

BRIEFING

PUBLIC APPOINTMENTS: WHAT ARE THEY, AND WHY DO THEY MATTER?

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Summary

- Public appointments are appointments to senior positions in public service that are made by ministers. The holders of such positions play vital roles, so robust processes for making appointments to them are essential.
- The UK process for making such appointments seeks to balance ministerial discretion with selection on merit. Though it often works well, some recent high-profile controversies linked to public appointments have led to calls for strengthening of the system.

Background

Public appointments – various senior appointments made by ministers to public bodies – can have a major impact on how well the public sector operates. Though the system often works smoothly, recent years have seen some high-profile controversies linked to public appointments, notably those surrounding [Paul Dacre's application](#) to be chair of Ofcom, and the [appointment of Richard Sharp](#) as chair of the BBC. These and other cases have raised questions about whether the system now needs additional safeguards.

Why do public appointments matter?

These appointments include senior roles across a [wide range](#) of public bodies – including delivery or policy advisory bodies, regulators and funders, as well as departmental non-executive directors. They also include individual roles (for example, commissioners for victims, further education, or children).

The holders of public appointments can therefore have a major impact on the successful delivery of policy and services. A well-functioning public appointments process, which can engage and deliver the best candidates, matters for the quality of governance. This is demonstrated in countries where control over appointments has allowed [backsliding](#) leaders (i.e. those who seek to erode democracy) to install allies in [key positions](#).

Given that the holders of public appointments are so important to the working of government, ministers understandably want to be confident that these posts are held by people who are in sympathy with their aims and approach. But it is important for public trust – and successful delivery – that appointments are also made on merit, and cronyism or patronage is guarded against.

How does the process work?

The UK system of public appointments seeks to balance ministerial input with selection on merit. The precise rules have changed over recent decades, but have sought to balance these two imperatives

by combining open advertising and assessment by appointment panels with ministerial input and choice. This differs from some other countries, such as the US, where a wide range of public appointments are nominated by the President and confirmed by Congress.

The rules for appointments made by UK ministers are set by the [Governance Code on Public Appointments](#), which is published by the government and lays out the division of responsibilities and powers between ministers and the appointment panel:

- Appointments must be publicly advertised. Ministers agree the job specification and panel composition, can suggest potential candidates, and give their views on candidates to the panel at every stage of a competition. Number 10 is also [involved](#) on high-profile positions.
- The appointment panel – usually comprising senior officials from the sponsoring government department, plus an independent member – shortlists and interviews, and advises the minister on which of the interviewed candidates are appointable.
- The final decision then lies with the minister, who can appoint any shortlisted candidate. Ministers typically choose between the appointable candidates, but can choose a candidate deemed unappointable by the panel. Should that occur (which it never has) the minister would have to justify their decision before the relevant departmental select committee. This differs from the [judicial appointments process](#), where the minister is presented a single name by the panel.

How is the process regulated?

Performance against the Code is overseen by the [Commissioner for Public Appointments](#) (currently William Shawcross). The Commissioner does not run individual appointment processes but audits departmental performance (including efforts to [increase diversity](#), which have had some recent success), considers complaints, investigates alleged breaches of the Code, and monitors high-profile appointment processes in real time. Their remit covers appointments made by the UK and Welsh governments, and there are counterparts in [Scotland](#) and [Northern Ireland](#).

Some particularly high-profile appointments – known as ‘significant appointments’ – are subject to additional safeguards. Panels for these appointments must include a [Senior Independent Panel Member](#), unaffiliated with the body or its sponsoring government department, and not currently politically active, whose role is to ensure that the process complies with the Code.

What role does parliament play?

Certain high-profile posts are subject to [pre-appointment hearings](#) by the relevant select committee. These take place once the minister has chosen their preferred candidate; the committee questions the candidate publicly on their suitability for the role before endorsing (or otherwise) the appointment.

In most cases the committee’s recommendation is not binding, and the minister can decide to press ahead and appoint a candidate whom the select committee has declined to endorse. This has happened in several cases, though in [others](#) an effective [declaration of no confidence](#) by the key committee has encouraged the minister to rethink or the candidate to withdraw.

What problems can arise with public appointments?

The current public appointments process dates to 2017, and was introduced following the [Grimstone review](#). This tilted the process towards the principle of ministerial responsibility for appointments, granting ministers greater flexibility compared with the system it replaced. These changes were criticised by some at the time, including the then [outgoing Commissioner for Public Appointments](#), as creating opportunities for rogue ministers to abuse the system.

More recently, reports by the [Committee on Standards in Public Life](#) (CSPL), House of Commons [Public Administration and Constitutional Affairs Committee](#) (PACAC) and the [Institute for Government](#) (IfG) – have analysed the strengths and weaknesses of the public appointments process. The government has [accepted](#) some of their recommendations, and some welcome recent changes have been made – for example, extending the public appointments process to cover the appointment of departmental Non-Executive Directors. But various other recommendations [remain outstanding](#).

1. Status of the Commissioner for Public Appointments

- Unlike many other [ethics regulators](#), the Commissioner for Public Appointments, and the Code that they oversee, are established through Orders in Council rather than primary legislation. There have been consistent calls, including from the bodies named above, to put the Commissioner and the existence of the Code into statute. As CSPL has pointed out, this would give the Commissioner a firmer footing from which to raise concerns – without fear that they could be easily abolished in retaliation for criticism. Ministers recently [rejected](#) this recommendation.
- The UK's various ethics regulators are also currently chosen through a range of different appointment processes. CSPL has recommended that all such regulators should be appointed through the process for significant appointments.

2. Pre-briefing candidates and packing panels

- The Governance Code on Public Appointments allows ministers to feed in the names of suggested candidates at the start of a process. It is natural that some ministers may want to suggest candidates for roles; they are responsible for signing off the job specification, and engaged ministers may have met good potential candidates in the course of their work.
- However, some ministers have gone beyond this, to 'pre-brief' the names of their preferred candidates to the media – sometimes before a competition has formally been launched. This risks having a 'chilling effect' on the field – creating the impression that the competition is a mere formality, and deterring other good candidates from applying – as noted by the [Heppinstall Report](#) into Richard Sharp's appointment to the BBC.
- Other concerns have been raised in relation to apparent attempts to '[pack](#)' appointment panels, such as for the chair of the Office for Students. As with pre-briefing, such attempts can give rise to suspicions that a competition is not truly fair and open, and deter good candidates from applying.

3. Political activity

- The Code specifies that political activity is not a bar to appointment – recognising that many people interested in public service will have a longstanding interest in politics. In some cases, that will include involvement with a political party – for example as a donor, activist or candidate. However, political activity alone is also not a qualification.
- There have been some recent controversies in cases where a candidate's application has apparently been blocked on the basis of unrelated political activity. For example, it was [reported](#) that then Business Secretary Kwasi Kwarteng blocked the appointment of a proposed academic funding body head on the basis of his perceived left-wing political views.
- Conversely, the appointment of party donors has often attracted attention. As former Commissioner for Public Appointments Peter Riddell has [emphasised](#), this is not necessarily a problem – so long as the Code is followed and the principle of selection on merit is observed. Problems arise where political activity is not disclosed, as in the case of [Sharp's appointment](#).

4. Unappointable candidates

- The ministerial ability to appoint unappointable candidates, although never yet used, has been widely criticised. The reasoning for this power – given at the time by Grimstone – is that it maintains ultimate ministerial responsibility for appointments. But the corresponding concern is that it may provide a back door for cronyism, and to circumvent the quality control function exercised by the appointment panel. [CSPL](#), [PACAC](#) and the [IfG](#), as well as former Commissioner for Public Appointments [Peter Riddell](#), have all recommended its abolition.

5. Delays

- One long-standing problem with the public appointments process is its [slowness](#). Competitions should be concluded within three months from close of applications, but there have been perennial problems in meeting this target – the Commissioner’s most recent [annual report](#) recorded only 25% success in 2021–22. Many reasons [underlie this](#), ranging from problems with planning to delays caused by the involvement of special advisers or Number 10.
- Delayed processes can leave [important public bodies](#) without leaders for long periods of time. They also risk worse outcomes, as the strongest candidates may lose patience and withdraw. The IfG has made a number of [recommendations](#) to streamline processes.

How can the public appointments system be strengthened?

It is in everyone’s interest – including of ministers, MPs, and the public – to ensure that the public appointments system can deliver the best qualified candidates for crucial public service roles.

Many of the controversies around public appointments have concerned ministers’ willingness to exploit weaknesses in the rules, or court public controversy. The recommendations which have been made by expert bodies to strengthen the system should therefore be carefully considered, including as part of any overall consideration of how the UK’s [standards regulation system](#) might be reinforced. Many of these changes could be implemented by the government without the need for legislation.

Beyond this, the public appointments system will work as intended only if ministers adhere to the spirit as well as the letter of the rules. The system relies on ministerial self-restraint; if ministers fail to demonstrate that, calls for their powers to be reduced are likely to grow. MPs can play their part through demanding high ethical standards, and holding ministers to account for delivering them.

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