach to take in each case.

Our interviewees made judgments on the relative strengths and weaknesses of our case study committees in terms of the impact they were able to have. In some cases they thought the MPs involved were most interested in achieving personal, party or parliamentary goals. Where committees were aiming to have a positive impact on government they judged them to be strongest at identifying and exposing new evidence and helping government to be more open, but relatively weaker at undertaking analysis of evidence and creating the circumstances to enable government to learn lessons. Where the committees behaved predictably, they generated impacts on processes within government, which adapted to respond to its expectations of committee behaviour. Committee work was rarely designed to produce impacts on third parties who might subsequently influence government. But influencing views of the role of Parliament within our democracy was an important motivation for MPs and did affect how they approached their work.

The Parliamentary Commission on Banking Standards demonstrated that it is possible for Parliament successfully to run a major inquiry on a subject which might otherwise have been the subject of a public inquiry, and illustrated the advantages and weaknesses of the model. The Commission produced credible recommendations with cross-party backing and was probably quicker and definitely cheaper than an equivalent public inquiry would have been. But for the Government the relative independence of the Commission's approach may have been seen as a disadvantage. The effectiveness with which commissioners followed up their recommendations as the Financial Services (Banking Reform) Bill passed through Parliament meant the Government found itself strengthening aspects of its legislation beyond what had originally been intended. The need to maintain political consensus contributed towards 'creep' in the Commission's terms of reference, and the collection of such a huge volume of evidence that it proved impossible to rapidly distil the Commission's findings into the sort of punchy final report that some had originally envisaged. And for some people, certain commission practices raised questions of fairness to witnesses.

Now that the precedent for a parliamentary commission has been set, there have been calls for the experiment to be replicated. Our research demonstrates that the circumstances in which it was appropriate to establish a parliamentary commission were quite specific. As Andrew Tyrie MP has written elsewhere, a future commission is likely to be an appropriate choice where: there is a clear problem to be addressed which is both a matter of public concern and amenable to change; there is all-party agreement to a commission being established; and other forms of inquiry (normal select committee, judge-led or expert) are deemed inappropriate.<sup>60</sup>

The particular set of circumstances and success factors which made a parliamentary commission a satisfactory means of conducting a major inquiry will not be unique. Nor are they likely to occur frequently. This is likely to please both the Government, who bore much of the cost and the political risk of this new approach, and the parliamentary authorities, who worry about the impact the Commission had on the rest of the committee system.

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<sup>60</sup> House of Commons Liaison Committee, *First Report of Session 2014-15, Legacy Report: Annex C: Parliamentary Commissions – Note by the Chair of the Treasury Committee and former Chair of the PCBS, Andrew Tyrie MP*, March 2015, retrieved 26 May 2015, <<http://www.publications.parliament.uk/pa/cm201415/cmselect/cmliaisn/954/95402.htm>>

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But when discussions are next being held about the right vehicle for a public inquiry, both government and Parliament now know that there is an extra option on the table. And if the decision is taken to use a parliamentary commission model again, then useful lessons can be learnt from the example of the PCBS.

More important than the question of whether a parliamentary commission should be replicated, though, is the question of what the existing committee system can learn from the experience of the PCBS, and that of other committees, in the last parliament. This paper sets out many relevant findings.

Some lessons from the PCBS about protections for witnesses and the value of the power to conduct virtual meetings have already been taken on board by the Liaison Committee. But other committees need to understand the other lessons to be learnt from the Commission's work. Among other things these include the significant value of 'soft' sources of influence – in particular, relationships and subject matter expertise – and the pros and cons of using seconded staff and specialist advisers to increase the expertise available to committees. Our other case studies also provide much food for thought. The example of the Defence Committee illustrates the difficulty of achieving impact without a constructive relationship between a department and a committee. It also highlights, among other things, the value of regular follow-up on recommendations. The Home Affairs Committee demonstrated the opportunities for short-term impact created by a more responsive model of inquiry, but also highlighted some potential risks to be managed in taking this approach.



## Annex: Case study committee statistics

	Defence Committee	Home Affairs Committee	Parliamentary Commission on Banking Standards
Period of appointment (duration)	May 2010 to March 2015 (4 years 11 months)	May 2010 to March 2015 (4 years 11 months)	July 2012 to June 2013 (1 year)
Total meetings	198	205	88 (54 full Commission, 34 panels)
Meetings at which oral evidence taken	105	169	74 (40 full Commission, 34 panels)
Meetings at which oral evidence taken in part or wholly in private	9	7	0
Specialist advisers appointed	17	7	22
Witnesses from whom oral evidence taken (total)	340	793	252 (103 full Commission, 149 panels)
Witnesses (ministers and civil servants)	51%	21%	13%
Witnesses (other)	49%	79%	87%
Reports (excluding special reports)	47	72	5
Number of inquiries	38	109	1
Inquiries with only one evidence session	20	55	0
Number of overseas visits	28	9	0
Number of UK visits	27	27	0

Data in this table is taken from House of Commons Sessional Returns for 2010-12, 2012-13 and 2013-14, available at *House of Commons Sessional Returns*, Parliament UK website, retrieved 5 May 2015, <<http://www.publications.parliament.uk/pa/cm/cmresret.htm>> and unpublished returns for the Home Affairs and Defence Committees for 2014-15.

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