



House of Commons
Political and Constitutional
Reform Committee

Parliament's role in conflict decisions: an update

Eighth Report of Session 2013–14

*Ordered by the House of Commons
to be printed 5 September 2013*

The Political and Constitutional Reform Committee

The Political and Constitutional Reform Committee is appointed by the House of Commons to consider political and constitutional reform.

Current membership

Mr Graham Allen MP (*Labour, Nottingham North*) (*Chair*)
Mr Christopher Chope MP (*Conservative, Christchurch*)
Paul Flynn (*Labour, Newport West*)
Sheila Gilmore MP (*Labour, Edinburgh East*)
Andrew Griffiths MP (*Conservative, Burton*)
Fabian Hamilton MP, (*Labour, Leeds North East*)
Simon Hart MP (*Conservative, Carmarthen West and South Pembrokeshire*)
Tristram Hunt MP (*Labour, Stoke on Trent Central*)
Mrs Eleanor Laing MP (*Conservative, Epping Forest*)
Mr Andrew Turner MP (*Conservative, Isle of Wight*)
Stephen Williams MP (*Liberal Democrat, Bristol West*)

Powers

The Committee's powers are set out in House of Commons Standing Orders, principally in Temporary Standing Order (Political and Constitutional Reform Committee). These are available on the Internet via <http://www.publications.parliament.uk/pa/cm/cmstords.htm>.

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/pcrc. A list of Reports of the Committee in the present Parliament is at the back of this volume.

The Reports of the Committee, the formal minutes relating to that report, oral evidence taken and some or all written evidence are available in a printed volume.

Additional written evidence may be published on the internet only.

Committee staff

The current staff of the Committee are Joanna Dodd (Clerk), Adele Brown (Senior Committee Specialist), Edward Faulkner (Committee Specialist), Emma Fitzsimons (Legal Specialist), Tony Catinella (Senior Committee Assistant), Jim Lawford, (Committee Assistant) and Jessica Bridges-Palmer (Media Officer).

Contacts

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Earlier Committee work

1. In May 2011 we published a Report on *Parliament's Role in Conflict Decisions*.¹ In it we noted the Government's position on this issue:

the Government believes that it is apparent that since the events leading up to the deployment of troops in Iraq, a convention exists that Parliament will be given the opportunity to debate the decision to commit troops to armed conflict and, except in emergency situations, that debate would take place before they are committed.²

2. The Report also welcomed the commitment of the Foreign Secretary, Rt Hon William Hague MP, made in March 2011 in the context of military action in Libya, to “enshrine in law for the future the necessity of consulting Parliament on military action”.³ We concurred with the Foreign Secretary's view. There was and is a need for greater clarity about Parliament's role in decisions to commit British forces to armed conflict abroad. We called on the Government, as a first step, to bring forward a draft parliamentary resolution for consultation with us among others, and for debate and decision by the end of 2011.⁴

3. The Government's response to our Report was published in September 2011.⁵ It neither agreed with nor addressed in any detail the recommendations in our Report. In particular, it stated that the Government could not commit to following the Committee's suggested approach or to meeting the timetable we had proposed.⁶ Instead, the Government stated that it hoped “to make progress on this matter in a timely and appropriate manner”.⁷

4. The Government did accept our third recommendation which called for the Government's Cabinet Manual to be amended to include the convention that Parliament should have the opportunity to debate decisions to commit troops to armed conflict, and that the debate should take place before the troops are committed, except in emergency situations. The Cabinet Manual now summarises previous parliamentary involvement in relation to military action and states that:

In 2011, the Government acknowledged that a convention had developed in Parliament that before troops were committed the House of Commons should have an opportunity to debate the matter and said that it proposed to observe that convention except when there was an emergency and such action would not be appropriate.⁸

1 Political and Constitutional Reform Committee, Eighth Report of Session 2010-12, HC 293

2 Ibid, para 3

3 HC Deb, 21 March 2011, col 799

4 HC 293 (2010-12), para 6

5 *Parliament's Role in conflict decisions: Government Response to the Committee's Eighth Report of Session 2010-12*, Ninth Report of Session 2010-12, (HC 1477)

6 HC 1477, Letter to the Chair dated 21 July 2011 from Mark Harper MP, Minister for Political and Constitutional Reform, Cabinet Office

7 HC 1477, (2010-12) para 5

8 *The Cabinet Manual: A guide to laws, conventions and rules on the operation of government*, 1st edition, October 2011 para 5.38. www.gov.uk

5. However, in the period since the publication of the Government's response to our Report no draft parliamentary resolution has been forthcoming despite the fact that, as we noted in our Report, much of the necessary preparatory work in this respect had already been completed: the previous Government had proposed a draft parliamentary resolution on war powers in a Green Paper in 2007 and a White Paper in 2008 which were subject to extensive Parliamentary scrutiny.⁹ However, the House did not have an opportunity to consider such a motion before the general election in May 2010.¹⁰

6. As part of our commitment to monitor progress on this issue, we wrote to the Foreign Secretary on 10 January 2013 asking for an update on the Government's position and information on what deliberations had taken place between, and within, Government Departments on Parliament's role in conflict decisions.¹¹ In response, the Foreign Secretary stated:

My view remains, as I set out in my statement to the House on 21 March 2011: wherever possible, Parliament should have the opportunity to debate, in advance, the commitment of UK forces to military action overseas, unless there is an emergency where such action would not be appropriate. Since my statement, we have declared and formalised this understanding within the Cabinet Manual.

I have discussed these issues with my Ministerial colleagues. Given the complexities involved we have commissioned work from a number of Departments to help reach agreement on the way ahead. Once this has concluded, the Government will update Parliament on next steps. [...]¹²

Our view on recent developments relating to conflict decisions

7. Where Government wishes to consult Parliament before action then drafting is straightforward. However, the task of enshrining Parliament's role in law, while still enabling Government to act quickly and then report afterwards, requires careful drafting. The absence of any apparent urgency on the Government's part to move forward on the matter more generally since 2011, when it made a commitment to "enshrine in law for the future the necessity of consulting Parliament on military action", has given us cause for concern. With the exception of changes to the Cabinet Manual, little, if any, formal progress appears to have been made by the Government in advancing action on this important issue. Now is the moment to deliver on the commitment. We echo the view contained within a timely Report by the House of Lords Constitution Committee on *Constitutional arrangements for the use of armed force*, published in July 2013, which noted that:

9 The Green and White Papers were scrutinised by the Public Administration Select Committee and the House of Lords Constitution Committee as well as by the specially convened Joint Committee on the draft Constitutional Renewal Bill. For further information see HC 932, para 2

10 HC 923 (2010-12), para 6

11 Letter from the Chair to the Foreign Secretary, Rt Hon William Hague MP. See Appendix for full text.

12 Letter from the Foreign Secretary, Rt Hon William Hague MP, to the Chair. See Appendix for full text.

The decision to use armed force overseas is one of the most momentous a Government can make. At present the role played by Parliament in such decisions varies widely: there is no standard process by which Parliament becomes involved.¹³

8. We have no view on the rights and wrongs of particular decisions, including the recent one on Syria; we are concerned with democratic process only. Hence we welcome the Government's decision to request the recall of Parliament on 29 August 2013 and to place before the House a substantive motion including a commitment that "before any direct British involvement in such action [in Syria] a further vote of the House of Commons will take place". We also note the Prime Minister's statement in response to a question about whether the Government would use the Royal Prerogative to commit UK forces to military action before there was another vote in the House of Commons. The Prime Minister stated:

Let me say that the House has not voted for either motion tonight. I strongly believe in the need for a tough response to the use of chemical weapons, but I also believe in respecting the will of this House of Commons. It is very clear tonight that, while the House has not passed a motion, the British Parliament, reflecting the views of the British people, does not want to see British military action. I get that, and the Government will act accordingly.¹⁴

Not only did this serve to highlight the important role of Parliament in conflict decisions, it also showed how the de facto situation on conflict decisions appears to have outpaced the legal position.

Next steps: a new inquiry

9. In light of recent developments, we are launching a new inquiry into 'Parliament's Role in Conflict Decisions'. Since the Government has a clear, positive position on this we do not envisage a long inquiry. In order to inform our deliberations, we recommend that, in its response to our Report, the Government provide a comprehensive, updated statement of its position on the role of Parliament in conflict decisions. In particular, we wish the Government to address what progress had been made in discussions between Government Departments to implement the Foreign Secretary's commitment since he last updated our Committee in February 2013. We also recommend that it precisely details the specific steps which will now be taken to fulfil the strong public commitment to enshrine in law the necessity of consulting Parliament on military action.

13 Second Report of Session 2013–14, HL Paper 46, para 1

14 HC Deb, 29 August 2013, col 1556

Formal Minutes

Thursday 5 September 2013

Members present:

Mr Graham Allen, in the Chair

Mr Andrew Turner

Stephen Williams

Draft Report (*Parliament's role in conflict decisions*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 9 read and agreed to.

Correspondence between the Chair of the Committee and the Foreign Secretary was appended to the Report.

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

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

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Thursday 12 September at 9.45 am.]

Appendix: correspondence between the Chair of the Committee and the Foreign Secretary

Letter from the Chair of the Committee to Rt Hon William Hague MP, Foreign Secretary, Foreign Office

I was concerned to read a report in *The Times* on 4 January that there is now some doubt about the commitment you made in March 2011 to “enshrine in law for the future the necessity of consulting Parliament on military action.”

As you will know, the Political and Constitutional Reform Committee published a report in May 2011 on *Parliament's role in conflict decisions*. The Committee concluded that there was an urgent need for greater clarity about Parliament's role in decisions to commit British forces to armed conflict abroad. We called on the Government, as a first step, to bring forward a parliamentary resolution, for debate and decision by the end of 2011. This did not happen, and now it seems that the statutory route, which we saw as a longer term project, may be in jeopardy.

The Committee stated in its report that it would monitor progress in this area closely. As part of this ongoing process, I am writing to seek an update from you on the progress that has been made so far, and on what steps you intend to take to fulfil the commitment you made about enshrining in law the necessity of consulting Parliament on military action.

In particular, I would like to know at what levels within Government the statutory enshrinement of the rights of Parliament with respect to decisions about armed conflict has been discussed—both before and after the commitment was made in the House to introduce such a statute. Furthermore, if internal objections have been raised to the prospect of such a statute, I would like to know what they are, whether they are regarded as decisive, and, if so, why. Finally, if the statutory route is now being dropped, it would seem appropriate that a Minister should explain to the House at the earliest opportunity why this previous commitment to the House has been reneged upon, and set out a timetable for the introduction of a non-statutory measure in its place.

10 January 2013

Letter from Rt Hon William Hague MP, Foreign Secretary, Foreign Office, to the Chair of the Committee

Thank you for your letter of 10 January about enshrining the role of Parliament in committing to military action, which was also covered in answer to your Parliamentary Question on the subject on 22 January.

My view remains, as I set out in my statement to the House on 21 March 2011: Wherever possible, Parliament should have the opportunity to debate, in advance, the commitment of UK forces to military action overseas, unless there is an emergency where such action would not be appropriate. Since my statement, we have declared and formalised this understanding within the Cabinet Manual.

I have discussed these issues with my Ministerial colleagues. Given the complexities involved, we have commissioned work from a number of Departments to help reach agreement on the way ahead. Once this has concluded, the Government will update Parliament on next steps. I am grateful for the Committee's continued interest.

8 February 2013

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 2010–12

First Report	Parliamentary Voting System and Constituencies Bill	HC 422
Second Report	Fixed-term Parliaments Bill	HC 436 (Cm 7951)
Third Report	Parliamentary Voting System and Constituencies Bill	HC 437 (Cm 7997)
Fourth Report	Lessons from the process of Government formation after the 2010 General Election	HC 528 (HC 866)
Fifth Report	Voting by convicted prisoners: Summary of evidence	HC 776
Sixth Report	Constitutional implications of the Cabinet Manual	HC 734 (Cm 8213)
Seventh Report	Seminar on the House of Lords: Outcomes	HC 961
Eighth Report	Parliament's role in conflict decisions	HC 923 (HC 1477)
Ninth Report	Parliament's role in conflict decisions: Government Response to the Committee's Eighth Report of Session 2010-12	HC 1477 (HC 1673)
Tenth Report	Individual Electoral Registration and Electoral Administration	HC 1463 (Cm 8177)
Eleventh Report	Rules of Royal Succession	HC 1615 (HC 586)
Twelfth Report	Parliament's role in conflict decisions—further Government Response: Government Response to the Committee's Ninth Report of Session 2010-12	HC 1673
Thirteenth Report	Political party finance	HC 1763

Session 2012–13

First Report	Recall of MPs	HC 373 (HC 646)
Second Report	Introducing a statutory register of lobbyists	HC 153
Third Report	Prospects for codifying the relationship between central and local government	HC 656(Cm 8623)
Fourth Report	Do we need a constitutional convention for the UK?	HC 371

Session 2013-14

First Report	Ensuring standards in the quality of legislation	HC 85 (HC 611)
Second Report	The impact and effectiveness of ministerial reshuffles	HC 255
Third Report	Revisiting Rebuilding the House: the impact of the Wright reforms	HC 82
Fourth Report	The role and powers of the Prime Minister: the impact of the Fixed-term Parliaments Act 2011 on Government	HC 440

10 Parliament's role in conflict decisions: an update

Fifth Report	Pre-appointment hearing: The Chair of the House of Lords Appointments Commission	HC 600
Sixth Report	Introducing a statutory register of lobbyists: Government Response to the Committee's Second Report of Session 2012-13	HC 593
Seventh Report	The Government's lobbying Bill	HC 601