



House of Commons
Liaison Committee

Pre-Appointment Hearings

Third Report of Session 2017–19

*Report, together with formal minutes relating
to the report*

*Ordered by the House of Commons
to be printed 12 June 2019*

The Liaison Committee

The Liaison Committee is appointed to consider general matters relating to the work of select committees; to advise the House of Commons Commission on select committees; to choose select committee reports for debate in the House and to hear evidence from the Prime Minister on matters of public policy.

Current membership

[Dr Sarah Wollaston MP](#) (*Independent, Totnes*) (Chair)

The Chairs of the following Select Committees are members of the Liaison Committee:

Administration—[Sir Paul Beresford MP](#) (*Conservative, Mole Valley*)

Backbench Business—[Ian Mearns MP](#) (*Labour, Gateshead*)

Business, Energy and Industrial Strategy—[Rachel Reeves MP](#) (*Labour, Leeds West*)

Defence—[Dr Julian Lewis MP](#) (*Conservative, New Forest East*)

Digital, Culture, Media and Sport—[Damian Collins MP](#) (*Conservative, Folkestone and Hythe*)

Education—[Robert Halfon MP](#) (*Conservative, Harlow*)

Environment, Food and Rural Affairs—[Neil Parish MP](#) (*Conservative, Tiverton and Honiton*)

Environmental Audit—[Mary Creagh MP](#) (*Labour, Wakefield*)

European Scrutiny—[Sir William Cash MP](#) (*Conservative, Stone*)

European Statutory Instruments—[Sir Patrick McLoughlin MP](#) (*Conservative, Derbyshire Dales*)

Exiting the European Union—[Hilary Benn MP](#) (*Labour, Leeds Central*)

Finance—[Chris Bryant MP](#) (*Labour, Rhondda*)

Foreign Affairs—[Tom Tugendhat MP](#) (*Conservative, Tonbridge and Malling*)

Health and Social Care—[Dr Sarah Wollaston MP](#) (*Independent, Totnes*)

Home Affairs—[Yvette Cooper MP](#) (*Labour, Normanton, Pontefract and Castleford*)

Housing, Communities and Local Government—[Mr Clive Betts MP](#) (*Labour, Sheffield South East*)

Human Rights (Joint Committee)—[Ms Harriet Harman MP](#) (*Labour, Camberwell and Peckham*)

International Development—[Stephen Twigg MP](#) (*Labour (Co-op), Liverpool, West Derby*)

International Trade—[Angus Brendan MacNeil MP](#) (*Scottish National Party, Na h-Eileanan an Iar*)

Justice—[Robert Neill MP](#) (*Conservative, Bromley and Chislehurst*)

Northern Ireland Affairs—[Simon Hoare MP](#) (*Conservative, North Dorset*)

Petitions—[Helen Jones MP](#) (*Labour, Warrington North*)

Procedure—[Mr Charles Walker MP](#) (*Conservative, Broxbourne*)

Public Accounts—[Meg Hillier MP](#) (*Labour (Co-op), Hackney South and Shoreditch*)

Public Administration and Constitutional Affairs—[Sir Bernard Jenkin MP](#) (*Conservative, Harwich and North Essex*)

Regulatory Reform—[Stephen McPartland MP](#) (*Conservative, Stevenage*)

Science and Technology—[Norman Lamb MP](#) (*Liberal Democrat, North Norfolk*)

Scottish Affairs—[Pete Wishart MP](#) (*Scottish National Party, Perth and North Perthshire*)

Selection—[Bill Wiggin MP](#) (*Conservative, North Herefordshire*)

Standards—[Kate Green MP](#) (*Labour, Stretford Urmston*)

Statutory Instruments (Joint Committee)—[Jessica Morden MP](#) (*Labour, Newport East*)

Transport—[Lilian Greenwood MP](#) (*Labour, Nottingham South*)

Treasury—[Nicky Morgan MP](#) (*Conservative, Loughborough*)

Welsh Affairs—[David T.C. Davies MP](#) (*Conservative, Monmouth*)

Women and Equalities—[Maria Miller MP](#) (*Conservative, Basingstoke*)

Work and Pensions—[Frank Field MP](#) (*Independent, Birkenhead*)

Powers

The powers of the Committee are set out in House of Commons Standing Order No. 145. The Standing Orders are available on the Internet via www.parliament.uk.

Publications

Committee reports are published on the [publications page](#) of the Committee website and in print by Order of the House.

Committee staff

The current staff of the Committee are Lucinda Maer (Clerk), Tamsin Maddock (Second Clerk), Richard Dawson (Senior Committee Assistant), and Liz Parratt (Media Officer). For this report they were assisted by Ian Bradshaw.

Contacts

All correspondence should be addressed to the Clerk of the Liaison Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 5675; the Committee's email address is liaisoncommittee@parliament.uk. Media inquiries should be addressed to Liz Parratt on 020 7219 1708.

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Pre-Appointment Hearings

1. Since 2008 House of Commons select committees have held oral evidence sessions with ministers' preferred candidates for a small number of senior public positions prior to their being formally appointed. These are called pre-appointment hearings.¹ In 2013 our predecessor Committee defined their purpose as:

- scrutiny of the quality of ministerial decision-making, which is a proper part of ministerial accountability to Parliament;
- providing public reassurance, in addition to the processes of the Office for the Commissioner of Public Appointments, that those appointed to key public offices have been selected on merit;
- providing public evidence of the independence of mind of the candidate;
- enhancing the appointee's legitimacy in undertaking his or her function.²

2. In March 2018 the Liaison Committee asked the Public Administration and Constitutional Affairs Committee (PACAC) to review the process of pre-appointment hearings.³ This was in response to the conclusions of the Digital, Culture, Media and Sport Committee's Report following its pre-appointment hearing with the Government's preferred candidate for Chair of the Charity Commission.⁴

3. PACAC published its report on 17 September 2018. It re-affirmed the core purposes and processes of pre-appointment hearings but recommended changes to the Liaison's Committee guidelines to reflect positive evolutions in practice. These were primarily that:

- committees should ask candidates to fill out a written questionnaire in advance of a hearing, and committees may decide based on the questionnaire that an oral hearing is not required.⁵
- while normally committees will agree their report immediately following the oral hearing, where the committee has concerns or unanswered questions it should inform the minister privately in the first instance and can seek further information or assurances from the minister or candidate before agreeing its final report.⁶

1 Public Administration and Constitutional Affairs Committee, Tenth Report of Session 2017–19, "[Pre-Appointment Hearings: Promoting Best Practice](#)" HC 909, 17 September 2018, paras 5–13; and Lucinda Maer "[Pre-Appointment Hearings](#)" House of Commons Library Briefing 04387, 20 December 2017.

2 Liaison Committee, "[Liaison Committee guidelines for select committees holding pre-appointment hearings](#)" 27 November 2013 [accessed 10/05/2019]

3 PACAC "Pre-Appointment Hearings", paras 3 & 4

4 The committee recommended that the Government's preferred candidate not be appointed, the Secretary of State disagreed and proceeded with the appointment. In response the committee recommended that the process for pre-appointment hearings be strengthened. Digital, Culture, Media and Sport Select Committee, Third Report of Session 2017–19 "[Appointment of the Chair of the Charity Commission](#)" HC 509, 28 February 2018, and First Special Report of Session 2017–19 "[Appointment of the Chair of the Charity Commission: Government Response to the Committee's Third Report of Session 2017–19](#)" HC 908, 14 March 2018.

5 PACAC "Pre-Appointment Hearings" para 76

6 Ibid para 34

PACAC produced draft revised guidelines in their report. This has subsequently been subject to further internal consultation with select committees, including the production of a model questionnaire for candidates drawing on committees' experience and the work of Professor Robert Hazell and colleagues from the Constitution Unit at University College London.⁷ In the consultation some committees suggested that the guidelines should reflect the fact that a key element of establishing a candidate's independence of mind and enhancing their legitimacy with the public through a pre-appointment hearing was to allow the candidate to set out their views on policy issues and controversies directly relevant to the role.

4. PACAC's Report also re-stated the principle that it is for Parliament to decide which ministerial appointments select committees should scrutinise, not ministers.⁸ It recommended that although the list of posts suitable for pre-appointment hearings published by the Cabinet Office is a helpful guide for select committees, committees should not feel bound by it.⁹ In response to PACAC's report the Cabinet Office published revised guidance for Government Departments on pre-appointment hearings including a revised list of posts.¹⁰ It reasserted the Government's position that only candidates for public appointments that ministers deem suitable for a pre-appointment hearing should be subject to one.¹¹ The Government has argued that ministers should have the right to determine which appointments are subject to pre-appointment scrutiny by Parliament, as ministers are ultimately accountable to Parliament for the decisions they make on public appointments.¹²

5. The Committee thanks PACAC, and all those that contributed to its inquiry into pre-appointment hearings. A revised set of guidelines is annexed to this report reflecting PACAC's conclusions and subsequent consultation with select committees. We recommend that all select committees carrying out pre-appointment hearings follow it. We also endorse PACAC's conclusion that select committees should scrutinise any ministerial appointment they feel necessary. As part of their accountability to Parliament, ministers should facilitate this scrutiny. Pre-appointment hearings also provide an opportunity to provide the public with insight into a candidate's views on policy issues relevant to the role they are seeking. This helps demonstrate the candidate's independence of mind and enhance their legitimacy. The purposes of pre-appointment hearings have been amended to reflect this.

7 Robert Hazell, Turan Hursit, Harmish Mehta and Peter Waller "[Improving Parliamentary Scrutiny of Public Appointments](#)" Constitution Unit, July 2017

8 PACAC "Pre-Appointment Hearings" para 70.

9 Ibid para 72

10 "[Cabinet Office Guidance: pre-appointment scrutiny by House of Commons select committees](#)", Cabinet Office, January 2019. The list of posts is Annex D.

11 Ibid para 7

12 Oral Evidence taken before the Public Administration and Constitutional Affairs Committee on 3 July 2018, HC 909, Q168 [Oliver Dowden MP, Parliamentary Under-Secretary, Cabinet Office]

Annex: Revised Guidelines for Select Committees carrying out pre-appointment hearings

1. The Liaison Committee has established the following guidelines for select committees conducting pre-appointment hearings with the Government's preferred candidate for certain public appointments.

2. In these guidelines, the term 'relevant select committee' means the committee appointed under Standing Order No. 152 to examine the expenditure, administration and policy of the Government department which sponsors the public body to which the appointment is to be made, or, in the case of appointments sponsored by the Cabinet Office, the Public Administration and Constitutional Affairs Select Committee.

Purpose and objective of pre-appointment hearings

3. Select committee pre-appointment hearings have the following purposes and objectives:

- scrutiny of the quality of ministerial decision-making, which is a proper part of ministerial accountability to Parliament;
- providing public reassurance, in addition to the processes of the Office for the Commissioner of Public Appointments, that those appointed to key public offices have been selected on merit;
- providing public evidence of the independence of mind of the candidate;
- enhancing the appointee's legitimacy in undertaking his or her function, including providing the public with an insight into the candidate's views on the policy issues related to the role.

4. The process involves the relevant select committee taking evidence from the Government's preferred candidate for an appointment, and subsequently publishing a report setting out the committee's view on that candidate's suitability for the post. Any concerns the committee has about the recruitment process, including policy concerns it may highlight, should be directed to the appointing minister or the departmental permanent secretary not the preferred candidate. In such cases the committee may wish to call ministers or officials to give evidence. The committee may also wish to consider any information provided by the Commissioner for Public Appointments about the appointment process.

5. While committee observations on a candidate's suitability are, in most cases, not binding on ministers, it is expected that the appointing minister will consider any relevant observations made by a committee before deciding whether to proceed with an appointment.

6. Committees are not obliged to hold a hearing. They may take written evidence, including from the candidate in the form of a questionnaire, to inform any decision about whether or not a hearing should take place. In all cases the decision on whether to hold a pre-appointment hearing or scrutinise an appointment in any way rests with the relevant select committee.

Posts subject to pre-appointment hearings

7. The posts which the Government considers suitable for pre-appointment hearings to be held by select committees are listed in [Annex A to the Cabinet Office publication Guidance on pre-appointment scrutiny by House of Commons select committees](#). The Liaison Committee will publish periodically on its website a list of pre-appointment hearings held by select committees.

8. Committees are not confined by the Cabinet Office list. They may wish periodically to review the list of public appointments in their subject area and decide which merit a scrutiny hearing. In 2017 the Commissioner for Public Appointments published a [longer list of 'significant appointments' which require a Senior Independent Panel Member](#) to be a member of the Advisory Assessment Panel which committees may wish to consider. The Committee should give notice to the Department so that arrangements can be made to notify the committee in good time of the proposed appointment.

9. The presumption is that the relevant select committee will hold the hearing. There may be occasions where appointments may be scrutinised by a committee or committees other than the relevant select committee, including through a joint hearing. Such arrangements should in the first instance be negotiated between the committees concerned, in consultation with the appointing minister. Any dispute which cannot be thus resolved may be referred to the Liaison Committee.

10. For certain posts it may be appropriate for the select committees that scrutinise the work of the Northern Ireland Office, the Scotland Office and the Wales Office to be consulted.

11. Nothing in these guidelines shall be considered to fetter any select committee's right to invite, and power to summon, any individual.

Preparation for a pre-appointment hearing

12. Cabinet Office guidance requires the sponsor department to consult the Chair of the relevant select committee on the proposed selection process to fill a post subject to a pre-appointment hearing before any recruitment exercise begins. Committees may expect to receive drafts of the job description and person specification for comment.

13. The appointing minister may wish to invite the Chair or another Member of a committee to be part of their Advisory Assessment Panel. Before accepting they should seek the agreement of the Committee, and recuse themselves from any subsequent Committee proceedings on the appointment.

14. Departments are expected to discuss a suitable date for the eventual hearing with the relevant select committee at an early stage. Committees will want to consider how far in

advance of the scheduled hearing it will require the Department to notify it of the name of the preferred candidate, in order that the Committee has sufficient time to prepare for the hearing. The Cabinet Office requires Departments to ensure that the end of the selection process for a post subject to pre-appointment hearing does not coincide with any long periods of adjournment.

15. Where an incumbent reaching the end of a term of office is to be reappointed to the post, the Cabinet Office requires the sponsor department to inform the relevant select committee before the reappointment takes effect. It will be for that Committee to decide whether it wishes to hold a further formal hearing or whether it wishes to examine the post holder in the course of its programme of scrutiny.

16. Departments are required to provide to the relevant select committee the name of the Government's preferred candidate for a post, relevant details about the candidate (including a CV and any declaration of interests) together with information on the selection process and the field of candidates. This information should include the number of applicants, the numbers shortlisted and interviewed, diversity information about the field of applicants and those progressed to each stage (where appropriate), and the membership of the Advisory Assessment Panel.

17. In preparation for the hearing, committees are encouraged to issue a written questionnaire to the candidate, inviting the candidate to disclose any conflicts of interest, to demonstrate their experience and expertise, their independence, and to indicate their initial priorities once in post. This may help to avoid the need for a hearing, or to shorten the hearing by enabling the committee to focus solely on matters of interest. The Liaison Committee has published a model questionnaire that Committees may wish to adapt (see below).

18. The presumption is that all material received by the Committee will be made available to the public at the hearing and published with the Committee's report.

19. The Clerk of the select committee may brief the preferred candidate on the format of the hearing and the Committee's likely approach.

Conduct of pre-appointment hearings

20. Select committees holding pre-appointment hearings should observe the following guidelines:

- The Chair of the Committee should ensure that committee members are aware that their questions must remain relevant to the professional competence and personal independence of the candidate. Questions eliciting background information about the candidate's past career and about the selection process for the post are also normally acceptable.
- The candidate will need to be able to withstand parliamentary and public scrutiny should he or she take up the post, and part of the purpose of the session is to test this. Questioning may also cover some areas that might not have been appropriate at the candidate's interview, such as party-political activity or political donations, where these are relevant.

- The Chair should intervene if, in the opinion of the Chair, questions are irrelevant, unduly personal or partisan, or discriminatory.
- A candidate unable or unwilling to answer a question put to him or her by a committee member in the course of a hearing is entitled to appeal to the Chair.

21. Committee members with pecuniary or non-pecuniary interests relevant to the hearing should declare them at the start of the hearing.

The Committee's report on the hearing

22. A committee undertaking a pre-appointment hearing should meet in private immediately after the end of the pre-appointment hearing to consider a report to the House on the candidate's suitability. This will ensure that the evidence is fresh in the minds of Members and that Members not present to hear the evidence do not influence the content of the report. It also ensures that speculation over the outcome of the hearing is not unnecessarily prolonged.

23. In cases where it is not possible to meet immediately after the hearing concludes, or where agreement on a report cannot be secured at that meeting, the committee should reconvene at an early opportunity to consider a report. In such cases, only those members of the committee who participated in the pre-appointment hearing should deliberate and vote on the eventual report.

24. A copy of the agreed report on a pre-appointment hearing should be provided to the candidate, and to the appointing minister, at least twenty-four hours before the intended date and time of publication of the report.

25. Pre-appointment hearings provide opportunities for exploring the priorities of the candidate on taking up post and for allowing the candidate to understand Parliament's expectations of the post-holder. It is therefore appropriate for the committee to set out in its report the priorities, approaches to the job and areas of interest which it has discussed with the candidate. It may also be appropriate for the committee's report to refer to any resources, support, or in-service training needs which the hearing has brought to light. The committee may also wish to direct its Chair to write to the relevant minister with any opinions on the candidate it wishes to express privately, to supplement the published report.

26. A committee which has reservations about the suitability of a candidate, should normally raise such concerns privately with the minister in the first instance rather than issuing a report immediately. Ministers may wish to consider, in the light of such representations, whether it is advisable to press ahead with the appointment, and may advise the candidate of the reservations expressed. Ministers and candidates may also be asked, or choose, to provide further information or assurances to the committee in response to the issues raised.

27. A committee holding a pre-appointment hearing may wish to conduct a broader inquiry into the work of the body to which the appointment is to be made. In such circumstances the pre-appointment hearing should be undertaken separately from any evidence sessions relating to the inquiry. Any report on the hearing should normally be issued as a separate report and not subsumed into the report of the inquiry.

The Ministerial decision

28. The appointing minister is expected to ensure that the decision on appointment is made fairly and takes all relevant considerations into account. Such considerations should include the views of the relevant select committee on the suitability of the candidate (particularly if they are negative).

29. In all cases (including those where the Committee may have declined an invitation to hold a pre-appointment hearing) the minister should write to the Chair of the Committee with formal notification of the decision.

30. Certain appointments are made under statute, and there may in such cases be statutory constraints on the considerations the appointing minister may take into account when making a final decision on appointment. Where an appointment subject to a pre-appointment hearing is a statutory appointment, the Department is expected to notify the relevant select committee of the statutory provision concerned and the requirements (if any) which the minister must observe in making the appointment.

Arrangements for specific posts

31. Appointments of the Chair and of the independent members of the Office of Budget Responsibility are subject to procedures laid down in Schedule 1 to the Budget Responsibility and National Audit Act 2011. The provisions of this Act require the Treasury Committee of the House of Commons to agree to these appointments. While the procedures for such appointments should broadly follow those described above, local variations to meet the requirements of the Act can be expected, and the explicit consent of the Committee must be formally recorded in a report. Section 18 of the Bank of England and Financial Services Act 2016 provides that the Chief Executive of the Financial Conduct Authority cannot begin their term of office prior to appearing before the Treasury Select Committee, or three months elapsing.

32. Separate statutory procedures apply for appointments to the parliamentary posts of Comptroller and Auditor General (C&AG), the Parliamentary Commissioner for Administration and Health Service Commissioner for England (PHSO), members of the Electoral Commission and members of the Independent Parliamentary Standards Authority. For recent appointments preferred candidates for C&AG and PHSO have been subject to pre-appointment hearings by the Public Accounts Committee and PACAC respectively.

33. A number of market sensitive appointments made by the Chancellor of the Exchequer are subject to a confirmation hearing by the Treasury Committee after they have been announced. Such hearings proceed under arrangements made between that Committee, the Bank of England and the Treasury.¹³ Bespoke arrangements are also in place for scrutiny of the appointment of the Chair of the Office of Tax Simplification.¹⁴ The Government has also given an undertaking that it will not appoint a person to the office of Information Commissioner in the face of an adverse recommendation from the relevant select committee.

13 The posts and procedures were summarised in [correspondence from the Chancellor of the Exchequer to the Chair of the Treasury Select Committee dated 15 February 2015](#).

14 *ibid*

Model Pre-Appointment Hearing Questionnaire

Introduction

34. This is a model questionnaire for use with minister's preferred candidates prior to a pre-appointment hearing to elicit further information to help inform an oral evidence session alongside the candidate's CV, and information provided by the appointing department. See the Liaison Committee's [guidance for select committees holding pre-appointment hearings](#) for the information committees should expect the appointing department to provide.

35. It is intended as a starting point for Committees and they may wish to amend, add to or subtract from the questions below to reflect the specific nature of the role, the candidate and the Committee's interests.

36. It is ultimately for committees to decide what questions they wish to ask a candidate, although they should be mindful of the Liaison Committee's guidance that; "questions must remain relevant to the professional competence and personal independence of the candidate. Questions eliciting background information about the candidate's past career and about the selection process for the post are also normally acceptable."

37. It is normal practice for a candidate's completed questionnaire to be published either as written evidence or appended to the committee's final report. This should be made clear to the candidate.

Suggested Questions

Motivation

38. What motivated you to apply for this role, and what specific experiences would you bring to it?

39. If appointed are there specific areas within your new responsibilities where you will need to acquire new skills or knowledge?

40. How were you recruited? Were you encouraged to apply, and if so, by whom?

Personal Background

41. Do you currently or potentially have any business, financial or other non-pecuniary interests or commitments, that might give rise to the perception of a conflict of interest if you are appointed? How do you intend to resolve any potential conflicts of interests if you are appointed?

42. If appointed what professional or voluntary work commitments will you continue to undertake, or do you intend to take on, alongside your new role? How will you reconcile these with your new role?

43. Have you ever held any post or undertaken any activity that might cast doubt on your political impartiality? If so how will you demonstrate your political impartiality in the role if appointed?

44. Do you intend to serve your full term of office? [if appropriate] Do you intend to seek re-appointment?

The [public body]

45. If appointed what will be your main priorities on taking up the role?

46. What criteria should the Committee use to judge [your/the public body's] the performance over your term of office?

47. How will you protect and enhance your personal independence and the institutional independence of [organisation] from the Government/ministers?

48. How do you assess the public profile and reputation of [organization]?

49. What risks do you think [the public body] will face over your term of office? How do you intend to manage them?

50. [any specific questions on the candidate's views on relevant policy issues or current events]

Conclusions and recommendations

Pre-Appointment Hearings

1. The Committee thanks PACAC, and all those that contributed to its inquiry into pre-appointment hearings. A revised set of guidelines is annexed to this report reflecting PACAC's conclusions and subsequent consultation with select committees. We recommend that all select committees carrying out pre-appointment hearings follow it. We also endorse PACAC's conclusion that select committees should scrutinise any ministerial appointment they feel necessary. As part of their accountability to Parliament, Ministers should facilitate this scrutiny. Pre-appointment hearings also provide an opportunity to provide the public with insight into a candidate's views on policy issues relevant to the role they are seeking. This helps demonstrate the candidate's independence of mind and enhance their legitimacy. The purposes of pre-appointment hearings have been amended to reflect this. *We recommend that all select committees carrying out pre-appointment hearings follow it.* (Paragraph 5)

Formal minutes

Wednesday 12 June 2019

Members present:

Dr Sarah Wollaston, in the Chair

Hilary Benn	Dr Julian Lewis
Mr Clive Betts	Sir Patrick McLoughlin
Chris Bryant	Angus Brendan MacNeil
Yvette Cooper	Mrs Maria Miller
Mary Creagh	Nicky Morgan
Frank Field	Robert Neill
Lilian Greenwood	Rachel Reeves
Harriet Harman	Stephen Twigg
Meg Hillier	Mr Charles Walker
Simon Hoare	Bill Wiggin
Sir Bernard Jenkin	Pete Wishart
Norman Lamb	

Draft report (*Pre-Appointment Hearings*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 5 read and agreed to.

Annex agreed to.

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

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

[Adjourned till Wednesday 10 July at 6.00 p.m.]