



House of Commons  
Public Administration  
and Constitutional Affairs  
Committee

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**Appointment of the  
UK's delegation to  
the Parliamentary  
Assembly of the  
Council of Europe**

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**Second Report of Session 2015–16**





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# Appointment of the UK's delegation to the Parliamentary Assembly of the Council of Europe

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**Second Report of Session 2015–16**

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to the report*

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## The Public Administration and Constitutional Affairs Committee

The Public Administration and Constitutional Affairs 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; to consider matters relating to the quality and standards of administration provided by civil service departments, and other matters relating to the civil service; and to consider constitutional affairs.

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### Powers

The committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 146. These are available on the internet via [www.parliament.uk](http://www.parliament.uk).

### Publication

Committee reports are published on the Committee's website at [www.parliament.uk/pacac](http://www.parliament.uk/pacac) and by The Stationery Office by Order of the House.

Evidence relating to this report is published on the relevant [inquiry page](#) of the Committee's website.

### Committee staff

The current staff of the Committee are: Dr Rebecca Davies (Clerk), Ms Rhiannon Hollis (Clerk), Ms Laura Criddle (Second Clerk), Dr Adam Evans (Committee Specialist), Ms Luanne Middleton (Committee Specialist), Dr Henry Midgley (Committee Specialist), Ms Penny McLean (Committee Specialist), Ms Jane Kirkpatrick (PhD student), Ana Ferreira (Senior Committee Assistant), Mr James Camp (Committee Assistant) and Mr Alex Paterson (Media Officer).

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# 1 Introduction

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1. On Monday 30 November 2015, the Committee received a letter from the Rt Hon Mr Owen Paterson MP asking it to look into the way in which the UK appoints its Delegation to the Parliamentary Assembly of the Council of Europe (PACE). The letter is published as an appendix to this Report. The Committee agreed at a meeting on the same day to consider the matter. On 16 December, the Committee took oral evidence from the Leader of the House, the Rt Hon Chris Grayling MP. The Committee has also received written evidence from Sir Roger Gale MP, Leader of the UK's Delegation to PACE, which was published on 16 December 2015.

2. This short report sets out the background to Mr Paterson's request, and to the controversy which arose after the Written Statement about the membership of the Delegation which was made by the Prime Minister on 3 November 2015. It summarises the oral evidence from the Leader of the House and the written evidence from the Leader of the UK's Delegation to PACE. It then explains why reform of the process of appointment is now appropriate, and sets out the principles on which this should be established. We are mindful of the uncertainty that this controversy has caused for those who are or might have been members of the UK Delegation. In particular we are mindful of the difficulties this controversy presented to Sir Roger Gale, as Leader of the new Delegation.

3. Standing Order No. 146 provides that the Public Administration and Constitutional Affairs Committee shall "consider matters relating to the quality and standards of administration provided by civil service departments, and other matters relating to the civil service; and [...] consider constitutional affairs."<sup>1</sup> We consider the choice of the UK's Delegation to this important international assembly, together with the apparent role of the Executive in influencing the choice, to be a matter of constitutional importance and therefore within our remit. As explained below, we would like to see the Procedure Committee consider how the House might implement a formal democratic procedure to choose such international delegations, according to Standing Orders to be devised for the purpose. We do not consider it within our remit to prescribe such rules and we have therefore confined ourselves to considering the issue of principle.

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1 Standing Order No. 146, as amended on 3 July 2015, <http://www.publications.parliament.uk/pa/cm201516/cmstords/soadd0506.pdf>

## 2 The current controversy

4. The Council of Europe, which describes itself as “the continent’s leading human rights organisation,” was founded in 1949. It now includes 47 member states, 28 of which are members of the European Union, and the UK is a founding member. All member states of the Council of Europe are signatories to the European Convention on Human Rights. The Council claims credit for major work in the area of human rights, including promoting the abolition of the death penalty, strengthening protection against torture, fighting racism, and upholding freedom of expression, gender equality and the rights of children.<sup>2</sup>

5. The Parliamentary Assembly of the Council of Europe is an inter-parliamentary human rights and democracy body that holds governments to account, provides a forum for debate on Europe’s political and social issues and makes appointments to various positions. It holds four plenary sessions a year in Strasbourg, and also works through various committees. PACE also first met in 1949, and describes itself as ‘the democratic conscience of Greater Europe’.<sup>3</sup> Each member state has a delegation to PACE. PACE can issue documents on human rights, to which member state governments have a duty to respond, though they are not binding. In addition to electing judges of the European Court of Human Rights, PACE also elects the Commissioner for Human Rights, the Secretary General and Deputy Secretary General of the Council of Europe and its own Secretary General.

6. On 3 November 2015, the Prime Minister made a Written Statement to the House of Commons.<sup>4</sup> He named 18 full members and 18 substitute members as the United Kingdom Delegation to PACE. The list included members of the House of Commons and of the House of Lords, drawn from the Conservative, Labour, Democratic Unionist and Scottish National Parties, and the Crossbenches in the Lords. As will be explained below, each party chooses which of its own members will be appointed to the Delegation.

Sir Roger Gale MP (Conservative) (Delegation Leader)

Full Members	Substitute Members
Tasmina Ahmed-Sheikh MP (SNP)	Lord Balfe (Conservative)
Lord Anderson (Labour)	Lord Blencathra (Conservative)
Guto Bebb MP (Conservative)	Liam Byrne MP (Labour)
David Crausby MP (Labour)	David T C Davies MP (Conservative)
Geraint Davies MP (Labour (Co-op))	Baroness Eaton (Conservative)
Jeffrey Donaldson MP (DUP)	Suella Fernandes MP (Conservative)
Earl of Dundee (Conservative)	Lord Foulkes (Labour)

<sup>2</sup> <http://www.coe.int/web/about-us/achievements>

<sup>3</sup> [http://website-pace.net/en\\_GB/web/apce/in-brief](http://website-pace.net/en_GB/web/apce/in-brief)

<sup>4</sup> <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2015-11-03/HCW5287/>

Full Members	Substitute Members
Baroness Eccles of Moulton (Conservative)	Khalid Mahmood MP (Labour)
Nigel Evans MP (Conservative)	Baroness Massey of Darwen (Labour)
John Howell MP (Conservative)	Huw Merriman MP (Conservative)
Ian Liddell-Grainger MP (Conservative)	Baroness O'Loan (Crossbench)
Sir Alan Meale MP (Labour)	Mary Robinson MP (Conservative)
Kate Osamor MP (Labour (Co-op))	Paul Scully MP (Conservative)
Lord Prescott (Labour)	Virendra Sharma MP (Labour)
Mark Pritchard MP (Conservative)	Paula Sheriff MP (Labour)
Christina Rees MP (Labour)	Kelly Tolhurst MP (Conservative)
Alex Salmond MP (SNP)	Phil Wilson MP (Labour)
	Mike Wood MP (Conservative)

7. Following the appointment of the Delegation, there was considerable comment in the House and in the press about the choice of the Conservative Party members on the list. Four Conservative MPs who were members of the Delegation in the previous Parliament, Mr Christopher Chope MP, the Rt Hon Cheryl Gillan MP, Sir Edward Leigh MP and Robert Neill MP, were omitted from the list. Mrs Gillan is also a member of the Public Administration and Constitutional Affairs Committee. She has voluntarily decided to take no part in this inquiry, or in the consideration of this report. On the day of the announcement, 3 November 2015, the Speaker granted Mr Chope an urgent question on the appointment process. Mr Chope suggested that the decision by the Conservative Party leadership to exclude three of the Conservative members had been made in response to the fact that they had voted to help defeat the Government on an issue relating to “purdah” in respect of the EU Referendum Bill. Mr Chope asked Dr Thérèse Coffey, the Deputy Leader of the House:

Why will she not confirm that the real reason why three independently minded former Ministers are being purged is because we voted in favour of a free and fair EU referendum with a strict 28-day purdah period, as recommended by the Council of Europe’s Venice Commission and our Electoral Commission? Does she accept that that decision is being interpreted in Strasbourg as direct interference by Government in the work of the Parliamentary Assembly?<sup>5</sup>

8. In response, the Deputy Leader noted that the appointments had been made in conformity with “the convention on appointments that has been followed on multiple occasions [...]” She added, “There is nothing to suggest that there is anything disorderly about it...Yet again, I reaffirm my appreciation of the work of my hon. Friend the Member for Christchurch over the past 10 years. It is simply that a decision has been made to bring new people into the delegation.”<sup>6</sup>

<sup>5</sup> HC Deb, 3 Nov 2015, [col 887](#).

<sup>6</sup> HC Deb, 3 Nov 2015, [cols 890–2](#).

9. Other Members also criticised the decision. The Shadow Leader of the House, Chris Bryant MP, said that “the only rationale that I can detect at work in the appointments is that anyone who has ever disagreed with the Prime Minister is for the chop.”<sup>7</sup> Mr Peter Bone MP said that the current situation was ‘utterly undemocratic and utterly wrong. I am afraid to say that the Prime Minister should be ashamed of himself’.<sup>8</sup> The Rt Hon David Davis MP asked the Deputy Leader to “return to the House at a future date with a procedure for ratifying the proposal, so that the whole House can decide who represents it.”<sup>9</sup>

10. The Speaker announced on 4 November that he would delay communicating to the President of the Parliamentary Assembly the list of members of the UK Delegation, as it might be that the House would have the opportunity to express a view.<sup>10</sup> On 16 November, the House of Commons held a debate on the subject during Backbench Business Committee time, following a successful application by Mr Owen Paterson.<sup>11</sup> Mr Bernard Jenkin MP, the Chair of this Committee, and Kelvin Hopkins MP and Paul Flynn MP, who are members of the Committee, added their names to the motion being debated, which read as follows:

That this House adopts with immediate effect the same system for nomination of its membership of the UK Delegation to the Parliamentary Assembly of the Council of Europe as it has for nomination, following party elections, of membership of departmental select committees, and accordingly directs the Speaker not to send the names of its membership of the UK delegation to the President of the Parliamentary Assembly until the nomination of that membership has taken place according to that system.

To this main motion the Speaker selected a manuscript amendment in the name of Mr Graham Brady MP,<sup>12</sup> which read as follows:

[I]n line 1, leave out from ‘adopts’ to end and add ‘henceforth a system for nomination of its membership of the UK Delegation to the Parliamentary Assembly of the Council of Europe following a General Election reflecting that for nomination of membership of departmental select committees, namely that the House of Commons names be communicated to the Speaker following party elections involving a secret ballot (with each party to seek to reflect in its nominations the same gender representation as in its parliamentary membership, in order to comply with the rules of the Assembly), and for such names to be sent as now by the Speaker to the President of the Assembly; requires that the revised system be implemented in time for the delegation thus nominated to be able to attend the January 2016 part session of the Parliamentary Assembly; and in the interim authorises the Speaker to send now the names of the delegation as set out in the Written Statement of 3 November

7 HC Deb, 3 Nov, [col 888](#).

8 HC Deb, 3 Nov 2015, [col 889](#).

9 HC Deb, 3 Nov 2015, [col 890](#).

10 HC Deb 4 Nov 2015, [col 994](#).

11 HC Deb 16 Nov 2015, [col 408](#).

12 According to the speech made in the ensuing debate by Sir Roger Gale, named as Delegation Leader, the tabling of amendment (b) was the result of “a constructive conversation” he had had with Mr Brady (HC Deb 16 Nov 2015, [col 418](#)). Sir Roger had tabled an amendment of his own which, however, was not selected.

to the President of the Assembly in order to permit UK participation in the Assembly until then.<sup>13</sup>

11. In opening the debate, Mr Paterson explained the process which he believed had in the past been followed in selecting the Conservative membership of the Delegation. He said that the party “has operated on an informal basis whereby those who wish to be on the Assembly are accommodated, and, without exception, those who are already on the Assembly and wish to be reappointed are so reappointed.” However, he said that there had been a change in the most recent selection process. Of those on the Delegation who had expressed a wish to be reappointed after the General Election of 2015, “the Government said that they would not reappoint three of the six who wished to be reappointed because they had voted in September in support of retaining purdah for the EU referendum.”

12. In the ensuing debate, Members from all parties expressed their support for the three excluded members. Sir Roger Gale, named as Leader of the new Delegation, expressed sympathy for the idea of reform, and took the view that “neither side [...] [had] covered itself in glory.” He urged acceptance of Mr Brady’s amendment, which would allow an interim solution so that the UK Delegation could play a full part in the work of PACE while the process of its appointment was being reviewed. Mr Paul Flynn praised the record of the excluded Members, as did many other speakers. Mr Graham Allen MP set the controversy within the wider landscape of parliamentary reform, arguing that the issue was a vital one and represented an important point of principle about the relationship between the Executive and Parliament. Melanie Onn MP thought that the existing system was “no way to go about selecting representatives for our country. The Assembly is, after all, meant to be a representation of Europe’s Parliaments, not a group of those in the good books of Europe’s Prime Ministers and Presidents.”

13. For the Government, though, the Deputy Leader of the House said that even “those with sympathy for the principles of the motion should recognise that the UK parliamentary delegation is not a Select Committee of the House”, and that the proposed membership of the Delegation fulfilled the criteria set by the Council of Europe. She therefore urged both Mr Paterson and Mr Brady to withdraw their motion and amendment. Closing the debate, Mr Paterson announced he would support Mr Brady’s amendment. The House divided on the amendment and it was defeated by 171 votes to 34. The main motion was then defeated without division. Following this decision, the Speaker sent the list of nominated delegates to the President of the Parliamentary Assembly of the Council of Europe.

14. On 27 November 2015, at a meeting of the standing committee of the Parliamentary Assembly of the Council of Europe, the still unratified credentials of the UK Delegation were challenged on procedural grounds, under Rule 7 of the Assembly, by Mr Andreas Gross, Switzerland, Chairperson of the Socialist Group in PACE. The grounds were “that the Prime Minister of the United Kingdom had allegedly interfered in the procedure for appointing the delegation by excluding three Conservative MPs belonging to the outgoing delegation”. The challenge, made under Rule 7 of the Council of Europe, in turn refers to Article 25 of the Statute of the Council of Europe. This Article states, in part:

The Consultative (Parliamentary) Assembly shall consist of Representatives of each Member, elected by its Parliament from among the members thereof, or appointed from among the members of that Parliament, in such manner as

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13 House of Commons Votes and Proceedings, Monday 16 November 2015.

it shall decide, subject, however, to the right of each Member Government to make any additional appointments necessary when the Parliament is not in session and has not laid down the procedure to be followed in that case.<sup>14</sup>

The suggestion, then, was that in allegedly “interfering” with the procedure for the establishing membership of the Delegation, the Prime Minister might have offended against the right of the UK Parliament under Article 25 to “appoint ... in such manner as it shall decide” its Delegation members.

15. In accordance with the rules of the Assembly, the matter was referred to the Assembly’s Committee on the Rules of Procedure, Immunities and Institutional Affairs, for consideration. The Committee met on 10 December 2015 and agreed unanimously that the credentials of the UK Delegation should be ratified. It recommended however that the UK Parliament “review with the utmost diligence” the way in which the Delegation is appointed to “bring it fully into line with the democratic principles” upheld by the Parliamentary Assembly of the Council of Europe.<sup>15</sup>

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14 [http://assembly.coe.int/nw/xml/RoP/Statut\\_CE\\_2015-EN.pdf](http://assembly.coe.int/nw/xml/RoP/Statut_CE_2015-EN.pdf)

15 <http://website-pace.net/documents/19895/1957440/AS-PRO-2015-22-EN.pdf/e0fd5125-f0d4-46e1-9201-a4b2b635700f>

### 3 How the UK has appointed its delegation to PACE in the past

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16. PACE, as noted above, does not specify how delegations from each member state should be appointed, saying only that they shall be “elected [...] or appointed from among the members of [each] Parliament, in such manner as it shall decide.” The composition of each delegation is governed by rule 6(b) of the Rules of Procedure of the Assembly, which states that:

Insofar as the number of their members allows, national delegations should be composed so as to ensure a fair representation of the political parties or groups in their parliament [...] National delegations should include members of the under-represented sex at least in the same percentage as in their parliaments and, at a very minimum, one member of the under-represented sex [should be] appointed as a representative.

The practice in the UK has been that each party selects those of its representatives who will be appointed to the Delegation. In the Conservative Party, as noted in the speech made by Owen Paterson from which we quote above, this decision appears to be taken by the party Whips; Dr Coffey, in responding to Mr Chope’s urgent question on 3 November, referred to the “usual channels.”<sup>16</sup> The Labour Party appears to hold internal elections.<sup>17</sup> A survey of the way in which member states chose their delegations was carried out by the European Centre for Parliamentary Research and Documentation (ECPRD) in June 2014, and the results are presented in House of Commons Library briefing paper no. 7378.<sup>18</sup> This shows that of the 37 parliaments or (for bicameral assemblies) chambers listed, 16 state that the members of the delegation are chosen by their party, faction or political group, with 6 of those 16 making reference to a confirmatory vote of the chamber or parliament concerned. Although the language used to describe the process varies, it is certainly clear that the UK is not unique in the approach it has used to date.

17. The rules of PACE seem to imply or even prescribe that each parliament will explicitly decide the way in which its delegation is appointed. Such a decision has already happened in the UK, in that the House of Commons and the House of Lords passed twin motions in 1992, each of which said ‘That this House confirms the existing procedures for the nomination of the United Kingdom delegations to the parliamentary assemblies of the Council of Europe and the Western European Union’. Neither motion set out what those existing procedures were. It is clear however from past debates in the House of Commons that the delegation appointment process has involved nominations by the usual channels throughout the history of the Assembly. In 1949, reference was made to “the usual channels”; in 1971, a Member complained that the Delegation consisted of “the same old faces appointed by the Whips”.<sup>19</sup>

18. In 1992, a Labour member of the Delegation to PACE challenged the credentials of the UK Delegation. As has happened in 2015, the credentials were considered by the Rules

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16 HC Deb 3 Nov 2015, [col 887](#).

17 HC Deb 3 Nov, [col 888](#).

18 <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7378>

19 *Ibid.*

Committee, as prescribed by the procedure mentioned above. The Rules Committee made a report which stated that:

[A]ppointments to the United Kingdom delegation to the Parliamentary Assembly are made by the Executive Government, apparently without the United Kingdom Parliament having at any time specifically fixed (by Resolution or other formal means) a procedure to that end. This practice, although it might be regarded by some as being at variance with a strict interpretation of Article 25 of the Statute, has not previously given rise to a formal challenge to the credentials of the United Kingdom delegation, either by United Kingdom members or other members of the Assembly; and the longstanding co-operation of all United Kingdom parties in these arrangements may be deemed to imply a widespread (if perhaps not unanimous) degree of consent to them, in a Parliament whose tradition over many centuries has been to act by convention and unwritten procedures in respect of a wide variety of decisions which in other parliaments would, as a matter of course, be embodied in formally adopted rules.

The 1992 Committee report went on to welcome the decision of the Labour Party to adopt a system of internal elections to the Delegation, which it said accorded “more closely with the spirit” of the Statute of the Council of Europe. But it noted that it did not have “sufficient grounds to reject outright the credentials” of the UK Delegation, given that the system appeared to enjoy the “de facto consent” of the UK Parliament. It recommended that the UK Parliament review its procedures for appointment.<sup>20</sup> Subsequently, each House resolved, as noted above, to approve the existing system, thereby making explicit the UK Parliament’s consent to the system then in use.

19. At our oral evidence session, the Leader of the House, Chris Grayling, told us that the existing system by which the Conservative Party chooses its appointments to the Delegation “is what our party has chosen to do”, and that it was open to each party to choose how it handled the process, within the rules set out by Article 25 of the Statute of the Council of Europe. He went on to observe that it would be difficult to ensure that the Delegation met the stipulations of Article 25 relating to gender representation without “a degree of appointment”. He suggested that if the Council of Europe wished to bring forward proposals for a change to its own rules governing delegations, then Parliament would “consider it carefully [...] a new rule shouldn’t simply apply to the United Kingdom, it should apply to everyone.”<sup>21</sup>

20. In his written evidence to us, Sir Roger Gale explained that he thought the decision of PACE to refer the credentials of the UK Delegation to the Rules Committee had in part come about because not all Assembly members were in possession of the full facts:

Subsequent to that decision [to refer the matter to the Rules Committee] I was allowed, on a point of order, to explain that the matter had been the subject of a debate and vote in the House of Commons and that the Delegation had, following that vote, been “signed off” and submitted to Strasbourg by the Speaker of the House of Commons. It became clear that a number of those who had supported the referral to the Rules Committee had misunderstood

<sup>20</sup> <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7378>.

<sup>21</sup> [Qq 7, 33](#)

the position and I was approached by several Members who indicated that they would not have supported the challenge had they understood the facts.<sup>22</sup>

21. Sir Roger went on to explain that differences between the UK parliamentary system and that of some other Council of Europe member states had, in his view, compounded the misunderstanding:

Throughout this process it has become apparent that the differences between the manner in which national parliaments operate has led to misunderstanding. While in the UK all Members of the House of Commons are elected as constituency MPs first, are Members of political party groups second, and only third are—if in Government—appointed as Ministers, that is not the case in many other legislatures where the Executive is separate from Parliament. Equally, Members of the UK Delegation (on all sides) are not mandated and do not take voting instructions from the Government in the manner in which many other delegations, in their own national interest, do. That Government Ministers and Opposition Frontbench spokesmen participate in Backbench debates as standard practice in the UK is apparently capable of being regarded as “Government interference” in some European countries. The device of a Written Ministerial Statement to place information on the record has also been, possibly deliberately, misconstrued.<sup>23</sup>

22. Finally, Sir Roger explained his view that it would not be appropriate for PACE to “unilaterally demand changes in the procedures followed by the sovereign Parliament of Great Britain”, and noted that it was open to PACE to revise its procedure and set out new rules on the appointment of delegations which all member nations would need to follow, if it so chose. He suggested that we recommend no change to the existing procedure, “saving that in order to clarify the position for the benefit of the Parliamentary Assembly of the Council of Europe the Written Ministerial Statement [announcing the names of the UK delegation] should in future be made in the name of the Leader of the House rather than that of the Prime Minister.”

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<sup>22</sup> Written evidence received from Sir Roger Gale.

<sup>23</sup> *Ibid.*

## 4 The changing Commons context

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23. Since the House of Commons, along with the House of Lords, formally endorsed the method of choosing the UK Delegation to PACE in 1992, the context within the House of Commons itself has been transformed. In 1992, select committee membership was controlled to a high degree by the party Whips, even though the formal decision on appointment was for the House itself. However, following the publication in November 2009 of “Rebuilding the House,” the First Report of the Select Committee on the Reform of the House of Commons, the House of Commons agreed several key reforms. Chairs of most select committees would be directly elected by the House of Commons as a whole; the remaining membership of select committees would be elected by the political parties concerned “in a secret ballot by whichever transparent and democratic method they [the parties] choose”.<sup>24</sup> Such elections for the membership of select committees took place in 2010 and 2015 and are widely agreed to have had a considerable beneficial effect on the functioning of select committees. Research commissioned by the Liaison Committee in 2015, for instance, found that “No government can afford to ignore the select committee system: [...] the election of committee chairs has increased independence [and] the Wright Reforms have aided the committees in some areas,”<sup>25</sup> while a recent report from the Institute for Government found that elected Chairs were seen to have “greater legitimacy.”<sup>26</sup>

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24 House of Commons Votes and Proceedings, 22 February and 4 March 2010.

25 Liaison Committee, First Special Report of Session 2015–16, “*Building public engagement: Options for developing select committee outreach*”.

26 Select Committees under Scrutiny: The impact of parliamentary committee inquiries on government, Institute for Government, 2015.

## 5 The way forward

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24. We concur with the Rules Committee of the Parliamentary Assembly of the Council of Europe that the manner of the appointment of the UK Delegation is in conformity with the Assembly's rules. That has been acknowledged on two separate occasions by the Assembly's own Rules Committee. We also note the point made by Sir Roger Gale that there are differences between the way in which the UK Parliament operates and the practices of some other parliaments of Council of Europe member states, which may have led to misunderstanding amongst some PACE members, causing the credentials of the UK Delegation to be placed in doubt. Further, it is clear that the Assembly's own rules leave a wide degree of latitude as to how each member state parliament shall appoint their delegation. However, we note that this episode has caused a degree of uncertainty, and unnecessary unhappiness, for affected Members.

25. We also note that the Rules Committee recommended that the UK Parliament "review with the utmost diligence" the way in which the Delegation is appointed to "bring it fully into line with the democratic principles" upheld by the Parliamentary Assembly of the Council of Europe. While we agree with Sir Roger that it is for the UK Parliament, not for the Assembly, to decide on the best way to choose its Delegation, the Rules Committee's recommendation reflects nothing more than a desire to further democratic progress. As a founding member of the Council of Europe, with the oldest continuously surviving parliament in Europe, the UK Parliament should be setting the highest standards of democracy and accountability. The United Kingdom and the Scandinavian countries have earned the respect of other nations of the Council of Europe in setting the gold standards for democratic accountability. *The House should note the criticism made by the Rules Committee and consider that Committee's recommendation. We recommend extending the same principles of direct election which have now been introduced to the choice of the membership of most House of Commons select committees.*

26. The existing system still depends on patronage on the part of party leaders. Recourse to 'the usual channels' also lays itself open to misinterpretation as referred to by Sir Roger Gale in his evidence. This is no longer a fitting way for the UK to appoint its Delegation, least of all to an Assembly that sees itself as "the democratic conscience of Greater Europe". Even more importantly, it is certainly not in the spirit of recent reforms in the House of Commons which have put many of the House's procedures on a more transparent footing. *As the Leader of the majority party is also the Leader of the entire UK Delegation of all parties represented, and is automatically a member of the Council of Europe's controlling Bureau, the House of Commons should elect the Delegation Leader in the same way it elects most chairs of select committees.*

27. There is no mechanism for the UK Parliament to object to the inclusion in the Delegation of members who are considered to be unsuitable. *As the Delegation represents the whole of the United Kingdom, we recommend that the membership of future delegations should be open to formal approval or rejection by both Houses of Parliament and that Parliament should be free to object to the inclusion of individual members, in the same manner in which the House of Commons approves the appointment of select committee members.*

28. *We recommend that there should be free, fair and open elections of the House of Commons membership of the Delegation by each party from among its House of Commons membership at the beginning of each new Parliament. These elections should be conducted on the same lines as the election of members to Select Committees, which have been such a success. There is no reason why the special requirements for gender representation cannot be included, as they have been already in respect of the election of the Deputy Speakers of the House. A reform of this nature is long overdue. Representation from the House of Lords is of course a matter for that House but we hope it will also consider a similar reform.*

29. *We recommend that, if the House agrees to the principle of the change we propose, the Procedure Committee consider how this reform should be implemented. At the same time, we suggest that the Procedure Committee should consider whether the other delegations sent by Parliament to international assemblies, namely the Organization for Security and Co-operation in Europe (OSCE), the North Atlantic Treaty Organization (NATO) Parliamentary Assemblies and the British-Irish Parliamentary Assembly, should also be appointed by free, fair and open elections.*

## Conclusions and recommendations

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### The way forward

1. We concur with the Rules Committee of the Parliamentary Assembly of the Council of Europe that the manner of the appointment of the UK Delegation is in conformity with the Assembly's rules. That has been acknowledged on two separate occasions by the Assembly's own Rules Committee. We also note the point made by Sir Roger Gale that there are differences between the way in which the UK Parliament operates and the practices of some other parliaments of Council of Europe member states, which may have led to misunderstanding amongst some PACE members, causing the credentials of the UK Delegation to be placed in doubt. Further, it is clear that the Assembly's own rules leave a wide degree of latitude as to how each member state parliament shall appoint their delegation. However, we note that this episode has caused a degree of uncertainty, and unnecessary unhappiness, for affected Members. (Paragraph 24)
2. We also note that the Rules Committee recommended that the UK Parliament "review with the utmost diligence" the way in which the Delegation is appointed to "bring it fully into line with the democratic principles" upheld by the Parliamentary Assembly of the Council of Europe. While we agree with Sir Roger that it is for the UK Parliament, not for the Assembly, to decide on the best way to choose its Delegation, the Rules Committee's recommendation reflects nothing more than a desire to further democratic progress. As a founding member of the Council of Europe, with the oldest continuously surviving parliament in Europe, the UK Parliament should be setting the highest standards of democracy and accountability. The United Kingdom and the Scandinavian countries have earned the respect of other nations of the Council of Europe in setting the gold standards for democratic accountability. (Paragraph 25)
3. *The House should note the criticism made by the Rules Committee and consider that Committee's recommendation. We recommend extending the same principles of direct election which have now been introduced to the choice of the membership of most House of Commons select committees.* (Paragraph 25)
4. The existing system still depends on patronage on the part of party leaders. Recourse to 'the usual channels' also lays itself open to misinterpretation as referred to by Sir Roger Gale in his evidence. This is no longer a fitting way for the UK to appoint its Delegation, least of all to an Assembly that sees itself as "the democratic conscience of Greater Europe". Even more importantly, it is certainly not in the spirit of recent reforms in the House of Commons which have put many of the House's procedures on a more transparent footing. (Paragraph 26)
5. *As the Leader of the majority party is also the Leader of the entire UK Delegation of all parties represented, and is automatically a member of the Council of Europe's controlling Bureau, the House of Commons should elect the Delegation Leader in the same way it elects most chairs of select committees.* (Paragraph 26)

6. There is no mechanism for the UK Parliament to object to the inclusion in the Delegation of members who are considered to be unsuitable. (Paragraph 27)
7. *As the Delegation represents the whole of the United Kingdom, we recommend that the membership of future delegations should be open to formal approval or rejection by both Houses of Parliament and that Parliament should be free to object to the inclusion of individual members, in the same manner in which the House of Commons approves the appointment of select committee members.* (Paragraph 27)
8. *We recommend that there should be free, fair and open elections of the House of Commons membership of the Delegation by each party from among its House of Commons membership at the beginning of each new Parliament. These elections should be conducted on the same lines as the election of members to Select Committees, which have been such a success. There is no reason why the special requirements for gender representation cannot be included, as they have been already in respect of the election of the Deputy Speakers of the House. A reform of this nature is long overdue. Representation from the House of Lords is of course a matter for that House but we hope it will also consider a similar reform.* (Paragraph 28)
9. *We recommend that, if the House agrees to the principle of the change we propose, the Procedure Committee consider how this reform should be implemented. At the same time, we suggest that the Procedure Committee should consider whether the other delegations sent by Parliament to international assemblies, namely the Organization for Security and Co-operation in Europe (OSCE), the North Atlantic Treaty Organization (NATO) Parliamentary Assemblies and the British-Irish Parliamentary Assembly, should also be appointed by free, fair and open elections.* (Paragraph 29)

## Appendix: Letter from Rt Hon Owen Paterson MP to Bernard Jenkin MP, Chair, Public Administration and Constitutional Affairs Committee, 30 November 2015

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You may know that on Friday (27th November) the Standing Committee of the Parliamentary Assembly of the Council of Europe successfully challenged the unratified credentials of the UK delegation to the Parliamentary Assembly which had been announced by the Prime Minister on Tuesday 3rd November and subsequently submitted to the Assembly by Mr Speaker. A large number of members of the Assembly from many national delegations who were present at the meeting of the Standing Committee in Sofia on Friday joined in the challenge. As a result, the credentials have been referred to the Parliamentary Assembly's Committee on Rules of Procedure, Immunities and Institutional Affairs and will be considered at the next meeting of that Committee on 10th December.

In the light of what has happened, I shall be grateful if your Committee would initiate urgently an inquiry into the way in which representatives to the Parliamentary Assembly are appointed and bring forward recommendations to enable this House to choose its own representatives. The grounds on which the credentials were challenged were based upon Article 25 of the Statute of the Council of Europe to which I referred when I proposed the motion on this issue in the House on 16th November. As I said in my speech "Article 25a of the statute of the Council of Europe emphasises that appointments or elections should be by Parliament and not by Government." You will be familiar with the detail and the outcome which resulted in the House being unable to express an opinion on the Prime Minister's list.

# Formal Minutes

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**Tuesday 5 January 2016**

Members present:

Mr Bernard Jenkin, in the Chair

Oliver Dowden	Gerald Jones
Paul Flynn	Tom Tugendhat
Kelvin Hopkins	Mr Andrew Turner
Rt Hon David Jones	

Draft Report (*Appointment of the UK's delegation to the Parliamentary Assembly of the Council of Europe*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 29 read and agreed to.

A Paper was appended to the Report as Appendix 1.

*Resolved*, That the Report be the Second 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 Tuesday 12 January at 9.15 a.m.]

## Witness

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The following witness gave evidence. Transcripts can be viewed on the Committee's [inquiry page](#).

**Wednesday 16 December 2015**

*Question number*

**Rt Hon Chris Grayling MP, Leader of the House of Commons**

[Q1-54](#)

## Published written evidence

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The following written evidence was received and can be viewed on the [inquiry page](#).

- 1 Sir Roger Gale MP, Leader of the UK Delegation to the Parliamentary Assembly of the Council of Europe ([COE0001](#))

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

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All publications from the Committee are available on the Committee's website at [www.parliament.uk/pacac](http://www.parliament.uk/pacac).

### Session 2015–16

First Report	Follow-up to PHSO Report: Dying without dignity	HC 432
First Special Report	Developing Civil Service Skills: a unified approach: Government Response to the Public Administration Select Committee's Fourth Report of Session 2014–15	HC 526