



**CODE OF PRACTICE  
FOR  
MINISTERIAL APPOINTMENTS TO  
PUBLIC BODIES**

Commissioner for Public Appointments

1 Horse Guards Road

London

SW1A 2HQ

**1 APRIL 2012**



This Code of Practice is published by the Commissioner for Public Appointments in fulfilment of his duties as set out in the Order in Council for Public Appointments 2002 (as amended). This Code is effective from 1 April 2012.

The role of the Commissioner for Public Appointments is to regulate, monitor and report on Ministerial appointments to the boards of public bodies and statutory office. The Commissioner is appointed by The Queen and is independent of the Government and the Civil Service. His powers are set out in an Order in Council, which requires that:

“The Commissioner shall, in the manner the Commissioner considers best calculated to promote economy, efficiency, effectiveness, diversity and equality of opportunity in the procedures for making public appointments, exercise [his] functions with the object of maintaining the principle of selection on merit in relation to public appointments.”

The Order in Council requires the Commissioner to publish a Code of Practice:

“The Commissioner shall prescribe and publish a code of practice on the interpretation and application by appointing authorities of the principle of selection on merit for public appointments and shall adopt and publish from time to time such additional guidance to appointing authorities as the Commissioner shall think fit.”

The Order in Council also sets out which appointments are covered by this Code. Full details on the appointments covered by this Code may be found on the Commissioner’s website at:

<http://publicappointmentscommissioner.independent.gov.uk>

## **Code of Practice for Ministerial Appointments to Public Bodies**

### **1. Introduction**

1.1 This Code of Practice describes the principles and essential requirements for making Ministerial appointments to the boards of public bodies or to statutory office (including appointments where Ministers have delegated their powers to others). It is for Departments to ensure that their public appointments processes meet these principles and essential requirements and comply with all relevant legislation.

### **2. The principles of public appointments**

2.1 The ultimate responsibility for public appointments rests with Ministers. In discharging this responsibility Ministers and their Departments must observe three basic principles:

#### **Merit**

The overriding principle is selection on merit. This means providing Ministers with a choice of high quality candidates, drawn from a strong and diverse field, whose skills, experience and qualities have been judged to best meet the needs of the public body or statutory office in question.

#### **Fairness**

Selection processes must be objective, impartial and applied consistently to all candidates. Each candidate must be assessed against the same published criteria.

#### **Openness**

Information about the requirements of the post and the selection process must be publicly available. Public appointments must be advertised publicly in a way that is designed to attract a strong and diverse field of suitable candidates.

### 3. Departmental responsibilities

3.1 Departments, in agreement with their Ministers, are responsible for designing and delivering appointments processes which meet these principles. There is no one “right” process for all appointments; processes can and should vary and be proportionate to the nature of the appointment. There are, however, essential requirements for meeting the principles of merit, fairness and openness which must be followed in all cases. These are as follows:

- **A panel must be set up to oversee the appointments process.** The panel must be able to assess candidates impartially against the selection criteria. This assessment must include an external perspective, which will normally be ensured by having one member of the panel who is independent of the appointing Department and the body to which the appointment is being made.
  
- **The panel must be chaired by:**
  - an Assessor (see Section 5 below), appointed and allocated by the Commissioner for Public Appointments, for the appointment of all Chairs of public bodies and statutory office holders (unless agreed otherwise by the Commissioner);
  - a Departmental official, or (with the Department’s agreement) the Chair of the public body or other senior board member, for all other appointments.
  
- **The selection process, selection criteria and publicity strategy for a successful appointment,** must be discussed and agreed, including by the Minister, at the outset of each competition. The Commissioner’s kitemark should be used on all publicity material. Departments must give particular attention to attracting a strong and diverse field of candidates, including those from underrepresented groups. For appointments made by Welsh Ministers and other Ministers making appointments to bodies operating mainly or solely in Wales, particular attention must be paid to the requirements of their respective Welsh language schemes.

- **A panel report, signed by the chair of the panel,** must be produced at the end of every appointments process. The report should describe the stages and outcome of the selection process, how the process and the outcome delivered against the original specification and plan, and confirm that the appointments process was conducted in accordance with this Code of Practice.
- **The appointment of the successful candidate must be publicised.**

### **3.2 Departments must also ensure that they comply** with all relevant legislation.

This includes legislation relating to the particular public body or statutory office and the Equality Act 2010 (which prohibits discrimination, harassment and other unlawful conduct because of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation where an individual applies for a public appointment).

## **4. Standards in Public Life**

4.1 It is important that all public appointees uphold the standards of conduct set out in the Committee on Standards in Public Life's Seven Principles of Public Life (appended to this Code). The panel must satisfy itself that all candidates for appointment can meet these standards and have no conflicts of interest that would call into question their ability to perform the role.

4.2 Political activity in itself is no bar to appointment. To allow the panel to explore such activity with the candidates in the context of their ability to perform in the role, candidates should declare any significant political activity (which includes holding office, public speaking, making a recordable donation, or candidature for election) which they have undertaken in the last five years. This information will only be provided to the panel for those applicants selected for interview. Details of the successful candidate's declared political activity must be published by appointing Departments when the appointment is publicised.

## **5. Public Appointments Assessors**

5.1 The Commissioner will appoint, train and allocate Public Appointments Assessors to regulated appointments processes for the purpose of ensuring compliance with this Code. No other person, unless authorised by the Commissioner, may act on his behalf in relation to regulated public appointments.

5.2 Public Appointments Assessors must chair the panel overseeing the appointment of all Chairs of public bodies and statutory office holders, unless the Commissioner agrees otherwise on the grounds of proportionality or risk. The Commissioner may also agree that a Public Appointments Assessor will participate in the panel for other regulated appointments.

5.3 The role of the Public Appointments Assessor when chairing a panel is to ensure that the selection of appointable candidates is made on merit on the basis of fair and open competition. The Public Appointments Assessor will participate fully in the selection process but will not formally mark or vote on the final determination of appointable candidates. She/He will only sign off a panel report if satisfied that the process has been conducted in accordance with this Code.

## **6. Involvement of Ministers**

6.1 Since the ultimate responsibility for making public appointments rests with Ministers, they must be:

- involved at the beginning of the competition, when they must be asked to agree the selection process, selection criteria and publicity strategy and to suggest potential candidates to be invited to apply;
- kept in touch with progress of the competition throughout, including, if they wish, being provided with information about the expertise, experience and skills of the candidates; and

- at the end of the process, given a choice of candidates assessed by the panel to be appointable, unless only one candidate is found by the panel to be appointable, in which case that candidate should be put to the Minister.

6.2 At each stage of the competition the Minister may want to convey to the panel views about the expertise, experience and skills of the candidates. These should be recorded in writing and provided to all panel members.

6.3 Following receipt of the panel report, the Minister may want to meet the candidates judged by the panel to be appointable before making his/her choice. If so, the Minister must meet all the appointable candidates individually, and must be accompanied at these meetings by the chair of the panel, or failing that, the chair's nominated alternative. A short record of the discussions should be kept.

6.4 The Minister must not add or remove candidates from the long or short list, sit on the panel, or appoint a candidate not assessed as appointable by the panel.

6.5 Should the Minister choose not to appoint any of the appointable candidates, the reasons for this decision must be recorded. In such cases the Minister may choose to re-run the competition.

## **7. Pre-appointment Scrutiny**

7.1 Where an appointment is subject to a pre-appointment hearing by a Parliamentary Select Committee, this must be clearly stated in all publicity relating to the post. Ministers should consult the Parliamentary Select Committee on the selection process, selection criteria and publicity strategy.

## **8. Capability and Compliance Assessment**

8.1 At the end of each reporting year the responsible Permanent Secretary (or equivalent Accounting Officer) of each appointing Department must provide the Commissioner with a Compliance Statement. This will be based on a self-

assessment, prescribed by the Commissioner, detailing the extent to which each Department has complied with this Code.

8.2 Individual Departments will be audited for evidence of their capability and compliance with this Code. Departments must therefore retain sufficient information on their public appointments (including on reappointments exemptions, extensions and appointments by exception) to provide evidence that they have complied with this Code. This information must be kept for a minimum of two years.

8.3 In order to provide additional assurance of capability and compliance, the Commissioner may require a Public Appointments Assessor to perform spot checks of individual competitions as they are happening, or to sample completed competition records.

8.4 Where a Department is assessed as failing to comply with this Code, the Commissioner may require the Department to adopt a plan of improvement for managing regulated appointments that will be the subject of subsequent review. As part of that plan the Commissioner may require that additional appointments undertaken by that Department involve a Public Appointments Assessor for a specified period.

8.5 The Commissioner will report publicly on Departmental capability and compliance with this Code, including examples of poor and good performance, and best practice.

## **9. Complaints**

9.1 Any individual may complain to the Commissioner that a competition has not been conducted in compliance with this Code.

9.2 Complaints should first be raised with the appointing Department, which is responsible for having effective complaints handling procedures. If, after investigation by the Department, the complainant remains dissatisfied, he/she may bring their complaint to the Commissioner.

9.3 Complaints should be lodged with the Commissioner within 12 months of an appointment being made, but the Commissioner will consider complaints lodged out of time in exceptional circumstances.

9.4 Appointing Departments are responsible for making all applicants aware of their right to complain and referring them to the Commissioner's complaints procedure.

## **10. Reappointments and Extensions**

10.1 Ministers may reappoint or extend the terms of public appointees or statutory office holders so long as:

- any such reappointment or extension had been made in accordance with the law relating to the particular public body or statutory office;
- no reappointment or extension is made without a satisfactory performance appraisal, evidence of which must be made available to the Commissioner on request; and
- no individual will serve in any one post for more than ten years.

## **11. Exemptions**

11.1 Departments may depart from this Code in the following circumstances:

- **Appointments to ex officio posts**, i.e. where an individual is required to hold a board position by virtue of his or her office.
- **Ministerial appointments to nominated body posts**, i.e., where an organisation has a right to have one of its members or representatives serving on the board of a public body.
- **Ministerial appointments from reserve lists**. Where a vacancy occurs within 12 months of the conclusion of a previous appointments process, and the role and person specification for both posts are the same, Departments

may put forward appointable candidates from the reserve list from the first competition to the Minister for appointment to the new vacancy.

11.2 The Commissioner may also, in exceptional circumstances, agree that Departments may depart from this Code where he believes that this is justified in the public interest.

## THE COMMITTEE ON STANDARDS IN PUBLIC LIFE

### THE SEVEN PRINCIPLES OF PUBLIC LIFE

#### **Selflessness**

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

#### **Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

#### **Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

#### **Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

#### **Openness**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

#### **Honesty**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

#### **Leadership**

Holders of public office should promote and support these principles by leadership and example.

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Any enquiries regarding this publication should be sent to us at

**Commissioner for Public Appointments, and**

**Civil Service Commission**

**Room G/8**

**Ground Floor**

**1 Horse Guards Road**

**London SW1A 2HQ**

**Tel: 0207 271 0849**

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<http://publicappointmentscommissioner.independent.gov.uk>







