



**The Commissioner for
Public Appointments**

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Lord Evans of Weardale KCB DL
Chair, Committee on Standards in Public Life

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By email

Dear Jonathan,

Thank you for your invitation to meet with your Committee and for your follow up letter on 29 November. Your questions and my responses are detailed below:

The question of whether any particular categories of appointments are more subject to delays than others?

From my team's compliance visits, where OCPA examine samples of public appointments competitions and reappointments, I have identified a number of trends with regards to timeliness. These have arisen in the course of compliance audits examining competitions held in 2020 - 21 (the current round is focussed on 2021 - 22). Delegated appointments - for example, those to NHS Trusts, and some Ministry of Justice roles - tend to be completed within the Governance Code's ideal of 3 months. However, Welsh Government appointments - which are not delegated and use the same Governance Code as Whitehall - are more likely to complete within three months. A large number of outside stakeholders in the approvals process - including at the centre of government with the Cabinet Office and No 10 - tends to increase the time it takes to move through each stage of a competition, as does ministerial churn. Such delays are probably occurring now, as almost all departments have experienced churn in the last three months, with new ministers familiarising themselves with the process, and making new decisions.

Currently, data collection with regards to timeliness is captured manually. The Cabinet Office is implementing a new online application system for public appointments which includes a workflow tool for departments. This should be able to routinely measure the time it takes to complete each competition and the intervals between stages and to alert officials when the timetable is at risk of slippage. Greater transparency and the ability to benchmark departments will drive improvements. However, a culture change is required where every contributor to a public appointment process handles the contribution promptly; and departments' appointments teams are supported and invested in to increase their capability and status. As I outlined in my Annual Report, I intend to devote my time as Commissioner to ensuring departments deliver a better candidate experience. I regard this as essential.

The importance of maintaining an independent element on advisory assessment panels - how have you found this is working in practice?

An independent person on panels is essential - it helps ensure that panel decisions are robust and that the government receives outside perspectives. The independence and integrity of Senior Independent Panel Members (SIPMs) is critical in assuring that appointments are made in compliance with the Code. Almost all of these SIPMs have been impressed with the appointments process - except the issue of timeliness and delays.

My Annual Report this year details an unfortunate oversight in the selection of a SIPM for last year's Chair for the UK Statistics Agency competition. I was informed only after the competition that the SIPM should have been considered politically active under the Governance Code's definition. However, I have no reason to believe this competition was non-compliant in any other respect, nor have any concerns about the competition been raised with me or my office. I will be reviewing the panel report of the interviews in order to be fully assured. My office has taken steps to improve its guidance for due diligence checks on SIPM choices as a result of this oversight and has asked the Cabinet Office to also reflect on lessons learned.

This error reinforces the need to be vigilant. My ability to speak out about panel issues - be consulted on the selection of SIPMs for the most important competitions and to investigate if something has gone wrong - as was the case here - is essential to ensuring that the integrity of the process is maintained.

In our 2021 *Upholding Standards in Public Life* report, we recognised that in certain circumstances it may be appropriate for appointments to be unregulated e.g. heads of short-term policy reviews or some tsars or envoys. But we found there is a lack of transparency about the number and nature of unregulated appointments which makes it difficult to judge the influence unregulated appointees have over public policy. We therefore recommended that government departments should publish a list of all unregulated and regulated appointments? We would be interested to know your views.

There is a strong case for non-Executive Directors of Departmental Boards to be added to the Order in Council and within scope of a prescribed appointments process, as set out in the Governance Code. I understand the government will make this change when publishing a new Order in Council which sets out the public appointments within my remit.

However, for some roles, like the short term ones you mention, regulation would not add significant value. It could cause unnecessary and self defeating delays. Transparency, such as the publication of a list of appointees to all roles as your Committee has suggested, would be a simple change that would increase accountability.

Transparency about appointees would be a positive contribution to the general outreach work across the country and across communities - which will open up appointment opportunities to more people and allow them to make a contribution. It will also go some way to demystify the way the government works. It is a good idea for governments to be able to bring in competent people from

the outside. Transparency about such short term appointments demonstrates the openness and flexibility of government.

In the same report, while we said that we believe ministers should not appoint candidates that panels deemed unappointable, we believed the final decision on all public appointments must ultimately remain with ministers. However, we recommended that, if ministers went ahead and appointed a candidate deemed unappointable by an assessment panel, the minister must appear in front of the relevant select committee to justify their decision. Do you have any concerns about ministers appointing candidates found unappointable by the panel?

I have been consulted under section 3.2 - appointing an individual that was assessed as not appointable - once while I have been in post. My predecessor was also only consulted once in his five year tenure, so ministers have evidently formally considered this provision only twice since the Code was introduced five years ago. In both those cases, the government followed the advice of the Commissioner not to make the appointment. In the case I considered, it would have been a distortion of a merit-based process. I am pleased to report that ministers came to that view after consultation with me.

I understand why the Committee did not call for the provision to be removed entirely as public appointments are a ministerial based system. I agree with your Committee on the way forward here: the Code states that ministers are accountable to Parliament for appointments (Principle A) and a select committee is a pragmatic and transparent way for parliament to hold ministers to account in these circumstances.

The issue of candidates who are found not appointable being considered for future roles was raised with me by the Chair of the Digital, Culture, Media and Sport Committee, and I wrote to the Committee with my views on this matter in December 2021.¹ I would like to restate my view here. The government's Governance Code compels departments to run an open, merit-based process. I do not think that barring anyone from applying for a public appointment would be in keeping with the spirit of the Governance Code. Departments are required to give candidates feedback so they can improve for next time, and I believe that candidates can learn from their experience. In this way, the Governance Code does not rule anyone out before a panel has considered their application on its merits.

Thank you again for the opportunity to speak with your Committee, and please let me know if there are any further questions or matters you would like to discuss with me.

Best wishes,



William Shawcross
Commissioner for Public Appointments

¹ See Letter to Julian Knight MP. 15 Dec 2021.

<https://publicappointmentscommissioner.independent.gov.uk/wp-content/uploads/2021/12/2021-12-15-WS-to-JK-DCMS-Committee.pdf>