

ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

Minutes of Committee meeting held on Wednesday 22 May 2019

Present

Baroness Browning (Chair)
Sir Alex Allan
Jonathan Baume
Lord German
Terence Jagger
Richard Thomas
John Wood

Apologies

Dr Susan Liautaud
Baroness Liddell

Secretariat

Tiffany Amusu
Peter Lawrence
Cat Marshall
Maggie O'Boyle

Chair's update

1. The Committee invited Non-Executive Directors from across Government to attend to discuss Business Appointments issues in general, now that Cabinet Office expect Audit and Risk Committees to report on this. The Chair thanked those members who had attended and provided an update on the meeting for those who were unavailable to attend.
2. The Chair noted an introductory meeting with Lord Jonathan Evans KCB DL, the new Chair of Committee on Standards in Public Life (CSPL), was held in early April.
3. The Chair also confirmed she had written to the Cabinet Office in April, setting out the Committee's recommendations on how the Government's Business Appointment Rules could be implemented more effectively. The letter (at Annex A) focussed on improving governance and increasing transparency. It was copied to Sir Bernard Jenkin, Chair, Public Administration and Constitutional Affairs Committee; and Lord Jonathan Evans KCB DL, Chair of the Committee on Standards in Public Life.

4. The Chair noted the upcoming meeting in June with the Permanent Secretary of the Department of International Trade, Antonia Romeo.

Minutes of the last meeting

5. The minutes of the previous meeting, held on 6 March 2019, were approved.

Annual Report

6. The Committee discussed the 2018-2019 Annual Report and noted there was a delay on its production and publication due to resourcing.

Away day

5. The Committee provided some suggestions for discussion topics at the away day, scheduled for July.

Data handling

6. The Secretariat update members on the implementation plans for the policy on data handling arrangements at the Civil Service Commission, who are responsible for providing Secretariat support to the Committee.

FOI

7. The Secretariat updated the Committee on requests for information received to date.

Communications

8. The Press Officer, Maggie O'Boyle, updated the Committee on recent press coverage.

Any Other Business

9. Confirmed the away day would take place on 17 July 2019; and the December meeting had been moved to 4 December (not on 11th as previously noted).

**Committee Secretariat
May 2019**

Annex A - Minutes

[A PDF of the signed letter will be included for the final published letter]



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

G/08 Ground Floor, 1 Horse Guards Road SW1A 2HQ

Telephone: 020 7271 0839

Email: acoba@acoba.gov.uk

Website: <http://acoba.independent.gov.uk>

April 2019

Thank you for taking the time to attend the Committee's Autumn meeting and discuss the role the Advisory Committee on Business Appointments (the Committee) plays in advising Government on the application of its Business Appointment Rules (the Rules).

You will recall the Committee was keen to make recommendations on how the Rules could be implemented more effectively, where our work provides appropriate evidence. As Chair, I wanted to outline the Committee's most pressing observations and related recommendations.

Improving governance

I consider culture to be of the utmost importance. Awareness of the Rules and the underpinning principles is paramount, including transparency about how the process is applied in practice. Therefore I was particularly pleased the Cabinet Office agreed to implement the Committee's suggestion put to the Public Administration and Constitutional Affairs Committee (PACAC): that non-executive directors on departmental boards should have responsibility for the oversight of the Rules. It is now a requirement for departments to ensure that Audit and Risk Committees monitor compliance issues relating to the Rules (at departmental and Committee level) at regular intervals. The Committee hopes this will raise the profile of the Rules within departments and help facilitate improved governance at all levels.

Increasing transparency

As you will be aware, the process by which the Government considers the risks in outside appointments, including the work of the Committee, has been heavily scrutinised in recent years; in particular by PACAC. Whilst there appears to be no hard evidence the system operated by the Government and the advice provided is *not* being followed, the lack of available evidence to demonstrate compliance with the system at all levels is used as evidence to the contrary. This gap in information creates concerns about the effectiveness of the Rules.

For Committee level cases, we have responded with increased transparency over recent years; and will continue to do so where possible. The Committee understands how important it is for everyone (applicants; those with an interest in business appointments; and members of the public) to be able to access the Committee's advice and understand how it reaches its decisions. The advice letters published by the Committee now include: the information provided by the applicant and the relevant government department(s); the Committee's consideration of the risks identified; and the conditions the Committee has decided are necessary mitigation. For Committee level cases, where appointments are taken up, the Committee's full consideration is transparent to the public.

We are aware of the concerns that have been expressed about a lack of transparency for cases below Committee level. I would also ask the Cabinet Office to consider if more could be done to improve transparency around the process followed within departments in such cases.

Addressing risks

It has come to the Committee's attention that individuals working in public bodies at arm's-length from the Government often sit outside the Rules entirely. The Committee is concerned that where senior public office holders (for example, senior staff at arm's-length bodies such as Directors, Chief Executives, Board members, Chairs and their equivalents) are not employed under the Civil Service Management Code, they are not subject to the Rules. In this case, individuals are not required to make an application to any department or the Committee upon leaving public office (unlike in the case of senior Civil Servants). The Committee is concerned that the lack of a clear and transparent process for senior public office holders has the potential to damage the integrity of the business appointment system as a whole.

It might be helpful to say that Sir Edward Leigh, Chair of the Public Accounts Commission (PAC) recently confirmed that the Committee had been named as the appropriate body under the relevant legislation¹ to be consulted when a former

¹ Section 15(2) of the Budget Responsibility and National Audit Act 2011

Comptroller and Auditor General takes up a relevant appointment within two years of leaving office. This decision was taken by PAC in an effort to apply similar standards and rules to the Comptroller and Auditor General as those which apply to former ministers and senior Civil Servants and other Crown servants, on leaving office. This is an approach I welcomed and supported, as it ensures transparency around the process and outcome of the consideration of any outside appointment the former Comptroller and Auditor General may take up, in the two years following departure from public office.

This approach is also in line with previous recommendations made by the Committee on Standards in Public Life, whose report, '*Striking the Balance Upholding the Seven Principles of Public Life in Regulation*', found that post employment moves could be problematic for the perceived integrity of regulators, as senior individuals may not be subject to Civil Service rules. The report suggested best practice should be in line with the approach taken by the Committee '*...to ensure that such moves are conducted with integrity, and to promote trust in the regulatory body, regulators should be entirely transparent about post-employment destinations and restrictions.*' This letter is copied to Lord Jonathan Evans, Chair of the Committee on Standards in Public Life.

Recommendations

I recommend the Cabinet Office, as owner of the Rules, considers this apparent gap in the coverage of the Rules - where senior public servants have been appointed by the Crown/and or the Government, but are employed outside of a Civil Service contract and are not currently subject to a transparent process when they leave office and take up an outside appointment. The Committee is unaware of the scale of this issue and would urge the Cabinet Office to review and address this area of potential risk to the integrity of the Government, which the Rules are designed to protect.

Lastly, in light of the intense scrutiny of this area of policy, it would be remiss of me not to repeat the Committee's further recommendation to PACAC, that a cost benefit analysis of a statutory scheme should be undertaken. I remain firmly of the view that without completing a proper analysis of the costs, both direct and indirect, and wider impacts, it is impossible to judge the merits or otherwise of an alternative system to the current advisory, non-statutory model. This letter is copied to Sir Bernard Jenkin, Chair of PACAC.

I look forward to hearing your views and would, of course, be happy to discuss any of the above in more detail with you. We will publish this letter on our website in due course.

Yours sincerely,

The Baroness Browning

Helen MacNamara, Director General, Propriety and Ethics and Private Office Group

Copied to: Sir Bernard Jenkin, Chair, Public Administration and Constitutional Affairs Committee; and Lord Jonathan Evans KCB DL, Chair of the Committee on Standards in Public Life.