



House of Commons  
Liaison Committee

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# **Pre-appointment hearings by select committees**

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**First Report of Session 2007–08**





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**First Report of Session 2007–08**

*Report and Annexes, together with formal  
minutes*

*Ordered by The House of Commons  
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## The Liaison Committee

The Liaison Committee is appointed to consider general matters relating to the work of select committees; to advise the House of Commons Commission on select committees; to choose select committee reports for debate in the House and to hear evidence from the Prime Minister on matters of public policy.

### Current membership

Mr Alan Williams MP (*Labour, Swansea West*) (Chairman)

The Chairmen for the time being of the Select Committees listed below:

Administration – Mr Frank Doran MP (*Labour, Aberdeen North*)  
Business, Enterprise and Regulatory Reform – Peter Luff MP (*Conservative, Mid Worcestershire*)  
Children, Schools and Families – Mr Barry Sheerman MP (*Labour/Co-op, Huddersfield*)  
Communities and Local Government – Dr Phyllis Starkey MP (*Labour, Milton Keynes South West*)  
Culture, Media and Sport – Mr John Whittingdale MP (*Conservative, Maldon and Chelmsford East*)  
Defence – Mr James Arbuthnot MP (*Conservative, North East Hampshire*)  
Environmental Audit – Mr Tim Yeo MP (*Conservative, South Suffolk*)  
Environment, Food and Rural Affairs – Mr Michael Jack MP (*Conservative, Fylde*)  
European Scrutiny – Michael Connarty MP (*Labour, Linlithgow and East Falkirk*)  
Finance and Services – Sir Stuart Bell MP (*Labour, Middlesbrough*)  
Foreign Affairs – Mike Gapes MP (*Labour/Co-op, Ilford South*)  
Health – Mr Kevin Barron MP (*Labour, Rother Valley*)  
Home Affairs – Keith Vaz MP (*Labour, Leicester East*)  
Human Rights (Joint Committee) – Mr Andrew Dismore MP (*Labour, Hendon*)  
Innovation, Universities and Skills – Mr Phil Willis MP (*Liberal Democrat, Harrogate and Knaresborough*)  
International Development – Malcolm Bruce MP (*Liberal Democrat, Gordon*)  
Justice – Mr Alan Beith MP (*Liberal Democrat, Berwick-upon-Tweed*)  
Northern Ireland Affairs – Sir Patrick Cormack MP (*Conservative, South Staffordshire*)  
Procedure – Mr Greg Knight MP (*Conservative, Yorkshire East*)  
Public Accounts – Mr Edward Leigh MP (*Conservative, Gainsborough*)  
Public Administration – Dr Tony Wright MP (*Labour, Cannock Chase*)  
Regulatory Reform – Andrew Miller MP (*Labour, Ellesmere Port and Neston*)  
Scottish Affairs – Mr Mohammad Sarwar MP (*Labour, Glasgow Central*)  
Selection – Rosemary McKenna MP (*Labour, Cumbernauld, Kilsyth and Kirkintilloch East*)  
Standards and Privileges – Sir George Young MP (*Conservative, North West Hampshire*)  
Statutory Instruments – David Maclean MP (*Conservative, Penrith and The Border*)  
Transport – Mrs Gwyneth Dunwoody MP (*Labour, Crewe and Nantwich*)  
Treasury – John McFall MP (*Labour/Co-op, West Dunbartonshire*)  
Welsh Affairs – Dr Hywel Francis MP (*Labour, Aberavon*)  
Work and Pensions – Mr Terry Rooney MP (*Labour, Bradford North*)

### Powers

The powers of the Committee are set out in House of Commons SO No 145. These are available on the Internet via [www.parliament.uk](http://www.parliament.uk).

### **Publication**

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at [www.parliament.uk/parliamentary\\_committees/liaison\\_committee.cfm](http://www.parliament.uk/parliamentary_committees/liaison_committee.cfm).

### **Committee staff**

The current staff of the Committee are Helen Irwin (Clerk), Robert Wilson (Second Clerk), Kevin Candy (Committee Assistant) and Catherine Close (Secretary).

### **Contacts**

All correspondence should be addressed to the Clerk of the Liaison Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 5675; the Committee's email address is [liaisoncommittee@parliament.uk](mailto:liaisoncommittee@parliament.uk)



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# 1 Select committees and public appointments

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1. The involvement of select committees in public appointments has been of interest to this Committee for some time. Our predecessor Committee's report *Shifting the Balance: Select Committees and the Executive* published in March 2000, observed that although committees had no formal role in appointments, some did hold "confirmation hearings" for major public appointments.<sup>1</sup> The Treasury Select Committee, for example, has held hearings with newly appointed members of the Monetary Policy Committee of the Bank of England since the Bank was made independent in 1997. In its 2000 report our predecessor committee stated that it would seek "statutory acknowledgement of this process in new legislation".<sup>2</sup> The Government did not agree. They stated that no formal role should be given to select committees in scrutinising appointments as it would: (a) break the accountability of ministers for appointments; (b) risk the appointment of 'lame duck' appointees—appointed by the minister but without select committee approval; and (c) contravene the role of select committees as scrutiny bodies rather than decision-making bodies.<sup>3</sup>

2. Our predecessor Committee returned to public appointments when it drafted its list of 'core tasks' for select committees in 2002, in response to a similar list proposed by the Modernisation Committee and endorsed in a Resolution of the House.<sup>4</sup> The Liaison Committee defined core task number 8 as: "To scrutinise major public appointments made by the department". Committee practice in relation to this task is reported in their annual reports, and their experiences are collated in this Committee's own annual report. Some Committees have attempted to insert a confirmation-type hearing into their evidence sessions with newly appointed officials. Others have ensured that they take evidence from key newly appointed public officials soon after they have taken post.

3. The Public Administration Select Committee has also had a long-standing interest in this area. Their 2003 report on public appointments considered the role of the Commissioner for Public Appointments and discussed the practice of some select committees in taking evidence from recent appointees in a manner akin to confirmation hearings. The Committee decided against recommending pre-appointment confirmation hearings for all public appointments because of "practical and constitutional difficulties".<sup>5</sup> Instead they recommended what they believed to be "an explicit yet proportional role" for select committees in the appointments process:

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1 Liaison Committee, First Report of Session 1999–2000, *Shifting the Balance: Select Committees and the Executive*, HC 300

2 *Ibid.*, para 24

3 Liaison Committee, Second Report of Session 1999–2000, *Independence or Control? The Government's Reply to the Committee's First Report of Session 1999–2000 Shifting the Balance: Select Committees and the Executive*, HC 748; Select Committee on Modernisation of the House of Commons, First Report of Session 2001–02, *Select Committees*, HC 224, para 34

4 On 14 May 2002. See Liaison Committee, First Report of Session 2002–2003, *Annual Report for 2002*, HC 558, para 13.

5 Public Administration Select Committee, Fourth Report of Session 2002–03, *Government by Appointment: Opening up the patronage state*, HC 165-I, para 105

... ministers should agree a list of key appointments with relevant select committees and notify them of the names of proposed appointees for these posts as they arise. Committees could decide, if they chose, to hold a meeting with proposed appointees, and would be able to enter a Letter of Reservation as a result of such a hearing in any case where there was a decision to do so. In such circumstances the competition for the post would be re-opened.<sup>6</sup>

4. The Government rejected this proposal on the basis that the existing practice of select committees of taking evidence from newly appointed public officials was “the right approach”.<sup>7</sup> Again they cited the arguments that the current practice was “robust” and provided “a clear line of accountability”, as well as avoiding the perception of the politicisation of appointments.<sup>8</sup>

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6 Public Administration Select Committee, *Government by Appointment: Opening up the patronage state*, paras 109–110

7 Cabinet Office, *Government response to the Public Administration Select Committee’s Fourth Report of Session 2002-03 “Government by Appointment: Opening up the patronage state”*, December 2003, Cm 6056, p6

8 *Ibid.*

## 2 The Government's proposals

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### The Green Paper

5. On 3 July 2007, in his first statement to the House as Prime Minister, Gordon Brown announced the publication of *The Governance of Britain* Green Paper. This broad package of proposals for constitutional reform was set out under four themes: limiting the powers of the executive; making the executive more accountable; reinvigorating democracy; and developing the relationship between the citizen and the state. The Green Paper included two proposals that:

... the Government nominee for key positions such as those listed below should be subject to a pre-appointment hearing with the relevant select committee. The hearing would be non-binding, but in the light of the report from the committee, Ministers would decide whether to proceed. The hearings would cover issues such as the candidate's suitability for the role, his or her key priorities, and the process used in selection...

For market-sensitive and certain other appointments, including the Governor and the two Deputy Governors of the Bank of England, the Chairman of the Financial Services Authority, and some utility regulators, there is a particular set of issues around confirmation hearings. But the Government does believe that it is important to ensure greater accountability than currently exists. So, for these positions, once an appointment has been approved, the relevant select committee will be invited to convene a hearing with the nominee before he or she takes up post. The relevant department will consult with the select committee as to what such hearings might usefully cover.<sup>9</sup>

6. The Green Paper also announced that the appointment of the chair of the newly created Statistics Board would be subject to a vote in the House of Commons to confirm the Government's nominee.<sup>10</sup> The Treasury Select Committee moved quickly to hold an evidence session with the nominee, Sir Michael Scholar, and published a report to inform the decision of the House.<sup>11</sup> A debate was held on 25 July 2007, and the House agreed the appointment.<sup>12</sup>

7. The Treasury Committee's Report on that appointment included some reflections on the process. The Committee concluded that:

... if select committees are to be enabled to be properly equipped to consider nominations for major public appointments, it is vital for Ministers to provide initial information to a select committee about the proposed timetable for a particular appointment at the earliest possible opportunity, and then to ensure that the

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9 Ministry of Justice, *The Governance of Britain*, Cm 7170, July 2007, paras 76–79

10 *Ibid.*, para 80

11 Treasury Committee, Ninth Report of Session 2006–07, *The appointment of the Chair of the Statistics Board*, HC 934-I

12 HC Deb, 25 July 2007, cols 902–14

committee is provided on a timely basis with subsequent information about the conduct of the appointment process.<sup>13</sup>

8. The Public Administration Select Committee (PASC) conducted a short inquiry on the Government's pre-appointment hearings proposals.<sup>14</sup> Their report, *Parliament and public appointments: Pre-appointment hearings by select committees*, welcomed the Government's proposals and attempted to establish criteria to determine which posts should be subject to the hearings. The Committee suggested the categories of appointments that should be made subject to pre-appointment hearings were: major auditors, ombudsmen, regulators and inspectors; those responsible for the appointments system itself; and appointments normally made on merit but where Ministers had chosen not to follow the usual processes (such as the appointment of former politicians as senior diplomats).

9. We are grateful to PASC for their thorough work on this issue. In particular, we support the proposals in their Report on:

- notice to a committee of at least three sitting weeks within which to hold a pre-appointment hearing (para 31);
- guidelines to ensure the proper conduct of the hearing (para 34).

We also share their expectation that “it will be only in very exceptional cases that committees will recommend against the appointment of a candidate; but the test of the Government's commitment to pre-appointment hearings will be how Ministers react in such cases” (para 38).

## The Government's list of appointments

10. On 23 January 2008 the Minister for the Cabinet Office, Rt Hon Ed Miliband, wrote to our Chairman with a list of posts that the Government proposed should be subject to pre-appointment scrutiny.<sup>15</sup> The Government said they would focus on posts that exercise statutory or other powers in relation to protecting the public's rights and interests, as well as those that play a key role in the regulation and administration of the appointments process itself.<sup>16</sup> The list consisted of 30 various public service ombudsmen, inspectors and regulators, and is reproduced in Annex A.

## Additional appointments proposed by select committees

11. Through their Chairmen, we have consulted individual select committees on Mr Miliband's proposals. Their suggestions for additional posts which should be included in the list subject to pre-appointment scrutiny are set out in the table overleaf.

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13 Treasury Committee, *The appointment of the Chair of the Statistics Board*, para 32

14 Public Administration Select Committee, Third Report of Session 2007–08, *Parliament and public appointments: Pre-appointment hearings by select committees*, HC 152

15 See Annex A.

16 Letter dated 23 January 2008 from Rt Hon Ed Miliband MP to Rt Hon Alan Williams MP, Chair of the Liaison Committee. See <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmliaisn/memo/hearings/m1.htm>

### Additional Appointments

Committee	Appointment
Business, Enterprise and Regulatory Reform	<ul style="list-style-type: none"> <li>• Chairman, Office of Fair Trading</li> <li>• Chairman, Competition Commission</li> </ul>
Children, Schools and Families	<ul style="list-style-type: none"> <li>• Qualifications and Examinations Regulator</li> <li>• (possibly) Head, new agency on the monitoring and development of curriculum, assessment and qualifications</li> <li>• Chair of OFSTED</li> <li>• Children's Commissioner</li> </ul>
Communities and Local Government	<ul style="list-style-type: none"> <li>• Chair of the Audit Commission</li> <li>• Chair of the Standards Board</li> <li>• Chair of the Commission for Equality and Human Rights<sup>17</sup></li> <li>• Chair of Oftenant (subject to the passage of the Housing and Regeneration Bill)<sup>18</sup></li> <li>• Chief Executive of the Planning Inspectorate</li> <li>• Chair of the Infrastructure Planning Commission (subject to the passage of the Planning Bill)</li> </ul>
Culture, Media and Sport	<ul style="list-style-type: none"> <li>• Chairman of the BBC Trust</li> </ul>
Defence	<ul style="list-style-type: none"> <li>• Chief of Defence Staff</li> <li>• Three Service Chiefs</li> <li>• Chief of Defence Materiel</li> <li>• Service Complaints Commissioner</li> </ul>
Environmental Audit	<ul style="list-style-type: none"> <li>• Chair of the Committee on Climate Change (subject to the passage of the relevant Bill)</li> </ul>
Environment, Food and Rural Affairs	<ul style="list-style-type: none"> <li>• Rural Advocate</li> <li>• Chair of the Consumer Council for Water</li> <li>• Chair of Agricultural Wages Board</li> <li>• Chair of Gangmaster Licensing Authority</li> <li>• Chief Executive, Environment Agency</li> <li>• Chief Executive, Natural England</li> </ul>
European Scrutiny	<ul style="list-style-type: none"> <li>• European Commissioner nominated by the UK prior to confirmation by the European Parliament</li> </ul>
Foreign Affairs	<ul style="list-style-type: none"> <li>• Any major diplomatic or consular appointment of a person from outside the diplomatic service</li> </ul>

17 Also proposed by the Chairman of the Joint Committee on Human Rights.

18 Also proposed by the Chairman of the Standard and Privileges Committee.

Innovation, Universities and Skills	<ul style="list-style-type: none"> <li>• Chair of the Higher Education Funding Council for England</li> <li>• Chair of the Office for Fair Access</li> <li>• Chair and Chief Executives of Research Councils</li> <li>• Chair of the Office for Strategic Coordination of Health Research</li> <li>• Government Chief Scientific Adviser</li> </ul>
Public Administration	<ul style="list-style-type: none"> <li>• Chair of the Advisory Committee on Business Appointments</li> <li>• Chair of the House of Lords Appointments Commission</li> <li>• Prime Minister's Independent Adviser on Ministerial Interests</li> </ul>
Regulatory Reform	<ul style="list-style-type: none"> <li>• Executive Chair of the Better Regulation Executive</li> </ul>
Transport	<ul style="list-style-type: none"> <li>• London Underground PPP Arbiter</li> <li>• Chair of the Civil Aviation Authority</li> <li>• Chair of Network Rail</li> </ul>
Work and Pensions	<ul style="list-style-type: none"> <li>• Chair of the Social Security Advisory Committee</li> <li>• Chair of the Independent Case Examiner</li> <li>• Chief Executives of the agencies of the Department</li> </ul>

The full text of letters from individual Chairmen is printed in Annex B.

## The process

12. The Government also stated that they expected committee hearings “to focus on issues of professional competence”,<sup>19</sup> and that “it is essential that it is conducted in such a way that we both enhance the role of Parliament in scrutinising public appointments and maintain an appointments process which is proportionate and continues to attract high quality candidates”.<sup>20</sup> The Minister’s letter stated that “the format of pre-appointment hearings will broadly follow the process set out in the Green Paper ... We expect committee hearings to focus on issues of professional competence.”<sup>21</sup> In our view, this is too restrictive. **Personal independence is a key requirement in all public posts and most obviously in those such as a regulator, or the Chairman of the BBC Trust. It should be included explicitly as a focus of any hearings, as recommended by the Public Administration Select Committee and endorsed in a number of letters from Chairmen.**

13. We share the Government’s aim to create a process that can “both enhance the role of Parliament in scrutinising public appointments and maintain an appointments process which is proportionate and continues to attract high quality candidates.” To this end, we

19 See <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmliaisn/memo/hearings/m1.htm>

20 *Ibid.*

21 See Annex A.

have prepared a set of guidelines which we believe should ensure that any hearing is conducted appropriately. These are printed in the box below and our intention is that they would be followed by individual committees.

#### **Pre-appointment hearings: draft guidelines**

##### *Preparing for the session*

The Committee should aim to give the witness at least a week's notice of the session. Standard briefing should be available to the candidate on what to expect from the session. The candidate should also be informed how long the session is likely to last.

##### *During the session*

The Chairman should ensure that Members are aware that their questions must remain relevant to the professional competence and personal independence of the candidate. Questions eliciting background information about the candidate's past career and about the selection process for the post are also normally acceptable.

The candidate will need to be able to withstand parliamentary and public scrutiny should they take up the post, and the purpose of the session is to test this. Questioning may therefore be robust, and it may cover some areas that might not be appropriate at interview, such as party political allegiance. The Chairman should intervene, however, if questions are irrelevant, unduly personal, or discriminatory.

##### *After the session*

Immediately after the evidence session, the Committee should meet in private to agree a report to the House containing its views on the suitability of the candidate. This will ensure both that the evidence is fresh in Members' minds and that Members who were not present at the evidence do not influence the content of the report. It will also avoid unnecessarily prolonged speculation about a candidate's fate. The Committee may also wish to instruct the Chairman to write to the relevant Minister with any opinions that it prefers to express privately, to supplement the published report.

The Committee's report should be published as soon as possible after the evidence session. Reports should be subject to a 24 hour embargo to allow the candidate and the Minister to prepare a response to any negative comments. They should be provided under embargo only to the candidate and the Minister.

14. We see it as our role, as the Liaison Committee, to work with Ministers to ensure that their welcome initiative is beneficial. It is for us and individual committees to monitor how the evidence sessions have gone as the process of pre-appointment hearings develops, and discuss this with Ministers and their departments, and not the other way round. This should be a joint process, if the Government means what it says. For this reason, **a Government-planned "pilot" does not seem to us appropriate. It is not a process to be "supervised by the Government or which can only proceed if Ministers give their**

**approval**".<sup>22</sup> Indeed, as the Chairman of the Joint Committee on Human Rights writes in his letter to our Chairman:

Committees are entitled to call any newly-appointed public official to discuss any issues in relation to their qualifications for the post and future plans, regardless of whether the Government considers this appropriate. We welcome the Government's willingness to engage in pre-appointment hearings but we would not wish the work of Committees to be constrained, or appear to be constrained, in any way. It will also be important to make clear that the Government remains solely responsible for appointments to posts where pre-appointment hearings have taken place. Endorsement of the Government's nominee at a pre-appointment hearing must not preclude robust scrutiny of performance in the job.

15. We are confident that committees will want to make a success of the process. They have the necessary expertise and sensitivity, although there are many calls on their limited time. It will be for them to take the initiative to hold an evidence session, once they are notified. The Chairman of the Environment, Food and Rural Affairs Committee suggests that, from the list of posts identified,

... departmental select committees should be notified of major appointments and that committees should then be able to decide—perhaps within an agreed period of time—whom they see.

The discretion should remain with them. Committees, and through them, the public, are being encouraged to engage with appointees to public office. This important task needs to be carried out, but it should not crowd out the wider scrutiny of Ministers and their departments in evidence and reports by which committees can ensure that they are accountable.

**16. The Government's proposals are a welcome response to our belief that select committees can add value to an appointments process. The relationship between Parliament and these public bodies, of communication, scrutiny and, when needed, of support, can only be strengthened as a consequence. Subject to the additions proposed by Chairmen, and the reservations of the Chairman of the Committee of Public Accounts about pre-appointment hearings for the Comptroller and Auditor General, given the unique method of appointing to that post, which we share, we would endorse the Minister's list of appointments on which committees should have the opportunity to take evidence. As we have made clear earlier, this list, which can be kept under review, should be neither exclusive, nor mandatory where a committee does not wish to add such a session to its current programme of work. Nonetheless, it is our firm view that committees will now wish to work together with Ministers and their departments to carry forward a developing series of evidence sessions that can be helpful to the postholder and the department while providing enhanced accountability to Parliament.**

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22 Letter from the Chairman of the Foreign Affairs Committee, see Annex B.

# Annex A: Correspondence between the Chairman and the Minister for the Cabinet Office

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## *Letter from the Minister for the Cabinet Office to the Chairman*

The *Governance of Britain* Green Paper sets out the Government's programme of constitutional renewal. This includes a specific proposal to increase Parliamentary scrutiny of appointments to certain posts by way of pre-appointment hearings with the relevant select committee. In keeping with our commitment in the Green Paper, I am writing to update you on progress and to share with the Committee the list of appointments that we are proposing should be subject to pre-appointment scrutiny.

The format of pre-appointment hearings will broadly follow the process set out in the Green Paper. This will involve the Government's nominee for selected posts giving evidence before the relevant Parliamentary select committee. We expect committee hearings to focus on issues of professional competence. Hearings will be non-binding but Ministers will consider committees' views carefully before deciding whether to proceed with the appointment.

Since publication of the Green Paper, we have consulted widely across Government to identify posts that would be suitable for pre-appointment hearings. In keeping with the principles in the Green Paper, we have focussed on posts which exercise statutory or other powers in relation to protecting the public's rights and interests. We have also considered posts that play a key role in the regulation and administration of the appointments process itself. As a result, the final list comprises senior ombudsmen, HM Chief Inspectors and key regulators. This is also in keeping with a recommendation from the Public Administration Select Committee that pre-appointment scrutiny should focus on "*major auditors, ombudsmen and other complaint investigators, regulators and inspectors, and to those responsible for the appointments process itself*". A full list of proposed appointments is attached.

As we have developed our proposals, we have listened carefully to the views of key stakeholders, in particular the Commissioner for Public Appointments and the Committee on Standards in Public Life. We are also giving careful consideration to recent reports published by the Treasury Select Committee and the Public Administration Select Committee. As a result, the Government plans to proceed with pre-appointment hearings on a pilot basis. This will involve Departments monitoring closely pre-appointment hearings and seeking feedback from those involved, including from select committees. As we embark on this process, it is essential that it is conducted in such a way that we both enhance the role of Parliament in scrutinising public appointments and maintain an appointments process which is proportionate and continues to attract high quality candidates.

Strengthening the role of Parliament is a key aim of *The Governance of Britain* Green Paper. I believe the approach I have outlined in this letter will contribute to this by

delivering a process which enhances Parliamentary and democratic scrutiny of key public appointments whilst continuing to attract high calibre individuals into public life. I very much welcome the Committee's views on the proposed list.

**LIST OF APPOINTMENTS FOR PRE-APPOINTMENT SCRUTINY**

Chair of the Gas and Electricity Markets Authority (GEMA)  
 Chair of OFCOM  
 Chair of the Appointments Commission  
 Chair of the Care Quality Commission  
 Chair of the Charity Commission  
 Chair of the Committee on Standards in Public Life  
 Chair of the Food Standards Agency  
 Chair of the Judicial Appointments Commission  
 Chair of the Office for Legal Complaints  
 Chair of the Office of Rail Regulation  
 Chair of the Postal Services Commission  
 Chair of the Statistics Board  
 Chair of the Water Service Regulatory Authority (OFWAT)  
 Chief Fire and Rescue Adviser  
 Commissioner for Public Appointments  
 Comptroller and Auditor General  
 First Civil Service Commissioner  
 Health Service Commissioner for England (Health Ombudsman)  
 HM Chief Inspector of Constabulary  
 HM Chief Inspector of Education, Children's Services and Skills  
 HM Chief Inspector of Prisons  
 HM Chief Inspector of Probation  
 HM Chief Inspector of the CPS  
 Information Commissioner  
 Local Commissioners for Administration for England (Local Government Ombudsmen)  
 Parliamentary Commissioner for Administration (Parliamentary Ombudsman)  
 Pensions Ombudsman  
 Pensions Protection Fund Ombudsman  
 Prison and Probation Ombudsman

**Rt Hon Ed Miliband MP**

*23 January 2008*

### *Letter from the Chairman to the Minister for the Cabinet Office*

Thank you for your letter of 23 January which I discussed with colleagues on the Liaison Committee at our meeting on 31 January. We have also reported it to the House and placed it on our website.

Chairmen valued the Government's initiative, but wished to consult their Committees on the detail. At the initial discussion, there were suggestions that further posts should be added to your list. We have agreed to consider the issue more fully at our next meeting on 28 February, after which I shall write again with our fuller reaction to your proposals.

**Rt Hon Alan Williams MP**

*5 February 2008*

## Annex B: Correspondence between the Chairman and Select Committee Chairmen

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### *Letter from the Chairman to Select Committee Chairmen*

Please see the letter which I have today sent to Ed Miliband. If you or your Committee have any views about his proposals, could you please let me know before Monday 25 February so that the Liaison Committee can consider them at its meeting on Thursday 28 February?

In any response, you may wish to concentrate on three issues:

- his list of names—is it correct?
- the purpose—his letter proposes a focus on “issues of professional competence”, which is narrower than the suggestion of “professional competence and personal independence” in the Report on *Parliament and public appointments* by the Public Administration Select Committee.
- the consultation and assessment of a ‘pilot’, and the establishment of guidelines for the hearings—which PASC proposed should be drawn up by the Liaison Committee.

**Rt Hon Alan Williams MP**

*5 February 2008*

### *Letter from the Chairman of the Business, Enterprise and Regulatory Reform Committee to the Chairman*

Thank you for your letter of 5<sup>th</sup> February regarding pre-appointment hearings by select committees.

I would like to urge two additions to the list of appointments subject to this procedure - the Chairmen of the Office of Fair Trading and of the Competition Commission. These posts fall firmly within the criteria set out by the government and are of considerable political and economic significance.

There is also a strong case for including the politically significant roles of Chairmanship of both the Nuclear Decommissioning Authority and of Royal Mail Group but I suspect, given their more commercial nature, that they do not fall within the criteria. However, both individuals are subject to regular Parliamentary scrutiny and are involved in the delivery of very different but significant public services.

I am not concerned about the difference in focus between the Public Administration Committee’s recommendation and the letter from the Minister for the Cabinet Office. A minister’s expectations of a select committee’s focus can not be binding and we would expect committees to focus on those areas which they consider most important. In practice this is likely to vary between the different bodies under consideration and the character of the nominated individual.

I see no need for a formal pilot period of these proposals. Committees and Departments will learn from their own experience and those of others as the process continues as a matter of course. Moreover, running a pilot project implies that it will be solely the government's decision as to whether and how the proposals are fully implemented; I doubt this will be the case. If the early hearings are seen to be a success then it will be difficult in practice to terminate the arrangements; if they are less successful, the committees will seek to reform the process or even abandon it. This is a natural process that should be determined by the House and not the executive.

**Peter Luff MP**

*20 February 2008*

*Letter from the Chairman of the Children, Schools and Families Committee to the Chairman*

Thank you for your letter of 5 February concerning the Government's proposals for pre-appointment hearings by select committees.

On the points you raise in particular:

1. The Minister only lists one post within my Committee's remit. I certainly agree that the head of Ofsted, now the Chief Inspector of Education, Children's Services and Skills, should be the subject of a pre-appointment hearing, but there must be the opportunity for others to be added. For example, the Government is bringing forward proposals to divide the functions of the Qualifications and Curriculum Authority, creating a new regulator known as the Office of the Qualifications and Examinations Regulator, and a new agency to advise Ministers on the monitoring and development of curriculum, assessment and qualifications. The head of the first of these bodies should definitely be added to the list in due course, and there is a case for saying the head of the second should also be included.
2. I agree with you that the suggested focus on professional competence is narrower than the Public Administration Committee recommended. Personal independence will be a key issue, however, and I am sure that Committees will want to make an assessment of that when conducting these hearings.
3. On the third point, surely it is for the Commons to proceed with pre-appointment hearings as a pilot, not the Government. The arrangements for pilots must be drawn up by the Liaison Committee, not by Ministers.

**Mr Barry Sheerman MP**

*19 February 2008*

*Letter from the Chairman of the Communities and Local Government Committee to the Chairman*

I understand that the Liaison Committee will be considering on Thursday the letter from the Minister for the Cabinet Office regarding pre-appointment hearings by Select Committees. Unfortunately I cannot be at that meeting. I would be grateful if you would take this letter into account during the discussion.

The list enclosed with the Minister's letter includes just two appointments falling within the remit of the Communities and Local Government Committee: the **Chief Fire and Rescue Adviser** and the **Local Government Ombudsmen**. A number of other appointments falling within my Committee's remit appear to me to meet the criteria set out by the Public Administration Committee and mentioned in the Minister's letter, namely "*major auditors, ombudsmen and other complaint investigators, regulators and inspectors*". They are:

- the Chair of the **Audit Commission**
- the Chair of the **Standards Board**
- the Chair of the Commission for Equality and Human Rights, and
- the Chair of **Oftenant** (subject to passage of the Housing and Regeneration Bill).

The Chief Executive of the **Planning Inspectorate** and the Chair of the **Infrastructure Planning Commission** (again subject to the passage of the relevant Bill) also exercise important "*statutory ... powers in relation to protecting the public's rights and interests*" and might therefore be considered for inclusion on the list.

The difference between these posts and those on the Government's list appears to be that they are regulated by the Office of the Commissioner for Public Appointments, whereas those on the list are not. I am aware that regulation by OCPA was a criterion considered by PASC in its report on pre-appointment hearings. However, OCPA is not mentioned in the Minister's letter, and it is not clear whether the Government intends such hearings to be restricted to non-OCPA-regulated posts.

If that is not the case, it is my view that the important posts which I identify in this letter should be added to the Government's list.

**Dr Phyllis Starkey MP**

29 January 2008

### *Letter from the Chairman of the Culture, Media and Sport Committee to the Chairman*

You wrote on 5 February seeking views from Committees on the proposals for pre-appointment hearings as set out in the letter of 23 January from Ed Miliband.

The Committee welcomes the proposals, and it agrees that the list of posts for which pre-appointment scrutiny by select committees should include the Chair of Ofcom. As you will know, the former Trade and Industry Committee and this Committee have, for the past two years, taken oral evidence jointly from Ofcom on its Annual Plan for the forthcoming financial year. I envisage that we might hold a similar joint exercise in future for the appointment of the Ofcom Chair.

We believe, however, that the list should also include the Chairman of the BBC Trust. Under Article 22 of the BBC Charter, the Trust is the guardian of licence fee revenue and the public interest in the BBC, and it can exercise powers to protect the public interest. The

House of Lords Select Committee on Communications, in its First Report of Session 2006–07, has also recommended that the post should be subject to a pre-appointment hearing.

We also believe that an appointee should be able to demonstrate not just professional competence but also personal independence. The Chairman of the BBC Trust will need to challenge the BBC Executive when necessary and may need to resist political pressure. We therefore favour the wording proposed by the Public Administration Select Committee, which refers explicitly to “personal independence” as a focus for pre-appointment hearings.

**Mr John Whittingdale OBE MP**

*18 February 2008*

### *Letter from the Chairman of the Defence Committee to the Chairman*

My Committee discussed the letter from Ed Miliband, and the attached list, at its meeting on Tuesday. Although some Members expressed doubts as to the value of pre-appointment hearings that did not permit the Committee a consequent veto, there was general agreement that were a Committee to express the desire to hold such a hearing the Government ought to give it serious consideration. It was also important to emphasise the need for Committees to control such hearings and not for the Government to ordain when Committees ought to undertake them: it was clearly vital for each Committee to retain control over its own agenda.

The Committee was disappointed that not a single MoD post was listed by Ed Miliband. It felt that it was important for there to be at least some attempt at parity, so that all Departments of State volunteered a number of position for such hearings. It was unacceptable that any Department should feel that it was exempt from this otherwise laudable attempt to extend parliamentary scrutiny over the Executive. It should be made clear that any pilot scheme should be rolled out across the breadth of Whitehall and not concern single Committees or single Departments of State.

The list as currently formulated also appears to us to be slight. Government must be more generous in its proposals. In terms of the MoD, posts that my Members would like to see open for pre-appointment hearings include: the Chief of the Defence Staff, the three Service Chiefs, the Chief of Defence Materiel, and the Service Complaints Commissioner.

**Rt Hon James Arbuthnot MP**

*7 February 2008*

### *Letter from the Chairman of the Environmental Audit Committee to the Chairman*

Thank you for your letter of 5 February, concerning the Government’s proposals relating to pre-appointment hearings by select committees.

The Minister’s letter of 23 January suggests that pre-appointment hearings are most suitable for posts “which exercise statutory or other powers in relation to protecting the public’s rights and interests”. The Climate Change Bill currently being considered will establish a Committee on Climate Change. Until the Bill is passed we cannot say what the

Committee will be asked to do. It seems unlikely that it would meet the test set by the Minister in the terms in which it is expressed. However, the urgency with which we need to address climate change and the impact that the recommendations of the Committee on Climate Change should have on the economy and individuals means that the public interest test is easily met.

In our Seventh Report of Session 2006–07, *Beyond Stern: from Climate Change Programme Review to the Draft Climate Change Bill*, we called for all members of the Committee on Climate Change to be appointed by an open and transparent process, in line with the recommendations in Nolan Report. We recommended that transparency and the perception of independence could be increased if all new appointees were required to appear before the Environmental Audit Committee. In our Report parallels were drawn with the Monetary Policy Committee of the Bank of England. Since 1998, the Treasury Committee has held appointment hearings with new MPC appointees. The Committee's role does not have a statutory basis, and the Government does not have to take any particular account of the opinions expressed about individual appointees. On 3 July 2007 the Prime Minister announced a series of reforms of parliamentary involvement in public appointments. These directly affected 'external' appointments to the MPC with a proposal for "pre-appointment" hearings for a nominee suggested by the Government, which would precede the formal appointment.

I recommend that the list proposed by Ed Miliband be extended to include the Chairman of the Committee on Climate Change. In any event, I hope that the existence of the list would not preclude my Committee from coming to a similar arrangement, with respect to the Committee on Climate Change, to that which the Treasury Committee has come to over external appointments to the MPC, namely some kind of pre-appointment hearing between nomination and confirmation of the appointment, even if any opinions my Committee expresses are treated as non-binding.

It is difficult to see how a cross-cutting committee like the Environmental Audit Committee might be directly involved in pre-appointment hearings for any of the posts in the Government's proposal. Given the nature and urgency of the threat posed by climate change it would seem right that some of the pre-appointment hearings for post such as Chair of GEMA or Chair of OFWAT pay some attention to these issues. While we would not want to complicate the process, perhaps a mechanism can be found for Committees, like the Environmental Audit Committee with an interest but not a direct lead, to have some input into the topics and questions to be raised in any pre-appointment hearing.

**Mr Tim Yeo MP**

*25 February 2008*

### *Letter from the Chairman of the Environment, Food and Rural Affairs Committee to the Chairman*

Thank you for your letter of 5 February on this subject.

I see from the list provided by Mr Miliband that only a couple of appointments of interest to the EFRA Committee are listed: the Chair of the Food Standards Agency (a non-

ministerial government department, where the Health Committee might have an interest too) and the Chair of the Water Service Regulatory Authority (OFWAT).

Mr Miliband says that in selecting the posts suitable for pre-appointment hearings, the Government has focussed on posts which exercise statutory or other powers in relation to protecting the public's rights and interests. On that basis, some other Defra-related posts could be suitable too: the Rural Advocate, the Chair of Consumer Council for Water, the Chair of Agricultural Wages Board and the Chair of Gangmaster Licensing Authority.

In addition, I believe that those with the principal responsibility for the work of major public bodies, such as the Chief Executives of the Environment Agency or Natural England, should also fall within the system.

What I think should happen is that departmental select committees should be notified of major appointments and that committees should then be able to decide—perhaps within an agreed period of time—whom they see.

**Rt Hon Michael Jack MP**

*18 February 2008*

### *Letter from the Chairman of the Foreign Affairs Committee to the Chairman*

Thank you for your letter of 5 February, concerning the Government's proposals relating to pre-appointment hearings by select committees.

In its recent report on *The Work of the Committee in 2007*, the Foreign Affairs Committee stated that:

We have previously announced our intention of scrutinising any major diplomatic or consular appointment of a person from outside the diplomatic service. In our last annual report we noted that the only such appointments to be made in recent years were made during the period when there was no Committee in existence, at the time of the 2005 general election. As the appointments were *faits accomplis* by the time the Committee was nominated, we did not hold hearings with the individuals concerned. However, in August 2007, the Government announced that it intended to appoint Scottish Labour leader and former First Minister Jack McConnell MSP as British High Commissioner to Malawi when the current High Commissioner's posting ends in 2009. We plan to hold an evidence session with Mr McConnell in March 2008. (Fourth Report of Session 2007–08, HC 287, para 55)

Since publication of the report, the Committee has finalised its arrangements for an evidence session with Mr McConnell; this will be held on 23 April.

I therefore propose that the Government should amend the list of appointments appended to Ed Miliband's letter of 23 January to include "any major diplomatic or consular appointment of a person from outside the diplomatic service".

This raises a wider question relating to the independence of select committees. Although I welcome the Government's support for pre-appointment scrutiny, it is important that such

scrutiny should not be interpreted in any quarters as a process that is supervised by the Government or which can only proceed if Ministers give their approval. There must be no question of infringing committees' rights to make their own decisions on choice of witnesses or on how evidence sessions will be conducted. In particular, it would be unfortunate if the incorrect impression were to be given that committees are only able to hold pre-appointment hearings in respect of those appointments listed by the Government.

Subject to these reservations, I would be happy for the Liaison Committee to give a positive response to the Government's proposal.

**Mike Gapes MP**

*20 February 2008*

### *Letter from the Chairman of the Innovation, Universities and Skills Committee to the Chairman*

Thank you for giving the Innovation, Universities and Skills Committee the opportunity to comment on Ed Miliband's proposals with regard to pre-appointment hearings by select committees.

The Committee discussed the proposals at its meeting this week and was unanimous in concluding that the list of names proposed by the Minister for the Cabinet Office was too restricted. The list should include major appointments made by each Secretary of State. In the case of DIUS, these should include as a minimum the Chairs of HEFCE, OFFA and the Research Councils. I should add that our predecessor Committee on Science and Technology recommended that newly appointed chief executives of the Research Councils should also be subject to such hearings. Beyond our own immediate remit, the Committee felt that the chair of OFSTED and the Children's Commissioner were important omissions from the list.

The Committee did not discuss in any detail the other two issues raised in your letter, relating to the purpose of the hearings and the proposals for implementation. My own view is that such hearings should go beyond issues of professional competence to include personal independence as recommended by the Public Administration Committee. I also strongly believe that it should be for the Liaison Committee to draw up guidelines for the hearings, rather than the Government.

**Mr Phil Willis MP**

*20 February 2008*

### *Letter from the Chairman of the Joint Committee on Human Rights to the Chairman*

Thank you for your letter of 5 February, about pre-appointment hearings by select committees. My Committee discussed your letter at its meeting on 19 February.

In our view, the list of posts suggested by the Government as routinely suitable for pre-appointment hearings should also include the Chair of the Equality and Human Rights Commission (EHRC). Aside from its role in promoting equality and human rights in the

UK, the EHRC has extensive legal powers and can take legal action on behalf of individuals in relation to equality issues. It also has significant powers to enforce the equalities duties of organisations and authorities, including to launch official inquiries and formal investigations. The Minister's letter of 23 January suggests that pre-appointment hearings are most suitable for posts "which exercise statutory or other powers in relation to protecting the public's rights and interests". We consider that the Chair of the EHRC meets this criterion.

My Committee is well placed to conduct pre-appointment hearings with the Chair of the EHRC. The Joint Committee on Human Rights has consistently advocated the establishment of a human rights commission and we have already held two informal meetings with the Chair, Trevor Phillips. We expect to call Mr Phillips to give oral evidence on the EHRC's work and future plans later in the Spring and are likely to hear oral evidence from the EHRC at least annually from now on, as well as receive written evidence from the Commission as part of our thematic inquiries.

We agree with the inclusion of the Prisons and Probation Ombudsman on the Government's suggested list and would wish to be involved in any pre-appointment hearings for this post. In our view, this is a key role in relation to the safeguarding and promotion of human rights in the criminal justice system. Our recent Report on the Criminal Justice and Immigration Bill argued strongly against the Government's plans to put the Ombudsman on a statutory footing in a way which we considered would compromise the independence of the post. We have also corresponded with Government on this issue within recent months and intend to continue pressing for the Ombudsman's independence from Government to be guaranteed in law.

You asked for views on the Government's suggestion that pre-appointment hearings should focus on "issues of professional competence", which appeared to exclude the Public Administration Committee's recommendation that "personal independence" should also be addressed by such hearings. Our view is that Committees will wish to ask about "personal independence", and rightly so. It is a relevant consideration for both of the posts mentioned in this letter.

I agree with the suggestion that the Liaison Committee should draw up guidelines for pre-appointment hearings. It is worth noting, however, that Committees are entitled to call any newly-appointed public official to discuss any issues in relation to their qualifications for the post and future plans, regardless of whether the Government considers this appropriate. We welcome the Government's willingness to engage in pre-appointment hearings but we would not wish the work of Committees to be constrained, or appear to be constrained, in any way. It will also be important to make clear that the Government remains solely responsible for appointments to posts where pre-appointment hearings have taken place. Endorsement of the Government's nominee at a pre-appointment hearing must not preclude robust scrutiny of performance in the job.

**Mr Andrew Dismore MP**

*21 February 2008*

### *Letter from the Chairman of the Justice Committee to the Chairman*

Thank you for your letter of 5<sup>th</sup> February enclosing correspondence between you and Ed Miliband.

I discussed this briefly with colleagues on the Justice Committee at our last meeting. We will consider this matter in greater depth in the near future. I note that a significant number of the list of potential appointees would come within our remit.

Your letter and the Government's proposals raise some important questions about how we would make a pre-appointment hearing work. I note that you correctly identify one of the central points as identifying what the purpose of the pre-appointment hearings is intended to be. Clearly we would not wish the Committee to be restricted in the scope of its inquiries if it decided to hold such hearings.

We also wondered how the exercise would add to the quality of performance of the nominees and how the Government plans to ensure that the pre-appointment process would significantly add value to the work which we already do in taking evidence from appointees once they have had the opportunity to take stock of their new job. How much information would we receive about the reasons why candidates were nominated? In particular, would the Committee be able to recommend that they should not be appointed?

We are clear that we would not wish to blur the lines of responsibility for making such appointments by any apparent contribution to the process which may, however, in reality not affect the final decision.

**Rt Hon Alan Beith MP**

*20 February 2008*

### *Letter from the Chairman of the Northern Ireland Affairs Committee to the Chairman*

Thank you for your letter of 5 February, inviting my comments on the Government's proposals for scrutiny of major public appointments. The Northern Ireland Affairs Committee discussed this at its meeting yesterday.

The Committee notes that none of the positions listed by the Government is a Northern Ireland appointment and has asked me to write to the Secretary of State for Northern Ireland for clarification of the Government's intentions in respect to the posts in the Province.

**Sir Patrick Cormack MP**

*21 February 2008*

*Letter from the Chairman of the Northern Ireland Affairs Committee to the Secretary of State for Northern Ireland*

As a member of the Liaison Committee I have recently been invited to comment on the Government's proposals for scrutiny of major public appointments. We duly discussed this at the Northern Ireland Affairs Committee but noted that none of the positions listed by the Government is a Northern Ireland appointment. I agreed to write to you to seek clarification of the Government's intentions in respect to the public appointments within the Province. Is this a matter at which you will be seeking to involve the Northern Ireland Assembly or would you wish to involve my committee?

**Sir Patrick Cormack MP**

*21 February 2008*

*Letter from the Chairman of the Public Accounts Committee to the Chairman*

Thank you for your letter of 5 February asking for views on Ed Miliband's letter about pre-appointment hearings.

The one appointment mentioned that would fall to the Public Accounts Committee is, of course, that of the Comptroller and Auditor General (C&AG). However, I feel strongly that this is not suitable for a pre-appointment hearing with the Committee. The reasons are that the statutory provisions for the appointment of the C&AG provide a balance between the executive and this House and between the Government and Opposition through the requirement for the consent of both the Prime Minister and the Chairman of the PAC. A pre-appointment hearing with the whole Committee, with its inevitable government majority, would clearly upset this balance and thus potentially compromise perceptions of the C&AG's independence from the Government, an essential element in the effective functioning of the National Audit Office as a whole.

However I would not object to the C&AG-designate appearing before the Committee, once the Prime Minister and the PAC Chairman had agreed his or her name, but in advance of the debate on the motion for his or her appointment.

The second issue you raise is that of the focus of the hearings. I do not think that Committees should be precluded from looking at the independence of the candidate, since in many, if not all, of the appointments on the list—even with the C&AG removed from it—independence is an important factor, and one which Committees ought to be able to examine.

The last point is the assessment of a pilot and the drafting of guidelines for the hearings. Given that one of the Government's key aims is explicitly "strengthening the role of Parliament", I would have thought that it is for Committees to monitor hearings and to seek feed-back from Departments, rather than the other way round.

**Mr Edward Leigh MP**

*18 February 2008*

### *Letter from the Chairman of the Public Administration Select Committee to the Chairman*

Thank you for your letter of 5 February about pre-appointment hearings by select committees. The Public Administration Select Committee has as you know already reported on this matter, so my comments on Ed Miliband's letter are brief and I have not been able to discuss them with the Committee.

In general, it is pleasing that the Government has responded positively to our recommendations, and that it seems to have taken some of them on board. I would, however, reiterate our belief that hearings should consider questions of personal independence as well as professional competence. The Treasury Committee has of course been conducting successful hearings on such a basis for some years.

To the list of posts suggested by the Government, which I recognise broadly follows our proposals, I would add three within PASC's remit. The Advisory Committee on Business Appointments performs an important role in ensuring public trust in government by regulating exit from government; its Chairman would seem to be a prime candidate for a hearing. Similarly, the Prime Minister's Independent Adviser on Ministerial Interests is effectively a regulator, charged with investigating alleged breaches of the Ministerial Code, and so a hearing would be appropriate.

Perhaps most importantly, the Chairman of the House of Lords Appointments Commission is absent from the Government's list. This is a hugely important and influential post, and was specifically mentioned in our report. It is of particular interest to Parliament. It would seem very strange if no hearing was provided for in respect of this post.

Aside from these, the Government has so far not acknowledged our final recommendation, which was that hearings should be held on the occasions where appointments are not made on merit—as happens particularly in the Diplomatic Service. I would draw your attention to this as it may be a gap in the current proposals.

Lastly, I note that at least one of the posts on the list (the Chair of the nascent Office for Legal Complaints) is not a ministerial appointment. There may be others which are similar. I am not sure how it is envisaged that a hearing might influence an appointing body which is not directly accountable to Parliament. Indeed, the inclusion of such posts may not have been intentional. It does not seem to me that pre-appointment hearings have been designed for appointments which are not made by politicians.

**Dr Tony Wright MP**

*25 February 2008*

### *Letter from the Chairman of the Regulatory Reform Committee to the Chairman*

At its meeting on 5 February, the Regulatory Reform Committee considered the letter to you of 23 January from the Minister for the Cabinet Office on the Governance of Britain Green Paper: pre-appointment hearings by select committees.

In terms of its own involvement in pre-appointment hearings the Committee agreed that any future Executive Chair of the Better Regulation Executive might usefully be included on the list appended to the Minister's letter. It is expected that our report into *Getting Results: The Better Regulation Executive and the impact of the regulatory reform agenda*, which I hope will be ready by the summer, will incorporate a recommendation to that effect. The opportunity for the Committee to interview the prospective incumbent would clearly add to the 'process which enhances Parliamentary and democratic scrutiny of key public appointments whilst continuing to attract high calibre individuals into public life'.

**Andrew Miller MP**

*5 February 2008*

### *Letter from the Chairman of the Standards and Privileges Committee to the Chairman*

Thank you for your letter dated February 5<sup>th</sup>.

The Parliamentary Commissioner for Standards is already appointed by the House; and the Chairman of the Committee on Standards in Public Life is on Ed Miliband's list. I have no suggestions from my committee.

However, having recently served on the Housing & Regeneration Bill, I believe that the proposed regulator of social housing should be added to the list.

**Rt Hon Sir George Young Bt, MP**

*6 February 2008*

### *Letter from the Chairman of the Transport Committee to the Chairman*

The Transport Committee has considered your letter of 5 February and the list of appointments proposed by Ed Miliband. We agree that the Chair of the Office of Rail Regulation should be subject to pre-appointment scrutiny. The Committee also considers that the following office-holders should be subject to scrutiny.

- The London Underground PPP Arbiter. This post is currently held by the chair of the ORR, but this will not necessarily be the case with future appointments. If a different person were to be appointed to this post, we would want an opportunity to examine him or her.
- The Chair of the Civil Aviation Authority, which is a statutory regulator with similar status to those already included on the list.
- The Chair of Network Rail. Though it does not fall strictly within the criteria set out in the Green Paper, Network Rail's peculiar status as a private company wholly-owned by Government and its central role within the nation's transport infrastructure would justify, in our view, such scrutiny.

I look forward to discussing these proposals, as well as those from other colleagues, on 28 February.

**Hon Gwyneth Dunwoody MP**

*20 February 2008*

### *Letter from the Chairman of the Treasury Committee to the Chairman*

Thank you for your letter of 5 February seeking views of select committees on Ed Miliband's letter to you of 23 January. I am replying based on the experience of the Treasury Committee, although I have not had an opportunity to discuss the contents of this letter at a Committee meeting.

You asked for comment on the list of appointments that it is proposed be subject to pre-appointment scrutiny. That list does not include any appointments relating to Treasury responsibilities (other than the Chair of the Statistics Board, responsibility for which will soon pass to the Cabinet Office). My assumption is that members of the MPC and the chairman of the Financial Services Authority are excluded on grounds of market sensitivity; for such posts, the Government envisages hearings following announcement of an appointment, rather than following announcement of a nomination. I have today written a letter to the Chancellor of Exchequer, a copy of which I enclose, which seeks confirmation of this. Subject to my receiving a satisfactory response to that letter, I have no comments on the list.

You draw attention to the absence of any reference to personal independence. Since 1998, the Treasury Committee has examined appointees to the Monetary Policy Committee (MPC) of the Bank of England in relation to their professional competence and their personal independence. I am well aware of the concerns that exist about questions relating to personal independence, having given evidence to the Public Administration Select Committee alongside Janet Gaymer, the Commissioner for Public Appointments. However, I think select committees are well within their rights to explore matters relating to personal independence, and we would often be failing in our duty of proper scrutiny were we not to do so. I hope that, in your reply to Ed Miliband, you will make it clear that select committees are not bound by his expectations about a focus on issues of professional competence.

Ed Miliband's letter makes no reference to the timetable for nomination. The Chancellor of the Exchequer, in a letter to me of 30 January which I also enclose with this letter, proposes to allow three months between the announcement of an appointment to the MPC and the effective date of that appointment. I believe that you should seek a similar undertaking from Ed Miliband in respect of the posts that are to be the subject of pre-appointment hearings.

Ed Miliband's letter does not deal directly with what happens when a post-holder is re-appointed for a second or subsequent term. The Treasury Committee has found hearings in such circumstances to be of considerable value. The Chancellor of the Exchequer's letter which I enclose specifically acknowledges the case for pre-commencement hearings in such circumstances. I think that you should seek Ed Miliband's assurance that hearings are envisaged for those re-appointed to the posts concerned, as well as new nominees.

**Rt Hon John McFall MP**

*21 February 2008*

### *Letter from the Chairman of the Treasury Committee to the Chancellor*

I am writing in response to the points in your letter of 30 January about pre-appointment hearings and also to pursue a related matter about the forthcoming appointment of a new Chairman of the Financial Services Authority.

I am grateful for your proposal to allow three months for a pre-commencement hearing by the Treasury Committee in relation to appointments to the Monetary Policy Committee (MPC). I am also pleased that you have referred specifically to the role of pre-commencement hearings in relation to those re-appointed to the MPC. In view of your announcements relating to Andrew Sentance and Mervyn King, we have been able to schedule re-appointment hearings with them in late March and late April respectively, and we will then report to the House in each case in our usual way.

I have seen Ed Miliband's letter to Alan Williams of 23 January and the enclosed list of appointments that it is proposed be subject to pre-appointment scrutiny. I note this does not include any appointments relating to Treasury responsibilities (other than the Chair of the Statistics Board, responsibility for which will soon pass to the Cabinet Office). I presume this is because—as previously indicated in paragraph 79 of the Green Paper on *The Governance of Britain* and in your Written Ministerial Statement of 3 July—you view it as important for the initial announcements relating to the membership of the MPC and the Chairmanship of the FSA to be about an appointment rather than a nomination on grounds of market sensitivity. It would be helpful if you could confirm that this is the reason why the MPC and FSA appointments do not appear on that proposed list.

Finally, you will understand that the Treasury Committee will wish to hold a pre-appointment hearing with the new Chairman of the FSA prior to the Summer Recess. I would be grateful if you could let me know the proposed timetable for that appointment and confirm that that timetable will accommodate the Treasury Committee's needs.

**Rt Hon John McFall MP**

*21 February 2008*

### *Extract from the Chancellor's letter to the Chairman of the Treasury Committee*

#### **The Monetary Policy Committee**

While recognising the successes of the past decade, I want to emphasise that the monetary policy framework should continue to evolve and innovate when there are clear benefits to doing so. Our reforms to the system of appointing external MPC members demonstrate our intention to enhance the transparency, clarity and openness of the appointments process for Monetary Policy Committee members. I am taking the opportunity presented by submission of the Government's response to announce to the Committee additional details on how the appointments process reforms will operate in practice.

In future, the Treasury will, as far as possible, publish a timetable for appointment of an external MPC member before a vacancy becomes available on the Committee and announce details of who it has decided to appoint, in sufficient time to be consistent with allowing the Treasury Select Committee three months for their pre-commencement

hearings. I agree with the broad attributes the Committee highlights as those a member of the Monetary Policy Committee should possess, and believe that they form a sound basis for the person specification I have committed to producing as part of the process for selecting a new external Committee member. In addition, I will continue to take into account the existing balance of skills and backgrounds present on the Committee in setting out the attributes being sought in a new member.

Second, in the event that I judge that reappointing an individual to serve a further term is in the best interests of the Monetary Policy Committee, I will aim to announce my intention to do so in good time before their existing term is due to come to an end. Reappointed members will undergo a pre-commencement hearing in the same manner as new members, ensuring that all members are subject to a regular process of Parliamentary scrutiny. I also agree with the Committee that the idea of a confidential pool of candidates to help fill unexpected vacancies in the event that they should arise is worth further examination.

In keeping with these reforms, and to ensure that the Treasury Committee has adequate time to plan for a pre-commencement hearing, I am today announcing my decision to reappoint Dr Andrew Sentance as an external Committee member when his current term of office expires in May 2008. Andrew has both business expertise and macroeconomic forecasting skills, having previously held posts at British Airways, the CBI and the London Business School. The then Chancellor highlighted such skills as being desirable in an external member in his evidence to the TSC in June. I am pleased that Andrew has agreed to remain on the Committee for a further term, and believe that his expertise will continue to be an asset to the work of the Committee.

I believe that the details I am announcing today of the reforms, which go beyond standard practice by the both Federal Reserve and the European Central Bank, will provide certainty to MPC appointments, thereby improving the process for appointees, Government, and Parliament as a whole.

I welcome your report as a valuable contribution to these issues and look forward to continuing to work together with the Committee in ensuring that the monetary policy framework in the UK remains leading edge.

**Rt Hon Alistair Darling MP**

*30 January 2008*

### *E-mail from the Chairman of the Work and Pensions Committee to the Chairman*

#### **Governance of Britain Green Paper**

DWP Select Committee considered the above at its last meeting. We feel very strongly that the positions of the Chair of the Social Security Advisory Committee and the Independent Case Examiner should be added to the list. We also feel that as a matter of principle the Chief Executives of the agencies of the Department should also be included.

**Mr Terry Rooney MP**

*25 February 2008*

# Formal Minutes

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**Thursday 28 February 2008**

Members present:

Mr Alan Williams, in the Chair

Mr James Arbuthnot	Mr Edward Leigh
Mr Alan Beith	Peter Luff
Michael Connarty	John McFall
Sir Patrick Cormack	Andrew Miller
Mr Andrew Dismore	Mr Barry Sheerman
Dr Hywel Francis	Dr Phyllis Starkey
Mike Gapes	Mr John Whittingdale
Mr Michael Jack	Sir George Young

The Committee considered this matter.

Draft Report (Pre-appointment hearings by select committees), proposed by the Chairman, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraph 1 to 10 read and agreed to.

Paragraph 11 read, amended and agreed to.

Paragraph 12 read.

Amendment proposed, in line 8, after “restrictive.” to delete “Personal” and insert the words, “**We recognise that individuals appointed to public positions must sympathise with the objectives of, and the Government’s aspirations for, the work of the organisation to which they are appointed. However, personal ...**”.—(*Peter Luff*.)

Question, That the Amendment be made, put and negatived.

Paragraph 13 to 16 read and agreed to.

Annexes agreed to.

*Resolved*, That the Report, as amended, be the First Report of the Committee to the House.

*Ordered*, That the Chairman do make the Report to the House.

[Adjourned till Thursday 27 March at 9.30 am.]

## List of Reports from the Committee during the current Parliament

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### Session 2006–07

First Report	Annual Report for 2005–06	HC 406
First Special Report	Annual Report for 2005–06: Government Response to HC 920 the Committee’s First Report of Session 2006–07	

### Session 2005–06

First Report	Government Reply to the Annual Report for 2004	HC 855
Second Report	A New Publication Order for Select Committee Evidence	HC 1271
Third Report	Estimates Memoranda	HC 1685