



**The Commissioner for
Public Appointments**

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Lord Jonathan Evans KCB DL
Chair, Committee on Standards in Public Life
Room G07
1 Horse Guards Road
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Dear Jonathan,

Ahead of my appearance on October 15 at the Committee on Standards in Public Life-- probably my last in my current role-- I wanted to raise some themes which you and the committee might want to discuss-- not least since my annual report has been delayed because of the knock-on effects of Coronavirus on the collection of data.

First, the change in the Commissioner's role following the Grimstone review in early 2016 has generally worked well- no longer being involved in the process of appointments but acting primarily as a regulator to provide public assurance. The most important innovation has been the development of in-house annual compliance audits each autumn under which samples of competitions in each department are examined. The focus has been on fostering a culture of improvement in procedures and practices in departments and the results have been generally positive, as recognised in the feedback from Permanent Secretaries. The main difficulties have been a lack of consistency in approach in departments without central appointment capabilities. This has been in addition to OCPA's continuing work in dealing with complaints, undertaking investigations into some competitions and holding broader thematic reviews.

Second, the main frustration has resulted from the political upheavals of the past few years with a national referendum, two general elections, three Prime Ministers and a national pandemic. I have dealt with seven ministers in the Cabinet Office responsible for public appointments, including five since early July 2019. And, of course, there has been a big churn in ministers in departments. This political turmoil and the repeated changes of ministers have had two adverse effects. First, they have aggravated the endemic problem of the lengthy time it takes to complete competitions. A thematic review in summer 2019 showed that more than half the competitions were taking longer than the goal/aspiration of three months between the final date of submission of applications and announcement of the outcome, in many cases twice as long. The main reason for the delay came



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after interviews when choices were being considered by ministers. The downside is frustration amongst candidates being left in the dark and the risk of discouraging further applications, while the efficiency of public bodies is also affected.

The Coronavirus pandemic has not, of course, helped on timing, but, after an initial hiatus in the spring, many departments proved to be inventive and resilient in developing remote interview and assessment approaches. I wrote to all Permanent Secretaries in June commending these initiatives in order to avoid a logjam of delayed competitions and the response has been very positive.

The second adverse effect of high ministerial churn has been in disrupting initiatives to increase diversity among those applying and being appointed. The Cabinet Office has a sensible Diversity Action Plan but it requires leadership and priority from the centre to ensure implementation across Whitehall- as occurred with the significant and sustained increase in the number of women appointed during the coalition years. With frequent changes of minister, this momentum has been lacking so progress has been disappointing on taking forward initiatives to mentor and develop candidates from underrepresented groups, as well as outreach programmes to interest them in public appointment opportunities. In these circumstances, the performance has been welcome with the gains in female representation consolidated in the mid-to-upper 40 per cent range and the number of ethnic minorities board members rising above 10 per cent towards the target of 14 per cent. The number of those declaring disabilities obtaining public appointments tends to fluctuate from year to year between 4 and 6 percent and is still too low. In all categories, the proportion of chairs appointed lags well behind, particularly for ethnic minorities and those with disabilities. This is where a central lead headed by ministers to develop leadership programmes is needed. The current administration is, in addition, stressing the need for diversity of opinion and of location. The former is partly secured by greater diversity of protected characteristics such as gender and ethnicity. There is, of course, the danger of creating a new orthodoxy in the name of diversity. Public appointments are already less metropolitan than is commonly supposed with well over two-thirds of appointees living outside London and the south-east, partly because of the spread of locally based NHS and justice bodies.

The central question - expressed clearly in the first 'Nolan' report of the CSPL in 1995- is the balance between ministerial involvement and appointment on merit. The system is inherently political in that ministers can at all stages suggest candidates and have the final say but their choice is constrained by a system of fair and open competition in which all candidates are treated equally. The balance between the two is defined in the Governance Code, since January 2017 the Cabinet Office's Code, not mine. That balance has depended on restraint and good sense. For instance, ministers have respected the results of competitions and have not sought to use the provisions to appoint a candidate judged unappointable by the interview panel. That has usually provided a choice of appointable candidates which has permitted current ministers, like those of previous governments, to choose someone whom they believe will be supportive of their broad goals.

The Code is quite specific that political activity is no bar to being appointed - former ministers and ex-MPs have often proved to be effective public appointees. The key is that they are not appointed just as a result of patronage but emerge from a rigorous comparison with other candidates on the



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basis of a fair and open competition. There has always been an element of favouring your allies but it has been constrained. Similarly, while there have always been many appointments made without holding a competition, these have virtually all been temporary, to cover a period until a normal competition can be held (as in the Coronavirus pandemic), or when a public body is being reorganised or closed down in the near future. These interim appointments are also subject to consultation with me, under the Code,

There are, however, signs that this balance is under threat- that some at the centre of government want not only to have the final say but to tilt the competition system in their favour to appoint their allies. For instance, in recent months I have on a number of occasions had to resist, successfully so far, attempts by ministers to appoint people with clear party affiliations as Senior Independent Panel Members when that is expressly barred under the Code. There have also been attempts to stretch the Code by, for example, packing the composition of interview panels with allies, notably in the current case of the panel for the competition of the Office for Students, which has a panel of five where there is no one with senior recent experience of higher education or a student involved. My only role concerning interview panels is to be consulted over the appointment of SIPMs, but not over other members of panels which are the responsibility of ministers and departments. Other examples- which are infuriating the chairs of public bodies- are the wholesale rejection of reappointments. Under the Code there is no presumption that anyone should be reappointed but good governance points to a mix of fresh appointments and reappointments to ensure both renewal and continuity. There have also been examples, again within the Code, of the rejection of strong candidates for appointments recommended by independent panels, after a drawn out process . The latest controversy over the future chairs of the BBC and Ofcom has involved advanced speculation that certain candidates are favoured - even informally lined up- which, whether accurate or not, risks discouraging other well qualified candidates from applying.

A parallel concern is the growth of unregulated appointments-- those neither covered by my office nor by the Civil Service Commission. That has been highlighted by the appointment of Baroness Harding to lead NHS Test and Trace and to be Interim Executive Chair of the new National Institute for Health Protection without any process of regulated appointment. Similarly, non-executive members of the boards of government departments are also not regulated at all and there have been growing concerns about this omission as the original idea of bringing in people with business and similar experience from outside Whitehall has been partly replaced by the appointment of political allies of ministers, in some cases without competition, and without any form of regulatory oversight.

The overall danger is of these developments is they may reduce diversity of thought and experience rather than increase it. That has been underlined by the way due diligence can be applied to search for any tweet or social media comment critical of Government policies. Due diligence is a necessary and desirable part of the assessment of candidates but it is essential that it is both proportionate and relevant to the post being appointed. This means ensuring that any allegations are put to candidates, preferably at the interview stage, but, if necessary later. It is a denial of natural justice for assertions about a candidate's views to be made in submissions to ministers without the candidate having a chance to explain them.



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The overall risk at present is of discouraging experienced and talented people of all backgrounds from applying to be public appointees and to play a role in the running of important organisations which supply services to the public.

I look forward to discussing these and other issues related to my work as Commissioner for Public Appointments.

All best wishes,

Peter Riddell
Commissioner for Public Appointments