



House of Commons
Liaison Committee

**Pre-appointment
hearings by select
committees:
Government Response
to the Committee's
First Report of Session
2007–08**

**First Special Report of Session
2007–08**

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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*)
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Children, Schools and Families – Mr Barry Sheerman MP (*Labour/Co-op, Huddersfield*)
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Procedure – Mr Greg Knight MP (*Conservative, Yorkshire East*)
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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 Louise Ellman MP (*Labour/Co-op, Liverpool Riverside*)
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.

Publications

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.

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

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First Special Report

The Liaison Committee published its First Report of Session 2007–08, *Pre-appointment hearings by select committees*, on 5 March 2008, as House of Commons Paper HC 384. The Government's response was received on 19 May 2008. This is appended below.

Government response

The Government is committed to increasing democratic scrutiny of public appointments. *The Governance of Britain: Constitutional Renewal* White Paper,¹ published on 25 March 2008, re-affirms this commitment and sets out the process by which Parliamentary and public scrutiny of key public appointments will be enhanced: Parliamentary select committees will be given the opportunity to hold pre-appointment hearings to scrutinise and take evidence from candidates for key public appointments before they are appointed. The hearings will be non-binding but the Government will consider committees' conclusions and recommendations before deciding whether to proceed with the appointments.

The Government welcomes the Committee's report and their support for pre-appointment hearings. It also wishes to acknowledge the contribution of the Public Administration Select Committee for their work on this issue. The Government recognises that it will be for individual select committees to decide whether or not to hold pre-appointment hearings on the particular posts put forward by Government. However, the Government believes that the introduction of pre-appointment hearings will help ensure that the Executive is properly accountable to Parliament and will provide greater public reassurance that those appointed to key public offices are appointed on merit. Following the introduction of hearings on a pilot basis, the Government will want to work with Parliament to assess the success of this new approach and consider what lessons can be learned.

The Government's response to the conclusions and recommendations in the Committee's report is set out below.

1. 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. (Paragraph 12).

The Government is not seeking to influence or direct select committee hearings. To do so would be wholly inappropriate. However, the Government recognises that select committees may want reassurance that candidates are properly independent of the Executive and agrees that pre-appointment hearings should include questions designed to evidence candidates' professional independence from Government. The Government believes, however, that questions about a candidate's personal independence must be clearly relevant to the office to which the candidate has applied. It would not be

1 Ministry of Justice, *The Governance of Britain—Constitutional Renewal*, Cm 7342-I, March 2008

appropriate, for example, for candidates to be questioned on private matters or on personal issues which are irrelevant. The Government welcomes the acknowledgement in the Committee’s draft guidelines that the Chair of the relevant Select Committee should intervene if questions are irrelevant, unduly personal or discriminatory.

2. We have prepared a set of guidelines which we believe should ensure that any hearing is conducted appropriately. (Paragraph 13).

The Government welcomes the Liaison Committee’s draft guidelines. The Government agrees that candidates should be given sufficient notice of pre-appointment hearings and properly informed about the purpose, format and duration of the hearings. The Government also agrees that hearings should focus on issues of professional competence and independence and welcomes the explicit instruction in the draft guidelines that questions must remain relevant and appropriate.

In relation to questions about an individual’s political allegiance, it is a Government commitment that all public appointments are made on merit. As such, political affiliation has no place in the decision-making process (excepting cases where the nature of the public body makes it essential that individual political parties are represented—e.g. the Committee on Standards in Public Life). Indeed, for appointments regulated by the Commissioner for Public Appointments, the Government could be in breach of the Commissioner’s *Code of Practice*² if such questions were asked during the selection process or if information on political affiliation or political activity informed the final Ministerial decision. The Government recognises, however, that Committees may wish to ask questions about an individual’s political activity, such as holding political office, in order to satisfy itself about the ability of that individual to exercise professional independence from Government. The Government would not expect questions to be asked on private matters such as an individual’s voting intentions.

The Government believes that pre-appointment hearings should operate in as open and transparent a manner as possible. The purpose of pre-appointment hearings is to increase Parliamentary and public scrutiny of public appointments. To achieve real democratic scrutiny, the Government believes that this requires pre-appointment hearings to be held in public and reports of hearings to be published in full.

3. 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”. (Paragraph 14).

How select committees conduct their business is, of course, a matter for Parliament. For the Government, the purpose of the pilot is to monitor and evaluate the impact of pre-appointment hearings on the number, balance and quality of applicants. In particular, the pilot will look at whether the introduction of pre-appointment hearings has deterred candidates from applying. This follows a recommendation from the Public Administration Select Committee³ and takes account of comments expressed by the Commissioner for

2 *The Commissioner for Public Appointments Code of Practice for Ministerial Appointments to Public Bodies*, Office of the Commissioner for Public Appointments, August 2005

3 Public Administration Select Committee, Third Report of Session 2007–08, *Parliament and public appointments: Pre-appointment hearings by select committees*, HC 152, para 29

Public Appointments.⁴ Indeed, as the Public Administration Select Committee have recognised, the introduction of pre-appointment hearings “*is a new step, somewhat into the unknown... and we would understand if the Government wished to keep how the system was working under review*”.⁵

In addition, Parliament itself may wish to undertake evaluation or assessment of individual pre-appointment hearings and make further recommendations for select committees or Government to consider as appropriate.

4. 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. (Paragraph 16).

The Government welcomes the Committee’s support and its endorsement of the initial list of posts put forward by Government as suitable for pre-appointment scrutiny.⁶ The Government notes the reservation expressed by the Chair of the Public Accounts Committee (PAC) in relation to the appointment of the Comptroller and Auditor General (C&AG) and agrees that pre-appointment scrutiny of future C&AGs should follow the process set out in the Chair’s letter. This would involve the C&AG designate appearing before the PAC after the Government and the Chair of the PAC have agreed his or her name but before the debate on the motion for his or her appointment.

The Government believes it would be impractical and disproportionate to subject all public appointments to pre-appointment scrutiny by select committees. Therefore, as stated in *The Governance of Britain: Constitutional Renewal White Paper*,⁷ the Government believes that pre-appointment hearings should focus on posts in which Parliament and the public have a particularly strong interest—for example, posts which play a key role in protecting the public interest or holding the Executive to account—as well as posts responsible for the appointments process itself. This position is supported by the Public Administration Select Committee which has recommended that hearings should normally apply only to posts for

4 Public Administration Select Committee, Third Report of Session 2007–08, *Parliament and public appointments: Pre-appointment hearings by select committees*, HC 152, Ev 1, para 1

5 Public Administration Select Committee, Third Report of Session 2007–08, *Parliament and public appointments: Pre-appointment hearings by select committees*, HC 152, para 42

6 Set out in a letter from Rt Hon Ed Miliband MP to Rt Hon Alan Williams MP, Chair of the Liaison Committee, dated 23 January 2008.

7 Ministry of Justice, *The Governance of Britain—Constitutional Renewal*, Cm 7342-I, March 2008, para 252

which accountability to Parliament and the public are an important part of the role.⁸ In line with the White Paper commitment, the Government has considered carefully the additional posts proposed by select committee Chairs and published in the Committee's report. The Government considers that a number of them would be suitable for pre-appointment scrutiny by select committee.

As emphasised by the Public Administration Select Committee, pre-appointment scrutiny represents a new and innovative step in making public appointments and is only suitable for certain public appointments. In light of this, the Government considers that it is not appropriate to add the remainder of the other public appointments proposed by the Committee in their report, particularly where the posts in question are small, specialist or technical in nature. In addition, some of the posts relate to offices held by public sector employees recruited by their respective organisations—as opposed to office-holders appointed by Ministers. These are not classed as public appointments and the Government does not consider that such posts are suitable for pre-appointment scrutiny by Parliament.

A revised list of all posts that the Government considers suitable for pre-appointment hearings is attached at **Annex A**. Posts are listed under sponsoring Department.

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

ANNEX A

REVISED LIST OF POSTS SUITABLE FOR PRE-APPOINTMENT HEARINGS

Attorney General's Office

- HM Chief Inspector of the Crown Prosecution Service

Cabinet Office^{9 10}

- Chair of the Advisory Committee on Business Appointments
- Chair of the Charity Commission
- Chair of the Committee on Standards in Public Life
- Chair of the House of Lords Appointments Commission
- Chair of the Statistics Authority
- Commissioner for Public Appointments
- First Civil Service Commissioner
- Parliamentary Commissioner for Administration¹¹

Department for Business, Enterprise and Regulatory Reform

- Chair of the Gas and Electricity Markets Authority (GEMA)
- Chair of OFCOM¹²
- Chair of the Competition Commission
- Chair of the Office of Fair Trading
- Chair of the Postal Services Commission

Department for Children, Schools and Families

- Chair of the Qualifications and Curriculum Development Agency¹³
- Chair of Ofqual¹⁴

9 Pre-appointment scrutiny of the Prime Minister's Independent Adviser on Ministerial Interests is being considered as part of the Government's response to the recent PASC report on Ministerial conduct.

10 The Government will consider pre-appointment scrutiny of diplomatic appointments as proposed by the Foreign Affairs Committee in the context of pre-legislative scrutiny of the civil service clauses of the Constitutional Renewal Bill.

11 The same office-holder (currently Ann Abraham) holds the role of Parliamentary Commissioner for Administration and Health Service Commissioner for England.

12 Joint BERR and DCMS appointment.

13 The Government has announced that the Qualifications and Curriculum Authority (QCA) will lose its powers as the regulator of qualifications, tests and examinations, and develop into an agency for developing curriculum, assessment and qualifications, to be called the Qualifications and Curriculum Development Agency (QCDA). These reforms will be put on a statutory basis (subject to Parliamentary approval).

- Children’s Commissioner for England
- HM Chief Inspector of Education, Children’s Services and Skills

Department for Communities and Local Government

- Chair of OFTENANT
- Chair of the Audit Commission
- Chair of the Infrastructure Planning Commission¹⁵
- Chair of the Standards Board
- Chief Fire and Rescue Officer
- Local Commissioners for Administration in England¹⁶

Department for Culture, Media and Sport¹⁷

- Chair of OFCOM¹⁸

Department for Environment, Food and Rural Affairs

- Chair of the Agricultural Wages Board
- Chair of the Committee on Climate Change
- Chair of the Environment Agency
- Chair of the Gangmaster Licensing Authority
- Chair of Natural England
- Chair of the Water Services Regulatory Authority (OFWAT)
- Rural Advocate

Department for Innovation, Universities and Skills

- Chairs of the Research Councils
- Chair of the Higher Education Funding Council for England
- Director of the Office for Fair Access

14 Ofqual will be established as the independent regulator: the guardian of standards across the qualifications, tests and examinations systems in England. Ofqual will be established on a statutory basis (subject to Parliamentary approval). Pending legislation, Ofqual has been set up on an interim basis under QCA’s existing regulatory powers.

15 Subject to the passage of the Planning Bill.

16 There are currently three Commissioners.

17 Given the sensitivities around the editorial independence of the BBC, DCMS wish to consider this further in dialogue with interested parties including the BBC Trust and the Culture, Media and Sport Committee.

18 Joint BERR and DCMS appointment.

Department for Transport¹⁹

- Chair of the Office of Rail Regulation

Department for Work and Pensions

- Chair of the Social Security Advisory Committee
- Pensions Ombudsman
- Pensions Protection Fund Ombudsman

Department of Health

- Chair of the Appointments Commission
- Chair of the Care Quality Commission
- Chair of the Food Standards Agency
- Health Service Commissioner for England²⁰

Government Equalities Office

- Chair of the Commission for Equality and Human Rights

Her Majesty's Treasury

- Comptroller and Auditor General²¹

Home Office

- HM Chief Inspector of Constabulary

Ministry of Defence

- Service Complaints Commissioner

Ministry of Justice

- Chair of the Judicial Appointments Commission
- Chair of the Office for Legal Complaints

19 The Government recognises that there is a case for inclusion of the CAA in its role as the UK aviation regulator. However, the nature of the role of Chair of the CAA is currently undergoing an independent strategic review by Sir Joseph Pilling, who may recommend changes in governance structures. Given this, we think it is right that we do not make a final decision on its suitability for pre-appointment scrutiny at this stage. The Department for Transport will consider further in light of Sir Joseph's review and, as part of this, will consult the Transport Select Committee.

20 The same office-holder (currently Ann Abraham) holds the role of Health Service Commissioner for England and Parliamentary Commissioner for Administration.

21 The pre-appointment hearing for the posts of C&AG will follow the process set out by the Chair of the Public Accounts Commission in Pre-appointment hearings by select committee, House of Commons Liaison Committee, First Report of Session 2007-08 (HC384), pg 23. The C&AG designate will appear before PAC after the Government and the Chair of the PAC have agreed his/her name but before the debate on the motion for his/her appointment.

- HM Chief Inspector of Prisons
- HM Chief Inspector of Probation
- Information Commissioner
- Prison and Probation Ombudsman