

<b>Institution:</b> University of Hull
<b>Unit of Assessment:</b> C21: Politics and International Studies
<b>Title of case study:</b> Post-legislative Scrutiny in the UK
<p><b>1. Summary of the impact</b> (indicative maximum 100 words)</p> <p>This case study focuses on the impact of Professor the Lord Norton of Louth's body of research on constitutional structures and procedures as that relates to the creation of mechanisms of post-legislative scrutiny in the UK Parliament. Since his ennoblement in 1998, the impact of this body of research on many areas of public policy, law and services has been both direct and linear, and via Norton's continuing contributions in the Lords chamber and through his chairmanship and membership of various parliamentary committees. The research that he conducted through the Centre for Legislative Studies, specifically that related to parliamentary monitoring of the effects of legislation and post-legislative scrutiny in the UK informed heavily Norton's Chairmanship of the House of Lords Select Committee on the Constitution, leading this committee and others to press the Government successfully to adopt specific proposals regarding systematic post-legislative review. Since 2008, UK Acts of Parliament are normally reviewed three to five years after enactment. This became established procedure and is included in the Cabinet Manual. Clearly, the official adoption of the body of research by the UK Parliament has impacted every piece of UK legislation passed in the current REF period.</p>
<p><b>2. Underpinning research</b> (indicative maximum 500 words)</p> <p>The impacts claimed are the effects of the mechanisms for post-legislative scrutiny set out in Norton's body of research, on work of the UK Parliament since 2008. Such scrutiny was non-existent before 2008, but was adopted following the impact of Norton's body of research on parliamentary reports, Norton's submissions to the Law Commission, and the subsequent endorsement by the UK Government and Parliament. For many years, Norton has produced what is widely recognised as the world-leading research into the legislative processes of the UK Parliament, including the procedures and monitoring of legislation from both Houses. The resulting body of research has appeared not only in books and articles but also through publication by a number of parliamentary and other public bodies (see section 3, item 3 below). This significant body of work forms one aspect of a broader research output by members of the Centre for Legislative Studies on the House of Commons, which has transformed fundamentally the understandings of parliamentary structures and behaviour, possessed both by practitioners and by academics. Norton's publications in this field have influenced many practising politicians, a point made by the Speaker of the House of Commons John Bercow's introduction to Norton's Speaker's 1911 Centenary Lectures, given in the Speaker's State Rooms in 2011.</p> <p>Before 2008, there was no systematic evaluation of the impact of legislation in the UK once it had been enacted. In 1999 the then-Leader of the Opposition, William Hague MP appointed Norton to chair a Commission on Strengthening Parliament, operating independently of the Conservative Party. Norton drew upon and extended his published body of research on the legislative process to shape the inquiry and the resulting report on post-legislative scrutiny, pre-legislative scrutiny and the legislative process in Parliament. The report of the 'Norton Commission', <i>Strengthening Parliament</i>, was published in 2000 and debated in the House of Commons. Hague announced that it would be a 'route map' for future Conservative governments. The then-Leader of the House of Commons Robin Cook drew on this research in 2001, referring to it in various public speeches as well as meeting Lord Norton to discuss how to take the proposals forward. Norton continued this research through his academic writings and in his authorship of the report of the House of Lords Constitution Committee in 2004 on <i>Parliament and the Legislative Process</i>. The latter recommended that post-legislative scrutiny should become the norm, with Acts being subjected to Parliamentary review to determine whether they had achieved their intended purpose, such reviews being carried out three years after commencement or six years after enactment, whichever was the sooner. These measures were adopted in 2008, and have impacted on the daily work of UK government since that time.</p>
<p><b>3. References to the research</b> (indicative maximum of six references)</p> <p>An indicative list of relevant publications is:</p>

- *Parliament in British Politics*, London: Palgrave Macmillan, 2005 [2<sup>nd</sup> edn. 2013]
  - 'Parliament and Legislative Scrutiny', in A. Brazier (ed), *Parliament, Politics and Law Making* (Hansard Society, 2004), pp.5-13.
  - 'Reforming Parliament in the UK: The Report of the Commission to Strengthen Parliament', *The Journal of Legislative Studies*, Vol. 6 (3), 2000, pp. 1-14.
  - 'Time Limits on Bills: Ending the sessional cut-off in the U.K.', *The Parliamentarian*, Vol. 78 (1), January 1997, pp. 96-99.
  - 'Legislative Procedure', *Seminar on the Democratic Functioning of Parliaments, Proceedings, Strasbourg, 21-22 November 1996*, Strasbourg: Council of Europe Publishing, 1997, pp. 85-96 [oral evidence pp. 27-42].
  - 'Standing Committees in the House of Commons: The need for change', *Politics Review*, Vol. 4 (4), April 1995, pp. 23-24.
  - 'The Legislative Powers of Parliament', in C. Flinterman, A. W. Hewringa and L. Waddington (eds), *The Evolving Role of Parliaments in Europe* (Maklu, 1994), pp.15-32
  - 'Memorandum of Evidence', *Making the Law: The Report of the Hansard Society Commission on the Legislative Process*, London: The Hansard Society, 1993, pp. 324-336.
- 'Public Legislation', in M. Rush (ed), *Parliament and Pressure Politics*, Oxford: Clarendon Press, 1990, pp.178-210.

**4. Details of the impact** (indicative maximum 750 words)

Lord Norton's research on Parliament, and on the legislative process, was instrumental in the decision of the House of Lords to appoint him in 2001 as the founding Chairman of the Select Committee on the Constitution. Under his chairmanship, the committee produced three major reports, plus numerous reports on Bills brought before the House, one of the most significant being *Parliament and the Legislative Process*. His successor as chairman, Lord Holme of Cheltenham, described Lord Norton not only as a 'hands-on chairman' but a 'hands-on keyboard chairman' because of his drafting of the committee's reports: Lord Norton undertook much or all of the writing himself. He authored the report on *Parliament and the Legislative Process*, the initial draft being accepted with all but minor amendments.

Lord Norton's extensive, authoritative research on post-legislative scrutiny, parliamentary procedures and the legislative process has been cited in numerous other parliamentary committee reports. The impact of Norton's body of research in this field is such that in 2010 the Commons' Public Administration Select Committee not only took evidence from him in one of its inquiries, but also appointed him a Specialist Adviser to the Committee to assist in completing its report. He has been invited to appear before numerous parliamentary committees to give evidence, overwhelmingly in respect of parliamentary processes including post-legislative scrutiny. His most recent appearances (November 2012, March 2013) were before the Procedure Committee and the Public Administration Select Committee of the House of Commons to advise respectively on reforming the procedure for Private Members' Bills and on reform of the civil service. Norton's production of this body of research also led to him being appointed by the House of Lords as a member of various Joint Committees appointed to examine draft Bills.

The Government acknowledged the importance of Norton's 2004 report's recommendations regarding post-legislative scrutiny and in response to the report asked the Law Commission to review the options. The Law Commission included the subject in its ninth programme and began work in July 2005. It issued a consultation paper and, following informal discussions between the Chairman and Lord Norton, asked Lord Norton to submit a memorandum. Lord Norton's submission developed the recommendations embodied in the Select Committee's report. His submission formed the most substantial part of the Law Commission's report (No. 302), published in 2006, the Commission repeating and endorsing his recommendations. Indeed, its section on parliamentary post-legislative review merits repetition: 'We endorse the approach of Lord Norton of Louth' (para. 3.31), 'Lord Norton of Louth produced a detailed and considered argument... We endorse his approach and summarise his main arguments below' (para. 3.36), and, in its conclusion to the section, 'Our proposal mirrors that put forward by Lord Norton in his paper to us and we can do no better than conclude by adopting Lord Norton's conclusion..' (para. 3.80, Law Commission, *Post-Legislative Scrutiny*, No.302.)

## Impact case study (REF3b)

The Government published its response in March 2008, accepting that Acts should normally be reviewed three to five years after enactment. The reviews would be carried out by the relevant Government Department, published as Command Papers, and submitted to the relevant Departmental Select Committees in the House of Commons. It would then be up to the relevant Select Committee whether it wished to pursue the issue.

The Cabinet Office subsequently produced detailed guidance for Departments. The first two Acts to be reviewed (in 2008) were the Electoral Registration (Northern Ireland) Act 2005 (Cm 7504) and the Railways Act 2005 (Cm 7660). By the conclusion of the Parliament, seven Acts had been subject to review. Post-legislative review is now an established procedure, accepted and continued by the Coalition Government and enshrined in the *Cabinet Manual*. The beneficiaries are both legislators and those who benefit from post legislative scrutiny – UK citizens, administrators, parliament, the civil service, and the judiciary.

The impact of this body of research on the design and implementation of post-legislative scrutiny by Parliament was acknowledged in the House of Lords by the then-Deputy Leader of the House, Lord Hunt of King's Heath. The review of Acts by Departments constitutes a major contribution, though not quite fulfilling all of the recommendations made by Lord Norton for post-legislative scrutiny. Norton's research on the need for a dedicated parliamentary committee for post-legislative scrutiny is being pursued with Government. The 2012-13 parliamentary session has seen some movement in both Houses. At the start of the session, the House of Lords established a committee to undertake post-legislative scrutiny of Acts dealing with adoption; more are being appointed in 2013-14. In the Commons, the Justice Committee initiated an inquiry into the Freedom of Information Act following receipt of the post-legislative review of the Act.

Lord Norton's research on legislative scrutiny has been drawn on not only by the committees that invited him to give evidence, but also by others in the course of examining the legislative practices and the procedures. Illustrative examples of his work being cited can be found in:

- House of Commons, Public Administration Committee, *Smaller Government: What do Ministers do?* Seventh Report of Session 2010-11, HC 530 (March 2011)
- House of Lords, Select Committee on the Constitution, *Fixed-Term Parliaments Bill*, 8<sup>th</sup> Report of Session 2010-11, HL Paper 69 (Dec. 2010)
- House of Commons, Select Committee on the Modernisation of the House of Commons, *The Legislative Process*, First Report of Session 2005-06, HC 1097 (Sept. 2006)
- *Making the Law: The Report of the Hansard Society Commission on the Legislative Process* (Chairman: The Rt Hon. Lord Rippon of Hexam), London: The Hansard Society, 1993

### 5. Sources to corroborate the impact (indicative maximum of 10 references)

- Letter from a Justice of the Supreme Court of the United Kingdom
- Letter from a member of the House of Lords Constitutional Committee
- Letter from the Shadow Deputy Leader, the House of Lords
- Email from Special Advisor to the Rt. Hon. Peter Hain MP, former Leader of the House of Commons
- House of Lords Debates: Official Report (*Hansard*), 3 Nov. 2005, col. 312.  
[http://www.publications.parliament.uk/pa/ld200506/ldhansrd/vo051103/text/51103-11.htm#51103-11\\_head0](http://www.publications.parliament.uk/pa/ld200506/ldhansrd/vo051103/text/51103-11.htm#51103-11_head0)
- House of Lords Debates: Official Report (*Hansard*), 6 June 2005, cols. 728-9.
- Select Committee on the Constitution, *Parliament and the Legislative Process*, 14<sup>th</sup> Report, Session 2003-04, HL Paper 173-I.  
<http://www.publications.parliament.uk/pa/ld200304/ldselect/ldconst/173/173.pdf>
- Select Committee on the Constitution, *Parliament and the Legislative Process: The Government's Response*, 6<sup>th</sup> Report, Session 2004-05, HL Paper 114  
<http://www.publications.parliament.uk/pa/ld200405/ldselect/ldconst/114/114.pdf>
- House of Lords Debates: Official Report (*Hansard*): 6 June 2005, cols. 728-770  
[http://www.publications.parliament.uk/pa/ld200506/ldhansrd/vo050606/text/50606-19.htm#50606-19\\_head0](http://www.publications.parliament.uk/pa/ld200506/ldhansrd/vo050606/text/50606-19.htm#50606-19_head0)

**Impact case study (REF3b)**

- Law Commission, *Post-Legislative Scrutiny*, Law Com No. 302, Cm 6945  
<http://www.lawcom.gov.uk/docs/lc302.pdf>
- Office of the Leader of the House of Commons, *Post-Legislative Scrutiny – The Government's Approach*, Cm 7320 (March 2008)  
<http://www.official-documents.gov.uk/document/cm73/7320/7320.pdf>
- House of Commons Library, *Post-Legislative Scrutiny* (2012)  
<http://www.parliament.uk/briefing-papers/SN05232>

His work has also variously been drawn on in Research Papers and Library Notes prepared by the Libraries of the two Houses of Parliament.