



House of Commons  
Foreign Affairs Committee

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**Government Response  
to the Committee's  
Sixth Report of Session  
2007–08, on Proposed  
appointment of Rt Hon  
Jack McConnell MSP as  
High Commissioner to  
Malawi**

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**First Special Report of  
Session 2007–08**

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## The Foreign Affairs Committee

The Foreign Affairs Committee is appointed by the House of Commons to examine the administration, expenditure and policy of the Foreign and Commonwealth Office and its associated agencies.

### Current membership

Mike Gapes (*Labour, Ilford South*), Chairman  
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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 152. These are available on the Internet via [www.parliament.uk](http://www.parliament.uk).

### Publications

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 [http://www.parliament.uk/parliamentary\\_committees/foreign\\_affairs\\_committee.cfm](http://www.parliament.uk/parliamentary_committees/foreign_affairs_committee.cfm).

### Committee staff

The current staff of the Committee are Dr Robin James (Clerk), Ms Gosia McBride (Second Clerk), Ms Adèle Brown (Committee Specialist), Dr Brigid Fowler (Committee Specialist), Miss Elisabeth Partridge (Group Manager), Miss Jennifer Kelly (Committee Assistant), Jane Lauder (Committee Assistant), Miss Emma McIntosh (Committee Assistant), and Mr Alex Paterson (Media Officer).

### Contacts

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# Special Report

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1. The Foreign Affairs Committee published its Sixth Report of Session 2007–08, *Proposed appointment of Rt Hon Jack McConnell MSP as High Commissioner to Malawi*, on 24 June 2008, as House of Commons Paper HC 507. The Government's response to this Report was supplied to us in the form of two letters: one from the Foreign Secretary, dated 24 July, and one from the Permanent Under-Secretary at the Foreign and Commonwealth Office, dated 13 October. These letters are appended below, together with a subsequent exchange of correspondence between the Committee and the Permanent Under-Secretary on this subject.
2. We also print, as a further appendix, a letter from the Chairman of the Committee to the Foreign Secretary, dated 13 May (this is referred to in Mr Miliband's letter of 24 July).

## Government response

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### **Letter to the Chairman of the Committee from the Secretary of State for Foreign and Commonwealth Affairs, dated 24 July 2008**

Your letter of 13 May requested that urgent consideration be given to reviewing the Government's approach to pre-appointment hearings for certain Diplomatic appointments. Subsequently, the FAC took oral evidence from Jack McConnell in anticipation of his forthcoming appointment as High Commissioner to Malawi. In its report on the hearing the Committee reiterated its view that appointments of politicians to senior Diplomatic posts should be subject to Parliamentary scrutiny.

As you know, the Diplomatic Service Order in Council 1991 permits exceptions to the usual process for appointments and this power has been exercised by successive Governments in a small number of cases since 1945. The Civil Service clauses in the Constitutional Renewal Bill maintain that exception, in line with the Government's policy of recruiting skills and experience from all areas of public life, although I recognise that this power that should be used sparingly.

The question of pre-appointment scrutiny of diplomatic appointments is one which is being considered in the context of the pre-legislative scrutiny of the Constitutional Renewal Bill. The Government will carefully consider the report of the Joint Committee on the draft Bill, and I shall revert to you on the question in that context.

*Rt Hon David Miliband MP*

Secretary of State for Foreign and Commonwealth Affairs

### **Letter to the Chairman of the Committee from the Permanent Under-Secretary at the Foreign and Commonwealth Office, dated 13 October 2008**

In his letter of 24 July, the Foreign Secretary provided an interim reply to the FAC's Report into the proposed appointment of Jack McConnell as High Commissioner to Malawi. The Foreign Secretary noted his view that the permitted exception to the usual process for appointment under the Diplomatic Service Order in Council 1991 should be used sparingly, and that the question of pre-appointment scrutiny of diplomatic appointments was being considered in the context of the Constitutional Renewal Bill.

On the specific question of Mr McConnell's nomination as High Commissioner to Malawi, I am grateful for the comments of the FAC on the suitability of the proposed appointment given Mr McConnell's past experience of promoting Scottish and UK relations with Malawi. I also welcome the Committee's finding that both the FCO and Mr McConnell conducted themselves without impropriety in relation to the proposed appointment.

The Committee will be aware that the Prime Minister has recently appointed Mr McConnell as his Special Representative for Conflict Resolution Mechanisms, based in the Foreign and Commonwealth Office. This two year appointment means that Mr McConnell will not be able to take up the post as High Commissioner to Malawi next year.

The FCO, through our usual procedures, is now seeking a new candidate to replace the current High Commissioner when his tour ends in 2009.

*Sir Peter Ricketts KCMG*

Permanent Under-Secretary, Foreign and Commonwealth Office

## Appendices

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### Letter from the Chairman of the Committee to the Secretary of State for Foreign and Commonwealth Affairs, dated 13 May 2008

#### Parliamentary scrutiny of diplomatic appointments

At its last meeting, the Foreign Affairs Committee considered the Government's reply to the Public Administration Select Committee's recent report on *Parliament and public appointments: Pre-appointment hearings by select committees* (published as PASC's Sixth Special Report of Session 2007–08, HC 515).

The Committee was concerned to note the following response by the Government to a recommendation by PASC:

*There is one other circumstance in which pre-appointment hearings should be introduced. Occasionally, Ministers have made public appointments without following the usual processes, where normal practice and the public expectation are that these appointments will be made on merit. The most common examples are appointments to the Diplomatic Service, often of former Members of Parliament. Such appointments may occasionally be appropriate, but they deserve to be tested in public by a cross-party committee. There is a strong argument for requiring a pre-appointment hearing—even a binding hearing—in such cases. (Paragraph 43)*

The Government does not agree.

The Government is introducing pre-appointment hearings to strengthen the role of Parliament in the appointment of people to posts in which there is a strong public interest either because of the role played in holding the Executive to account or because of the powers exercised in protecting the public's rights and interests. The appointments referred to do not fall within this category. The Government does not consider it appropriate for Parliament to be involved in these appointments.

In its report on *The Work of the Committee in 2007*, the Foreign Affairs Committee stated that:

We have previously announced our intention of scrutinising any major diplomatic or consular appointment of a person from outside the diplomatic service. In our last annual report we noted that the only such appointments to be made in recent years were made during the period when there was no Committee in existence, at the time of the 2005 general election. As the appointments were *faits accomplis* by the time the Committee was nominated, we did not hold hearings with the individuals concerned. However, in August 2007, the Government announced that it intended

to appoint Scottish Labour leader and former First Minister Jack McConnell MSP as British High Commissioner to Malawi when the current High Commissioner's posting ends in 2009. We plan to hold an evidence session with Mr McConnell in March 2008. (Fourth Report of Session 2007–08, HC 287, para 55)

The Committee subsequently proposed to the Liaison Committee that the Government should amend its list of appointments which will routinely be subject to pre-appointment scrutiny (as appended to Ed Miliband's letter of 23 January to Alan Williams) to include "any major diplomatic or consular appointment of a person from outside the diplomatic service". The Liaison Committee supported this proposal in its recent report on this subject, to which the Government has not yet replied. (First Report of Session 2007–08, HC 384, paras 11 and 16)

On 23 April we took oral evidence from Mr McConnell about his proposed appointment. We intend shortly to issue a report giving our conclusions on this matter.

The Committee has instructed me to write to you to make clear that it is for the Committee itself, not the Government, to decide from whom it chooses to take evidence; and that it continues to regard the scrutiny of appointments of non-diplomats to diplomatic posts as a matter which is undeniably within its area of interest and responsibility and which is deserving of public and parliamentary scrutiny.

We are particularly concerned that if this category of appointments were to be omitted from the Government's list, that decision might be taken as a signal to civil servants or prospective appointees to be unco-operative with the FAC in respect of future evidence sessions such as that with Mr McConnell. It would be very unfortunate if a government initiative aimed at strengthening Parliament's ability to scrutinise the Executive were to be implemented in a way that might be interpreted in some quarters as inhibiting Parliament's previously existing rights of scrutiny.

We therefore hope that you will give urgent consideration to reviewing the Government's approach to this matter.

*Mike Gapes MP*

Chairman, Foreign Affairs Committee

### **Email from the Clerk of the Committee to the Parliamentary Relations Team, Foreign and Commonwealth Office, dated 23 October 2008**

As I indicated in our conversation earlier, the FAC at its meeting yesterday discussed the Government reply to its Report on the proposed appointment of Jack McConnell MSP as High Commissioner to Malawi.

The Committee decided:

- a) to publish the Government's reply (i.e. the Foreign Secretary's letter of 24 July and Sir Peter Ricketts' letter of 13 October) in the form of a Special Report; this will be agreed at next Wednesday's meeting of the Committee and published shortly thereafter;

- b) to request further written evidence from Sir Peter in advance of the Committee's evidence session with him next Wednesday. This should consist of a response to the following questions:
1. Is Mr McConnell's appointment as High Commissioner to Malawi "on hold" till his appointment as the Prime Minister's special representative on conflict prevention lapses, or will it not be proceeded with at all?
  2. When was the decision taken that Mr McConnell will not be the next High Commissioner to Malawi, and when was he told of this? How was the decision communicated to the government and people of Malawi? Has there been any adverse criticism of the decision from Malawian politicians or media?
  3. Have any public spending been incurred in providing training or induction for Mr McConnell in connection with his anticipated role as High Commissioner, or otherwise incurred in connection with the proposed appointment?
  4. In your letter of 13 October you state that "the FCO, through our usual procedures, is now seeking to replace the current High Commissioner when his tour ends in 2009". On what date will his tour end? Has he been asked to continue in post longer than planned in order to allow time for the "usual procedures" to be carried out? When will the new High Commissioner take up his/her post? Will there be any deviation or derogation from the "usual procedures" as a consequence of the need to have a new High Commissioner in post without undue delay?
  5. What is the expected duration of the posting of the new High Commissioner? Is this expected to terminate in 2011?

The Committee would regard it as very helpful to have responses to these questions in advance of the evidence session.

### **Email from the Parliamentary Relations Team, Foreign and Commonwealth Office to the Clerk of the Committee, dated 27 October 2008**

Thank you for your email of 23 October raising questions on behalf of the FAC regarding the proposed appointment of Jack McConnell MSP as High Commissioner to Malawi. Our official responses to your questions, on behalf of Sir Peter Ricketts are:

1. Is Mr McConnell's appointment as High Commissioner to Malawi "on hold" till his appointment as the Prime Minister's special representative on conflict prevention lapses, or will it not be proceeded with at all?

*The Prime Minister has expressed the hope that Mr McConnell might be available to serve in Malawi at a future date.*

2. When was the decision taken that Mr McConnell will not be the next High Commissioner to Malawi, and when was he told of this?

*The Prime Minister decided during the weekend of 4/5 October that he wished to appoint Jack McConnell as his special envoy on conflict resolution mechanisms. Mr McConnell*

*was informed of the Prime Minister's wish the same weekend. As a result of this decision, it became clear that Mr McConnell would not be able to take up his appointment as High Commissioner to Malawi.*

How was the decision communicated to the government and people of Malawi?

*Lord Malloch-Brown personally called the Minister for Foreign Affairs, the Honourable Joyce Banda. This was followed up by a letter.*

Has there been any adverse criticism of the decision from Malawian politicians or media?

*We are not aware of any adverse criticism. We have assured the Government of Malawi that we are seeking a new candidate to replace the current High Commissioner when his tour ends in 2009.*

3. Has any public spending been incurred in providing training or induction for Mr McConnell in connection with his anticipated role as High Commissioner, or otherwise incurred in connection with the proposed appointment?

*No. Mr McConnell had not started any training or induction, although there was some administrative work relating to the terms and conditions of the appointment.*

4. In your letter of 13 October you state that "the FCO, through our usual procedures, is now seeking to replace the current High Commissioner when his tour ends in 2009". On what date will his tour end?

*The end of tour date for an Ambassador or High Commissioner is not fixed to a specific date, although the approximate date will be March/April 09. A exact date is usually agreed with the outgoing office holder shortly before their projected end of tour.*

Has he been asked to continue in post longer than planned in order to allow time for the "usual procedures" to be carried out?

*No.*

When will the new High Commissioner take up his/her post?

*We will have a clearer idea when a candidate is selected.*

Will there be any deviation or derogation from the "usual procedures" as a consequence of the need to have a new High Commissioner in post without undue delay?

*No. The process for selecting a new High Commissioner is fully in line with normal FCO procedures, which frequently involve identifying candidates for posts overseas in this sort of time-scale.*

5. What is the expected duration of the posting of the new High Commissioner? Is this expected to terminate in 2011?

*We expect the duration of the appointment to be 2-3 years.*

I hope you find these answers helpful.