

Liaison Committee guidelines for select committees holding 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 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.
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.
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. In all cases the decision on whether to hold a pre-appointment hearing 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*.¹ The Liaison Committee will publish periodically on its website a list of pre-appointment hearings held by select committees.
8. Pre-appointment hearings for posts not listed in Annex A to the Cabinet Office *Guidance* may be held following agreement between the appointing Minister and the relevant select committee. The presumption is that such posts should subsequently be subject to pre-appointment hearings unless both the committee and the Minister decide otherwise.
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. Such arrangements should in the first instance be negotiated between the committees concerned and 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 territorial select committees 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.² Committees may expect to receive drafts of the job description and person specification for comment.³

¹ The Cabinet Office *Guidance to departments* (hence *Cabinet Office Guidance*) is available at <https://www.gov.uk/government/publications/pre-appointment-scrutiny-by-house-of-commons-select-committees>

² *Cabinet Office Guidance*, para 3

³ *Cabinet Office Guidance*, para 3

13. Departments are expected to discuss a suitable date for the eventual hearing with the relevant select committee at an early stage. 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.⁴
14. 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.⁵ It will be for that committee to decide whether it wishes to hold a further formal hearing or whether it wishes to examine the postholder in the course of its programme of scrutiny.
15. 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, at least one week before the agreed date of the preappointment hearing, unless otherwise agreed.⁶ The presumption is that all such material received by the Committee will be made available to the public at the hearing and published with the Committee's report.
16. In preparation for the hearing, the Clerk of the select committee holding the hearing may brief the preferred candidate on the format of the hearing and the committee's likely approach.

Conduct of pre-appointment hearings

17. 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.

⁴ *Cabinet Office Guidance*, para 4

⁵ *Cabinet Office Guidance*, para 4

⁶ *Cabinet Office Guidance*, para 9

- 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 therefore be robust, and it may cover some areas that might not have been appropriate at the candidate's interview, such as party political activity.
 - 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.
18. 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

19. 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.
20. 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.
21. 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.
22. 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 an appropriate outcome of the kind of discussion which takes place at a pre-appointment hearing for the committee to set out priorities, approaches to the job and areas of interest which it has discussed with the candidate. It may also be appropriate for the report from the committee 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.

23. A committee which has reservations about the suitability of a candidate, but does not wish to express them in a report, may wish to raise such concerns privately with the Minister in the first instance as an alternative to issuing a report. 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.⁷
24. 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

25. The appointing Minister is expected to ensure that the decision on appointment is made fairly and takes all relevant considerations into account.⁸ Such considerations should include the views of the relevant select committee on the suitability of the candidate (particularly if they are negative).
26. 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.

⁷ See *Cabinet Office Guidance*, para 16

⁸ *Cabinet Office Guidance*, para 17

27. 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

28. Appointments of the Chair and of the independent members of the Office of Budget Responsibility are subject to procedures laid down in the National Audit and Budget Responsibility Act 2011. The provisions of this Act give the Treasury Committee of the House of Commons a statutory veto over 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.
29. Procedures for appointments to the posts of Comptroller and Auditor General⁹, Parliamentary Commissioner for Administration and Health Service Commissioner for England¹⁰, and Chair of the UK Statistics Authority¹¹ are subject to local variation.
30. Appointments to the Monetary Policy Committee and the Financial Policy Committee of the Bank of England are made by the Chancellor of the Exchequer and then subject to a confirmation hearing by the Treasury Committee. Such hearings proceed under arrangements made between that Committee, the Bank of England and the Treasury.

Agreed by the Liaison Committee at its meeting of 27 November 2013

⁹ The Comptroller and Auditor General is an officer of the House whose appointment is governed by the National Audit Act 1983. The appointment process is led by the House of Commons. The appointment is made pursuant to a Motion for an Address made by the Prime Minister to which the consent of the Chair of the Public Accounts Committee must be signified.

¹⁰ The Parliamentary and Health Service Ombudsman is an officer of the House. The appointment process is led by the House of Commons. The appointment has most recently been made following a Motion for an Address: HC Deb, 18 July 2011, cols 746-761

¹¹ The Chair of UKSA has most recently been appointed following a pre-appointment hearing held by the Public Administration Select Committee and a resolution of the House endorsing the appointment: HC Deb, 13 December 2011, cols 664-685.