

Evaluating law making inside and outside parliament



The Process of Law Making

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Law Making Inside Parliament

Parliament main role is to make laws there are many influences that affect what laws parliament wants to make, but in fact parliament can make any law that it wants to. Parliament is the highest law-making authority; it has the supreme power to make and repeal any law this is called Parliamentary Sovereignty which is part of the UK constitution. Parliament power can be kept in check by the separation of powers which is another part of the UK constitution, the separation of powers is the balance and the check of parliaments use of powers, it involves the three main governing bodies in the UK the legislature (parliament), executive (government) and judiciary (judges) by the Constitutional Reform Act (2005)[1]. The separation of powers balances the use of powers as they all have different responsibilities, parliament makes the law, the government runs the country based on these laws and the judges interpret then apply the law this helps stop parliaments abuse power.

Parliament has different functions it can debate on issues affecting the UK, scrutinise the work of the government, managing budgets for government spending and its main role to create and change legislation[2]. Laws or statutes made inside parliament are called primary legislation, which is an Act of Parliament that has been put in place. Primary legislation is referred from both houses of parliament, the house of commons and the house of lords they are the two legislative groups in parliament that have the power <https://assignbuster.com/evaluating-law-making-inside-and-outside-parliament/>

to create new laws. All laws once agreed by both houses has to be given royal assent approved by a monarch in the name of her majesty, it is highly unlikely that her majesty or the monarch would disapprove of a new law, the last time royal assent was refused was in 1707[3] a very long time ago during the time of Queen Anne and still in this modern age it hasn't been refused since. Parliament is made up of two houses the house of lords and the house of commons by law the house of common has more power than the house of lords because of the Parliament act (1949) this limits the power the house of lords has, it can only delay a bill for a year and then send it to the house of commons for amendments during the law making procedure inside parliament and it removes the power the house of lord has to veto a bill (refuse or delay a bill)[4]. A bill is a proposal of a new law a bill can be introduced by a government minister who would be proposing a bill for the sector he governs for example the minister for transport could possibly propose a bill that would affect vehicle registration, it would be something that would affect the sector he governs. Private Individual, MPs or Lords and even Private organisations can propose a bill that can affect their business. There are different types of bills that can start in either houses, the type of bill depends on if it affects the general public or private individual and who introduced it.

Different Bill Types

A Public Bill is a change in law that applies to the general public and is introduced by a government minister, it would deal in issues concerning the public. An example of a current bill in parliament is the Domestic Abuse Bill it started in house of Commons and was introduced by ministers within the <https://assignbuster.com/evaluating-law-making-inside-and-outside-parliament/>

Home office it affects the general public about certain provisions in violent and abusive offenses. The bill is currently moving onto the committee stage in the House of commons[5].

A Private Member Bill are in fact public bills they still affect the general public but they weren't introduced by government minister, a private members bill is introduced either by MPs or Lords. An example of this is from Labour MP Stockton North Alex Cunningham who wanted it to make it an offence to smoke in the car while someone under 18 was present in the car this an example of a private member bill as it wasn't proposed by a government minister, this bill was put in place as part of the Children and Families Act (2015)[6].

A Private Bill affects certain individual or organisation, they are promoted by organisations to give them authority or when there is a conflict with the organisations running of a business because of common law and a change can be proposed. An example of this is the University of London act 2018 that has recently been given royal assent it affects the university as an organisation stating provisions on making statutes and how they are affected by new provisions[7].

A Hybrid Bill is a bill that affects the general public and also affects specific individuals or groups, the hybrid bill has a mix of characteristic of a private and public bill. This type of bill goes through a longer parliamentary process because this type of bill is more complicated in who the bill affects. An example of this is the High-Speed Rail Bill which started in the house of commons and is now currently in the house of lords at the committee stage.

This bill affects the general public in the new HS2 railway that will link London and the west midlands but it will also affect individual in Staffordshire where a junction of the railway is being made[8].

A Money Bill is a bill that has a concern with finance this is including taxation, tariffs, loans and the public money. Money is a special type of bill that affects the UK economy and the economy changes all the time because of this a money bill can only be delayed for a month during the law-making procedure or else it is given royal assent with or without the houses of parliaments approvals[9].

Legislative Stages

Beginning the law-making process, it starts by which ever house proposed the bill, for example if the someone from the house of lords had proposed the bill whether it's from a government minister or individual, they have stated the law-making process. During the law-making process it would go through different stages, starting at the house of parliament who proposed the bill then be sent to the other house of parliament. In this example the house of lords proposed the bill then going through various stages in the law-making process and then it would be sent to the house of commons to be amended and assed. In order for a bill to become a law it needs to be agreed by both houses unless in the circumstance it is a money bill therefore it can only be delayed for a month but any other bill can even be delayed for a year before it is agreed by both houses then moved on to be given royal assent. Here I will explain the various stages a bill goes through to become law. The bill goes through five stages at each house and during it time at

each house amendments are made and then the bill is sent to the opposite house of parliament to be agreed on, if a bill is amended by one house of parliament and then sent to another house of parliament to be assessed and agreed they can make amendments if they do not agree to the changes the other house has made, then even more amendment can be made then sent back to the opposition. This is like a cycle where a bill is sent back and forward from each house of parliament this delays the bill making process until both houses agree to each other's amendments, this is called the 'Ping Pong' effect[10]. The law-making process goes through five different stages at each house, the first reading, second reading, the committee stage, the report stage and the third reading. The house of lords has a slightly different perspective in what it does in the final stages of the law-making process to what the house of commons does but I will explain this as I go through the process at the different stages.

The bill before the legislative stages will be first drafted on a green paper this is called the Consultation document this is basically a discussion document about what the bill is proposing. The document aim is to allow feedback from sources inside and outside parliament, the document is published before parliament's legislative process. After further development of the bill it is drafted on white paper which is called the Firm Proposal this is the bill in more detail it is more complex than the consultation document it states the government's policy, what the law is setting out to do, provisions in the law and sets out any amendments to be taken place during the law making stages it is basically a plan of the new law[11]. Once the firm proposal has been created it can go through the legislative stages in

parliament, sometimes the firm proposal can become the final drafted bill after amendments.

When a bill begins the legislative process it starts at, The First Reading at this stage the title of the bill is read out and this is a formal stage where nothing else takes place, this Stage is the same in both houses of parliament.

The Second Reading the next stage a debate takes place on the main principles the whole house gets involved to discuss their view and the opposition will respond setting their case for the bill. During this stage no amendments are made and the house will vote on the bill whether it can pass this stage, if the bill does not pass this stage then it has failed. This stage happens the same in both houses of parliament.

The Committee Stage, during this stage the bill is fully examined, considering every detail of the bill so amendments can be made. Then it is debated on and voted on the amendments that should be made. For the House of Commons, the bill is discussed by a specialist group of MPs limited to around 16-50 MPs. Whilst in the House of Lords the bill is discussed by the whole house everyone is included in this stage.

The Report Stage at this stage only Amendments are discussed but no further changes are made because it could change the overall purpose of the bill so this is a formal stage debating on the bill and a vote takes place if amendments are correct. This stage is the same for both the houses of parliament.

The Third Reading which is the final stage at each house of parliament before it is sent off to be assessed by the other house and then potentially approved or amended further. At this stage the final draft of the bill is read through, discussed and then voted on. The house of commons at this stage no amendments take place but for the house of lords some amendments can be tabled up to tidy up the bill, at this last stage no bill fails.

Once a bill has been approved by both houses it must be given Royal Assent the final stage of the law making procedure which is performed by the monarch where it is given an approval in the name of the queen it is required in order to bring into force an act of parliament, the queen is able to give royal assent but this hasn't happened for centuries but it still gives the queen some power if it was needed to reject a bill. If a bill was given royal assent but parliament wanted it to be enforced at a later or fixed date then a commencement order is used to bring the act in force at a different date.

Influences on Law Making in Parliament

There are many influences on parliament that lead them in changing their judgment for a new law, for parliament to be democratic it must take in consideration factors to make the best possible laws for the government and the public. Influences are such as Media, different pressure groups, different commissions including the law commission. The media plays a large influence in parliamentary law making because it controls what the public see and gives information on new laws. The media are things like Television, Newspaper, Radios and the Web they all used for media to be an influence on parliament. The media can make the public aware of issues in a new bill

and how the public would be compromised by it. However sometimes the public opinion can be manipulated and the truth is not fully told by the media, like the newspaper they are in the business to make profits so twisting the truth in order to attract the public and sell more copies. For example, Rupert Murdoch owns many newspaper companies and tv channels he owns The Times, The Sunday Times, The Sun and Sky channel[12]. Rupert Murdoch has an influence on law making as he is able to put his own opinion into his media businesses to grow an influence by the public, for the awareness of parliament. The media create attention issues to parliament and a public bill can be amended or created.

Another influence on Parliament is pressure groups, they are groups or organisations that work to influence parliament of a certain issue or case. Pressure groups work in different ways in order to grow their influence to persuade the government, their methods include lobbying which is speaking directly to an MP or high authority to persuade to make amendments some MPs are also part of very influential pressure groups. Others methods of using direct action it is more of onward approach where the pressure group uses their power to force their influence on parliament this is by organising marches, demonstrations and strikes and petitions. Pressure groups also publish promotional literature like leaflets and advertise their campaign by using the media. There are two different pressure groups that influence parliament Cause groups and Sectional groups. Cause groups are individuals that are united and forced to by the fact that they share the same viewpoint of how society and laws that would help their cause. An example of a cause group is the league against cruel sports which is animal welfare charity that

stops animal hunting for sports they brought influence to the Hunting Act (2004)[13]. Sectional groups are groups or organisations that exist to advance the economic or professional interest of their members. An example of this group is British Medical Association is a trade union for doctors and has a large influence in parliament because of its help in medical and health legislation it brought influence to the Smoking Ban (2007)[14]. The main advantages that pressure groups influence has is that it helps raise awareness to the public, putting their opinion into perspective giving the public a voice. Therefore, MPs can keep in relation to the public so they know what the public want. However, pressure groups influence is usually biased and only to the views of the member, at a minority view of the population they won't be able to match the influence of larger pressure groups. Direct action used by pressure groups can be problematic for example going on strike can cause disruption and even lead to rioting which puts a bad view on pressure groups, it would depend on the methods the group uses to grow their influence.

There are many commissions and committees that have been set up to help recommend laws into parliament just some examples of these are the law reform committee, the law commission, the law society, the criminal law revision committee and environment, food and rural affairs select committee (efra)[15]. They all functions to help parliament make laws in different department and functions. The Law Commission is the main reform body, it is made up by a high court judge who is the chairman he has four other commissioners in his team and other administrative staff they are supported by the government and parliamentary councils. The commissions main work

is to review, reform, update and consolidate laws because laws can be out of date, unclear for interpretation or confusing. The law commission is set up and enforced by the Law Commission Act (1965)[16]. The law commission is independent it does not investigate complaints and create new statutes it works on existing legislation being independent means its free from influences. Advantage of the law commission that it has a good setup and support, with highly trained commissioners' better reports can take place that government are more likely to accept. However, the commission deal in a lot of statutes, with a heavy workload and only around 50% of its proposals are approved by parliament, it took the commission five years to finalise the Offences Against the Person Act[17].

Dangerous Dog Act 1991

This act in parliament was set up to prohibit dangerous dog types in having custody or possession of a certain breed or crossbreed of dog and the restriction for proper control dogs that present a threat to the public[18]. The laws updated in 2014 and bans four types of dogs that the government classifies as dangerous the Pitbull Terrier, Japanese Tosa, Dogo Argentino and Fila Brasileiro. If in case you do own a dangerous dog it can be seized if the court rules the dog as not dangerous your allowed to keep the dog with a certificate under certain condition[19]. This act had a lot of controversy and media attention was brought, it all started around reports of dangerous dog in the by certain breeds which have been banned it was all over the news. The act was first introduced after attacks in 1991 but the act had failed during 2014 there was national crisis of owner training dog to fight and cause attacks in public, the media had brought the crisis to parliament which <https://assignbuster.com/evaluating-law-making-inside-and-outside-parliament/>

led them to start amendments. There has been a lot of controversy at the time many dog that were considered banned breed were seized and many dogs had been put down by the police around 307 were killed and 599 were seized for not attacking anybody or showing dangerous behaviour[20]. Organisation like the dog trust have been campaigning against the act as it needs to be seriously amended as it is a flawed legislation which did not protect the public the dangerous dog act has a exception under the index of exempted dogs certificate which proves that most of the banned dog breeds are not dangerous[21]so why would parliament ban the dogs that are not causing a problem it all depends on the behaviour of the dog that it learns from the owner and in way any dog breed can be dangerous so the act was criticised a lot by different animal welfare groups pressurising the government to improve this law. The ban of the Pitbull terrier was mainly pushed by the media because of one Pitbull terrier that has killed a four-year old boy in Liverpool it led to a change which was not very effective[22]. The RSPCA had published a report in 2016 which widely criticised the act for being ineffective because it failed to prevent more attacks and compromised animal welfare this report campaigned against banning specific breeds types instead legislation should be imposed on the owner on treating the dog. The dangerous dog act implied Breed Specific Legislation (BSL) which many other countries do, the RSPCA mainly are campaigning against it and one way they had this by creating a huge public petition gaining support by over 95, 000 in order to get the policy changed[23]. The government have consulted these influence like welfare charities but have not made any changes because the government has justified that there is no other alternative[24]. However, the Defra (Department for Environment, Food and Rural Affairs) a law committee <https://assignbuster.com/evaluating-law-making-inside-and-outside-parliament/>

consulted parliament and later on new amendments were made to deal with the growing influences from pressure groups, welfare charities and a growing public concern by the media. According to a report by the house of commons on the dangerous do act the changes made were extending criminal offences by dog on private property so no just in a public areas, compulsory microchipping to keep track of dogs which the RSPCA and Dog trust campaigned as well for, not being able to seize dogs that under court proceeding and the main one is that no more dogs will be added to the BSL[25]even though the RSPCA and other influence wanted to completely remove it they still had some influence on parliament to restrict them to not add any more dog breed to the BSL.

The Rules of Statutory Interpretation

Evaluation

Making laws inside parliament is that because of parliamentary sovereignty parliament decides the main laws which gives supreme power but overall parliament is focusing on the quality of it legislation rather than quantity of legislation it produces this means it will focus it law making to make effective laws as there are many laws that parliament have passed that are unforced and therefore ineffective. However, in a way parliament could abuse their own power but there are certain rules that parliament as well has to follow to use their power accordingly. For Parliaments power in making laws to be used effectively it follows it unwritten constitution the separation powers so it laws are forced accordingly. Parliament makes laws that the government use to run the country the government can influence the law by concerning

public issues and supervise in making a law this give more government control to check the use of parliaments power even though of parliamentary sovereignty and the house of lords can challenge the government maintain the use of power accordingly. The use of Judges is to apply the law but they can also have an influence on parliamentary law making through common law which are law based on court cases and the decisions it can lead to helps law making inside parliament because common law is interpreted and has clear guidelines from judges it helps parliamentary decision in making statutes because common law deal with modern situations and problems and it also helps create new laws from common law where there is no statute to deal with an issue.

The power and control in parliament for law making by the Parliament Acts (1911) and (1949) changed the power for the houses of parliament and that the house of commons has more authority than the house of lords, these two acts together limited the house of lord's authority in law making. The house of lords is unable to refuse a law passed by commons that is unfair as laws proposed by the house of lords can delayed or refused by the house of commons. When the house of commons has proposed a law and sent it to the house of lord's they can only delay it for year or else it would be given royal assent. The house of lords does not have too much power but they can scrutinise the house of commons law making. If the house of parliament had an equal amount of power this would lead to the making laws without being dictated as much by each other meaning fewer quality laws being made. The house of commons is publicly elected so is more democratic and has been given more powers while the house of lords based on peers. Giving more

power to the house of commons to purpose laws while the house of lords challenges and complements the work of the government so there is greater scrutiny. It also means that the government could pass through bill without the house of lord's approval and they can only be able to delay it for a year but in the end the house of commons would be able to force through a law against the house of lords limited authority. However, the house of commons has more power because it is elected into power so it does mean that its more democratic and the parliament acts are therefore giving more power to democracy. While in way parliament can be democratic the house of lords is not democratic and it can change house of commons laws without any consent so having the parliament acts would mean more of an advantage to law making.

When an is begin from a house of parliament it needs to be defined to a type of bill, by categorising bills in to different types based on the laws they become and how they will affect and govern the UK is effective in saving parliamentary time in putting acts in place that will benefit no just the general public but organisations and the government. Parliament goes through hundreds of bills each year categorising and giving them special benefits and limitations allows them to focus their use of power in law making to make the right decision, having a greater scrutiny increases the quality of what law the bill would become. The Money bill is limited to be only delayed for a month allows faster decisions to be made on always changing economy, the uncertainty of the economy is a major factor that will affect government spending and rest of the UK so decision have to go through parliament timely in order for it to be effective. The Hybrid is a

mixture between two bills that affect private organisations and the public having this bill would mean that law can be essentially made that would focus on two aspects instead of alternatively making two individual laws that would have a similar affect but affecting different targets having a combination of the two same time parliamentary time, be more effective and reduce confusion in interpreting a future law. Allowing different individuals and organisations to propose new laws which helps parliament deal with situations they are not aware of. This would mean it will give authority to people however it could also mean gaining powers beyond them which parliament has to debate about if they are given that. It would also mean changing common law that is constantly changing to due to events, judicial precedents and court cases to improve it. It allows proposals to come from different sources through parliament. Members of parliament or Lords can propose a law that is based on their views and opinion especially with MP has support from the general public this will give them a greater influence. When a bill is proposed parliament considers whether there is a such a need for the bill the greater the need and the crucial issue it solves the more likely the bill will be prioritised but an advantage of this is that parliament gives all high authority an opportunity to propose a bill. This means more flexibility due to the different bills that can be considered by different authorities in parliament.

When a bill is being drafted out on the consultation document it allows a discussion to begin with inputs from other people outside of parliament like large organisations or special groups of individuals to give an alternative on the policies that could be made. This is more effective use of the power as it

leads to a better conclusion of what will be drafted out on the firm proposal because it gives a better overview for feedback. Then moving onto the firm proposal it's the next step that allows a careful and accurate plan of the bill so when the bill goes through the legislative stages it can be fully assessed if a bill is insufficient it would be stopped by parliament on the second reading, this allows the firm proposal to be detailed, clear explanatory of the provisions and the purpose of the bill and it is not in similar to another law then it might become part of an act, overall this means more scrutiny at the law making process[26].

Each house of parliament goes through five different stages it's a long process but it allows an accurate process which make sure it is thoroughly assessed and consulted. Meaning more accurate use of parliaments power is enforced but the long procedure means it is not as efficient for making the main laws to run the country the point it has to be the right decision that's why parliament takes its time however it could mean even years sometimes for a law to be made as society is always changing the laws could not be as effective at the time. Law from the 20th century is known to be fairly modern so it shows how laws needed to be updated to today's standards and going through the whole bill process it could mean that laws is not enforced at the right time frame. There are laws enforced today that are two centuries old and this mean law cannot be interpreted as the language differs from the modern text an example of this is the original Sales of Good Act (1893) the law was updated in 1973. Then was changed and consolidated to cover both Sales of Good acts (1893) and (1973) it created a simple, modern version called theConsumer Rights Act (2015)[27]. A bill that started at the start of

the year would probably be finalised at the end or beginning of the next. The benefit that this does bring is that parliament can use this process to be democratic by voting on the bill during the second reading it allows the houses to evaluate whether there is any need for the bill and the use of parliamentary bill, if a bill fails the second reading it won't be taken any further. Then voting again on the committee stage is again crucial to make the right amendments but not compromise the bill's purpose. Even more it is voted at the report and third stage making to pass legislation by the majority supporting but because voting takes place at each stage everyone in parliament has right to their view.

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