

THE GOVERNMENT'S RESPONSE TO THE REPORT OF THE LORDS
CONSTITUTION COMMITTEE INTO CONSTITUTIONAL
ARRANGEMENTS FOR THE USE OF ARMED FORCE
PUBLISHED ON 24 JULY

The Government is grateful for the report by the Constitution Committee of the House of Lords on constitutional arrangements for the use of armed force. Its response to the report's conclusions and recommendations is as follows.

On its intentions as to the role Parliament should play in relation to conflict in Syria (paragraph 21), the Government's decision to request the recall of Parliament on 29 August 2013, and to respect the will of the House in subsequent debate, has further demonstrated its commitment to respect the existing Parliamentary convention: that, before UK troops are committed to conflict, the House of Commons should have the opportunity to debate the matter, except where there was an emergency and such action would not be appropriate.

The Government agrees with the Committee's view that, although other Government bodies have important roles in advising the Cabinet, preparing discussion there and implementing its decisions, the full Cabinet must and will remain the ultimate decision-making body in respect of whether to use armed force overseas (paragraph 25).

On the Committee's recommendation that the Government should amend the Cabinet Manual so that it includes a detailed description of the internal arrangements for advising and deciding on the use of armed force (paragraph 35), the Government will do so the next time a major revision of the Cabinet Manual is carried out. This will include a description of the role of the Defence Council (paragraph 33).

The Government agrees with the Committee that the legality of any deployment is of overriding importance, and shares the Committee's concern that scrutiny by the courts of operational decisions (paragraphs 41 and 55) could have a negative effect on the morale and operational independence of the armed forces. The Government will be vigorously defending cases which in its view call into question the principle of combat immunity, and will decide what if any further action may be necessary in the light of the outcome of those cases.

In the context of the existing convention, the Government agrees with the Committee's view on the respective roles of the House of Lords and House of

Commons in respect of debating and approving deployment decisions (paragraph 60).

The Committee has concluded that neither primary legislation nor a resolution should be introduced as a means of formalising the role of Parliament in approving deployment decisions (paragraphs 61), and that the existing Convention provides the best framework for the House of Commons to exert political control over such decisions (paragraph 64). The Committee's report provides an excellent summary of the case for and against formalisation, and the Government has taken careful note of the Committee's conclusions. Any approach will need to ensure that our emergency response capability and the security of future military operations are not compromised. The central question was most recently summarised by the Deputy Prime Minister in his evidence to the Political and Constitutional Reform Committee on 10 October, when he said, "how does one reconcile enshrining a convention in a way that is strong and meaningful but none the less flexible enough to deal with what are, by definition, unpredictable circumstances." The Government intends to reflect carefully on the experience of the Syria vote on 29 August, as well as the Committee's report and the ongoing inquiry by the Political and Constitutional Reform Committee of the House of Commons into a very similar question, before deciding how it wishes to proceed.