



# Suggestions for possible changes to the procedure and business of the House- a note by the Clerks

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This Standard Note reproduces the text of a letter and accompanying set of suggestions prepared by Robert Rogers, Clerk of Legislation, for circulation to the Leader of the House, Shadow Leaders, Whips, and Chairs of relevant Committees, and those Members intending to stand in the election for Speaker, due to take place on Monday 22 June. It is reproduced in this form for the convenience of other Members.

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# 1 Letter from Robert Rogers, Clerk of Legislation

11<sup>th</sup> June 2009

In his letter of 5<sup>th</sup> June, Malcolm Jack promised a paper from me on possible changes to the procedure and business of the House. I attach a list of suggestions. I should perhaps make some points about the list:

- it draws on previous work but also makes a number of new proposals
- rather than make it entirely thematic, I have laid it out along the lines of what could be done almost immediately by the Speaker, what could be done by agreement but without formal House decision, and what would need the authority of the House (whether directly or by legislation)
- for simplicity, the suggestions are deliberately not integrated (for example, Public Bill Committees might change or disappear if all Bills went to select committee); nor, as they are a menu of choices, do they attempt take account of the total amount of Parliamentary time required
- I have only occasionally touched on pros and cons. If there is interest in pursuing a suggestion, then we can of course provide detailed briefing
- The proposed Parliamentary Standards Authority and possible related changes are not included

I would be happy to discuss any aspect of this with you. If you are interested in particular areas, I will draw in the appropriate colleagues to assist.

**Robert Rogers**  
**Clerk of Legislation**

## 2 The suggestions made by the Clerks

### 2.1 A: COULD BE DONE BY THE SPEAKER ON HIS OR HER OWN AUTHORITY

#### Questions, statements and debates

- A1 **Oral Questions:** limit Members to a single supplementary question with the aim of getting through most or all orals in the time available and making Question Time more inquisitorial. Keep Ministerial answers commensurately short.
- A2 **Urgent Questions:** while continuing to observe criteria, use UQs (and more of them) to show the House responding to public concerns and calling the Government to account upon them. Option of much shorter-running UQs (say 15 minutes) as part of the armoury.
- A3 Increase the number of **urgent (SO No 24) debates**, with the same aim. [Debates depend on applications, but an expectation would quickly be created.] Use the discretion as to length of debate (SO No 24 (2) (b)(i)) to have more debates with less disruption of business.

- A4 **Written Questions:** Introduce a tracking system, showing those unanswered and how long they have been without an answer. Make this available on the Parliamentary website.
- A5 Actively discourage **Ministerial statements** details of which have been disclosed to the media in advance (there is no power at the moment actually to prevent, but see C1). (Under present powers, there is the possibility of cutting a statement short, and allowing a UQ on the same subject on a subsequent day.)
- A6 Actively discourage Ministerial statements on days when programmed business is being taken. See also C1.

### **Business: general**

- A7 Set in hand a rewriting of Standing Orders, with a parallel commentary and guide. Aim to shorten and simplify, producing (1) a practical document for the House and (2) greater understanding/accessibility for those outside Parliament.
- A8 Speaker to preside at [some] Friday sittings to demonstrate that Private Members' Bills are an integral part of the House's business. [But PMBs could be taken on another day: see D6 ]
- A9 As a means of integrating Select Committee activity more closely with House business, include on the Order Paper those Select Committee reports to be published that day (as is already done with Written Ministerial Statements).
- A10 Rename half-hour adjournment debates "back-benchers' debates" or "end of day" debates (few outside Westminster understand what an adjournment debate is).

### **Profile and outreach**

- A11 Active media profile for the Speaker [and the House of Commons Commission] as the public face of the institution. More Speaker material on the Parliamentary website, explaining the work of the House and Parliament.
- A12 Speaker as ambassador for the House in outreach activity (for example, hosting events around the country to explain the work of the House/Parliament (and to reach people and communities less likely to engage with Parliament). Associate the Speaker with currently planned education initiatives.
- A13 Institute a programme of *Speaker's Scholars* as part of Parliamentary outreach (perhaps a dozen young people on a year's scholarship working in all aspects of the support of the House, with accompanying key messages on access, diversity, &c). This could be supplemented by a "pages" scheme like that in Ottawa (young people helping with administrative tasks, visitors, &c).
- A14 Put the Speaker's personal authority behind efforts to (re)familiarise the Civil Service and other public agencies with the operation of Parliament.
- A15 Use the resources of the CPA, the IPU and the House's Overseas Office to create a focus of overseas Parliamentary strengthening and Parliamentary diplomacy (especially where democratic institutions are under pressure, emerging from conflict, &c) under the Speaker's authority.

## **2.2 B: COULD BE DONE BY THE PARTIES/WHIPS/OTHERS BY ADMINISTRATIVE ACTION, NO DECISION OF THE HOUSE REQUIRED**

### **General**

- B1 Allow a reasonable interval between polling day and the day of first meeting of a new Parliament (two weekends) to allow proper induction of new Members and preparation for the start of the House's work.

### **Legislation**

- B2 Return to agreed programming of bills, with Opposition names on the Motion (especially relevant to Report stages). See also C7.
- B3 Provide more time for legislative business on the Floor by reducing the time for poorly attended general debates (or moving them to Westminster Hall), and...
- B4 ...use split committals for more Bills, providing debate in Committee of the whole House on the key issues of a Bill [thus relieving pressure on time at Report stage, and involving principal Front-Benchers (who rarely serve on Public Bill Committees) at that stage].
- B5 Use Westminster Hall for Second Readings of uncontroversial Bills.
- B6 Supplement the resources of the Public Bill Office with legislative drafters (perhaps Parliamentary Counsel on secondment) to support Members successful in Private Members' Bill ballot. (The UK is unusual in not having such a service.)
- B7 Commit more Bills to select committees (on the Armed Forces Bills model). See also D5.

### **Questions**

- B8 Restore "cross-cutting" Questions (on subjects covering responsibilities of two or more Departments) to Westminster Hall.

### **Select Committees**

- B9 Increase select committee status with a presumption that a Member should not be on more than one investigative select committee (so not counting domestic committees, JCSI, &c). See also C29 and C32.
- B10 Take select committee evidence on oath so that false evidence attracts the penalties for perjury rather than being dealt with through the means of Parliamentary privilege. See also C36.

### **Debates**

- B11 Subjects for topical debates to be proposed by Members, and a voting system made available to the public on the Parliamentary website. Each week's choice made by the Speaker from the top (3?) (5?) to lessen the influence of voting campaigns. See also C3. (A similar system could be used for debates on EDMs.)

- B12 [Three]-hour debates on Departments' future spending plans, to be chosen by the Liaison Committee on the basis of committee bids.
- B13 Two- or three-day debate on the Comprehensive Spending Review, perhaps taking time from the Budget debate.
- B14 Debate Select Committee reports on substantive Motions, normally proposed by the Committee. Have the same system for the Procedure Committee so that it can put its recommendations directly to the House.

### **Profile/outreach**

- B15 Make the planned education facility (now agreed by both Houses) a symbol of a new openness (in conjunction with teacher training initiatives), possibly extending its capability (the possibility for each child to visit once during a school career would need a capacity of 600,000-700,00 a year as against plans for 100,000). See also Speaker role in A12.
- B16 Subject to requirements of a working building and security, empower the current Visitor Services Review (reporting to Committees by Christmas 2009) to consider more radical options on access to the Palace (different parts of the estate rather than line of route or nothing, themed tours (art/ architecture/history/study tours on specific aspects of the House's work), different languages, weekend tours, &c).
- B17 Produce a citizen-focused annual report on the work of the House (value added, the different ways the public have been involved, select committees' effect on policy, &c, with guidance and ideas on how to engage with and influence the work of Parliament (and a version for younger age groups).

## **2.3 C: WOULD NEED DECISIONS OF THE HOUSE**

### **Debates, statements and time on the Floor**

- C1 Give the Speaker power not to allow a Government statement (for example if the contents had been given to the media or it would disadvantage important subsequent business that day). [An alternative on the latter point would be injury time.]
- C2 Make better use of time when the House rises early (perhaps a more flexible replacement for a second Adjournment debate).
- C3 Amend Topical Debates SO (No 24A) to allow more time for some debates.
- C4 Allow Members to refer to each other in debate as "Mrs Smith", "John Jones", &c, making proceedings more intelligible without reducing the necessary formality (and without changing the practice of speaking through the Chair).
- C5 Restore Private Members' Motions (whether on a Friday or another day of the week); at the moment the House of Commons is almost alone among Houses of Western Parliaments where an individual Member has no opportunity to put a proposition to the House and have it voted upon.
- C6 Reassign one of the Ten-Minute Rule Bill slots as a multi-purpose backbench opportunity (perhaps an oral Question that could be proceeded with for 20 minutes, an opportunity to highlight a [late] Government reply to a Select Committee report, or

a pattern of answering of PQs). [The slot could still be used for a Ten-Minute Rule Bill if a back-bencher successful in the ballot wished to use it for that purpose; but presentation Bills are just as technically effective for introducing private Members' legislation.]

## **Legislation**

- C7 Entrench agreed programming by introducing hurdles for non-agreed programming (for example, a full day's debate on a programme motion).
- C8 Allow the calling of amendments to Government New Clauses, and amendments to Lords Amendments, when taken under a programme knife.
- C9 Extend Public Bill Committee (PBC) oral evidence to all bills, not just Commons starters, and include the Finance Bill (but see also D5).
- C10 When a Public Bill Committee is appointed, allow it to proceed initially like a select committee (meeting of whole committee in private to decide witnesses, number of oral evidence sessions, &c., with the Scrutiny Unit rather than the Government Whips making the arrangements and the process being under the control of the Chair); opportunities for recall of witnesses, or later oral evidence sessions as the Committee reaches different parts of a major bill.
- C11 Allow more time between the Second Reading of a Bill and the start of Public Bill Committee, and time between the initial oral evidence sessions and the start of consideration of the Bill for the tabling of amendments arising out of evidence, and reaction by the public and relevant bodies outside the House.
- C12 Put a notice on the parliamentary website when each Government Bill is introduced, explaining the PBC procedure and the opportunity to give evidence and follow proceedings.
- C13 Facilitate recommitment of a Bill if the Government proposes to amend it heavily on Report. [Or a default setting of two days on Report, with longer notice of amendments required.]
- C14 Require explanatory statements on Government amendments in Committee, but especially on Report, to state whether a Government amendment has been tabled in fulfilment of an undertaking or in response to a suggestion (whether Parliamentary or not), and giving chapter and verse. This would make clear which amendments are being tabled for purely Governmental reasons (late drafting/policy changes, &c).
- C15 Automatic carry-over of Bills to second Session to provide time for better scrutiny.

## **Legislation: Private Members' Bills**

- C16 Remove the Government's monopoly of decision as to whether a Private Member's Bill can go into a PBC; substitute a queue with two? three? Private Members' Bill PBCs available.
- C17 Private Members' Bills: whether on a Friday or not (see D6), give a maximum of three hours for any Second Reading debate (which would be cumulative in successive sittings) after which the Question would be put. Safeguards could include a minimum number of Members voting in the majority.

C18 Have the option of Report Committees for Private Members's Bills.

### **Legislation: delegated legislation and European business**

C19 Establish a sifting/merits Committee for SIs, with power to require debate (but also to select SIs for approval without debate, thus ending the setting up of Delegated Legislation Committees for a few minutes' perfunctory debate).

C20 Extend "praying time" on SIs from 40 to 60 days to provide more time for Parliamentary proceedings (and for acting on public reaction to an SI) (this would require amendment of the Statutory Instruments Act 1946).

C21 Model procedures for debating SIs, both on the Floor of the House and in Committee, on those for European Committees (questions to the Minister followed by debate). In Committee, debate SIs on substantive Motions. A Government defeat in Committee would trigger a debate on the Floor.

C22 SIs not to be taken in the House until considered by the JCSI; a Report "drawing the special attention of both Houses" to an SI would trigger a debate on the Floor if the JCSI so recommended.

C23 Give the European Scrutiny Committee power to require a limited number debates on the Floor of the House, to be held within a specified time, on key EU documents. For such debates, adopt the European Committee format: questions to the Minister followed by debate, maximum 2½ hours.

### **Questions**

C24 Ensure that Parliamentary Questions can be initiated only by elected Members, and not by staff without authorisation, by changing "soft" to "hard" authentication for e-tabling (or, more simply, accept by email on the basis of Member's confirmatory telephone call).

C25 Revalue written PQs with a rationing system; misuse of or attempts to manipulate the ration would be a conduct issue for the Speaker and then the Committee of Privileges.

C26 On the basis of fewer written PQs, introduce a system whereby stonewall answers or the withholding of information could be challenged by appeal to a select committee with power to require answers.

C27 Split Question Time between more than one principal Department so that main Departments answer more often than every five weeks, thus providing more current calling to account. Increase the period for Question Time, perhaps to 80 minutes.

C28 Allow Lords Ministers to answer Questions in Westminster Hall.

### **Select Committees**

C29 Establish an independent *Select Committee Panel* [Liaison Committee proposal] or *Committee of Nomination* [subsequent similar Robin Cook proposal] to put names for select committee membership to the House. Chairs of Committees could be proposed by the Panel/Committee for decision by the House (although that would remove the power of Committees to elect the candidate that they themselves wished to have in the post). A ballot for Chairs would be possible but would involve a large number of

candidates for 35 or more Committees and the process would probably take several days.

- C30 Give select committees the power to report non-participation of a Member to the Panel/Committee, with a requirement for replacement within a sitting week. Change the present system whereby a momentary appearance is enough to have a Member's presence formally recorded.
- C31 Introduce the "select committee slot" (half an hour in prime time Tuesday or Wednesday, with a Ten-Minute Rule slot moving to Mondays) as recommended by the Liaison Committee in the *Shifting the Balance* report of March 2000, to allow the presentation of a select committee report on publication, and immediate reactions.
- C32 Increase investigative select committee status and focus by reducing numbers to 11 maximum, perhaps 9. [There would be other worthwhile select committee opportunities if, for example, more legislation were considered by select committees.]
- C33 Allow the National Audit Office to support Departmental Select Committees on the same footing as the Public Accounts Committee.

### **General**

- C34 Give the Speaker authority to recall the House (removing the right of initiative given to the Government by SO No 13), possibly subject to a trigger of requests from a specified number of Members.
- C35 Give the House the opportunity to approve/elect its delegations to international assemblies (perhaps on recommendation of Select Committee Panel/Committee of Nomination: see C29). At the moment the UK is almost the only country in the Council of Europe that does not do this.
- C36 Implement the recommendations of the Joint Committee on Parliamentary Privilege of 1998-99, in particular:
- to enact a Parliamentary Privilege Act to enshrine the privileges of the House (free speech, exclusive cognisance, &c) in statute [as the Joint Committee said, "making it easier to understand that parliamentary privilege matters not just to members of Parliament but to the electorate" (Recommendation 39)]; and
  - to make wilful failure to attend select committee proceedings, answer questions or produce documents a criminal offence (Recommendation 27)
- C37 Connect Public Petitions more effectively with proceedings through debate/decision opportunities (whether in Westminster Hall or through (for example) C6).

## **2.4 D: WOULD NEED DECISIONS OF THE HOUSE – MORE AMBITIOUS**

- D1 Establish a Business Committee (chaired by the Speaker or CWM) to formulate proposals for the arrangement of business (rolling programme four weeks ahead, exceptions for urgency, opportunity for a vote (and on selected amendments) each week in respect of the next fortnight's business). [An alternative might be a Business Committee to consider non-Government time. As many debates in Government time are in response to requests from Opposition parties and back-benchers this could be



formally recognised as a new category of business to be disposed by the Business Committee.] Linked with this...

- D2 ...allow the Opposition parties to use their time more flexibly, for example to ask urgent questions, have topical debates on a subject without needing a substantive Motion, consideration of petitions, delegated and even primary legislation.
- D3 Introduce qualified majorities for the suspension of Standing Orders (mainly those relating to the regulation of business), ensuring that in most circumstances the Government must rely on support from elsewhere in the House (when necessary, after making a convincing case for urgency).
- D4 No financial Estimate to be put to the House except on the basis of a report (on the whole Estimate) from the relevant select committee (if the committee wishes). Opportunity for debates on individual Estimates; amendments to allow increases, on the basis of balancing decreases, to be in order.
- D5 Bills which have not been subject to pre-legislative scrutiny (PLS) to have a mandatory select committee stage (which could be before Second Reading (as in the Scottish stage 1). Any significant change from the PLS version in a Bill as introduced would be referred to a select committee.
- D6 Rebalance the pattern of a sitting week with a Committee day on Wednesdays and/or Private Members' Bills and Motions on Wednesdays, extending the active part of the Parliamentary week.

**Robert Rogers**  
**Clerk of Legislation**

11<sup>th</sup> June 2009