



Cabinet Office Guidance: pre-appointment scrutiny by House of Commons select committees

Contents

Cabinet Office Guidance: pre-appointment scrutiny by House of Commons select committees.....4

Annex A - List of public appointments subject to pre-appointment hearings.....8

Cabinet Office Guidance: pre-appointment scrutiny by House of Commons select committees

1. Pre-appointment hearings enable select committees of the House of Commons to take evidence from a Minister's preferred candidate for key public appointments. These public hearings take place before an appointment is confirmed, but after the selection process has taken place. In all cases, it is a matter for the relevant select committee to decide whether to hold a pre-appointment hearing.
2. In the majority of cases it will be for the relevant departmental select committee to hold the hearing. However, there may be occasions where the involvement of other select committees may be necessary. This should be considered on a case by case basis and resolved by the relevant select committee Chair and the appointing Minister. The House of Commons Liaison Committee and the Cabinet Office may also be consulted.
3. Where an appointment is subject to a pre-appointment hearing, the Department should consult the Chair of the relevant select committee on the proposed selection process before a recruitment exercise begins. It is good practice for departments to share the job description and person specification with the committee. If the appointment is to be made pursuant to any statutory provision, it is helpful to inform the committee of any statutory requirements the Minister must take into account when making the appointment (see paragraph 18 for further details).
4. It is important that Departments engage the select committee early on in the process to identify a suitable date for the eventual hearing to take place. Wherever possible, Departments should ensure that the end of the selection stage does not coincide with the beginning of any long parliamentary recesses. If an incumbent is being reappointed, it is good practice for the department to inform the relevant select committee.
5. Pre-appointment hearings are held in public and involve the select committee taking evidence from the candidate. The committee will publish a report, usually within 48 hours, of the hearing setting out its view on the candidate's suitability.
6. It is for Ministers to decide whether or not to accept a committee's recommendations relating to an appointment. Ministers must consider any relevant observations made by the committee before deciding whether to go ahead with the appointment (subject to the provisions regarding any statutory appointment outlined in paragraph 18 below). If a committee recommendation

in relation to an appointment is not accepted, the Minister responsible should respond to the Committee explaining the reason(s) why.

7. A list of public appointments which Ministers have agreed would be suitable for a pre-appointment hearing, is attached at Annex A. The Cabinet Office should be consulted in advance about additions to and withdrawals from the list which should be agreed between the appointing Secretary of State and the relevant committee chair. In cases where there is disagreement the Liaison Committee and the Cabinet Office should be consulted. The list is available on the websites of the Cabinet Office and of the Liaison Committee and will be updated at least annually.

Before the hearing takes place

8. All those involved in the selection process for a public appointment, designated as subject to a pre-appointment hearing should be made aware of the possibility of a pre-appointment hearing. This should be stated clearly in all publicity relating to the post so that all applicants are aware.
9. At least one week in advance of the scheduled date for the hearing, unless otherwise agreed, the department should provide the relevant committee with the name and relevant details (CV, declaration of interests etc) of the Government's preferred candidate for the appointment, together with information about the role, as well as a short outline of how the recruitment was conducted. This note should contain details of the interview panel and anonymised background information on the field of applications, for example the numbers applying, the numbers shortlisted and the number deemed appointable.
10. Departments should ensure that candidates are aware that the relevant select committee may publish all information submitted to it, unless explicitly agreed otherwise. Confidential information relating to the appointments process – for example, personal information on other applicants, copies of the diversity or political activity questionnaires, copies of the selection panel's assessments, etc. – should therefore not be shared with the committee unless the department recognises that these documents may be published.
11. Departments should ensure that candidates are properly briefed and supported before they attend a pre-appointment hearing, particularly if it is their first time in front of a select committee. Candidates should be encouraged to speak directly to the clerk of the committee, who will normally be happy to discuss the committee's likely approach.
12. The candidate will need to be able to withstand parliamentary and public scrutiny should they take up post and the committee may wish to test this. While the content of the questioning of the candidate during the hearing is a

matter for the committee, committee chairs have in the past ensured that questioning during hearings has been relevant to a candidate's professional competence and personal independence and has related to how an individual would plan to undertake the role and the experience and expertise they would bring. Candidates have not been expected to understand the intricate workings of the body for which they would have responsibility, though such questioning may feature in evidence sessions after an individual has taken up post. Candidates are entitled to appeal to the Chair if they do not feel it appropriate to answer a question put to them.

The Committee's report and the Ministerial decision

13. Following the evidence session, the committee will usually prepare a report to the House containing its views on the suitability of the candidate. The candidate and the Minister will usually receive the report under a 24-hour embargo to allow the candidate and the Minister time to consider the report and prepare a response to any specific points it contains.
14. On receipt of the committee's report, Ministers will consider the report before deciding whether to proceed with the appointment. In the majority of cases where an open and transparent process has been followed, the candidate has been selected on merit, and where engagement of the committee has taken place, the committee is likely to agree that the Government's preferred candidate should be appointed.
15. Committees with concerns about an appointment have in the past raised concerns about a preferred candidate in private correspondence or discussion with the Minister, as an alternative to issuing a report in the first instance. Ministers in receipt of such approaches will want to consider whether or not it is advisable to press ahead with approving the appointment. In these circumstances, the committee can agree that the Minister shall inform the candidate of the committee's reservations before a formal report is made to the House.
16. In a scenario where the committee, the candidate and the Minister cannot reach any compromise (for example, the candidate choosing to withdraw), then the committee can be expected to issue its report and the Minister will then proceed to make his or her decision.
17. In relation to the findings of the Committee, Ministers should weigh the views of the committee carefully against the evidence from the appointments procedure to reach a final view to ensure that the decision is made fairly and taking all relevant considerations into account.

18. Where the appointment is a statutory appointment there may be significant legal constraints as to what the Minister may lawfully take into account in reaching a final decision. If the Minister is minded not to proceed with the appointment in such cases, departments must seek legal advice before any decision is made. Pre-appointment hearings and Committee reports are proceedings in Parliament and subject to Parliamentary privilege: legal advice should therefore be sought if there is any prospect that these proceedings might be questioned in a court or tribunal. Departmental legal advisers may wish to seek advice from the Cabinet Office Legal team in the Treasury Solicitor's Department. The Centre for Public Appointments in the Cabinet Office should also be consulted.

19. If the select committee recommends against the appointment of a candidate, and where the report of the assessment panel has identified more than one appointable candidate and the Minister decides not to proceed with the appointment, the Minister may alternatively propose one of the candidates from that list for appointment. In this instance a further pre-appointment hearing would most likely be held to assess the Government's new proposed candidate. The Department should make an early approach to the committee clerk to identify a suitable date for a second hearing. Another option open to the Minister would be to choose not to proceed with the appointment and to re-run the competition.

Annex A - List of public appointments subject to pre-appointment hearings:

Attorney General's Office

HM Chief Inspector of the Crown Prosecution Service

BIS

Chair of the Higher Education Funding Council for England

Chairs of the Research Councils

Director of the Office for Fair Access

Chair of Competition and Markets Authority

Chair of the Technology Strategy Board

Groceries Code Adjudicator

Cabinet Office

Chair of the Advisory Committee on Business Appointments

Chair of the Charity Commission for England and Wales

Chair of the Committee on Standards in Public Life

Chair of the House of Lords Appointments Commission

Chair of the UK Statistics Authority

First Civil Service Commissioner and Commissioner for Public Appointments

Parliamentary Commissioner for Administration (office also held by Health Service Commissioner)

CLG

Local Commissioners for Administration in England

Chair of the Homes and Communities Agency

Chair of the Homes and Communities Agency's Regulation Committee

DCMS

Chair of OFCOM

Chair of the BBC Trust

Chair of S4C

Chair of the Equality and Human Rights Commission

DECC

Chair of the Committee on Climate Change

Chair of the Gas and Electricity Markets Authority (GEMA)

DEFRA

Chair of Natural England

Chair of the Environment Agency

Chair of the Gangmaster Licensing Authority

Chair of the Water Services Regulatory Authority (OFWAT)

DfE

HM Chief Inspector of Education, Children's Services and Skills

Children's Commissioner for England

Chief Regulator for Ofqual

Chair of the Social Mobility and Child Poverty Commission

DFID

Chair of the Independent Commission for Aid Impact

DH

Chair of the Care Quality Commission

Health Service Commissioner for England (office also held by Parliamentary Commissioner for Administration)

Chair of the Food Standards Agency

Chair of Monitor

Chair of NHS England

Chair of the National Institute for Health and Care Excellence

MoJ

Chair of the Judicial Appointments Commission

Chair of the Office for Legal Complaints

HM Chief Inspector of Prisons

HM Chief Inspector of Probation

Information Commissioner

Prison and Probation Ombudsman

HO

HM Chief Inspector of Constabulary

DfT

Chair of the Office of Rail Regulation

HMT

Comptroller and Auditor General

Chair and Members of the Budget Responsibility Committee

DWP

Chair of the Social Security Advisory Committee

Pensions Ombudsman

Pension Protection Fund Ombudsman

MoD

Service Complaints Commissioner

Additions to and withdrawals from the list should be agreed between the appointing Secretary of State and the relevant committee chair. In cases where there is disagreement the Liaison Committee and the Cabinet Office should be consulted.

This document is available
in large print, audio and
braille on request. Please call
+44 (0)207 227 6227 or email
publicappointments@cabinet-office.gsi.gov.uk

Cabinet Office
70 Whitehall
London SW1A 2AS

Publication date: November 2013

© Crown copyright 2013

You may re-use this information (not including logos)
free of charge in any format or medium, under the
terms of the Open Government Licence.

To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/
or write to the Information Policy Team,
The National Archives, Kew, London TW9 4DU,
or e-mail: psi@nationalarchives.gsi.gov.uk.

Any enquiries regarding this document/publication
should be sent to us at
publicappointments@cabinet-office.gsi.gov.uk

This publication is available for download at
www.official-documents.gov.uk

Ref: 071280 / 363