



House of Commons
Public Administration Select
Committee

**Parliament and public
appointments: Pre-
appointment hearings
by select committees:
Government Response
to the Committee's
Third Report of Session
2007–08**

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

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The Public Administration Select Committee

The Public Administration Select Committee is appointed by the House of Commons to examine the reports of the Parliamentary Commissioner for Administration, of the Health Service Commissioners for England, which are laid before this House, and matters in connection therewith, and to consider matters relating to the quality and standards of administration provided by civil service departments, and other matters relating to the civil service.

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Sixth Special Report

The Public Administration Select Committee reported to the House on *Parliament and public appointments: Pre-appointment hearings by select committees* in its Third Report of Session 2007–08, published 16 January 2008 as HC 152. The Government Response was received on 25 April 2008 and is published below as an Appendix to this Report.

Appendix

The Government welcomes the Committee's report and the Committee's support for pre-appointment scrutiny of key public appointments by Parliamentary select committees. As the Committee notes, the introduction of pre-appointment hearings is a new and innovative process and the Government welcomes the Committee's recognition that the impact of pre-appointment hearings needs to be properly evaluated and that Government might wish to keep the new arrangements under review. To this end, the Government announced on 25 March¹ that it will be proceeding with pre-appointment hearings on a pilot basis.

The Government recognises that Government and Parliament will need to work closely together to ensure that pre-appointment hearings are a success. The Government believes that the Committee's report, and the Government's response, provides an initial framework for the introduction of pre-appointment scrutiny. The Government recognises and values the experience and expertise of the Committee on public appointment matters and expects that the Committee will wish to monitor and report again on pre-appointments hearings before the end of the pilot. The Government will also continue to work with the Liaison Committee and the Commissioner for Public Appointments throughout the period of the pilot.

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

1. We welcome the Government's decision to involve select committees in key public appointments. (Paragraph 7).

2. It is important, however, to establish with clarity what the purpose of pre-appointment hearings would be, before deciding to which posts they might apply. (Paragraph 7).

The Government welcomes the Committee's support for involving Parliamentary select committees in key public appointments.

The Government's aim is to strengthen the role of Parliament in the public appointments process by increasing Parliamentary scrutiny over key public appointments. The overall objective is to ensure that the Executive is properly accountable to Parliament. The Commissioner for Public Appointments has described

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

the introduction of pre-appointment hearings as a “democratic check”² on the public appointments process. The Government agrees.

There are currently over eighteen thousand men and women serving on the boards of public bodies.³ It would clearly be impractical to require all these individuals to undergo pre-appointment scrutiny by a select committee. Given the widely differing roles and responsibilities of post-holders, it would also be disproportionate to subject many of these individuals to this level of Parliamentary scrutiny. The Government believes, therefore, that pre-appointment hearings should only be held for posts in which Parliament and the public have a particularly strong interest. This includes posts which play a key role in holding the Executive to account or which exercise statutory or other powers in relation to the protection of the public's rights and interests. The Government hopes that, in addition to increased accountability, pre-appointment hearings will provide additional reassurance that those holding public office are appointed on merit and that those in key scrutiny and regulatory roles are properly independent of the Executive.

The introduction of pre-appointment scrutiny by Parliament is part of a wider Government programme of constitutional renewal which aims to make the Executive more accountable and re-invigorate democratic structures and participation.⁴

3. We agree with the Commissioner for Public Appointments that those in public office can only be meaningfully held to account after they have taken up office. (Paragraph 10).

There are a range of structures and processes in place to ensure that those holding public office, in whatever capacity, are fully accountable for their decisions and actions. This includes robust scrutiny by Parliamentary select committees. The purpose of pre-appointment hearings is not to replicate this. Pre-appointment hearings will provide Parliament with the opportunity to scrutinise and take evidence from candidates before they are appointed. As the Chair of the Treasury Select Committee has observed, pre-appointment hearings may set “the agenda for subsequent select committee scrutiny of post-holders when they take the post.”⁵

The ability of select committees to take evidence from those in public office ensures that public servants are properly accountable to Parliament and the public. The introduction of pre-appointment hearings will not change this. The Government recognises, of course, that endorsement of a particular candidate at a pre-appointment hearing will not prevent or inhibit future robust scrutiny of that individual once he or she is in post.

4. If pre-appointment hearings are not about accountability, then they must be about selection. The question to be answered is whether there is a proper and valuable role for committees in this process. (Paragraph 11).

2 The Commissioner for Public Appointments, Public Administration Select Committee, Third Report of Session 2007–08, Parliament and public appointments: Pre-appointment hearings by select committees, HC152, Ev 5, para 16.

3 Cabinet Office, Public Bodies 2007, March 2008.

4 Ministry of Justice, The Governance of Britain – Constitutional Renewal, Cm 7342–I, March 2008.

5 John McFall, Public Administration Select Committee, Third Report of Session 2007–08, Parliament and public appointments: Pre-appointment hearings by select committees, HC152, Ev 3, para 7.

Pre-appointment hearings are about increasing democratic scrutiny of public appointments. The Government considers that the formal selection process will end when the candidate is put forward for a pre-appointment hearing. As the Chair of the Treasury Select Committee has commented, the pre-appointment hearing by select committee is “the start of a process of continuing accountability.”⁶

5. The proper role for select committees in the selection of candidates for public appointments is in informing the final ministerial decision, not in influencing the impartial process that precedes that decision. Select committees should only become involved once every part of the interview and selection process has been completed except for this final decision. (Paragraph 13).

6. The value that committees can add over and above that provided by a rigorous selection process is to expose a candidate to parliamentary and public scrutiny. (Paragraph 14).

The Government supports these recommendations. The Government will not involve select committees at any stage of the selection process. Nor will the Government present select committees with a choice of candidates. The relevant select committee will simply be offered the opportunity to take evidence from the Government’s nominee for the post. The committee’s report will be non-binding but the relevant Minister will consider the report before deciding whether to proceed with the appointment.

The Government agrees that the added value of a pre-appointment hearing will be to introduce greater Parliamentary and public scrutiny of those candidates put forward for appointment to key posts.

7. Hearings should normally apply only to posts for which accountability to Parliament and the public are an important part of the role. A positive outcome of holding pre-appointment hearings for such posts is the likelihood that appointees will perform this accountability function more effectively. (Paragraph 14).

9. We would expect pre-appointment hearings to apply to major auditors, ombudsmen, regulators and inspectors, as well as to those responsible for the appointments system itself. (Paragraph 17).

The Prime Minister announced to the House of Commons on 23 January 2008 that the Government had drawn up an initial list of posts that would be suitable for pre-appointment scrutiny by select committee.⁷ In keeping with the commitment in *The Governance of Britain Green Paper*,⁸ the Government wrote to the Chair of the Liaison Committee inviting views and comments on this initial list.⁹ A copy of this letter is reproduced at Annex A. The Liaison Committee published its response to the Government’s letter on 5 March 2008.¹⁰

6 John McFall, Public Administration Select Committee, Third Report of Session 2007–08, *Parliament and public appointments: Pre-appointment hearings by select committees*, HC152, Ev 2, para 2.

7 House of Commons Hansard, Col 1520, 23 January 2008.

8 Ministry of Justice, *The Governance of Britain*, Cm 7170, July 2007, paras 77–78.

9 Letter from Ed Miliband to Alan Williams, Chair of the Liaison Committee, 23 January 2008. A copy of the letter is attached as an Annex to this report.

10 House of Commons Liaison Committee, *Pre-appointment hearings by select committee*, First Report of Session 2007–08 (HC384).

It would be impractical and disproportionate to subject all public appointments to pre-appointment scrutiny by select committees. The Government believes, therefore, that pre-appointment hearings should be limited to posts in which Parliament and the public have a particularly strong interest and posts where the post-holder needs to show demonstrable independence from the Executive. This includes posts which have a key role in holding the Executive to account and posts which have an important role in protecting the public interest. The Government agrees with the Committee that the type of post most likely to fall within this definition includes principle auditors, senior ombudsmen, HM Chief Inspectors and key regulators. As pre-appointment hearings are intended to strengthen the role of the House of Commons in scrutinising public appointments, the Government also agrees that hearings should also be held for posts that play a key role in the regulation and administration of the appointments process—`not just in the field of public appointments, but also for posts overseeing appointments to the civil service and diplomatic service and to the judiciary.

The Government's initial list included over thirty key public appointments. These are set out below.

- Chair of the Gas and Electricity Markets Authority
- 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 Services 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 Crown Prosecution Service
- Information Commissioner
- Local Commissioners for Administration (Local Government Ombudsmen)
- Parliamentary Commissioner for Administration (Parliamentary Ombudsman)
- Pensions Ombudsman
- Pensions Protection Fund Ombudsman
- Prison and Probation Ombudsman

The Liaison Committee have suggested a number of additional posts for inclusion on this list.¹¹ The Government is currently considering the Liaison Committee's suggestions and will respond in due course.

8. Hearings might also be appropriate where a ministerial appointment might otherwise appear to be improperly partisan, particularly where there had been no transparent process of appointment on merit. There also needs to be clarity and consistency about which appointments are made with cross-party agreement and are put to Parliament for approval. (Paragraph 16).

All public appointments are made on merit. As such, the Government does not believe that political affiliation or political activity has any place in the decision-making process (excepting cases where there is a statutory requirement for political balance or 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 or the House of Lords Appointments Commission).

The Government accepts that select committees may want to seek reassurance that candidates are properly independent of the Executive. However, the Government believes that it would be hugely damaging if pre-appointment hearings resulted in a politicisation, or perceived politicisation, of the public appointments process. Many of the actions taken in recent years have been designed to strengthen and reinforce the over-riding principle of appointment on merit. For this reason, the Government believes that it would be inappropriate for candidates to be asked questions on how they vote or to give opinions on party political or politically sensitive issues (unless, of course, it was of direct relevance to the post to which they have applied). For appointments regulated by the Commissioner for Public Appointments, the Government could be in breach of her Code of Practice¹² if such questions were asked during the selection process or if information on political affiliation or political activity informed the final Ministerial decision.

10. We welcome the Government's commitment to keep under review the list of appointments subject to pre-appointment hearings, and to maintain a discussion on this list with the Liaison Committee. (Paragraph 19).

The Government is currently working with the Liaison Committee to agree an initial list of appointments suitable for pre-appointment scrutiny. The Liaison Committee's First Report of Session 2007–08 sets out the latest position.¹³ The Government has welcomed the Liaison Committee's report and will respond formally in due course.

11. We recommend that a pre-appointment hearing should take place only where the final decision on appointment remains in the hands of a politician. (Paragraph 20).

The introduction of pre-appointment hearings by select committee is, primarily, designed to ensure that the Executive is properly accountable to Parliament. It is right,

11 House of Commons Liaison Committee, Pre-appointment hearings by select committee, First Report of Session 2007–08 (HC384).

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

13 House of Commons Liaison Committee, Pre-appointment hearings by select committees, First Report of Session 2007–08 (HC384).

therefore, that pre-appointment hearings focus on posts where the final decision on appointment remains in the hands of Ministers. There may be some posts, however, where appointments are made by The Queen on the advice of Ministers—such as some ombudsmen posts. There may also be posts where the Government approves the appointment but where the appointment is formally made by another body. If there is real Parliamentary and public interest in such posts, and if the post-holder needs to be demonstrably independent of Government, there may be value in these posts also being subject to pre-appointment scrutiny by select committee.

The Government will look at each case on its merits. The list of posts suitable for pre-appointment hearings will be kept under review and any amendments to the list will be discussed with the Liaison Committee and, where appropriate, the Commissioner for Public Appointments.

12. We understand why the Government might be cautious about adding a public scrutiny element to the appointments process if this might affect markets or dissuade private-sector candidates from putting themselves forward. However, it is not clear what the value would be of a hearing which was able neither to influence the appointment of a candidate nor to allow an office-holder to account for their performance. (Paragraph 21).

13. We are not attracted to the idea of pre-commencement hearings as an alternative to pre-appointment hearings. For a limited range of genuinely sensitive appointments, an alternative to a public hearing might be for a pre-appointment hearing to be held in private, with the transcript of evidence published once the status of the appointment had been confirmed. (Paragraph 21).

The Government disagrees.

The purpose of pre-appointment hearings is to increase Parliamentary and public scrutiny of certain key public appointments. To achieve real democratic scrutiny, the Government believes that this requires pre-appointment hearings to be held in public.

The Governance of Britain Green Paper¹⁴ identifies a number of posts which are particularly market sensitive and where pre-appointment scrutiny might not be appropriate. The Government has subsequently consulted on these posts and has decided that the posts of the utility regulators—the Chair of the Gas and Electricity Markets (GEMA), the Chair of OFCOM and the Chair of the Water Service Regulatory Authority (OFWAT)—are suitable for pre-appointment scrutiny. These posts have been included in the initial list drawn up by the Government.¹⁵ The remaining posts identified as market sensitive in the Green Paper—the Governor and Deputy Governor of the Bank of England and the Chair of the Financial Services Authority—will, as originally proposed, be subject to post-appointment hearings (also known as pre-commencement hearings). These will be consistent with the model set by external appointments to the Monetary Policy Committee (MPC) where the Government invites the Treasury Select Committee to take evidence from external members of the MPC after their appointment has been announced but before they start work.

14 Ministry of Justice, *The Governance of Britain*, Cm 7170, July 2007, para 79.

15 Letter from Ed Miliband to Alan Williams, Chair of the Liaison Committee, 23 January 2008. A copy of the letter is attached as an Annex to this report.

14. If the basis on which posts are regulated by the Commissioner for Public Appointments is arbitrary, it would be equally arbitrary to exclude posts from pre-appointment hearings simply because they are regulated by the Commissioner. (Paragraph 22)

The Government agrees that posts regulated by the Commissioner for Public Appointments should not be automatically excluded from pre-appointment scrutiny by select committees. Consequently, the initial list of posts identified by the Government as suitable for pre-appointment scrutiny contains a number of posts regulated by the Commissioner.¹⁶ This includes the Chair of OFCOM, the Chair of the Appointments Commission, the Chair of the Committee on Standards in Public Life, the Chair of the Judicial Appointments Commission and the Information Commissioner. The Government has consulted the Commissioner on the inclusion of these appointments on the list.

It will be important, however, to ensure that pre-appointment hearings do not undermine the integrity of the Commissioner's role or call into question the effectiveness of her process. Appointments to posts regulated by the Commissioner are made in line with her Code of Practice.¹⁷ This already delivers independent scrutiny of the public appointments process and ensures that the final appointment is made on merit. The Government's proposals for pre-appointment hearings are not intended to duplicate this by providing an additional layer of scrutiny of the entire appointments process. Where a robust appointments process has been followed, underpinned by the principle of appointment on merit, the Government expects that in the vast majority of cases the committee will approve the appointment of the candidate and that Ministers will proceed with the appointment.

The Government recognises the expertise of the Commissioner for Public Appointments and will continue to work closely with the Commissioner and her staff. The Government also understands that introducing pre-appointment hearings for posts regulated by the Commissioner will require some amendments to her Code of Practice.

15. It is not our intention that pre-appointment hearings should put off suitable candidates from applying, and we do not think that they will be put off. Given the suggestion that this may be a risk, however, we recommend that the Government should attempt to monitor the effect of pre-appointment hearings on the number, balance and quality of applications for the positions to which they apply, and should aim to discuss with the Liaison Committee the results of this monitoring exercise as they become available. (Paragraph 29).

The Government agrees that pre-appointment scrutiny represents a new departure and needs to be closely monitored, including for the risk that Parliamentary scrutiny of this nature may deter candidates from applying for public appointments. These concerns have been expressed by a number of stakeholders, including the Commissioner for

16 This list is contained in a letter from Ed Miliband to Alan Williams, Chair of the Liaison Committee, 23 January 2008. A copy of the letter is attached as an Annex to this report.

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

Public Appointments.¹⁸ The Government has, therefore, decided that it will proceed with pre-appointment hearings on a pilot basis.¹⁹

The aim will be to assess the impact of pre-appointment hearings, including whether the introduction of pre-appointment scrutiny has deterred candidates from applying for public appointments. This work will be led by the Cabinet Office. The Cabinet Office will work closely with all interested parties—including the Commissioner for Public Appointments, search consultants and candidates themselves. The results of this work will be discussed with the Liaison Committee.

16. We recommend that the Government should allow committees at least three sitting weeks within which to hold a pre-appointment hearing and to give their advice on an appointment. A committee's failure to do so would not prevent an appointment from being made. (Paragraph 31).

It will be important that the Government and select committees work together to ensure that pre-appointment hearings do not introduce significant delays into what can already be a lengthy process. The Cabinet Office will be issuing guidance to Departments on appointments to posts which are subject to pre-appointment scrutiny by select committees. This will include a requirement for Departments to inform the relevant select committee at the earliest opportunity about a forthcoming public appointments exercise which may involve a pre-appointment hearing. The Government agrees that select committees should be allowed around three weeks to hold a pre-appointment hearing and to report. If a select committee fails to hold a pre-appointment hearing within this period of time, or publish a report, the Government may decide to proceed and confirm the appointment without waiting for the committee's views.

There may be exceptional circumstances where a select committee is not offered a pre-appointment hearing for a post which the Government had previously identified as suitable for pre-appointment scrutiny. For example, where a post falls vacant at very short notice and needs to be filled immediately or where Parliament is not sitting and the appointment needs to be confirmed before Parliament returns. The Government expects such circumstances to be exceptional. In such cases, a post-appointment hearing would be offered to the relevant select committee at the earliest opportunity.

17. We invite the Liaison Committee to agree guidelines for pre-appointment hearings, and suggest that the Chairman of any committee who departs egregiously from these guidelines should be answerable in the first instance to his or her fellow Chairmen. We trust to the good sense of committee Members to ensure that pre-appointment hearings are conducted appropriately. If they are not, the reputations of committees are likely to suffer and the Government is likely to reconsider whether pre-appointment hearings are appropriate. (Paragraph 34).

The Liaison Committee, in their First Report of Session 2007-08,²⁰ have prepared a set of draft guidelines to ensure that hearings are conducted appropriately. The Government

18 The Commissioner for Public Appointments, Public Administration Select Committee, Third Report of Session 2007–08, Parliament and public appointments: Pre-appointment hearings by select committees, HC152, Ev 16, para 10(i).

19 Letter from Ed Miliband to Alan Williams, Chair of the Liaison Committee, 23 January 2008. A copy of the letter is attached as an Annex to this report.

20 House of Commons Liaison Committee, Pre-appointment hearings by select committees, First Report of Session 2007–08 (HC384).

welcomes this and will be responding fully to the Liaison Committee's report in due course.

18. We recommend that the Government should ensure that a Minister, when coming to a decision on an appointment, will not be dissuaded by the risk of legal challenge from taking committee proceedings into account. If committee involvement in an appointment led a Minister to change his or her mind on the suitability of candidate, it would be absurd if the Minister felt required for legal reasons to proceed with the appointment against his or her better judgement. (Paragraph 36).

Ministers will want to be able to take into consideration select committee reports when deciding whether or not to proceed with an appointment. However, this does put a responsibility on individual select committees to ensure that pre-appointment hearings are conducted in an appropriate manner and that questions remain focussed on issues of professional competence and independence. The Government is not attempting to limit committees' questioning of witnesses or influence how evidence sessions are conducted. That would be wholly inappropriate. However, Ministers should not take into consideration any irrelevant or inappropriate questions asked by committee members. This includes questions about political affiliation. The Government will also disregard any recommendations or conclusions about candidates' suitability that are clearly partisan.

19. It is not intended that pre-appointment hearings will be binding, and Ministers will therefore retain the right to disagree with a committee's views on an appointee. Pre-appointment hearings will only be of any significance, however, if there is the possibility that Ministers might change their minds, and that a candidate's appointment might not be approved. We expect 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. (Paragraph 38).

The Government agrees that it should be exceptional for a committee to report against the appointment of a candidate.

Appointments are made on merit following an open and transparent process. In addition, a number of the posts proposed for pre-appointment scrutiny are regulated by the Commissioner for Public Appointments which means that there is independent scrutiny of the process and assurance that the final appointment is made on merit. As such, the Government expects that the vast majority of candidates who give evidence in a pre-appointment hearing will be considered suitable for appointment by the relevant select committee. The Minister will then proceed with the appointment.

The Government recognises, of course, that there is the possibility that a select committee may consider that a particular candidate is not suitable for appointment. In such cases, Ministers will give very careful consideration to the committee's report and to the reasons why the committee consider the candidate unsuitable. The final decision rests with the Minister. The Minister may decide not to proceed with the appointment.

20. Clear procedures are needed to avoid protracted media speculation about a candidate's fate following a pre-appointment hearing, particularly where a

committee is minded to recommend against an appointment. We invite the Liaison Committee to ensure that these procedures are in place. (Paragraph 39).

The Government agrees that it will be important for select committees to report quickly on pre-appointment hearings to avoid speculation. The Liaison Committee has already prepared draft guidelines for select committees on pre-appointment hearings.²¹ The Government welcomes this.

21. We recommend that a select committee should not necessarily be expected to hold more than three pre-appointment hearings in a year. Where this total is likely to be exceeded, the committee should be warned in advance and may reasonably choose not to carry out all of the hearings proposed. (Paragraph 41).

The number of posts proposed for pre-appointment scrutiny is relatively small. It is, therefore, unlikely that any select committee will be asked to hold more than three pre-appointment hearings in a single year. There can, however, be no expectation that the number of pre-appointment hearings will be evenly “shared” amongst all select committees. The decision on which posts are suitable for pre-appointment scrutiny will be made on the basis of the post-holders’ roles and responsibilities. Inevitably, some select committees will be offered more posts for pre-appointment hearings than others.

There can, of course, be no obligation on select committees to hold pre-appointment hearings. The Government will offer select committees the opportunity to take evidence from candidates for specific posts—but it will be a matter for each committee to decide whether or not they wish to scrutinise these individuals by means of a pre-appointment hearing.

22. In this Report, we have set out what we believe committees’ role in these appointments should be, and which appointments should be affected. This is a new step, somewhat into the unknown, the Commissioner for Public Appointments has expressed a number of concerns, and we would understand if the Government wished to keep how the system was working under review, in close co-operation with the Liaison Committee. Given the limited number of posts affected, data to conduct such a review would probably only be available after three years of operation. (Paragraph 42).

The Government agrees and has decided to proceed with pre-appointment hearings on a pilot basis.²² The Government is committed to strengthening the role of Parliament in public appointments but this cannot be at the expense of an efficient and effective public appointments system. The Government’s priority must be to maintain a public appointments process that is proportionate, that attracts good men and women in public life and that is underpinned by the fundamental principle of appointment on merit.

The Government recognises that any evaluation or assessment of individual pre-appointment hearings, and any recommendations on how select committees should conduct business, is a matter for Parliament. The Government will look to the Liaison

21 House of Commons Liaison Committee, Pre-appointment hearings by select committees, First Report of Session 2007–08 (HC384).

22 Letter from Ed Miliband to Alan Williams, Chair of the Liaison Committee, 23 January 2008. A copy of the letter is attached as an Annex to this report.

Committee to lead and provide input in these areas. The Cabinet Office will lead on all other aspects of the pilot, working closely with the Liaison Committee and the Commissioner for Public Appointments.

The Government agrees that, given the limited number of posts that are likely to be subject to pre-appointment hearings, the pilot will probably need to run initially for at least a couple of years before a proper evaluation can be made.

23. There is one other circumstance in which pre-appointment hearings should be introduced. Occasionally, Ministers have made public appointments without following the usual processes, where normal practice and the public expectation are that these appointments will be made on merit. The most common examples are appointments to the Diplomatic Service, often of former Members of Parliament. Such appointments may occasionally be appropriate, but they deserve to be tested in public by a cross-party committee. There is a strong argument for requiring a pre-appointment hearing—even a binding hearing—in such cases. (Paragraph 43).

The Government does not agree.

The Government is introducing pre-appointment hearings to strengthen the role of Parliament in the appointment of people to posts in which there is a strong public interest either because of the role played in holding the Executive to account or because of the powers exercised in protecting the public's rights and interests. The appointments referred to do not fall within this category. The Government does not consider it appropriate for Parliament to be involved in these appointments.

ANNEX A

Letter From The Minister For The Cabinet Office To The Chair Of The Liaison Committee

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.

Rt Hon Ed Miliband MP

23 January 2008

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

25 April 2008

List of Reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2007–08

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| First Report | Machinery of Government Changes: A follow-up Report | HC 160 (<i>HC 514</i>) |
| Second Report | Propriety and Peerages | HC 153 |
| Third Report | Parliament and public appointments: Pre-appointment hearings by select committees | HC 152 (515) |
| Fourth Report | Work of the Committee in 2007 | HC 236 (<i>HC 458</i>) |
| Fifth Report | When Citizens Complain | HC 408 |

Session 2006–07

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| First Report | The Work of the Committee in 2005–06 | HC 258 |
| Second Report | Governing the Future | HC 123 (<i>cm 7154</i>) |
| Third Report | Politics and Administration: Ministers and Civil Servants | HC 122 |
| Fourth Report | Ethics and Standards: The Regulation of Conduct in Public Life | HC 121 (<i>HC 88</i>) |
| Fifth Report | Pensions Bill: Government Undertakings relating to the Financial Assistance Scheme | HC 523 (<i>HC 922</i>) |
| Sixth Report | The Business Appointment Rules | HC 651 (<i>HC 1087</i>) |
| Seventh Report | Machinery of Government Changes | HC 672 (<i>HC 90</i>) |
| Eighth Report | The Pensions Bill and the FAS: An Update, Including the Government Response to the Fifth Report of Session 2006–07 | HC 922 (<i>HC 1048</i>) |
| Ninth Report | Skills for Government | HC 93 (<i>HC 89</i>) |
| First Special Report | The Governance of Britain | HC 901 |

Session 2005–06

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| First Report | A Debt of Honour | HC 735 (<i>HC 1020</i>) |
| Second Report | Tax Credits: putting things right | HC 577 (<i>HC 1076</i>) |
| Third Report | Legislative and Regulatory Reform Bill | HC 1033 (<i>HC 1205</i>) |
| Fourth Report | Propriety and Honours: Interim Findings | HC 1119 |
| Fifth Report | Whitehall Confidential? The Publication of Political Memoirs | HC 689 (<i>HC 91, Session 2007–08</i>) |
| Sixth Report | The Ombudsman in Question: the Ombudsman's report on pensions and its constitutional implications | HC 1081 (<i>cm 6961</i>) |
| Seventh Report | The Ministerial Code: the case for Independent Investigation | HC 1457 (<i>HC 1088, Session 2006–07</i>) |
| First Special Report | The Attendance of the Prime Minister's Strategy Adviser before the Public Administration Select Committee | HC 690 |