



Ministry of
JUSTICE

Government Response to the Justice Committee Report

Public Appointments: Lord-Lieutenants and High Sheriffs



GOVERNMENT RESPONSE TO THE JUSTICE COMMITTEE REPORT

Public Appointments: Lord-Lieutenants and High Sheriffs

**Presented to Parliament
by the Lord Chancellor and Secretary of State for Justice
by Command of Her Majesty**

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Government Response to the Sixth Report of the Justice Committee (Session 07-08) On Public
Appointments: Lord-Lieutenants and High Sheriffs

Introduction

The Government welcomes the Justice Select Committee Report: *Public Appointments: Lord-Lieutenants and High Sheriffs* and is grateful to the Committee and all those who gave evidence in the preparation of this Report.

The Government's response to the conclusions and recommendations of the Report is set out below.

Government's response to the Committee's recommendations and conclusions

We have identified 4 separate recommendations or conclusions from the Committee's report, which we have numbered, and for which we have provided paragraph references.

Background

1. In our view, the broad principles set out by the Nolan Committee in relation to public appointments should be applied wherever possible to all public office, including largely ceremonial ones, which are not remunerated. (Paragraph 3)

The Government believes it is appropriate to discuss this issue in two parts, as the Lord-Lieutenants and High Sheriffs have different appointments systems and roles.

Lord-Lieutenants

The Government is committed to the principles of diversity and, with the full agreement of Buckingham Palace, has sought to widen the pool from which new Lord-Lieutenants are drawn and will continue to do so. The Cabinet Office is responsible for the appointment process in England, with the devolved administrations in Scotland and Wales and the Northern Ireland Office primarily responsible for the procedures in their respective countries.

Lord-Lieutenants are required to retire on reaching the age of 75. On appointment, it is expected that they will be able to serve for a minimum of ten years. On average, four Lord-Lieutenants are appointed each year and a Lieutenancy would be expected to fall vacant every ten to fifteen years. In England, the Government has for some time sought the views of a wide range of representative people in the county whenever a vacancy is imminent, including local MPs, councils, the magistracy, voluntary bodies, and other individuals and institutions, including members of the lieutenancy itself, such as Vice Lord-Lieutenants and Deputy Lieutenants. The procedure in other parts of the United Kingdom is modelled on similar consultative principles, though the soundings may not always be as widespread, in part due to the often considerably smaller populations served by most Scottish, Welsh and Northern Ireland Lord-Lieutenants.

These consultations are designed in part to ensure that a wide range of different candidates are brought to the attention of, and considered by, the Government.

Building on this, the Cabinet Office will now consult with the devolved administrations and the Northern Ireland Office to see what scope there is for good practice to be shared and incorporated into all of the systems, with a view to widening the range of the consultations wherever it would be practical to do so.

In addition, the Government will publish a protocol formally setting out the types of people and bodies whose views would always be sought in future consultations. This would not preclude additional people being consulted depending on local circumstances.

Comments on the appointments process for High Sheriffs are dealt with under recommendation 4.

Government Response to the Sixth Report of the Justice Committee (Session 07-08) On Public
Appointments: Lord-Lieutenants and High Sheriffs

Lord-Lieutenants

2. **We regret that the Minister was not inclined to measure diversity outside the easy-to-measure categories of ethnic origin or sex. This approach is insufficient, especially in relation to traditional ceremonial offices. The reality is that ceremonial offices such as that of Lord-Lieutenant are associated in the public mind with a narrow band of people in society. If such offices are to retain credibility as representative links between the Crown and communities then this must change. (Paragraph 11)**

3. **We regard the principle that offices such as Lord-Lieutenant should be available to be filled by the widest range of people as being of great importance. However, if there is insufficient support to provide for reasonable expenses for holding the office then in effect only people with their own considerable private financial resources will be able to hold such positions. This places far too great a restriction on the range of people from which a Lord-Lieutenant can be chosen. (Paragraph 13)**

As noted above, it has been Government practice for some time to widen the pool from which Lord-Lieutenants are drawn, whilst still nominating on merit. This has resulted in a growing number of female Lord-Lieutenants being appointed, fifteen current Lord-Lieutenants, and to the appointment of the first minority ethnic Lord-Lieutenant last year.

The measurement of diversity, other than of gender or ethnicity, is inevitably not as precise, or objective, given the difficulty of categorising social background reliably in a modern and fluid society such as the United Kingdom. However, over the last thirty years the social diversity of the lieutenancy has widened considerably. For example, thirty years ago, 20 Lord-Lieutenants were peers and many were retired senior military officers. This year, out of a total of 55, only 7 are peers, of whom one is in the House of Lords, and only one Lord-Lieutenant is a retired senior officer.

Over a third of Lord-Lieutenants have a full-time business background, and several are active in farming. Other Lord-Lieutenants come from a professional or non-military public service background. There are at least two doctors, a midwife, a chartered surveyor, a university lecturer and a judge.

The Government would question the description of the post of Lord-Lieutenant as a largely ceremonial office. Although the ceremonial aspects are an important part of the Lord-Lieutenants' work, they are only one part of what is a varied role in the community. Lord-Lieutenants actively support a wide range of voluntary and community activity both publicly and behind the scenes; they undertake a significant number of visits to businesses; they work to support the armed forces, including the Territorial Army and Cadets; and play an active part in the honours system especially to ensure that meritorious individuals at a local level are considered for honour. In England they also chair the Advisory Committees of the Magistracy. Depending on circumstances, they may from time to time undertake other activities as well.

Having considered the committee's views, the Government does not consider that the costs associated with the office need be a deterrent to people from all walks of life accepting the position. Lord-Lieutenants may claim reimbursement from MOJ for reasonable travel costs and other non-entertainment expenses up to a prescribed threshold, incurred as a result of their official duties. The Ministry of Justice administers these reimbursement claims and provides about £1.27 million per annum for the Lord-Lieutenants' expenses from the monies set aside from the Constitution Directorate budget.

Since 1996 there have been four reviews of funding, most significantly in 2000 when new upper thresholds were set. In the most recent review the MOJ agreed to increase the Lord Lieutenants' budget by 40%. The Government intended this increase to take into account the change in the background of many new Lord Lieutenants, responding to the need for increased funding by increasing the upper thresholds in several areas.

High Sheriffs

- 4. It is not appropriate for an appointment body to be heavily dominated by people who hold or have previously held the position, with little or no opportunity for names to be put forward from outside their own circle of acquaintances. The methods of appointing High Sheriffs do not properly reflect modern practice, and, together with the very limited support for the costs of the office, they place an unreasonable restriction on the range of people who can be considered for the post. The same considerations apply for High Sheriffs as for Lord-Lieutenants in terms of providing sufficient support for reasonable expenses for holding the office. We believe that there is a need for reform of the system. (Paragraph 20)**

In contrast with the Lord-Lieutenants, High Sheriffs are appointed annually. The Government has no direct responsibility for the appointment of High Sheriffs beyond administering the ceremonies at which the appointment process takes place. However, we have drawn the Committee's comments to the attention of the Association of High Sheriffs. The Association has been working with the government for some time to widen access to the role. The establishment of the county consultative panels was intended to improve the appointments system, and the Association has indicated that they would like to work with the Ministry of Justice to improve and strengthen this system. The Association has also established a sub-committee to look at the issue of affordability of the office, in terms of both time and money, working towards making the role as accessible as possible. A key part of the training offered to High Sheriffs before they take up office is in the process for ensuring that suitable candidates are identified for future years. A special session is held about the importance of diversity in all its aspects when considering that issue. Although the Committee thought that diversity should go beyond gender to other socio-economic matters, the Government would nevertheless like to point out the progress which the Shrievalty has made with regard to gender equality. Of the 153 Sheriffs 'in nomination' for 2009-12, 59, or 39%, are female, and for 2010-11, the proportion of female nominees is 47%.

Regional meetings of serving and incoming high Sheriffs are being rolled out across the country which, amongst other key topics, will address the question of improving diversity and transparency of the appointment process. The Government and the Association of High Sheriffs are committed to widening the pool of applicants as far as is practicable, bearing in mind that the appointment as High Sheriff is one that requires considerable time as well as expenditure to be furnished by appointees. The Association has pointed out that it is the time commitment as much as any pecuniary costs, which may limit the field of those who feel able to take on the Office. In some counties, there may be as many as 300 engagements during the Sheriff's year of office, making it a very heavy burden for anyone who is in full-time employment. The Association has itself established a sub-committee of its Council to look into the question of affordability to ensure that potentially good candidates are not discouraged.

In seeking to improve upon the system of appointment, the Association has said that it would be prepared to consider establishing and updating annually a list of members of county consultative panel members and, subject to the agreement of panel members, these names could be accessible on the Association's website. The Association also suggested including more information about the panels' role on its website, which would then act as the first port of call for anyone interested in discussing his or her, or another person's, suitability for the role.

The Select Committee did not consider it appropriate that consultative panels should largely comprise people who had previously held the Office, or who were coming into Office. It is important to carefully consider the nature of the role. As the office of High Sheriff is held for one year only, some mechanism is needed to ensure continuity and consistency. Those in office and those who have just completed their terms of office will have significant knowledge and experience of key stakeholders in the major organisations (including local government and voluntary organisations) within their county, and it is right that this should be available to their successors. Previous High Sheriffs on the panel are also available in this way to help, guide and support their successors in office and to advise and assist with worthwhile projects which may already be in progress, or are being planned and need support from the High Sheriff. The importance of continuity within a county cannot be overstated. Someone who has served as High Sheriff is the person best placed to understand the demands of, and the qualities needed for, the unique role.

It is not the case that there is little or no opportunity for names outside a High Sheriff's circle of acquaintances to come forward. Consultative panels do suggest names and due consideration is given to all suggestions. Although the panels could be enlarged, there would then be a danger that this would make them unwieldy. The Association, who have the greatest familiarity with the appointment process, are not convinced that advertising otherwise than on the Association's website for candidates to put themselves forward, is practicable either in terms of cost or outreach.

The Government believes that the Select Committee's deliberations in relation to either the police or to local authorities are not workable. As the Association of High Sheriffs pointed out in their Memorandum, if there were an overarching body responsible for making appointments, the infrastructure needed would require considerable public funding. It seems unlikely that priority could be given to funding in this area, especially in the current economic climate.

The Government and the High Sheriffs' Association believe that the independence of the office of High Sheriff from the local police forces and the local authorities is valuable and should be preserved. High Sheriffs develop good working relationships with the police, and in many counties initiatives such as Crimebeat are run in close collaboration and with administrative support from the local police forces. Consideration of a role for local authorities is constrained by the developments in local government in the last century; in many areas the county is no longer the recognised administrative unit, but is made up of a number of unitary authorities. In addition to the difficulties in assigning responsibility to a particular authority, direct involvement of a local authority in the appointments process could be seen as compromising the political independence of the office of High Sheriff, which we believe to be fundamental to the role.

The government believes that the conclusions drawn by the report do not take full account of the spirit of public service and generosity which is embodied by the High Sheriffs. The post of High Sheriff is not remunerated, and the positive contribution made by High Sheriffs to their local communities in time, resources and commitment is given purely voluntarily, and wholly at the expense of the individual concerned for the benefit of their county. The Association of High Sheriffs strongly believes, and the government agrees, that the office of High Sheriff has an important role today as an outstanding example of volunteering. This role is such that remuneration of expenses would be inappropriate as well as, in the present economic climate, unaffordable.

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