INCREASING SELECT COMMITTEE EFFECTIVENESS: SOME SUGGESTIONS

Most people agree that select committees are working more effectively than they were. Certainly there's a greater willingness, and capacity, for them to require the executive—whether Government or its quangos and agencies—to explain its actions and decisions.

My colleagues and I on the Treasury Committee, and my former colleagues on the Parliamentary Commission on Banking Standards, developed a number of tools for better scrutiny which may be of interest to the next Liaison Committee. Here is a summary of some of them.

Tools used by the Treasury Committee

• Use of specialist advisors to oversee internal regulatory reviews

When, at the Committee’s request, the Financial Services Authority commenced an internal investigation into the failure of RBS, the Committee appointed two Committee specialist advisers to oversee the regulator’s work. The advisers’ job was to make sure that, although an internal report, the FSA was not pulling its punches. They were placed in the FSA itself, with full access to people and all papers. The Committee has subsequently developed this technique in other cases, in particular the regulatory review into the failure of HBOS, on which its two special advisers (both very senior and experienced) have been working for a number of years.
• Committee scrutiny of independent external reviewers

External reviewers, appointed by a quango to conduct investigations 'independently', need to be free to do their jobs properly. When Lord Grabiner and Simon Davis (of Clifford Chance) were engaged to conduct investigations into the Bank of England and the FCA respectively, the Treasury Committee intervened to ensure that their terms of reference, and the rules of conduct for their review, would enable them to provide comprehensive and independent reports.

• Committee power of approval and veto over senior quango appointments

When the Office for Budget Responsibility (OBR) was established in 2010, the Committee demanded and obtained a statutory veto over both the appointment and dismissal of its leadership. Its Chairman Robert Chote's independence has not been in doubt but, for the future, the veto will have the benefit both of ensuring that Government stooges cannot be appointed, and of giving protection from dismissal to appointees who might subsequently come to conclusions unfavourable to the executive. This was the first time that a select committee has been accorded such statutory appointment powers.

• Committee scrutiny of other appointments

Appointments to all quangos benefit from rigorous scrutiny by select committees. The Treasury Committee now holds confirmation hearings with appointments to the Bank of England, the Financial Conduct Authority and the Financial Reporting Council among others. Even in the absence of a statutory veto, the Committee's withholding of support would probably make appointment very difficult, if not impossible. Confirmation hearings therefore act as a powerful influence on the executive to put forward suitable candidates. The precedent for these appointment hearings had been set with members of the Monetary Policy Committee in 1997.

• Committee persistence

The Treasury Committee has examined the governance structures of major quangos in unprecedented depth. In 2011, the Committee concluded that the Bank's system of governance was entirely inadequate. The Committee made wide-ranging
recommendations for reform. These were initially resisted by both the Bank and the Government. In the last 18 months, both the Government and the Bank have agreed radically to improve the governance structure of the Bank, and largely on the lines originally recommended by the Treasury Committee.

**Tools used by the PCBS**

The PCBS, a joint Commission of both Houses, was established in the wake of the Libor scandal to inquire into professional standards and culture in the UK banking sector and to make recommendations for action. The Commission took advantage of its novelty, at its inception, to obtain substantial new powers and tools of scrutiny granted by order of both Houses. Many of these were used. Some may well be of use for select committees. Among the novel techniques were:

- **Use of counsel to question witnesses**
  The PCBS employed counsel to question witnesses directly. This was helpful in establishing facts and for picking up on inconsistencies in the evidence presented.

- **Use of ‘panels’ to gather evidence**
  The PCBS created investigative ‘panels’, enabling it to pursue multiple lines of inquiry simultaneously. The PCBS’s panels existed purely to take evidence, not to draw conclusions or develop policy proposals—this avoided the risk of their becoming mini-committees, developing their own agendas independently of their main commission. The panels also had a quorum of just one, so individual Members could take evidence around the country without the rigmarole of a full Commission visit.

- **Legislative follow-up of conclusions by members**
  The members of the PCBS, being legislators, were able to follow up their most important recommendations by securing a number of crucial amendments to the Financial Services (Banking Reform) Act 2013. Former Parliamentary Counsel were employed to draft amendments, so that the Government could not brush off commissioners’ recommendations on grounds of shortcomings in drafting.
• **Extensive use of external expertise on secondment or loan**
  To help the Commission examine the highly complex and technical subject of bank regulation, on which Parliament had scarcely any staff expertise, it employed an unprecedented number of expert staff on unpaid loan, secondment and short-term contract from outside Parliament.

• **Streamlined process for approving written evidence**
  The Chairman was permitted to authorise the publication of written evidence, for example, without needing to hold a meeting with Members present, as long as he consulted all members and there was a majority in favour.

**Choice of a Parliamentary commission—an innovation in itself**

When a crisis or scandal breaks, governments have instinctively reached for a public inquiry—often with a judge in charge—to come up with answers, rather than asking Parliament to do the work. It is testament to the increasing credibility and effectiveness of the committee system that, when the Libor scandal broke in July 2012, the Prime Minister and the Chancellor concluded that Parliament could and should perform this role. What’s more, its use of staff on loan or secondment allowed the PCBS to have access to the necessary expertise at a fraction of the cost of a judge-led inquiry.

Future Parliamentary commissions, based on the model of the PCBS, can have merit, provided certain conditions are met: there needs to be a clear and identifiable problem with a high level of public concern and salience, which is amenable to proposals for change and which cannot readily be dealt with by an existing select committee; the terms of reference should be aimed at making proposals for reform, rather than providing a platform for Parliamentary grandstanding; and there should be all-party agreement to the idea of a Parliamentary Commission.

**Suggestions for the future**

There are a number of other ways in which the committee system could be strengthened further:
• **Enhanced powers for select committees**

Select committees have formal powers to send for persons, papers and records, but they have no power to enforce such summons themselves. The only credible power to punish witnesses refusing to appear before or submit evidence to a Committee would be 'Admonishment' at the bar of the House. But the use of this power today might degenerate into a damaging pantomime. In the next Parliament, the House should therefore give serious consideration to the adoption of a proportionate, useable power, designed to address egregious cases of failure to respond to committees' requests for persons or papers.

• **Restrictions on committee size**

Parties understandably want to keep backbenchers occupied. Whips' offices usually prefer larger committees. However, while there is a case that a larger committee can include a wider range of experience, the greater effectiveness and cohesiveness of a smaller group of nine to eleven is worth a lot. 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. Departmental select committees in the next Parliament, without exception, should have no more than eleven members—as the Liaison Committee has recommended, and as did the Wright Commission before it.

• **Preserving the gains made by select committees in this Parliament**

There is a risk that, as their effectiveness increases, select committees may become more politicised and partisan. This gives rise to the related risk that parties attempt to reverse the greatly enhanced independence and autonomy that select committee chairmen obtained by their election by the whole House. This would be a serious mistake: the select committees are one of the bright spots in a Parliament that still struggles to adapt to 21st century political discourse.

• **Taking formal decisions by teleconference**

Common in other workplaces, committees cannot do this; at present they still need to meet physically in order to take formal decisions. The Liaison Committee has, of course,
recently recommended that select committees be permitted to reach formal decisions (other than agreeing reports) at ‘virtual’ meetings.

- **Increased financial skills among House staff**
  A cadre of staff with financial and economic skills is still completely lacking in the House. It is now essential. This does not require recruitment of a heap of economists, but it does require much greater attention to the development of the necessary expertise in the course of a staffer’s career. Such greater expertise and experience, once obtained, will be of benefit to select committees with high economics or financial content to their work, not just the Treasury and BIS Committees, and in many other House roles too.

- **Maintaining support staff for Parliamentary Commissions after they have completed their final reports**
  The support team for the former Commissioners debating the Financial Services (Banking Reform) Act 2013 had to be hastily assembled because the Commission had formally ceased to exist once it had completed its major report, and its staff had been immediately dissolved. This was a big mistake. For any future Commission, Parliament will need to consider the merits of allocating resources to follow up work.

I will be placing this letter in the public domain.

Yours ever,

[Signature]

ANDREW TYRIE
CHAIRMAN OF THE TREASURY COMMITTEE