

Investigation of the ministerial appointment process relating to UK Research and Innovation, a public body of the department for Business, Energy and Industrial Strategy.

Introduction

1. This report sets out the findings of an investigation by the Commissioner for Public Appointments into the 2019-20 competition to find two members of the board of UK Research and Innovation (UKRI), a public body of the Department for Business, Energy and Industrial Strategy (BEIS).
2. This report has been made under section 4(4) of the Public Appointments Order in Council 2019, which permits the Commissioner to conduct an inquiry into the procedures and practices followed by an appointing authority in relation to any public appointment whether in response to a complaint or otherwise. The Commissioner's investigation and this subsequent report do not consider any matters relating to the work of UKRI or the way it is run, as these matters lie outside of the Commissioner's remit. The Commissioner's concern is whether the department's competition processes were compliant with the Government's Governance Code.

Background

3. UKRI was launched in April 2018, bringing together nine research organisations into one, with a combined budget of more than £6 billion. Responsibility for appointing its chair and board members lies with ministers, who must follow the Government's Governance Code for Public Appointments. It was brought to the Commissioner's attention that a competition launched in May 2019 to find new members of the UKRI board had ended unsuccessfully in September 2020. The Commissioner took an interest in this failed competition that had not resulted in ministers making any appointments. The Governance Code places the responsibility of competitions - their launch, moving to subsequent stages and the final appointment decision - squarely in the hands of ministers, and the Governance Code gives ministers the power to stop the competition at any stage and start again.
4. The Commissioner noted in his 2019-20 Annual Report that the volume of appointments completed in the 2019-20 year was significantly lower than previous years. The 2019-20 year included pre and post-election periods, which can either suspend ministerial decisions or delay them whilst ministers are shuffled between departments. As a consequence, some competitions in 2019-20, such as the one investigated here, were the responsibility of different ministers across time. The last week of 2019-20 was also affected by the beginning of the COVID-19 pandemic and moving into the first national lockdown. Ministerial time has been further squeezed since by the pressures of the pandemic response.
5. The Commissioner undertook this investigation because of the length of the delays in this case, and to understand more about how competitions have been affected by the

unique challenges presented by the 2019-20 period and beyond. OCPA's research into public appointments' competition length in 2018-19 found fewer than half the competitions completed within the government's three months ambition; the Covid pandemic has added to the pressures, delaying the timely completion of competitions in the 2020-21 reporting year.

Methodology

6. OCPA notified BEIS of the Commissioner's decision to investigate on 14 September 2020 and requested documentation from the competition. This documentation included submissions to ministers at every stage of the competition, and any relevant internal discussions, including transcripts of phone calls and copies of emails. BEIS provided this information within 10 working days as requested. OCPA requested more information from BEIS on 30 September 2020 regarding the conclusion of the competition, which was provided on 25 January 2021. BEIS apologised for the delay in retrieving this last information to conclude this investigation.

Findings

7. BEIS officials provided advice to ministers in February 2019 on the requirement for two new non-executive directors to join UKRI's board by October 2019. The competition launched in May 2019 and was promoted by a search firm, extensive advertising, and to members of the BEIS talent pool. 75 applications were received and following agreement from ministers to move the competition forward, the sift was held on 15 July 2019. Shortly afterwards, the Secretary of State and Minister for State in BEIS changed as a result of a ministerial reshuffle following the change in Prime Minister.
8. BEIS officials updated the new BEIS ministers on the proposed shortlist. Ministers expressed their dissatisfaction and asked officials for options for next steps; this is in line with the provisions in the Governance Code. During these considerations, ministers within BEIS changed again. These new ministers took forward the option to re-sift the applicants and this took place on 4 October 2019. The Commissioner is satisfied that the approach of the department and panel chair was fair to all applicants whose applications were reviewed in this second sift process. BEIS officials supplied ministers with the panel's detailed sift assessment of the candidates, their biographies, anonymised diversity information and due diligence information. Ministers approved the new shortlist on 4 November 2019 and stakeholders were also satisfied. Because of the second sift, dates for the interview were moved back to 28 November 2019. The deadline for replacing the outgoing UKRI members by October had already passed.
9. Before the interviews could be held, the UK entered the pre-election period on 6 November 2019, suspending ministerial decision making on appointments. The submission on appointable candidates was not put to BEIS Ministers until 6 January 2020. Three candidates had been found appointable for two roles on offer. The panel's assessment of the interview was in line with the published criteria and ministers were given robust information on their relative merits to make a decision.
10. Ministers considered this submission and views on candidates were relayed to the Secretary of State for a final decision. On 13 February 2020, BEIS ministers changed

again, and the advice on the candidates was given to the new ministers on 27 February 2020, with clear views provided by stakeholders and advice from officials on the decisions of previous BEIS ministers.

11. In line with para 3.1 of the Governance Code, BEIS ministers asked to meet with appointable candidates. Ministers also met with the UKRI Chair. Ministers took a view following these meetings, and this was provided to the Secretary of State. The Secretary of State made a decision on the candidates on 17 March 2020, which was set to go to Number 10 for approval. However, the following week the UK entered its first pandemic lockdown, and the decision was not progressed. The Commissioner understands that at this time, BEIS ministers decided to consider a number of appointments in the round, and also review the direction and skillset of the UKRI Board. In September 2020, ministers decided to not make an appointment from this competition and readvertise.

Conclusion

12. Public appointments are the responsibility of ministers and the Governance Code gives them options at each stage to make a decision about whether to move the competition forward, based on their assessment of the quality and diversity of the field. Different BEIS ministers across the course of this campaign took an active interest in the competition. The Commissioner commends BEIS officials for their robust advice throughout this competition process. Incoming ministers were well briefed by BEIS officials on the decisions of their predecessors; and officials provided soundings from the relevant stakeholders in line with para 7.8 of the Governance Code.
13. Whilst the Governance Code is clear on ministers' necessary remit, and acknowledging that UKRI's quoracy was not at risk, the Commissioner finds it regrettable that the competition progressed so slowly. UKRI's Framework Document states that 'BEIS is responsible for managing the process of making public appointments to UKRI in an efficient and effective manner.'¹ There is no doubt that this competition was subject to challenging conditions - paused for the pre and post-election periods, subject to three different secretaries of state, and disrupted by the outbreak of the pandemic. As a result, the competition was seriously derailed. The overall effect of these delays and changes was regrettable in undermining candidate care, risking damage to confidence in the process and the willingness of well-qualified candidates to put themselves forward.
14. For candidates in this competition, 14 months passed between the deadline for their application to ministers deciding that the competition should be closed and re-run. Interviewees waited 11 months to hear the outcome of their interviews. The Commissioner understands this has caused frustration for candidates and for the body itself. He finds no fault with the process as run by BEIS public appointment officials, and notes their efforts to keep candidates and the body well-informed, but no amount of 'keeping in touch' makes up for a process which dragged on for over a year. The problems were less at any particular stage of the competition and were, rather, the unsatisfactory cumulative impact of the series of delays identified above. The main recommendation - not just for BEIS but more generally - is that ministers need to give a

¹ UKRI Framework Document (2018).
<https://www.ukri.org/files/about/ukri-framework-document-2018-pdf/>

higher priority to the Governance Code's candidate care provisions: namely that candidates should be provided with a good service (7.5) and that competitions should ideally be completed within three months (7.8).