



House of Commons
Public Administration Select
Committee

**Government Responses to
the Committee's Eighth
and Ninth Reports of
Session 2009–10: Goats
and Tsars: Ministerial and
other appointments from
outside Parliament and
Too Many Ministers?**

Second Report of Session 2010–11

Report, together with formal minutes

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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 and the Health Service Commissioner 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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The current staff of the Committee are Clive Porro (Clerk), Ben Williams (Second Clerk), Louise Glen (Senior Committee Assistant) and Su Panchanathan (Committee Assistant)

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1 Report

1. The Public Administration Select Committee's Report *Goats and Tsars: Ministerial and other appointments from outside Parliament* was its Eighth Report of Session 2009-10, and was published on 11 March 2010 as HC 330. We published our Ninth Report *Too Many Ministers?* on 16 March 2010 as HC 457. The Government Responses to both these reports were received on 21 September 2010 and are published below as an appendices to this report.

2. We are disappointed with the quality of the Government Responses, which are inadequate and devoid of merit. The lack of thought the Government has given to the issues raised underlines the need for PASC to return to this subject; as we intend to in our inquiry *What do Ministers do?* We invite the Government to enter a constructive debate on these matters.

Appendix 1—Government Response to the Committee's Eighth Report of Session 2009-10

Goats and Tsars: Ministerial and other appointments from outside Parliament

1. The appointment of people from outside Parliament to be ministers via the House of Lords is not new, but the scale of such appointments in recent years is. It raises questions about why such appointments are being made and their impact on government and Parliament. (Paragraph 14)
2. The reasons why a Prime Minister chooses particular individuals to be ministers are complex. Over time the number of prospective new ministers within a governing party is likely to diminish. However, where a Prime Minister considers himself short of prospective ministers in the House of Commons, this is often because candidates are being sifted out because of politics or personality rather than competence. It is likely that some outside appointments are similarly driven by political and personality considerations rather than a lack of options on the government benches. (Paragraph 25)
3. Career politicians have an important place in government. Despite this, government will be more effective if people in ministerial roles come from a wide range of backgrounds and experience. Appointment of people from outside parliament is one route to achieve this. A greater willingness on the part of Prime Ministers to appoint from a broader cross section of their own parliamentary party would be another. (Paragraph 33)
4. There are circumstances in which an outside appointee may have particular experience, skills or expertise which are not readily available within the House of Commons. However, outside appointments should not be a substitute for efforts to make the House of Commons more diverse and representative, or for using untapped talent that already exists. Some ministers are clearly less competent than some of those in the House who are not ministers. (Paragraph 36)
5. The use of the House of Lords to appoint ministers from outside Parliament gives Prime Ministers potentially presidential powers of appointment, without the checks and balances that would apply in a presidential system. Such appointments can be justified if they bring clear benefits to government, but they should be exceptional. When making such an appointment a Prime Minister should set out clearly to the House of Commons why the appointment has been made from outside, under what terms and what he or she expects the minister to achieve during their time in government. Moreover, the appointment should be

subject to scrutiny by the House of Commons. This could involve a select committee hearing and report. If the Committee was not satisfied with the appointment it could recommend a debate and vote on the floor of the House. (Paragraph 45)

6. So long as there is a predominately appointed House of Lords, there will be members of the Government who are not elected Members of Parliament. Since the 1960s this has tended to be around 20% of the Government including a maximum of three Cabinet Ministers. The inclusion in this group of a small number of ministers appointed from outside Parliament does not threaten the democratic legitimacy of the Government. Any substantial increase in the overall number of ministers in the Lords, and any increase at all in the number of Cabinet ministers, would do so. (Paragraph 50)

9. As with ministers from all backgrounds, there have been both successes and failures among ministers appointed from outside Parliament. There is no evidence to suggest that such ministers are, as a group, less likely to be successful than other ministers. (Paragraph 67)

The Government agrees that ministerial appointments from outside the existing membership of the House of Commons or the House of Lords should be exceptional. However, the Prime Minister's primary concern when appointing to ministerial office is to ensure that his Government is served by those who are most able to do so. At times, this may mean that it is necessary to appoint somebody who is not currently a member of either the House of Commons or the House of Lords. Such appointments will be exceptional.

The Government believes that scrutiny by Parliament of these ministerial appointments before they are made would undermine the clear principle in the UK's system of government that ministerial appointments are made by the Prime Minister. However, in performing the duties of ministerial office, the minister will be subject to detailed scrutiny by Parliament. For example, Select Committees can be expected to examine the work of such appointees.

7. So long as there is an unelected second chamber, there is a strong argument of principle that senior ministers should be directly accountable to the democratically elected chamber as a whole. However, there is a debate to be had about how this can be achieved. We understand that the Procedure Committee is investigating this issue and look forward to the House being given the opportunity to debate any proposals that may emerge. Such a move should not be used as a justification for appointing more senior ministers via the House of Lords. The purpose of such a change would be to assert the primacy of the Commons, not to undermine it. (Paragraph 58)

8. Allowing ministers to present their policies and answer questions in both chambers could have benefits for both government and Parliament. It would

allow government to ensure that their policies were being presented in the most effective way by the person best placed to debate them. It would ensure that Ministers based in the House of Lords were fully accountable to the primary, elected House and expose Secretaries of State from the Commons to the very different style of scrutiny practised in the House of Lords. It would also remove the need to appoint Members of the Lords as ministers to ensure departmental representation in both Houses. (Paragraph 61)

At this time there are no Secretaries of State in the House of Lords.

Ministers have a duty to Parliament to account, and to be held to account, for the policies, decisions and action of their departments and agencies regardless of which House they sit in. They do this in a number of ways. In the House in which they sit, ministers answer questions, make statements and participate in debates. Ministers give evidence to Select Committees of both Houses and respond to letters from Members of both Houses.

There is also a risk that the burden on ministers of having additional duties in the other House might compromise their ability to participate fully in the work of the House in which they sit.

10. We have previously recommended that government should pay more attention to the professional development of ministers. There would be particular advantages to doing so where a minister does not have prior experience of politics or Parliament. (Paragraph 69)

The Government agrees that it is important that ministers can learn about how to be effective in their new roles.

11. Former ministers bring valuable experience to the work of Parliament. However, we do not believe this is a sufficient reason to allow ministers appointed from outside Parliament via the House of Lords to retain their seats after they leave government, especially when there is no requirement on them to be active members of the House. (Paragraph 78)

12. We support moves to allow peers to resign and recommend that the Ministerial Code require ministers who were appointed to the House of Lords in order to take up their duties to resign from that House upon their departure from government. Those former ministers who wished to remain active members of the House of Lords could seek reappointment through the party nomination process or, if they could convince it of their independence from party politics, the House of Lords Appointments Commission. (Paragraph 79)

13. The giving of titles for life to ministers who may only be in government for a short time will, rightly or wrongly, raise the suspicion of patronage. We have previously recommended that the honour of a peerage should be separated from

a place in the legislature. We continue to hold this view and believe it is especially relevant where an individual is made a Member of the House of Lords in order to take up ministerial duties. On ceasing to be a minister, such a person should be required to relinquish the title too. (Paragraph 81)

The Government has established a cross-party Committee to bring forward proposals for a wholly or mainly elected second chamber to replace the House of Lords. The arrangements for appointment to and resignation from the House of Lords, including in the case of ministers, over the period before it is possible to implement an elected second chamber, will need to be considered as part of that process. The Leader of the House of Lords has also established a cross-party working group under the chairmanship of Lord Hunt of the Wirral to consider options for allowing members of the House of Lords to leave the House permanently.

14. We agree that in principle the Prime Minister should be responsible for propriety checks on ministers. However, making an individual a Member of the Lords to take up ministerial office means that they also become a life-long member of the legislature. So long as this situation holds we believe that the House of Lords Appointments Commission should be allowed to vet ministerial appointees for propriety in the same way as for any other working peer. (Paragraph 84)

Following the recent General Election, for the first time the House of Lords Appointments Commission vetted ministerial appointees prior to their appointment against the same criteria of propriety that it uses for all peerages. It is intended that this practice will continue.

15. Appointing a small number of junior ministers directly, without requiring them to be Members of either House, would resolve some of the problems resulting from appointment via the House of Lords. It would also provide a mechanism to place clear limits on the number of ministers that could be appointed in this way and their role. Whilst not completely without precedent, this would be a considerable constitutional innovation. It is an idea that deserves further consideration. (Paragraph 90)

16. What is clear is that this whole issue of the external appointment of ministers needs to be considered in the round. It is not appropriate for moves in this direction to take place in isolation from a consideration of the wider constitutional implications. (Paragraph 91)

The Government agrees that the issue of external appointment of ministers should only be considered as part of its wider constitutional agenda.

17. **At present there is little transparency concerning the informal and ad hoc appointments made by government to lead on, review or promote particular policies. Job titles are often uninformative, appointment processes informal and the work undertaken opaque and not clearly linked to results. The allegation that some of these posts might have been created for the sake of a press notice may be unfair, but it is difficult to refute without greater transparency. (Paragraph 101)**

18. **We recommend that the Cabinet Office continue to maintain a list of such appointments and that guidelines should be issued to clarify how far 'tsars' speak for themselves or for the Government. Where 'tsars' do not speak for the Government they should be able to express their own views freely. (Paragraph 102)**

19. **We further recommend that each department produce, in its Departmental Annual Report, a brief account of the work undertaken by such appointees during the year and the support from officials they have received. Finally, we recommend that upon appointing such an individual the appointing minister should write to the Chairman of the relevant select committee giving details of what will be expected from the appointee, their responsibilities and the support they will receive from the department. (Paragraph 103)**

The Government does not support the Committee's recommendations at this time but does seek to ensure that such appointments are announced publicly, and Select Committees can be expected to examine their work.

Appendix 2—Government Response to the Committee's Ninth Report of Session 2009-10

Too Many Ministers?

1. The ever-upward trend in the size of government over the last hundred years or more is striking and hard to justify objectively in the context of the end of Empire, privatisation, and, most recently, devolution to Scotland, Wales and Northern Ireland. There is a strong case for re-examining the number of government ministers that the country needs, as well as the statutory limits on these numbers that currently exist. (Paragraph 5)
2. There may be a need for a new piece of legislation, consolidating the relevant provisions in the Ministerial and Other Salaries Act and the House of Commons Disqualification Act and attempting to close those loopholes which Prime Ministers have exploited over the years. The limits on ministerial numbers should not be seen as a target to be met, or even exceeded. (Paragraph 9)
3. Decisions on the number of ministers should be led by practical need, not political reward. There is a growing consensus that the ever increasing number of ministers harms the effectiveness of government. (Paragraph 15)
4. Ministers' role is to take key decisions, account to Parliament for them and conduct discussions at the highest level. Some junior ministerial roles appear to fall far short of this. Civil servants should not be put in the position of 'making work' for ministers. Not only is this costly and inefficient but it devalues the role of ministers. (Paragraph 18)
5. The appointment of unpaid ministers is a way in which a Prime Minister can increase the total number of ministers in his government without exceeding the statutory limits on the number of paid ministers. However, unpaid ministers still bring with them a significant cost to the public purse. Moreover, relying on ministers to take unpaid positions brings with it an incentive to favour those who are independently wealthy. The Ministerial and Other Salaries Act 1975 should be treated as setting an absolute limit on the number of government ministers, paid or unpaid. (Paragraph 19)
6. It would be better for government, for the public purse and for ministers themselves if the number of ministers were reduced, possibly by as much as one third. Cutting the number of ministers would also be consistent with smaller, smarter government. (Paragraph 21)

The Government welcomes the Committee's interest in these issues. The Committee will have seen the appointments made by the Coalition Government. The Government agrees that the number of ministers should be dictated by need and on this basis has carefully considered all the appointments that it has made. Because of the nature of Coalition Government and the challenge of delivering the Programme for Government, the Prime Minister did not think that it was possible to reduce significantly the number of ministers at this time.

In addition, this Government has reduced the number of ministers who regularly attend meetings of the Cabinet, as well as putting in place more formal government structures.

7. **The ever increasing size of the payroll vote should be addressed as a matter of urgency. We recommend that the Ministerial Code be amended to limit Parliamentary Private Secretaries to one for each department or Cabinet Minister. The posts of Parliamentary Assistants to Regional Ministers should be abolished. (Paragraph 33)**

9. **The House of Commons Disqualification Act was intended to prevent government from stacking the legislature with its own office holders. The existence of large numbers of Parliamentary Private Secretaries and other unofficial office holders undermines this principle. The existing limit on the number of ministers sitting and voting in the Commons needs to be widened to encompass all of those Members of Parliament who hold office connected to the Government, whether formally or informally. A logical basis on which to establish this limit would be as a proportion of the total membership of the Commons. A limit of around 15 per cent, mid-way between that recommended by the Herbert Committee and the present position, would result in a reduction in the current payroll vote of around 40 posts.**

In line with the *Ministerial Code*, Cabinet Ministers and Ministers of State may appoint Parliamentary Private Secretaries with the prior written approval of the Prime Minister. The role of Parliamentary Assistants to Regional Ministers has been abolished.

8. **There is a significant lack of clarity around the status of Members of Parliament acting as special envoys or representatives for the Prime Minister or in other government advisory roles. The suspicion is that these are a way of extending patronage to people who have not been chosen for ministerial office. There should be more transparency about their role, their cost, and the civil service support they receive, if any. It should be clear that no person would lose such a position for voting against the Government. (Paragraph 34)**

This issue is covered in the Government's response to the Committee's report on *Goats and Tsars*.

Formal Minutes

Tuesday 12 October 2010

Members present:

Mr Bernard Jenkin, in the Chair

Nick de Bois
Charlie Elphicke
Paul Flynn

Mr Charles Walker
Robert Halfon

Draft Report (*Government Responses to the Committee's Eighth and Ninth Reports of Session 2009-10: Goats and Tsars: Ministerial and other appointments from outside Parliament and Too Many Ministers?*) proposed by the Chair, brought up and read.

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

Paragraphs 1 to 2 read and agreed to.

Papers were appended to the Report as Appendices 1 and 2.

Resolved, That the Report be the Second Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

[Adjourned till this day at 7.00 pm]

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 2010-11

First Report	Who does UK National Strategy?	HC 435
Second Report	Government Responses to the Committee's Eighth and Ninth reports of Session 2009-10	HC 150
Third Report	Equitable Life	HC 485