COMMISSIONER FOR PUBLIC APPOINTMENTS

FIRST REPORT 1995-1996

OCPA

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CONTENTS

page

2 ***Foreword***
by Sir Leonard Peach, Commissioner for Public Appointments

5 ***The Commissioner for Public Appointments***
Origins of the post 5
The Commissioner's role 5
Selection process 5
Profile of Sir Leonard Peach 6
The Commissioner's office 6

7 ***Consultation***
Meetings and other contacts 7
Public Service Committee 9
Consultation exercise 10

13 ***Publication of the Code of Practice and Guidance***
Publicising information 13

15 ***Monitoring***
Audit arrangements 15
Complaints 15
Data collection 17

19 ***Issues for the coming year***
Advertising 19
Length of process 19
Length of appointment 19

21 ***Annex***
The Public Appointments Order in Council 1995

FOREWORD

This report covers the period from 18 December 1995, the date of my appointment, to 30 June 1996, the day before the Code of Practice for Public Appointments became mandatory for Ministerial appointments to NHS bodies and executive non-departmental public bodies (ENDPBs). It describes the process by which the Code was compiled, some of the actions which have been taken to promulgate it, reactions both before and after its publication, and indicates which issues are likely to arise over the coming months. Since the Code has not been in effect during the time scale of this report, there are no statistics. The first statistical analyses and a summary of the first departmental audits will be included in my next report which will cover the period from 1 July 1996 to 31 March 1997. Later reports will be on an annual basis with time spans matching the financial year.

To be effective, the Commissioner and his office need to have a clear view of their purpose and key aims. I see my mission as to maintain the principle of selection on merit in relation to public appointments both by disseminating guidance and best practice to departments and through the audit process. The three aims of my office are:

- ✧ to create and maintain a greater level of public confidence in the system of public appointments;
- ✧ to create and maintain a greater level of confidence in the system amongst those seeking public appointments; and
- ✧ to make the public appointments process more effective.

I hesitate to add more efficient to the third aim because the changes which have been introduced require extra steps which are by their nature more expensive. For example, the requirement to advertise generates more candidates which means that more resources are required to administer the procedures and so on. Since efficiency is a balance between inputs and outputs, between resources used and the results obtained, I would not claim that greater efficiency will result immediately. This is an aspect I will monitor and return to in future reports.

The aims of the Office of the Commissioner for Public Appointments (OCPA) put great emphasis on building the confidence of the general public and individual applicants for public appointments. Since taking up post I have taken every opportunity to communicate my role to the population as a whole through the media and my publications, and to specific groups with a specialist interest in the topic. Those responsible for making the appointments also need to have confidence in us. To this end I have had meetings and discussions with Ministers, Parliamentarians and Permanent Secretaries and their officials. I have been encouraged by the efforts of departments to apply the new procedures, sometimes in the face of opposition from some of their public bodies.

The seven principles contained within the Code introduce a new emphasis on independent scrutiny, openness and transparency, and proportionality as well as reinforcing previous commitments to appointments on merit, equal opportunities, the importance of probity and Ministerial responsibility. Whilst the Code addresses problems which have been well ventilated by the Nolan report, its solutions produce new pressures and problems. Adherence to the

Code will not eliminate controversy from public appointments, though it will make it easier to discover what has happened in the course of any particular appointment, and why.

The Code places considerable emphasis on establishing the role and objectives of the ENDPB and deriving from this the balance of experience and competencies required to ensure that the body is effective. This will not, however, prevent debate about the qualifications and suitability of the candidate who eventually emerges to fill an appointment. I do not see it as my role to intervene in media–inspired debates about the suitability of individual appointees, but if I receive a written complaint I will look at the process applied in making the appointment. I also place great emphasis on independent scrutiny. A prime requirement for an independent member of an advisory panel is that he or she must satisfy themselves that my seven principles are followed.

The definition of competencies, the role of independent members of panels and the definition of 'proportionality' are topics which require a basis of practical experience before the provisions of the Code should be developed further. The audit process and the collection of statistics should produce more information which will enable better definitions or changes to be properly considered. I continue to emphasise the experimental nature of the current processes, preferring to regard the first two years as a test period during which we will learn about the successes and failures of the approaches which have been adopted.

Some commentators have highlighted two omissions from my remit which they maintain weaken my effectiveness. First, it is said that my scope is too narrow. Although I have no responsibility for appointments to advisory non-departmental public bodies, tribunals or nationalised industries, or for the appointment of regulators, the Code can be applied voluntarily to many of these appointments. In the case of advisory bodies in particular, this already seems to be happening. Second, my powers of sanction against departments who fail to follow the Code have been criticised as no more than 'a slap on the wrist' in my annual report. I think this underestimates the power of the threat of uncomplimentary publicity, a sanction for which those in government have a healthy respect and the timing of which is at my discretion and is not confined to my annual report.

I am grateful for the encouragement and support I have received during my first months in post and in particular I would like to thank my staff in OCPA for their hard work and contributions.

I have no doubt that the procedures I am advocating are better than those which existed before. I believe that they will bring substantial improvements. We must wait to see whether evidence and individual experiences support this assertion.

Sir Leonard Peach
Commissioner for Public Appointments

'THE NOLAN COMMITTEE... IDENTIFIED THE MAIN WEAKNESS IN THE PUBLIC APPOINTMENTS SYSTEM AS BEING THE ABSENCE OF EFFECTIVE EXTERNAL SCRUTINY'

THE COMMISSIONER FOR PUBLIC APPOINTMENTS

Origins of the post

The Government created the post of Commissioner for Public Appointments in 1995 in response to a recommendation of the Nolan Committee[1]. The Nolan Committee was appointed by the Prime Minister to 'examine current concerns about standards of conduct of all holders of public office...'[2]. During their enquiries the Committee encountered public concern about appointments to 'Quangos' and reported a widespread belief that such appointments were not always made on merit. However, they concluded that the evidence for this belief was circumstantial and inconclusive and identified the main weakness in the public appointments system as being the absence of effective external scrutiny. As a means of introducing a mechanism for reviewing the work of individual departments and identifying failures of system or practices, the Committee recommended the appointment of an independent Commissioner for Public Appointments.

The Commissioner's role

The Commissioner for Public Appointments is independent of Government and his role is to monitor, regulate and provide advice on departmental appointment procedures for executive non-departmental public bodies (ENDPBs) and NHS bodies. In addition, the Commissioner has the right to investigate and will deal with complaints.

In Great Britain there are some 230 ENDPBs and 654 NHS bodies which together account for approximately 8,300 public appointments. It is estimated that the annual number of appointments and reappointments subject to the Commissioner's jurisdiction will be between 2,000 and 2,500.

The Public Appointments Order in Council, reproduced as an Annex to this report, prescribes the duties and powers of the Commissioner for Public Appointments. The Order:

- sets out the functions of the Commissioner and provides for the issue of a Code of Practice and Guidance on the interpretation and application of appointment procedures;
- requires the Commissioner to publish an annual report;
- makes provision for the audit of appointing bodies' practices and policies; and
- in a schedule, lists the ENDPBs which come within the Commissioner's remit.

Selection process

The Commissioner for Public Appointments is a part-time appointment (three days per week) and attracts a non-pensionable salary of £65,000 a year. The post was publicly advertised on four occasions in July and August 1995. In view of the high profile of the post and the need to fill it promptly, the Government also employed executive search consultants in order to identify the best possible field of candidates[3]. Possible candidates were also sought from the Public

[1] *Standards in Public Life, First Report of the Committee on Standards in Public Life* (Cm 2850-I, May 1995)

[2] Hansard, 25 October 1994, col 758

[3] See page 19 of the Government's response to recommendation 38 of the Nolan Committee's first report (Cm 2931, July 1995)

Appointments Unit (PAU). A short list of candidates, selected from around 130 total applicants were invited for a preliminary interview. Final interviews took place in October 1995.

On 23 November 1995, Sir Leonard Peach was appointed as the first Commissioner for Public Appointments for a term of three years. He took up post on 18 December 1995. He was also appointed as Commissioner for Public Appointments for Northern Ireland[4] and as a Civil Service Commissioner.

Profile of Sir Leonard Peach

Sir Leonard Peach has very wide experience and familiarity with recruitment, selection and personnel procedures in both the public and private sectors. Prior to taking up post as Commissioner, he was Chairman of the Police Complaints Authority. He has been Chief Executive and Personnel Director of the NHS Management Board, and Chairman of the NHS Training Authority. He is also a former President of the Institute of Personnel Management. He was a Group Director of Personnel for IBM Europe, Africa and Middle East and for IBM UK Ltd. Sir Leonard has been associated with a range of other bodies and organisations. His current posts include Chairman of the Policy Studies Institute and Chairman of the University of Westminster. His other Government appointments are membership of the Ministry of Defence Civilian Personnel Committee (an unpaid post, two to three days per year) and as a Data User Representative on the Data Protection Tribunal (entitled to a daily fee of £202, if asked to hear an appeal. Throughout his time as Commissioner Sir Leonard has not been asked to sit on a Tribunal).

The Commissioner's office

The Commissioner is supported by a small team of civil servants comprising four full time staff and three others shared with the Office of the Civil Service Commissioners. Together with a colleague based in Belfast, the London-based staff also support the Commissioner in his role as Commissioner for Public Appointments for Northern Ireland. The cost of the Commissioner's activities in Great Britain in 1996-1997, including the cost of the audit, is not expected to exceed £0.5m.

[4] A separate annual report is published on the work of the Commissioner for Public Appointments for Northern Ireland

CONSULTATION

Meetings and other contacts

On taking up post, the Commissioner's first priority was to find out more about the appointments which came within his remit, what if any changes departments had made in response to the Nolan Committee's recommendations and the problems they expected in making other changes. The first step towards this objective was achieved through a series of meetings with those departments with significant numbers of Ministerial appointments. This was supplemented by meetings with some Permanent Secretaries. Although these meetings showed that some departments had made more progress than others, the Commissioner was reassured that those departments who were not so far advanced did recognise the need to introduce some quite fundamental changes in order to meet the Nolan Committee's expectations. The meetings were also helpful in identifying the issues to be covered in the Code of Practice and Guidance for departments.

The Commissioner also met a few Ministers at their request, but his main parliamentary contacts were with the Chancellor of the Duchy of Lancaster and the Shadow Chancellor of the Duchy who, as part of their respective portfolios, are responsible for open government and public appointment issues. He also gave evidence to the House of Commons Public Service Select Committee and had contact with Lord Nolan and the members of his Committee.

In addition, contact was established with a number of organisations with an interest in the public appointments process, including the Commission for Racial Equality, the Equal Opportunities Commission and the Women's National Commission. These bodies have welcomed the Commissioner's emphasis on the importance of equal opportunities in the public appointments process. OCPA will continue to liaise with them, especially on equal opportunities issues.

The gradual spread of awareness of the existence of a Commissioner for Public Appointments resulted in regular requests to OCPA for further information, meetings or invitations to speak at conferences from a wide range of non-departmental organisations. The Commissioner undertook a number of speaking engagements during the period of this report and more are planned for the coming year.

Reports in the press of the Commissioner's activities led to representations from some individuals who, misunderstanding his role, wrote to him asking for an appointment. The Commissioner offered advice on how best to go about this but referred them to the Public Appointments Unit (PAU) in the Office of Public Service, which has responsibility for this area.

The work of the PAU is outside the Commissioner's remit but he supports its activities. He made contact with the PAU shortly after his appointment to learn about and assess its procedures and he joined with them in holding seminars in London and Birmingham to encourage leading members of ethnic minority communities to apply for public appointments. Another seminar is planned for Manchester later in 1996. In addition, the PAU will shortly be starting a programme of work to encourage more women to apply for public appointments.

'IN THE LONGER TERM, IT IS HOPED THAT THE APPLICATION OF THE NEW SELECTION PROCEDURES WILL... ASSIST CHAIRMEN IN ENSURING THAT THEIR BOARDS CARRY OUT THEIR DUTIES AS EFFECTIVELY AS POSSIBLE'

'THE TWO DOCUMENTS ARE STRAIGHTFORWARD AND GIVE CLEAR ASSISTANCE TO DEPARTMENTS. WE WELCOME THE STRESS PLACED ON FAIRNESS TO CANDIDATES AS WELL AS ON OPENNESS AND TRANSPARENCY'

(House of Commons Public Service Select Committee)

In the longer term, it is hoped that the application of the new selection procedures, through the appointment of individuals whose competencies best match those required by the body concerned, will assist Chairmen[5] in ensuring that their boards carry out their duties as effectively as possible. Most Chairmen recognise this but some have not shared this view. A number expressed concerns to their sponsor departments and to the Commissioner personally about the impact of the changes, if applied to their particular body. Constructive meetings were held with some of those concerned during which the Commissioner was able to clarify his role and objectives. A common anxiety among a small group of Chairmen was that the new selection requirements, especially the emphasis on advertising, were overly bureaucratic and would hinder rather than help ENDPB boards. They firmly believed that a private approach, especially in the case of individuals who are eminent in their field, had more chance of success than the wider and more open approach advocated by the Commissioner. The Commissioner does not agree with this view, believing that under this method many excellent candidates are not identified and so not provided with an opportunity to nominate themselves. Its use may also give the impression, however unjustified, of personal patronage. This issue will be addressed in a future annual report.

Public Service Committee

At its first meeting on 19 December 1995, the House of Commons Public Service Select Committee decided to seek oral evidence on the role and work of the Commissioner for Public Appointments. A memorandum submitted to the Committee on 17 January set out background information on the appointment of the Commissioner, a commentary on the relevant Nolan Committee recommendations, a draft Code of Practice, an outline of the proposals for the annual report, the audit arrangements and complaints process, and a projected workplan. This was consolidated by the Commissioner's oral evidence before the Committee on 24 January[6].

In its first report published on 20 March, the Public Service Committee gave its provisional views on the Code of Practice[7]. A summary of the Committee's recommendations has been issued as an annex to the Guidance for Departments. The Committee endorsed the draft Code and guidance and commented that 'the two documents are straightforward and give clear assistance to departments. We welcome the stress placed on fairness to candidates as well as on openness and transparency'[8].

The Committee has a special interest in the complaints received by the Commissioner and wishes to see him investigate complaints about political donations by candidates. The OCPA Guidance states that 'candidates are not expected to divulge private membership of or association with (including donations to) a political party or trade union, or their voting habits. Their right to privacy in these matters must be respected'[9]. Although the Commissioner will accept such complaints, clearly OCPA would need to consider an appointee's right to privacy when faced with a claim that a political donation had influenced

[5] The terms Chairman and Chairmen are used in the generic sense and include Chairwoman and Chairwomen

[6] The Commissioner's memorandum and a transcript of his oral evidence are reproduced in *Public Service Committee, First Report, The Code of Practice for Public Appointments* published on 20 March 1996, HMSO

[7] ibid

[8] ibid, page xi

[9] Para 3.12, page 12, *OCPA Guidance for Departments on Appointments to ENDPBs and NHS Bodies*

an appointment. Should appointees not wish to comment, the Commissioner cannot oblige them to do so.

In its report the Committee stated that there are wider issues concerning public appointments which they will examine in due course. They recommended that the Government should consider whether the Commissioner's remit should be extended to cover a wider range of public appointments in the United Kingdom. This is a matter for the Government but the Commissioner considers that his current powers and remit are adequate. Departments are free to apply the Guidance to all their public appointments but only those appointments within the Commissioner's remit will be subject to monitoring and audit. In future reports the Commissioner will indicate aspects of good practice which might profitably be applied to a wider range of appointments.

The Committee intends to examine the Commissioner's annual reports and from time to time expects to meet him in order to discuss the development of his responsibilities. The Commissioner welcomed the Committee's support for and continuing interest in his activities and he looks forward to contributing to the Committee's further deliberations on this subject.

Consultation exercise

On 26 February, following informal consultation at working level with departments, consultation drafts of the Code of Practice and Guidance were issued to Permanent Secretaries and interested organisations. Copies of the drafts were also made available to Members of Parliament. It was made clear to recipients that although based on the Nolan Committee's draft and the Government's response, in some respects the Code of Practice and Guidance went further. In particular, attention was drawn to the sections on reappointments, the announcement of appointments and the recording of information about political activity.

Generally, there was support for the Code of Practice and Guidance although, interestingly, there was a divergence of views on whether the guidance was too detailed, or not detailed enough. This was taken to mean that, overall, the right balance had been achieved. In addition the Commissioner's approach was endorsed by the Nolan Committee and, as described above, by the House of Commons Public Service Select Committee.

Account was taken of a number of the comments made by departments and other respondents. As expected the requirement that second reappointments should be exceptional generated some resistance, mainly on the basis that this was not a Nolan Committee recommendation. Those who were opposed to the measure were outnumbered by others who recognised that it would encourage a healthy renewal of membership on a regular basis.

Understandably, departments were alert to the resource implications of the new procedures, particularly the additional costs associated with the requirement to advertise. The Commissioner is sensitive to these concerns but regards the presumption that paid posts should be advertised to be fundamental to the principle of openness. He intends to monitor expenditure on advertising and the

use of executive search consultants in order to help evaluate their cost effectiveness. A seminar on advertising with departmental and specialist speakers has also been arranged to give those involved in the appointment process an opportunity to exchange knowledge and share experiences.

Doubts about the publication of information on political activity were dismissed as the details proposed to be included in the announcement of an appointment would be already in the public domain. Their exclusion from any public statement would give rise to more speculation than their inclusion. Recent public political activity among appointees is an area which is subject to monitoring and statistics will be included in next year's report.

Comments made by non–departmental respondents were mainly directed at the level of prescription in the Guidance. Many of them wanted to see a greater obligation on departments to follow it, particularly in the area of equal opportunities. Some organisations felt that the wording of advertisements and the emphasis on detailed CVs and employment histories could often act against women. Some respondents also appeared to be under the impression that the section on equal opportunities in the Guidance replaced that existing centrally. This is not the case. The Commissioner's intention is that his guidance on the application of equal opportunities to the appointment process should supplement existing central policy. Equal opportunities is given prominence in the Code and guidance is provided in order to alert departments to its importance and relevance to public appointments. The lead in this area remains with the PAU.

The outcome of the consultation exercise and the final form of the Code and Guidance were explained to departmental officials at a seminar held on 28 March. Presentations were given by the Commissioner and the Deputy Director of the PAU and officials were encouraged to raise any concerns they had about implementing the new procedures. In open forum, the discussion covered many aspects of the process, including the handling of politically sensitive appointments and the selection of independent panel members. The Commissioner intends to arrange seminars on a regular basis in order to hear first hand about officials' views and to feed back his and departments' experiences in applying the Guidance.

'MY OVERALL OBJECTIVE IN PUBLISHING THE CODE OF PRACTICE IS TO CREATE AN EFFICIENT AND A TRANSPARENT PROCESS OF PUBLIC APPOINTMENTS WHICH WILL PRODUCE RESULTS BASED ON MERIT AND IN WHICH THE CANDIDATES AND THE GENERAL PUBLIC CAN HAVE CONFIDENCE'

PUBLICATION OF THE CODE OF PRACTICE & GUIDANCE

The Code of Practice and Guidance were published on 23 April 1996. In the accompanying press release the Commissioner said 'My overall objective in publishing the Code of Practice is to create an efficient and a transparent process of public appointments which will produce results based on merit and in which the candidates and the general public can have confidence. I believe the application of the Code of Practice will produce that effect'.

The reaction to the documents in the media was largely constructive and supportive, with particular reference made to the emphasis on advertising and independent scrutiny. One commentator referred to the implementation date of the Code as marking 'the beginning of the end of the patronage state'[10]. Others were less supportive, calling the proposals for advertising 'especially problematic'[11], highlighting the difficulties departments might face in this area if faced with a flood of responses. Another commentator misunderstood the role of the advisory panels and credited the Commissioner with having created 'new supra-quangos'[12].

Following the initial reaction to the publication of the Code, the Commissioner has continued to encourage interest in the Code by taking advantage of opportunities to respond to media interest, especially to draw attention to the existence of his Office and to correct any misinterpretations of his role.

At the earliest meetings with officials the diverse nature of ENDPBs and Ministerial appointments to them became clear. This diversity has been further emphasised by the varying nature of the queries OCPA has dealt with since the Guidance was published. OCPA has taken the position that such diversity requires a flexible approach to the imposition of standard procedures and has sought to give departments as much flexibility as possible in their application of the Guidance to their own individual circumstances. The Efficiency Unit has recently suggested that a similar approach should be applied to objective setting and monitoring in the ENDPBs themselves[13].

Publicising information

The misunderstanding which arose about his role in the early months of his appointment led the Commissioner to consider ways in which he could best promulgate information about his position. Since it was published in April, some 3,000 copies of the Code of Practice have been issued. The text of the Code is also available on the Internet. In September an information leaflet was published detailing the Commissioner's role and responsibilities and explaining how to make a complaint about a public appointment. This leaflet, together with copies of the Code, will be sent to local libraries and Citizen Advice Bureaux who will be encouraged to stock copies for their customers. It will also be added to the OCPA entry on the Internet.

The PAU is also discussing with departments proposals to use the Internet to publicise specific data on the individual appointments which come within the Commissioner's remit. This data will supplement the aggregated data to be published in the Commissioner's future annual reports. It will also supplement

[10] 'An new kind of quangocrat', *The Economist* 27 April 1996

[11] The new quangocrats', Andrew Adonis, *The Financial Times* 24 April 1996

[12] Editorial – *The Evening Standard* 25 April 1996

[13] Para. 1.12, page 5, *Objective Setting and Monitoring in Executive Non-Departmental Public Bodies*, Efficiency Unit, Cabinet Office, August 1996

the general information already available in the annual publication *Public Bodies*[14]. The Commissioner strongly supports this initiative and welcomes the PAU's continuing commitment to openness and transparency in the public appointments process.

[14] *Public Bodies* is published annually by the Cabinet Office (Office of Public Service). It provides basic statistics about non-departmental public bodies and nationalised industries in existence on 1 April in the relevant year.

Audit arrangements

The Commissioner has a statutory duty under the Order in Council to audit departments' appointment policies and practices to establish whether they comply with the Code of Practice. The main areas for examination will be:

- ✧ a systems review;
- ✧ a practice review; and
- ✧ spot checks on issues, problem areas and specific individual appointments or groups of appointments.

Following the pattern of the Civil Service Commissioners, it was decided to contract out the audit. The contract was advertised in May 1996 and ten chartered accountant and management consultancy companies, at both regional and national level, expressed an interest in tendering. Of these, eight firms submitted detailed tenders and four were shortlisted for interview. Ernst & Young emerged as the successful candidate.

The first phase of the audit process began in the late summer with detailed investigation commencing in November.

The objectives of the audit are to:

- ✧ ensure that departmental procedures governing Ministerial appointments to ENDPBs and NHS bodies accord with the Commissioner's Code of Practice and Guidance
- ✧ make recommendations to assist the Commissioner and departments in developing best practice in public appointments.

All departments will be audited at least once by 31 March 1997. A summary of the findings of this initial round of audits, which will look at appointments made since 1 July 1996, will be included in the Commissioner's second report. From April 1997 audits will be carried out over a three year cycle during which all departments will be visited at least once. Those departments with a high number of public appointments and departments with responsibility for appointments to NHS bodies may need to be visited on a more regular basis. In addition, the Commissioner may request more detailed examinations or spot checks to be carried out on the application of one aspect of the Code of Practice or when, for example, a complaint gives cause for concern. A summary of the findings of the auditors will be included in the relevant annual report.

Complaints

The Commissioner is required to monitor departments' appointment policies and practices and views the investigation and monitoring of complaints as part of this process. A well publicised and an easily accessible complaints system is fundamental to an open and transparent appointments process. It will also assist OCPA in identifying areas where the Guidance would benefit from modification or expansion.

Anyone who has a complaint about an appointment to a particular body, whether or not they were a candidate, is encouraged to write to the Commissioner or to the department who made the appointment with the details.

'A WELL PUBLICISED AND AN EASILY ACCESSIBLE COMPLAINTS SYSTEM IS FUNDAMENTAL TO AN OPEN AND TRANSPARENT APPOINTMENTS PROCESS'

A complaint may be about an individual appointment or appointments to a particular body or relate to personal experience as an applicant. Following consultation with departments, OCPA devised procedures for handling complaints. These were issued to departments in the summer as an appendix to the Guidance issued in April. As already discussed, an information leaflet giving details about how to make a complaint is being published.

During the period of this report OCPA received five complaints, three from Members of Parliament, one from a prospective Parliamentary Candidate and one from a member of the public. Four concerned individual appointments and raised the issues of conflict of interest and the role of Ministers and the fifth was about delays in filling a vacancy. Although the new Code was not effective until 1 July, with the co–operation of the departments involved, these complaints were handled in accordance with the OCPA complaints procedures. In all cases the Commissioner was satisfied the procedures applied to the appointments concerned were adequate and fair. In one case it was felt that the delays in making an appointment had been too long but it was recognised that steps were being taken to improve the speed of the procedures. The Commissioner concluded that although the appointments in question predated the implementation of the new procedures, the departments had followed the Nolan Committee's recommendations and his proposed Code and Guidance as far as possible.

Data collection

From 1 July 1996, departments are required to record certain information relating to their procedures. This will be used for the purposes of audit and for analysis in the Commissioner's future reports. OCPA will publish its data in consolidated form as individual departments are responsible for publishing information about the appointments made to their individual bodies. The first statistical data published by OCPA will cover the nine month period 1 July to 31 March 1997. Subsequent analyses will cover full financial years. Data covering each appointment or reappointment will be recorded in the financial year in which the appointee takes up post.

Departments will record data under the headings of 'Chairmanships' and 'Others'. Full details of the data to be collected and sample tables are included in the OCPA Guidance. The list includes the number of new appointments and reappointments; the number of appointees who are politically active, by party; characteristics of the appointment (eg part–time, paid) and characteristics of appointees (eg gender and other appointments held).

'IF THERE ARE ANY DOUBTS ABOUT APPLICANTS' SUITABILITY FOR A POST, OR ABOUT THEIR ABILITIES, THEN THEY SHOULD NOT BE APPOINTED. THE PURPOSE OF THE CODE IS TO ENSURE THAT CANDIDATES DO NOT PROGRESS TO APPOINTMENT UNLESS THEIR EXPERIENCE AND COMPETENCIES MATCH THOSE ESTABLISHED AT THE OUTSET AS REQUIRED FOR THE POST'

ISSUES FOR THE COMING YEAR

The Commissioner will monitor developments in the following areas in particular over the coming year.

Advertising

As has been acknowledged elsewhere, one problem concerning departments is that of making available resources, both financial and administrative, to meet the openness requirements. First indications are that 'compendium' advertising of appointments is producing a substantial response and that having met the costs of advertising, departments are then faced with the problems of processing large volumes of applications. In one case, a series of advertisements produced more than 7,000 enquiries. Advertising and selection procedures will be monitored and are the subject of the second departmental seminar.

Length of process

The guidance emphasises the importance of maintaining good relationships with applicants, and the quality and speed of communications associated with this are a very important part of creating an acceptable climate for those interested in obtaining public appointments. The time taken to complete the whole process from advertisement to the announcement of the successful candidate is one of concern to applicants and to public bodies and this aspect will be studied.

Length of appointment

In applying the requirement that second reappointments should be exceptional, some departments have discovered anomalies in the length of time for which some people holding similar posts have been appointed. In the case of some bodies the length of appointment is determined by statute but with others appointment length appears to be determined arbitrarily. OCPA has heard of cases where, in the past, appointments were restricted to no more than two years as a form of unofficial 'probation' to see how the appointee performed. In the future OCPA would not expect anyone to be appointed on this basis. If there are any doubts about applicants' suitability for a post, or about their abilities, then they should not be appointed. The purpose of the Code is to ensure that candidates do not progress to appointment unless their experience and competencies match those established at the outset as required for the post.

OCPA has also been contacted about a number of appointees with sound and proven track records who are coming to the end of their second term of office and find themselves caught by the second reappointment 'rule', even though they have only served a total of four years. OCPA had not envisaged that the 'rule' would bite after such a short overall time in post and will consider proposals for handling these cases sympathetically.

Although the Commissioner believes that departments should determine the length of appointments, he questions the rationale of very short term appointments which are made in the absence of any special considerations. Such appointments need to be handled more frequently, adding to the burdens on those

who administer the process and increasing overall costs. Also, they may have a destabilising effect on the public body concerned, adversely affecting its efficiency. The Commissioner's personal view is that a total period of service in the same post of between six to eight years is, in the majority of cases, probably appropriate as a maximum.

ANNEX
THE PUBLIC APPOINTMENTS ORDER IN COUNCIL 1995

At the Court At Buckingham Palace
THE 23RD DAY OF NOVEMBER 1995
PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL

WHEREAS it is expedient to make provision in relation to the provision to the procedures for selection for appointment by the Ministers of the Crown of persons to public bodies:

NOW, THEREFORE, Her Majesty is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:-

Definitions

1. In this Order, except where otherwise expressly provided,

'audit' means the carrying out of any review by or on behalf of the Commissioner of the appointment procedures and practices followed by appointing authorities in making appointments;

'Commissioner' means the person appointed for the time being by Her Majesty in Council to be Her Majesty's Commissioner for Public Appointments for the purposes of this order;

'executive non–departmental public body' means any body listed for the time being in the Schedule to this order;

'public appointment' means any appointment, not being an extension of an existing appointment by re–appointment or otherwise, made by a Minister of the Crown to an executive non–departmental public body or any such appointment to a Trust, Authority or Health Board of the National Health Service.

Functions of the Commissioner

2.– (1) The Commissioner shall, in the matter he considers best calculated to promote economy, efficiency and effectiveness 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.

(2) 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 a public appointment and shall adopt and publish from time to time such additional guidance to adopting authorities as the Commissioner shall think fit.

(3) The Commissioner shall audit appointment policies and practices pursued by appointing authorities to establish whether the code of practice is being observed by the appointing authority.

(4) The Commissioner may require appointing authorities to publish such summary information as may be specified relating to selection for appointment.

(5) The Commissioner may from time to time conduct an inquiry into the policies and practices followed by an appointing authority in relation to any appointment or description of appointment.

Commissioner's Annual Report

3. The Commissioner shall publish an annual report which shall include

(a) information as to the application by appointing authorities of the principle of appointment on merit and as to the observance by such authorities of the code of practice, and

(b) an account of the audit of appointment procedures and practices.

Exercise of the Commissioner's powers and duties

4.– (1) Any power or duty of the Commissioner under this Order may be exercised by any officer of the Commissioner authorised for that purpose by the Commissioner.

(2) The Commissioner may from time to time and to such extent as he may think fit authorise any person to perform any function under Article 2(3).

(3) The Commissioner may make arrangements with the person for the time being appointed as the Commissioner for Public Appointments in Northern Ireland for the purposes of the Commissioner for Public Appointments (Northern Ireland) Order 1995 for any of that person's functions to be discharged by, or by an officer of, the Commissioner.

Citation etc

5.– (1) This Order may be cited as the Public Appointments Order in Council 1995 and shall come into force on the first day of December 1995

(2) The Interpretation Act 1978 (a) shall apply for the interpretation of this Order and of instruments or orders made under this Order as it applies for the interpretation of an Act of Parliament, and as if for the purposes of section 16 (1) of that Act this Order were an Act of Parliament.

N H Nicholls

SCHEDULE

EXECUTIVE NON-DEPARTMENTAL PUBLIC BODIES WITH MINISTERIAL APPOINTEES

Ministry of Agriculture, Fisheries and Food
Agricultural Wages Board for England and Wales
Agricultural Wages Committees (England)
Apple and Pear Research Council
Food from Britain
Home-Grown Cereals Authority
Horticultural Development Council (HDC)
Horticulture Research International
Meat and Livestock Commission (MLC)
Milk Development Council (MDC)
Regional Flood Defence Committees(RFDCs)
Royal Botanic Gardens, Kew
Sea Fish Industry Authority
United Kingdom Register of Organic Food Standards
Wine Standards Board of the Vintners' Company

Ministry of Defence
Oil and Pipelines Agency
Royal Air Force Museum

Department for Education and Employment
Centre for Information on Language Teaching and Research
Education Assets Board
Equal Opportunities Commission
Funding Agency for Schools (FAS)
Further Education Funding Council
Higher Education Funding Council for England
Industrial Training Boards
- Construction Industry Training Board
- Engineering Construction Industry Training Board (ECITB)

Investors in People UK
National Council for Educational Technology
National Council for Vocational Qualifications
National Youth Agency
Remploy Limited
Schools Curriculum and Assessment Authority (SCAA)
Teacher Training Agency

Department of the Environment
Audit Commission for Local Authorities and the National Health Service in England and Wales
British Board of Agrement
Commission for the New Towns
Countryside Commission
English Partnerships
Environment Agency
Health and Safety Commission
Health and Safety Executive
Housing Action Trusts
- Castle Vale
- Liverpool
- North Hull
- Stonebridge
- Tower Hamlets
- Waltham Forest

Housing Corporation
Joint Nature Conservation Committee (JNCC)
Local Government Residuary Body (England)
London Pensions Fund Authority
National Forest Company
National Rivers Authority
Nature Conservancy Council for England (English Nature)
Rural Development Commission
United Kingdom Eco-labelling Board (UKEB)
Urban Development Corporations
- Birmingham Heartlands
- Black Country
- Bristol
- Central Manchester
- London Docklands (LDDC)
- Merseyside
- Plymouth
- Sheffield
- Teesside
- Trafford Park
- Tyne and Wear

Foreign and Commonwealth Office
Britain-Russia Centre
British Council
Commonwealth Institutes, London and Edinburgh
Great Britain-China Centre
Marshall Aid Commemoration Commission
Westminster Foundation for Democracy

Overseas Development Administration
Commonwealth Scholarship Commission
Crown Agents Holding and Realisation Board

Department of Health
Central Council for Education and Training in Social Work (UK)
Dental Practice Board
English National Board for Nursing, Midwifery and Health Visiting
Human Fertilisation and Embryology Authority
Medical Practices Committee
National Biological Standards Board (UK)
National Radiological Protection Board
Public Health Laboratory Services Board

Home Office
Alcohol Education and Research Council
Commission for Racial Equality
Community Development Foundation
Fire Services Examinations Board
Gaming Board for Great Britain
Horserace Betting Levy Board
Horserace Totaliser Board
National Lottery Charities Board
Office of the Data Protection Registrar
Police Complaints Authority
Police Promotion Examinations Board

Lord Chancellor's Department
Authorised Conveyancing Practitioners Board
Legal Aid Board

Department of National Heritage
Arts Council of England
British Film Institute
British Library
British Tourist Authority (BTA)*
Broadcasting Complaints Commission
Broadcasting Standards Council
Crafts Council
English Tourist Board (ETB)
Football Licensing Authority
The Historic Buildings and Monuments Commission for England (English Heritage)
Millennium Commission
Museums and Galleries
- British Museum
- Geffrye Museum
- Greater Manchester Museum of Science and Industry
- Horniman Museum
- Imperial War Museum
- Museum of London
- National Gallery
- National Maritime Museum
- National Museums and Galleries on Merseyside
- National Museum of Science and Industry
- National Portrait Gallery
- National History Museum
- Royal Armouries
- Tate Gallery
- Victoria and Albert Museum
- Wallace Collection

Museums and Galleries Commission
National Film and Television School
National Film Development Fund
National Heritage Memorial Fund
Registrar of Public Lending Right (PLR)
Royal Commission on Historical Manuscripts
Royal Commission on the Historical Monuments of England
Sports Council

Northern Ireland Office
Police Authority for Northern Ireland
Probation Board for Northern Ireland
The Independent Commission for Police Complaints for Northern Ireland
Rathgael and Whiteabbey Training Schools Management Board

Office of the Rail Regulator
Consumer Consultative Bodies
- Rail Users' Consultative Committees and Central Rail Users' Consultative Committee

Scottish Office
The Accounts Commission for Scotland
Agricultural Research and Biological Institutes - Governing Bodies
- Hannah Research Institute
- Macaulay Land Use Research Institute
- Moredun Research Institute
- Rowett Research Institute
- Scottish Crop Research Institute

Crofters' Commission
Edinburgh New Town Conservation Committee
Highlands and Islands Enterprise
Mental Welfare Commission for Scotland
National Board for Nursing, Midwifery and Health Visiting for Scotland
National Galleries of Scotland
National Library of Scotland
National Museum of Scotland
New Town Development Corporations
- Cumbernauld Development Corporation
- East Kilbride Development Corporation
- Glenrothes Development Corporation
- Irvine Development Corporation
- Livingston Development Corporation

Parole Board for Scotland
Red Deer Commission
River Purification Boards
Royal Botanic Garden, Edinburgh
Royal Commission on the Ancient and Historical Monuments of Scotland
Scottish Agricultural Wages Board
Scottish Arts Council
Scottish Children's Reporter Administration
Scottish Community Education Council
Scottish Conveyancing and Executry Services Board
Scottish Council for Educational Technology
Scottish Enterprise
Scottish Environment Protection Agency
Scottish Examination Board
Scottish Film Council
Scottish Further Education Unit
Scottish Higher Education Funding Council
Scottish Homes
Scottish Hospital Endowments Research Trust
Scottish Legal Aid Board
Scottish Medical Practices Committee
Scottish Natural Heritage
Scottish Seed Potato Development Council
Scottish Sports Council
Scottish Tourist Board
Scottish Vocational Education Council
Scottish Water and Sewerage Customers' Council

Department of Social Security
Occupational Pensions Board (OPB)

Department of Trade and Industry
Advisory Conciliation and Arbitration Service
British Hallmarking Council
Commissioner for the Protection Against Unlawful Industrial Action
Commissioner for the Rights of Trade Union Members
Consumer Consultative Bodies
- Gas Consumers' Council
- National Consumer Council
- Post Office Users' National Council
- Post Office Users' Councils for Scotland, Wales and Northern Ireland

Coal Authority
Design Council
Monopolies and Mergers Commission

National Enterprise Board (NEB)
National Research Development Corporation (NRDC)
Policyholders' Protection Board
Research Councils
- Biotechnology and Biological Sciences Research Council (BBSRC)
- Council for the Central Laboratory of the Research Councils (CCLRC)
- Economic and Social Research Council (ESRC)
- Engineering and Physical Sciences Research Council (EPSRC)
- Medical Research Council (MRC)
- Natural Environment Research Council (NERC)
- Particle Physics and Astronomy Research Council (PPARC)

The Simpler Trade Procedures Board
United Kingdom Atomic Energy Authority

Department of Transport
General Lighthouse Authorities
- Northern Lighthouse Board
- Trinity House

London Regional Passengers' Committee (LRPC)
Traffic Director for London

Welsh Office
Agricultural Wages Committees (AWC)
Arts Council of Wales
Cardiff Bay Development Corporation
Countryside Council for Wales
Curriculum and Assessment Authority for Wales (ACAC)
Development Board for Rural Wales
Further Education Funding Council for Wales
Higher Education Funding Council for Wales
Housing for Wales
Land Authority for Wales
National Library of Wales
National Museums and Galleries of Wales
Residuary Body of Wales
Royal Commission on Ancient and Historical Monuments in Wales
Sports Council for Wales
Wales Tourist Board
Wales Youth Agency
Welsh Development Agency (WDA)
Welsh Language Board (WLB)
Welsh National Board for Nursing, Midwifery and Health Visiting

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prescribes the duties and powers of a Commissioner for Public Appointments.

The principal provisions of this Order are:

(a) Article 2 sets out the functions of the Commissioner for Public Appointments and provides for the issue of a code of practice on the interpretation and application of the principle of selection on merit and for the audit of selection policies and practices.

(b) Article 3 requires the Commissioner to publish an annual report.

(c) Article 4 allows the delegation of any power of the Commissioner to any officer of the Commissioner. The Commissioner may also authorise any person to perform the function of auditing selection practices and policies, and may make arrangements with the Commissioner for Public Appointments in Northern Ireland for the discharge of any of that person's functions by the Commissioner.

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ISBN 0 7115 0336 2
OCTOBER 1996