

Reforming public appointments

About this report

Ministers make appointments to powerful roles across the public sector. These can be controversial, and ensuring a high calibre of appointees is important. This report responds to concerns about the appointments process – and standards in public life generally – by proposing reforms to restore confidence in public appointees, while retaining the principle of ministerial selection between candidates judged appointable on merit.

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Summary

The public appointments system is under strain. There is persistent public criticism of perceived cronyism, and politicians don't always trust the system to deliver appointees in whom they can have confidence. Those who administer the appointments process often find it chaotic and pressured, and candidates are put off by delays in decision making and are unable to understand how decisions are made. As a result, public bodies can struggle to fill key positions in a timely way.

The system needs reform if it is to recruit good people promptly and professionally. Decisions need to be streamlined, with clearer roles and responsibilities – including for ministers – at each stage. Ministers must be better supported, too, through clearer processes and transparent information that reveals where things go wrong and who should be held to account when they do. Candidates need to be drawn from a wider pool, and to be encouraged and supported throughout the application process. All ministerial appointments should be regulated – with limited exceptions – and those that require the highest levels of independence should have additional protections from patronage.

The case for reform

The UK government's public appointments system is used to recruit board members, chairs and a few key executive staff to 331 public bodies and statutory offices¹ as diverse as NHS England, the Forensic Science Regulator and the Export Guarantees Advisory Council. Appointments are regulated by the Commissioner for Public Appointments, in line with the Governance Code on Public Appointments.²

Public bodies spend more than £200 billion of public money each year,³ so their leaders matter. The UK is fortunate to have a lot of talented, dedicated and resourceful public body leaders, who often perform their roles with distinction. But this should not be taken for granted. If public bodies' boards become less experienced or capable they will make worse decisions, be poorer at holding executives to account for performance, and communicate less clearly with government, parliament and the public about their work. Underqualified boards may be less able to deliver against the government's objectives, and boards chaired by temporary appointees because of delays in the appointment process may not be able to provide the long-term leadership needed to deliver complex change projects or reforms.

There have recently been some high-profile disputes over appointments. Recruitment for the chair of Ofcom was undermined by reports before the process had properly begun that the government preferred Paul Dacre, former editor of the *Daily Mail*.⁴ It took eight months after applications closed to select a candidate for chair of the Charity Commission, who then quickly had to resign.⁵ The then public appointments commissioner criticised the appointment process for new board members at the Office for Students, finding that the assessment panel lacked higher education expertise and was "basically loaded" with people with political connections.⁶

These examples come at a time when a majority of the public feel the government is not honest or open and lacks integrity⁷ – perceptions shaped by standards issues that have been discussed extensively by the Institute for Government.⁸ This lack of public confidence in the processes of government matters profoundly. Problematic prominent examples of public appointments set a damaging tone which – through its impact on candidates’ perceptions of the public appointments process if nothing else – risks corroding the ability of government to attract the best talent to serve as public appointees more widely.

It is right that ministers should make public appointments. Some have argued that their involvement inherently entails patronage and that a better system must be one in which they play a smaller role, or even no role at all.⁹ But removing politicians from the appointment process would significantly reduce democratic accountability.

Nonetheless, it is a long-standing principle that those whom ministers consider for appointment to a post should be independently judged to be capable of discharging it.¹⁰ Assessment panels are intended to provide such a judgment, but the current system does not adequately safeguard their assessment. As well as choosing panel members, ministers can provide input at every stage, which can put pressure on panels’ judgments in contentious cases. Ministers can also, if so minded, entirely bypass a panel’s assessment of whether a candidate is appointable, and they have discretion to rewrite the governance code. We recommend a series of changes to safeguard the process by which the quality of appointees is ensured.

The system has significant flaws in operation as well as design. Appointment processes often start too late and take too long, with the most recent survey finding that only a minority meet the government’s aim of announcing an appointee within three months of applications closing.¹¹ This leaves some roles requiring temporary cover: of the 31 competitions for ‘significant’ appointments begun by UK government ministers in 2020/21, eight required temporary appointments to fill the role after the previous occupant’s term expired, usually due to a failed or delayed appointment.¹² Relatively low remuneration, unclear time commitments and a perception that outcomes are pre-cooked further dissuade quality applicants – particularly those from less well-connected backgrounds.

In addition, many ministerial appointments, including most ‘tsars’ and informal advisers, are not regulated by the Commissioner for Public Appointments or subject to the governance code at all, meaning they can be made by ministers without the checks and balances these provide. In 2016, the Grimstone review called for all appointments to be regulated (with limited exceptions), but this has not happened.¹³ It is also concerning that ministers can make appointments to some key constitutional watchdog roles, which scrutinise the actions of politicians and the government, without parliamentary oversight.

Recommendations in brief

The public appointments system should be reformed to:

- regulate all ministerial appointments and publicly explain any exceptions, such as short-term, unpaid roles
- limit ministerial decision making to the start and end of an appointments process
- exclude politically connected candidates from constitutional watchdog roles and give select committees a veto over these appointments
- remove ministers' ability to appoint a candidate judged unappointable by a panel
- make any changes to the governance code subject to consultation with a parliamentary committee
- collect and publish data on the causes of appointment delays, to enable those responsible to be held to account and helped to improve
- appoint a chief talent officer to improve candidate care and outreach
- use central departmental teams to administer the appointments process.

These changes are achievable and the time to implement them is now. The new prime minister should pursue reform of public appointments as an important means of improving both standards in public life and the day-to-day functioning of government.

Introduction

This report explores the problems that currently beset the public appointments system and proposes ways in which it should be improved. The government has begun to make changes, with the cabinet secretary recently stating that departmental non-executives will be regulated and suggesting there are plans to publish a list of unregulated positions.¹ These steps will be very welcome once taken, but there is much more to do. The public appointments system needs to be further professionalised and run in a more standardised, data-driven way. But it will also remain important that all participants – especially ministers, advisers and permanent secretaries – observe the spirit of the rules and recognise the importance of an appropriately resourced and robust appointments process.

Many highly motivated and diligent officials and ministers work hard to administer the public appointments system effectively. Nonetheless, in around 30 interviews and a private roundtable with people working across the system, the Institute for Government found that almost everyone involved agrees that there are some problems, and many agree about what these problems are. The task is to solve them effectively. To reach our proposed changes we did not start with a blank slate and attempt to design the perfect public appointments system. Instead, we began with the system as it stands. We propose changes that should be attractive across the political spectrum, retaining the principles of merit-based appointment and ministerial choice on which the current system is based.

The remainder of this introduction reviews the current system's evolution and describes how it works. It then compares the UK system to those of the devolved nations and other countries. These historical and geographical comparisons show that quite different approaches to public appointments are possible. The report goes on to identify specific shortcomings in the current UK system and to propose changes that will clarify the scope and timing of ministerial involvement, streamline and professionalise the process, increase transparency, and improve the granularity with which it is possible to identify the causes of failings.

Some of our proposals can be implemented by officials, but others will require a review of the rules governing public appointments, which we argue is overdue. If implemented with commitment by all involved, the proposals will restore public confidence in the leadership of public bodies and make repetition of the recent public controversies much less likely in future.

The scope of the public appointments process

The term 'public appointment' refers to a ministerial appointment regulated by the Commissioner for Public Appointments, generally of a non-executive chair or director of a public body or advisory committee.² The commissioner, an independent regulator sponsored by the Cabinet Office and with a small office staffed by civil servants, ensures that public appointments are made in accordance with the Governance Code on Public Appointments.³

Box 1 Key facts about the UK government appointments process

1,439 – number of regulated appointments and reappointments in 2020/21 (note that these figures were slightly reduced due to Covid; the three-year average ending in 2020/21 was 1,535)

40% – proportion of public appointments in 2020/21 that were made by ministers, rather than being delegated

36 – number of competitions for significant appointments in 2020/21

90 – number of chairs appointed or reappointed in 2020/21

16 – number of UK government public bodies without permanent chairs as of 31 January 2022

Source: Institute for Government analysis of public appointments data reports 2018/19 to 2020/21; OCPA annual report 2020/21; Commissioner for Public Appointments list of exceptional appointments.

The public appointments process for the UK government is a large operation. There were 666 regulated appointments and a further 773 reappointments in 2020/21, as well as an unknown number of unregulated ministerial appointments, which do not have to be run in accordance with the code. Of the 1,439 UK government regulated appointments and reappointments in 2020/21, 576 appointment decisions were made by ministers and 863 – mainly to local NHS and Ministry of Justice bodies – were delegated to officials.⁴ Ministerial appointments are generally of chairs and board members of public bodies,⁵ which regulate the economy or society, provide independent advice or deliver government services.

The governance code applies only to public bodies reporting to the UK government (including England-only bodies) and the Welsh government, not those reporting to the Scottish or Northern Irish administrations. Not all appointees to such public bodies are appointed through the public appointments system. Some are appointed according to civil service recruitment rules, or by parliament. Most executive leaders in public bodies are appointed by their boards rather than directly by ministers, although a few executive posts, like some ombudsmen or the chief regulator of Ofqual, are ministerial appointments. And many non-executive roles that are appointed by ministers are unregulated, including chairs of executive agencies like the Driver and Vehicle Licensing Authority (DVLA) and heads of public inquiries or temporary bodies like NHS Test and Trace. Some crown appointments, where the decision is made by the prime minister or Cabinet Office ministers on behalf of the Queen, are also not regulated.

Box 2 Types of government appointment

- **Public appointments** are ministerial appointments of non-executive chairs and directors of public bodies, statutory office-holders and members of advisory committees, which are regulated by the Commissioner for Public Appointments. They include:
 - **Significant appointments** are a subset of public appointments which are important enough to require special scrutiny from the Commissioner for Public Appointments, and where a senior independent panel member (SIPM) sits on the assessment panel. They are listed on the commissioner's website.⁶
 - **Exceptional appointments** are public appointments which are normally regulated but have been appointed directly without an open competition. They are normally temporary appointments to keep a body quorate or to replace an outgoing chair. Government must justify all such appointments publicly, and a full list is available on the Commissioner for Public Appointments' website.⁷
 - **Delegated appointments** are public appointments which ministers have the right to make but where they delegate their decision to another authority. The majority of regulated appointments are delegated, either to the NHS or to junior ministers and civil servants in the Ministry of Justice.
- **Unregulated appointments** are ministerial appointments which are not subject to regulation by the Commissioner for Public Appointments or the First Civil Service Commissioner. They include:
 - **Direct appointments** are a subset of unregulated appointments, mainly to short-term, advisory roles, which do not have a statutory basis.⁸
 - **Crown appointments** are appointments which require the approval of the monarch. While some of these are made on the recommendation of parliament,⁹ others, such as the appointment of the chair of the UK Statistics Authority, are made on the recommendation of Cabinet Office ministers or the prime minister. Some are regulated and some are unregulated.
 - **Civil service appointments** are made according to civil service rules and are regulated by the First Civil Service Commissioner. These are generally to executive roles in departments and public bodies. Civil service appointment rules are set out in legislation¹⁰ and give ministers less of a direct role than in public appointments.

Public appointments include both paid and unpaid positions. A 2021 study suggested around half of appointees are remunerated with public money, although it was not clear whether this was a representative sample.¹¹ This makes it all the more important that a proper process is seen to govern how appointments are made.

A brief history of public appointments

The UK has had public bodies since at least the 16th century. Before the 1990s, ministers had “virtually unbridled power” to appoint their leaders,¹² but this state of affairs became increasingly controversial during John Major’s time as prime minister. In response, in 1995 the new Committee on Standards in Public Life (CSPL), led by Lord Nolan, recommended the introduction of a new independent Commissioner for Public Appointments, whose role would be to “regulate, monitor and report on public appointments”.¹³

The new system had a number of advantages over the old one, which observers at the time pointed out was opaque and resulted in underqualified appointees and a “diminished status” for public service.¹⁴ It required for the first time that a list of regulated ministerial appointments be published, created a new code of practice for public appointments and asked the new commissioner to produce annual reports on the appointments system.¹⁵ The commissioner had a significant role in running the system, employing public appointments assessors to manage the process up until the point where ministers made the final decision. Between 1995 and 2016, ministerial choice was also limited to those candidates judged ‘appointable’ by an assessment panel. This meant there was sometimes a tension in appointments decisions between ministerial and independent assessments of a candidate’s suitability for the job.

The role of parliament also increased in the decades following the Nolan report. The Treasury Select Committee had held confirmation hearings for new members of the Bank of England’s Monetary Policy Committee since 1998, but this convention was not enshrined in statute.¹⁶ Continuing parliamentary pressure for a more formalised role for select committees in appointments led the then prime minister, Gordon Brown, to put forward a white paper in 2007 giving select committees the right to pre-appointment hearings with appointees to around 60 of the most important positions in public bodies.¹⁷ Some select committees were later given specific veto powers, for instance over appointments to, and dismissals from, the Budget Responsibility Committee of the Office for Budget Responsibility.¹⁸ Even to the present day, however, most select committees’ rejections of candidates after pre-appointment hearings remain recommendations only, and can be ignored by ministers.

The Grimstone reforms

By 2015, the government was dissatisfied with the slowness and bureaucracy of the appointments system and the then prime minister, David Cameron, asked Sir Gerry Grimstone (now Lord Grimstone) to undertake a review. Published in 2016, the Grimstone review restored greater ministerial discretion to public appointments.

The commissioner was transformed from a participant in the system to the regulator of it. Instead of the commissioner-appointed assessors, the independent element on the panel was provided by government-appointed senior independent panel members (SIPMs) for key roles, or independent panel members for other regulated roles. SIPMs cannot be politically active or connected to the sponsoring government department. The panel's role is purely advisory, with ministers required to "consider" its advice, but not bound by it.¹⁹ The government, not the commissioner, now sets the Governance Code on Public Appointments and departmental permanent secretaries, not the commissioner, are the first line of assurance to check the code is being followed.²⁰ Ministers have the discretion to appoint without a competition where needed and to appoint candidates judged 'unappointable' by the assessment panel, although they must publicly explain such a decision.²¹ In practice, no candidate deemed unappointable by a panel has been appointed since the code was introduced.

The rationale provided for these changes was both pragmatic – reducing the lengthy delays to appointments which were "both inefficient and can deter good, busy people from applying"²² – and principled. In particular, Grimstone suggested the system had gone too far in removing ministerial discretion and political judgment from appointments decisions. "It would be naïve to think that there is not sometimes a perceived political aspect to appointments. [...] That is part of the workings of democracy."²³ The report also made the case for more explicit input from the prime minister in appointments to roles which are "important to public life".²⁴ Yet Grimstone was keen to emphasise that the report was not intended to reduce the powers of the commissioner, but rather to clarify the role as a fully regulatory position, as opposed to half-regulatory and half-administrative.²⁵

The report was criticised by the opposition Labour Party, the then commissioner, David Normington, and the House of Commons Public Administration and Constitutional Affairs Committee (PACAC) among others.²⁶ The CSPL cautiously endorsed the report, but expressed concern that the changes would lead the public to believe the system "was being operated under increased political patronage".²⁷ The Cabinet Office responded by giving the commissioner the right to be consulted over the appointment of SIPMs, the wording of the new governance code and any exceptional (normally temporary) appointments made to regulated roles without a competition²⁸ – changes that were welcomed by the new Commissioner for Public Appointments and former director of the Institute for Government, Sir Peter Riddell.²⁹

How the public appointments system works now

The Grimstone reforms were the last overhaul of the appointments system, and the governance code remains as agreed in 2016. Based on the code, and supplemented by details given to us in our interviews with people working in the public appointments system, the current appointments process should in theory work as follows (illustrated in Figure 1):

1. It becomes known that the term of a public appointee is approaching expiry (departments should keep track of this, but public bodies may need to remind them).

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2. Departments inform the Cabinet Office and No.10 well in advance of advertising a role.
 3. Departments draw up a draft person specification, subject to ministerial approval and sometimes with input from the public body.
 4. Departments consult with ministers, and where appropriate the Cabinet Office and No.10, on the person specification and on a list of potential applicants.
 5. Departments may decide to use head-hunters, subject to approval from the Cabinet Office.
 6. Departments propose an advisory assessment panel for the role, which ministers must agree. Panels comprise departmental civil servants, independent panel members and, for recruitment of board members but not usually chairs, should contain a representative from the body concerned.
 7. If the competition is a 'significant appointment' and a SIPM is required, ministers should choose the SIPM and then consult with the commissioner on their choice.
 8. Departments advertise the role publicly and approach potential candidates, if not done in advance.
 9. The panel, or departmental officials instructed by them, conduct a sift to select a shortlist to be interviewed. Ministers should be invited to give their views on the composition of the shortlist, and in some cases will ask the panel to explain why a candidate has been excluded or to reconsider their decision.
 10. Interviews take place, generally chaired by a departmental official but sometimes by the chair of the public body.
 11. The panel determines which candidates meet the job criteria and are therefore 'appointable' to the role. They will usually give detailed feedback on their strengths and weaknesses. The panel's report is provided to ministers, who in some cases will ask the panel to explain why a candidate has been excluded or to reconsider their decision.
 12. Ministers can meet with prospective candidates either before or after interviews, to help them make their judgment.
 13. Ministers determine merit and make a final decision either to appoint one of the appointable candidates, to run the process again (meaning the role is re-advertised, sometimes with a new job specification) or to appoint a candidate who was not judged appointable. In the latter case, which has never happened, ministers would have to consult the commissioner and publicly justify their decision.

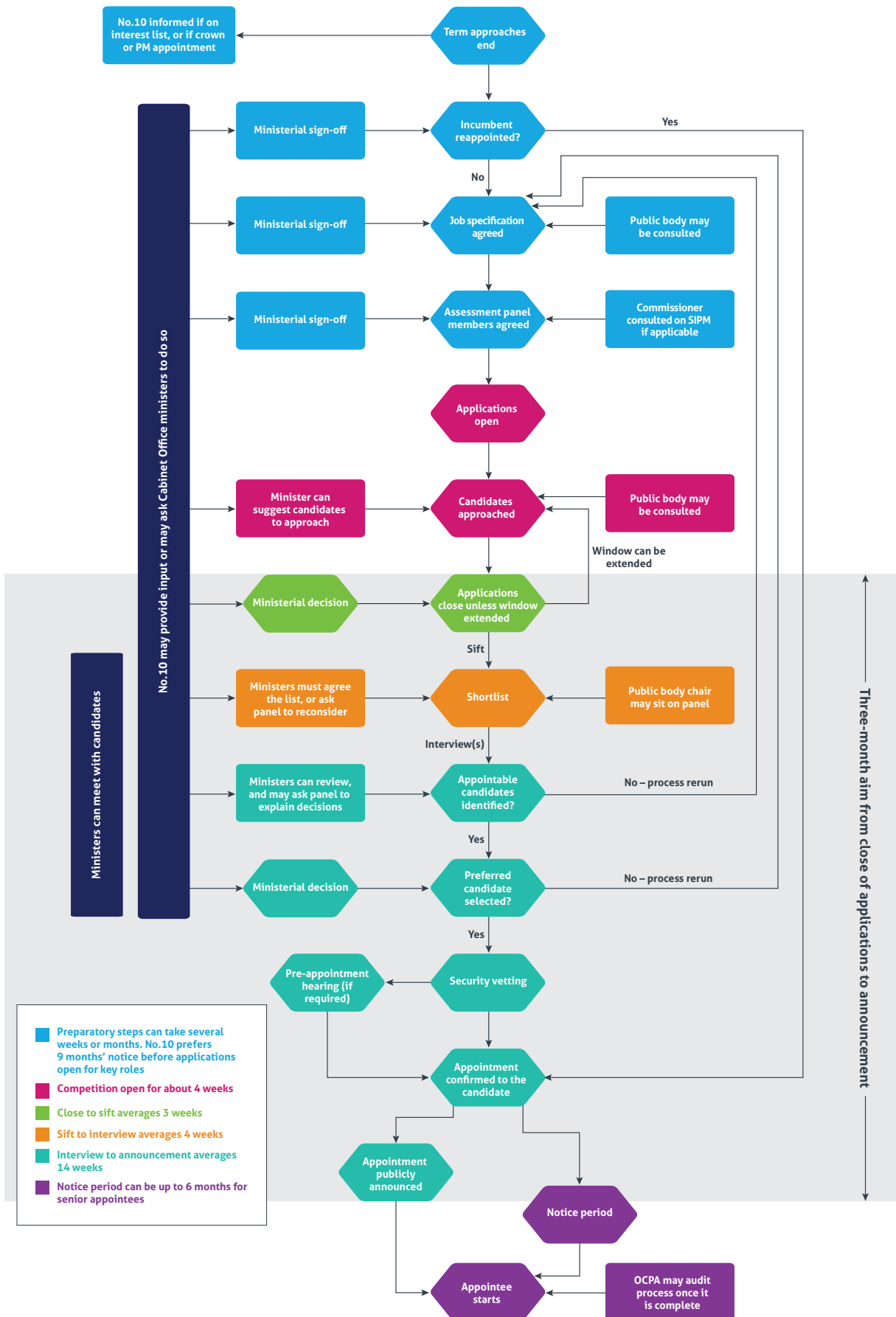
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14. The prospective appointee completes the security vetting process.
 15. Prospective appointees for certain roles* appear in front of the relevant departmental select committees before their appointment, to provide “an added level of scrutiny to verify that the recruitment meets the principles set out in the Governance Code on Public Appointments”.³⁰ But aside from a limited number of positions, a committee’s judgment on the suitability of a prospective appointee is a recommendation only: ministers do not have to abide by it and have not always done so.
 16. The appointee is publicly announced.
 17. The appointee serves any remaining notice period in their previous position and then begins in role.

There are a number of checks built into this process. The accounting officer for each department (usually the permanent secretary) must certify that each regulated appointment in their department has been made in accordance with the governance code.³¹ The commissioner is notified or consulted at various points and also conducts spot checks on the appointments process, audits departments to assess their performance and publishes an annual report on the state of the appointments system.³² The commissioner also responds to complaints and conducts their own investigations. These are both rare because the commissioner is often involved in controversial cases well before a formal complaint arises: they completed only one investigation and responded to one complaint in 2021/22.³³

Figure 1 sets out the appointments process in summary form. It illustrates the potential for ministerial input at each stage. It also shows that even if the government meets its aim of three months between the close of applications and announcement of an appointment, the process can take far longer end to end, even before allowing for any handover period. It may take several weeks or months to complete the steps required before a competition is launched (even excluding early notification of No.10) and time must then be allowed for applications to be made. After announcement, people already in senior roles may need to serve up to six months’ notice before beginning their appointments. Announcements may also be delayed by security vetting, which can take significantly longer than illustrated for some roles.³⁴

* A full list of roles for which select committees hold confirmation hearings is available on Gov.uk: Cabinet Office, *Cabinet Office Guidance: pre-appointment scrutiny by House of Commons select committees*, Gov.uk, last updated 17 January 2019, www.gov.uk/government/publications/pre-appointment-scrutiny-by-house-of-commons-select-committees

Figure 1 How the public appointments process works



Source: Interview data and Institute for Government analysis of the *Governance Code on Public Appointments*. Note: average timescales are taken from the Commissioner for Public Appointments' *Thematic Review: Concluding competitions within three months of the closing date*, July 2019, p. 4.

Public appointments in a devolved context

The public appointments system described above, to which this report relates, applies to UK and English appointments made by ministers in Westminster, as well as to Welsh appointments made by Welsh government ministers. In Wales, there is generally less political interest in individual appointments (the country being more stable politically as the Labour Party has been in continuous government since devolution). Wales could appoint its own commissioner (or indeed write its own code), but has so far chosen to adopt the English code and commissioner, both because there is no cost to doing so and because it can be helpful to have an external figure performing this function.

Scotland and Northern Ireland have their own public appointments codes³⁵ and are regulated by their own commissioners. In Scotland there is a single standards commissioner who is also responsible for investigating complaints about the conduct of members of the Scottish parliament (MSPs) and local councillors.³⁶ In both Scotland and Northern Ireland, the commissioner appoints (or has the right to appoint) one member of the assessment panel,³⁷ mirroring how the UK government system worked before the Grimstone reforms.

The Scottish and Northern Irish systems differ from each other as well as from the UK system. Panels in Scotland are expected to “recommend only the applicants they have identified as the most able”,³⁸ a stricter test than the criteria of ‘appointability’ applied in the UK system, or of ‘suitability’ in Northern Ireland.³⁹ As a result, in Scotland, ministers are encouraged to think very carefully about their requirements for a role at the beginning of the process, as only one candidate is usually put forward for them to accept or reject at the end. In Northern Ireland, multiple candidates are usually put forward but ministers must justify their choice based on the role criteria, and may not ordinarily rerun the competition if there are more than two suitable candidates available. Northern Ireland’s appointments code also precludes ministers from being involved in the appointments process at the stages between setting the job specification and making the final decision.⁴⁰

Those we spoke to assured us that most appointments in Scotland and Northern Ireland are completed within or just over the UK government’s three-month aim, possibly due to more streamlined ministerial input. This is difficult to verify in Northern Ireland as there is no aggregate data available. In Scotland, data suggests that between 2017 and 2019 the average gap between applications closing and candidates being informed was around 9–12 weeks, rising to 13.5 weeks in 2020 (perhaps due to Covid disruption).⁴¹ This is significantly shorter than the gap between applications closing and the chosen candidate being announced in the UK, which averaged 21 weeks according to the most recent evidence.⁴² Some of this can be explained by the delay between informing candidates and publicising decisions (as the two datasets use slightly different endpoints), and by the UK data including some very high-profile, UK-wide appointments that tend to take longer. However, the data does suggest that UK government appointments take longer than those by the Scottish government.

Variations across the UK nations demonstrate that multiple public appointments systems are possible. In particular, the current UK system is not the only workable way of balancing the judgments of ministers and of assessment panels: the Northern Irish and Scottish systems are largely accepted by ministers despite the greater constraints over their input and despite the different political contexts, with Scotland dominated by one party and Northern Ireland being divided along sectarian lines.

The UK government might also learn from the devolved administrations on what data to collect. The Scottish government is required by the Scottish code to publish a list of all regulated public appointments, for example, including the name of the current office holder and the post's expiry date,⁴³ which enables everyone involved in the system (including potential candidates) to plan ahead. The commissioner in Scotland also collects data on satisfaction with the appointments process and must publish detailed data on how long each stage of the appointments process takes on average.⁴⁴ This sort of data collection by UK government departments might help ministers better assess performance in relation to delays and candidate care.

There are also three initiatives we heard about in the devolved nations to improve diversity, from which the UK government has begun to learn. Northern Ireland's boardroom apprenticeship programme – a charitable initiative that has received Northern Ireland government support – enables aspiring board members to shadow current board members and sit in on board meetings to gain further experience.⁴⁵ This seems to have been a success, with around two thirds of participants going on to gain board positions, and following a successful pilot the Cabinet Office now plans to roll out a similar scheme for UK government appointments. We also heard praise for a Northern Irish scheme that offers training on competency-based interview techniques for potential appointees, in an attempt to open up the system to those without prior experience in these techniques, especially those without a public sector background. A pilot mentoring scheme for disabled people who wish to become board members has had some success in Scotland.

Comparison to other countries

We conducted a brief literature review on the UK's public appointments system in an international context. The available research predates the changes to the UK public appointments system in 2016, which shifted the balance of power in the UK system towards ministers. Updated studies will be needed to determine the extent to which our conclusions should be modified following that shift.

Comparisons are not straightforward because the political systems of different countries – including the division between ministerial, departmental and public body responsibilities and structures – vary significantly. But this variation does, again, show that alternative systems are possible. The main lessons we drew from our review were:

- **The number of public appointments in the UK is broadly comparable to other countries.** The UK public appointments system covers the appointment of 4,638 roles,⁴⁶ excluding devolved and local bodies – although around half of these are delegated and so not directly made by ministers. The US federal government

has around 4,000 politically appointed roles⁴⁷ – a lower number in a larger but more federalised country. France seems to have fewer politically appointed roles, between 500 and 1,000.⁴⁸ Estimates in Ireland, where a similar division exists between a non-partisan civil service and appointed leaders of public bodies, suggest there were around 2,500 ministerially appointed roles on the boards of agencies in 2008⁴⁹ – a lower number than in the UK, but much higher as a proportion of the population.

- **The UK had a relatively merit-based system until 2016.** Pre-Grimstone, the UK seems to have performed comparatively well on measures of how non-partisan public appointments were, with one study from 2016 suggesting the UK had the lowest levels of “party political patronage” of any of the 22 countries surveyed.⁵⁰ Academic research has shown that political appointments are very common in Germany, France and the US.⁵¹ In Scandinavia, some studies have suggested partisanship is lower than in the UK.⁵² But this is inconclusive: empirical data from Sweden suggested that a third of agency heads had a party political background in 2010,⁵³ as opposed to the UK where only around 10% declared “political activity” in the same year.⁵⁴ And research on Norway suggests that while parliament has control over some appointments (for instance to the central bank and broadcasting council), most agency and public corporation appointments are made by ministers, with personal and political allegiance playing a major role in their decisions.⁵⁵ So while the comparison with Scandinavia may merit further research, the UK generally seemed to have had a less patronage-based system than most comparable countries prior to 2016.
- **The UK is unusual in having lower levels of patronage in civil service appointments than in public bodies.** A study in 2012 suggested the UK was one of just two European countries (of 15 surveyed) with higher levels of political patronage in appointments to non-departmental agencies than to the civil service.⁵⁶ But this mainly reflected the UK’s more strongly non-partisan civil service relative to other countries, with very few political appointments. While public bodies are a relatively more prominent vehicle for patronage in the UK than in other countries, therefore, it is also true that when this research was completed UK public administrators as a whole were appointed in a relatively non-partisan way.
- **Reforms that might make an appointments process less partisan are difficult.** Unsurprisingly, it is hard to find examples of ministers willingly giving up their own powers over public appointments – although this did happen under pressure in the UK in the 1990s. In Canada in the early 2000s, a scandal in which public money was allocated to private and public corporations friendly to the Liberal Party in return for little or no work resulted in the Gomery Commission, which recommended that ministers should lose their role in appointments to public bodies, with decisions instead being made by chairs.⁵⁷ But these recommendations were shelved after parliament rejected the government’s preferred candidate to be the new appointments commissioner. This shows that achieving parliamentary, executive and popular consent to radical changes is difficult, even when the system is perceived to have failed.

How should public appointments change?

This report outlines six areas in which the appointments system is not currently working well, and offers solutions. Our proposals are intended to make the current system, as suggested by Lord Nolan and modified by Lord Grimstone, work better. We do not begin from first principles, but rather take the current system as a baseline and try to reinforce the original intentions of Grimstone and Nolan, while reducing the current tensions and delays. For ease of reference, our granular proposals – which go beyond the headline recommendations in each area – are also set out in table form in Annex A.

We conducted our research between July 2021 and May 2022.* We found that the new governance code issued in 2016 is widely known and all participants in the appointments system whom we spoke to thought it was important that the code be followed, which is an encouraging basis for reform. But while many of Grimstone's aims were laudable – particularly the focus on greater scope, speed and transparency for the regulated appointments process – the system created in 2016 is not delivering as it should.

This is not to say that the system is failing as a whole. Many of those we spoke to were keen to point out its successes as well as its failings. Many of the problems discussed here are much more common among high-profile, contentious appointments, and are also by no means new. But nonetheless, endemic delays and a lack of transparency over the basis for decisions are gnawing away at public trust in those appointed.

1. Delays

Delays have a damaging effect

The time it takes to make public appointments is a major problem. Alongside many of those we interviewed, PACAC,¹ the Commissioner for Public Appointments² and the CSPL,³ among others, have all recently raised concerns about delayed appointments and the effects they are having on the leadership of public bodies.

Delays are off-putting to potential appointees, particularly busy mid-career candidates and those without the financial means to manage a period of unemployment while waiting to hear whether they have secured a public appointment. One successful non-executive director (NED) told us that had they not been “determined and stubborn” they would have given up after a process that took six months to conclude. Some other public sector NEDs reported similar experiences in 2018: “It was a miracle that

* We held a private roundtable bringing together stakeholders from across the system – departmental civil servants managing public appointments, public body staff, civil servants and special advisers, public appointees, regulators of the system, and current and former senior independent panel members (SIPMs). We also held 30 detailed interviews with those working in, or with experience of, the UK system or in the devolved nations. In addition, we conducted desk-based research.

those of us who were still standing were still there at the end.”⁴ While delays and poor communication occur with civil service appointments as well (and this should also be addressed), they are a particular problem for public appointments, where the aim is to attract people from outside the public sector who will be used to a different speed and style of recruitment.

The effects on public bodies are serious too. Delayed appointments can leave bodies without a permanent chair or NED, limiting their ability to plan for the long term or build effective relationships with ministers. Without a chair, public bodies lack strategic leadership, a champion in government and a key figure accountable to the public for performance. Delays may also deprive bodies of sufficient board members to legally make decisions, or lead to multiple board members’ terms ending simultaneously without handover, leaving a less experienced board and eroding institutional memory. One interviewee told us about an appointment that took three and a half years due to disagreements over who to choose, while another described a process which was rerun three times at ministers’ request before someone was appointed. While these are not the norm, we heard of too many such examples.

Box 3 Appointment of the chair of the Competition and Markets Authority (CMA)

The role of permanent chair of the CMA, a non-ministerial department with responsibility for regulating UK markets, investigating mergers and protecting consumers,⁵ was unfilled for more than 18 months from September 2020. The previous chair, Lord Tyrie, announced his intention to step down in June 2020, and Jonathan Scott was announced as temporary chair in October 2020.⁶ However, it took until December 2020 to launch a competition, and a further five months before final interviews were held.⁷ Ministers opted not to appoint any of the candidates interviewed and to rerun the competition.⁸ Further delays meant that the second competition was only launched in December 2021, almost 18 months after Tyrie announced his departure.⁹

At the end of May 2022, Marcus Bokkerink was announced as the government’s preferred candidate, ending a two-year search.¹⁰ The wait for a new chair has hampered the recruitment process for a new permanent chief executive. Andrea Coscelli’s term ended in July 2022, with recruitment for a permanent replacement being launched only the month before. Sarah Cardell, the authority’s general counsel, has been appointed on an interim basis.¹¹

A five-month gap between launch and interviews would be less likely if interview dates were agreed with panel members in advance. Our recommendation to create a tracking system for appointments would also allow greater clarity on the progress of appointments and enable the causes of delay to be addressed more promptly.

How bad is the problem?

There is some debate over the extent of appointment delays, as no one routinely collects the relevant data. But the available evidence suggests many appointments overrun and this is not just because of the recent effects of the Covid-19 pandemic. The most recent review from the Commissioner for Public Appointments – which predates the pandemic – suggested that most appointments took longer than the government’s stated aim of three months between advertisement and announcement, with the average time running to 21 weeks.¹² This finding may be skewed by a few outliers which overrun by many months (such as those we illustrate in Boxes 3, 4 and 5), meaning that other appointments overrun by less. But conversely, the average time was brought down by the inclusion of appointments managed by the NHS without ministerial input, which were much speedier.¹³ In any case, the number of exceptional appointments made without a competition, a significant proportion of which are to fill a vacancy left by a delayed appointment, has risen rapidly in recent years (see Figure 2).

Figure 2 **Number of exceptional appointments made without a competition, by calendar year**



Source: Institute for Government analysis of Commissioner for Public Appointments list of exceptional appointments. Where the same role has been extended multiple times, each extension has been counted; joint office-holders have been counted only once.

Some of this increase, especially the peak in 2020, is down to the pandemic, which forced departments to adjust to working from home and resulted in fewer people moving jobs – and so, perhaps, seeking public appointments – than usual. But this lack of movement did not last long – the number of people looking to switch jobs reached a record high in early 2022.¹⁴ Appointment processes should also have adjusted to working from home by 2021, especially considering remote working potentially makes some parts of the process, such as scheduling interviews, easier. Covid does not, therefore, explain the continued high volume of exceptional appointments.

Delays seem particularly endemic for the most important appointments – unsurprisingly, since ministers will want more input into these appointments, and panel members will likely have busier diaries. Temporary appointments to such key roles leave weaknesses in the senior leadership of some key service delivery

and regulatory organisations. At the time of the most recent release of data on exceptional appointments, at the end of January 2022, 16 public bodies including Ofcom, the Medical Research Council, the Economic and Social Research Council, the Charity Commission, NHS Resolution, Ordnance Survey, the Competition and Markets Authority, HS2 Ltd and the Regulator of Social Housing were without permanent chairs due to delayed or failed competitions. (Some appointments have since been made, but of course there may now be other vacancies as well.)¹⁵

While the rise in exceptional appointments suggests this problem may be getting worse, it is by no means new. The Grimstone review of 2016 was partly motivated by a feeling that “too many appointments take far too long to conclude which is both inefficient and can deter good candidates from applying”.¹⁶ Many of Grimstone’s recommendations, especially those giving greater discretion to ministers, were intended to reduce the administrative burden of the process and make it faster. But they do not seem to have worked.

There are many causes of delay, but repeated political input is important

While identifying a problem with delays is easy, working out the root cause is more difficult. Ministerial interest seems to be the biggest factor driving delays, but a number of other factors have contributed to the problem. These include some that are also specific to the public sector context, such as the time taken for security clearance and the timing of announcements to coincide with policy decisions.

Partly due to the diffuse nature of the appointments system as discussed below, departments have a mixed record of managing appointments well and delivering appointees promptly. Some departmental appointments teams have not been good enough at keeping track of future appointments. Those we spoke to at the centre reported that departmental teams sometimes requested input from the Cabinet Office or No.10 just a week before they opened applications, because departments did not keep a comprehensive forward look of appointments. They also suggested there was a lack of grip from senior civil servants in dealing with problems. The commissioner’s thematic report on delays suggested the time taken for panel interviews to be arranged was a major cause of delays between the sift and interview stages.¹⁷ Again, this may partly reflect a lack of forward planning in departments, which could in part be solved by the commissioner’s recommendation that “dates for sifting and interviews should be agreed with panel members before launch”.¹⁸

The fact that 77% of health service appointments delegated by ministers to the NHS were completed within the government’s three-month aim – a much higher proportion than for ministerial appointments – suggests that waiting for ministerial input is another key reason for delays.¹⁹ The most high-profile appointments, where ministerial interest is highest, are more likely to have delays. This is unsurprising – ministers are busy and must manage competing priorities. But as the Office of the Commissioner for Public Appointments (OCPA) has stated: “Appointments suffer from being important but considered, by many in the system, as not urgent. Each appointment round requires many actors to see the appointment as a priority.”²⁰

The problem is made worse by the number and complexity of possible points for ministerial input into the system. Ministers are required by the code to sign off on candidate criteria, on the list of people to approach for the role, and on whether or not to extend the application window to allow more (or more preferred) candidates to apply.²¹ Public body chairs told us that levels of ministerial interest at these stages – and particularly in the job criteria – are now higher than in previous years (although ministerial powers under the code have not changed). Recruitment of assessment panels also requires ministerial input and, for significant appointments, disagreements between civil servants, No.10 and the commissioner over the choice of SIPMs can delay scheduling interviews. Ministers also have the right to give their views on the shortlist and the list of those judged appointable, as well as making the final decision on who to appoint.

Major appointments can suffer due to power struggles between different political actors (departmental ministers, their advisers, the Cabinet Office and No.10) as well as between politicians and civil servants or independent panel members, as political input is sought multiple times and can conflict. For instance, this seemed to be the case with the final decision over who would be Ofcom chair, where the Department for Digital, Culture, Media and Sport (DCMS) and No.10 reportedly preferred different candidates.²²

Interviewees with experience in the appointments process over several administrations told us that since Boris Johnson became prime minister, the level of interest in appointments from No.10 has been much higher. Political advisers in No.10 may expect to see the longlist (if there is one), shortlist and list of appointable candidates for jobs they are interested in, and political input can come through the minister for the Cabinet Office too. Sir John Kingman, former second permanent secretary to the Treasury and chair of UK Research and Innovation, drew out the consequences in a speech last year, saying there are “many political advisers around government, all of whose views are thought to be needed before every stage of every process for every minor appointment can proceed. There are a lot of appointments, and special advisers are very busy. As a result, they tend to do their collective political policing job extremely slowly.”²³

Partly as a result of these multiple points of input from different competing stakeholders, it is easy for appointments to be lost or forgotten while waiting for sign-off. One senior appointee recalled details of a low-profile NED appointment sitting in a special adviser’s inbox for most of a year before it could even be advertised, while the appointment of two new board members of UKRI took 16 months from launch for ministers to decide to rerun the process, partly due to repeated ministerial turnover (see Box 4).²⁴ As the former commissioner, Sir Peter Riddell, has stated: “Most delays occur at the final stage of ministers’ decision on who to appoint, with consultation with stakeholders, such as devolved administrations or No.10, further adding delays.”²⁵

Box 4 **Appointment of non-executive directors at UK Research and Innovation (UKRI)**

Department for Business, Energy and Industrial Strategy (BEIS) officials informed ministers in February 2019 that UKRI needed two new board members by October 2019.²⁶ The competition launched in May 2019 and the sift was held on 15 July 2019. Shortly afterwards, BEIS ministers changed as a result of a ministerial reshuffle, and the new ministers were unhappy with the proposed shortlist. Ministers within BEIS changed again before the new ministers took the decision to re-sift applicants, which took place on 4 October 2019. Ministers approved a new shortlist in November 2019. Because of the second sift, dates for the interview were moved back to 28 November 2019.

Before the interviews could be held, the UK entered a pre-election period, suspending ministerial decision making on appointments. A submission on appointable candidates was not put to BEIS ministers until 6 January 2020. On 13 February 2020, BEIS ministers changed again, and the advice on candidates was given to the new ministers on 27 February 2020. The secretary of state made a decision on 17 March 2020, which was set to go to No.10 for approval. However, the following week the UK entered its first pandemic lockdown, and the decision was not progressed. In September 2020, almost a year after the appointments needed to be made, ministers decided not to make an appointment from this competition and to re-advertise.

Ministers would not have the option to re-sift candidates and produce a new shortlist, the cause of the original delay, if their input was streamlined as we propose. The impact of ministerial turnover could also be mitigated by a letter from the chair of a public body in advance of each competition, giving new ministers clear guidance on what is needed from prospective board members.

One solution is more transparency and better tracking of appointments

These delays could be reduced by finding better ways to keep track of the appointments process, and more tightly defining opportunities for ministerial input.

An end-to-end digital tracking system, which would flag the expiry of appointments in advance to allow suitable forward planning, track exactly where each appointment is, and allow civil servants to log when an appointment decision has been approved by each relevant stakeholder at each stage, would be popular with everyone involved in the appointments system. Chairs, political advisers and departmental teams all told us they had ways of tracking appointments themselves, but would prefer to have access to an online tracking system that was consistent across government.

To its credit, the Cabinet Office now seems to be well on the way to creating such a system. It will be launched in stages, with a new interface for applicants already online from May 2022, and there will be opportunities for modification in response to feedback from users. It is important that this work is given sufficient resources to succeed. As well as helping those within government to keep track of appointments, and creating a better interface for applicants, the Cabinet Office should ensure the new system provides detailed data on how long each step leading to an appointment takes. This should allow government to pinpoint where delays are coming from in the system, quelling the unhelpful blame game within government and enabling poorly performing departments to be held to account and helped to improve. Government could even consider setting specific targets for how long each step of the process should take and flagging when an appointment is falling behind schedule.

A full tracking system would not only allow the Cabinet Office and the commissioner to monitor the system and spot problems more easily, it would also facilitate greater public transparency and accountability. The original Grimstone review saw transparency as the key way to “provide assurance that public appointments are made on merit.”²⁷ But the expectations set in the report – that “for every competition held, there should be full transparency of the appointee’s details, the selection process followed, and the assessment panel”²⁸ – were not met by the public appointments website in place until May 2022, where such details were frequently missing. The new public appointments website promises to provide these details, with a more user-friendly interface making it easier for those running public appointments in departments to input the information promptly.²⁹

There should also be better aggregate data on delays. Currently, there is no public clarity on which departments perform worst and best, and why. A proper tracking system would allow data to be collected and published showing what proportion of appointments are being concluded within the government’s three-month aim, and how long each stage of the process takes. This would then enable parliament to hold departments to account for their performance, reducing the tolerance for delays some interviewees spoke of and driving performance improvement. For example, select committees scrutinising departments that had announced less than 75% of their appointments within three months could call the departmental permanent secretary to explain what had gone wrong.

The three-month aim itself is ambitious (see Figure 1). Riddell was right, as commissioner, to propose that the three months be adjusted to conclude when the offer of an appointment is made or, where there is a pre-appointment hearing, when the government’s preferred candidate is decided (rather than when the appointee is publicly announced).³⁰ But if this change is made, government should then treat the three months as a target that it will hold itself to meeting, rather than – as at present – an aim that carries a lower expectation of being achieved.

Ministerial input on appointments should be streamlined

Alongside introducing a new tracking system and increasing transparency, there is a need to simplify the appointments process, reducing the number of inputs needed and the time they take. Ministers should retain the final say on the appointments for which they are accountable. But the current system as laid out in Figure 1, which can require input from several political actors at multiple different action points, is unwieldy. This results in a system that seems amateurish to outsiders as participants are obliged to muddle through without clarity as to when and how ministers might wish to express views.

The Governance Code on Public Appointments should stipulate that ministers can set the selection criteria, choose the assessment panel (subject to current rules), put forward candidates to be considered at the outset and make final decisions – but neither they nor their advisers should have the power to intervene in shortlisting or appointability decisions. This would focus the minds of both ministers and the officials who support them on the key decision points. It would allow ministers to provide input at the beginning of the process and to choose who to appoint at the end, but it would require them to let the process run between these points. They and their advisers should be allowed sight of shortlists for vetting purposes – following which they could propose questions to be asked at interview – but should not be asked for other input on any longlist, shortlist or list of appointable candidates before their final decision, or given the opportunity to rerun the process if they are dissatisfied with the shortlist.

Official scope for ministerial input to decisions on shortlisting and appointability is limited already. Ministers are permitted only to suggest names which should be on the list and to ask the panel to explain their decisions, and even this does not happen for every appointment. But we have heard that delays in major decisions do frequently occur due to a lack of clarity among those involved as to how much ministers can influence these decisions, sometimes resulting in stalemates between ministers and panels over what the decisions should be. Our proposed clarification should prevent this.

In Scotland and Northern Ireland, ministerial input is already limited to specific points in the process, so there is precedent for this approach working effectively.³¹ It would reduce the number of stages where ministerial or cross-government input is needed, and safeguard the judgment of merit required from the assessment panel. It is concerning that multiple interviewees told us that they had seen the scores of candidates, and even decisions on appointability, change as a result of ministerial interventions under the current system.

Secretaries of state should also officially delegate less prominent appointments to their junior ministers, who could make these decisions on their behalf for bodies that fall within their remit. This would allow secretaries of state to concentrate on the appointments they judge to be most important. Junior ministers are likely to be closer to the issues faced by smaller public bodies and to deal with their boards more frequently.

Ministers should be better supported

For their part, ministers do not always trust their officials enough to delegate large parts of the appointments process to them. Streamlining ministerial input should therefore be accompanied by greater support for ministers to ensure they can make decisions quickly and confidently. If officials support ministers as well as possible to provide input in a streamlined way, a more structured sequencing of input could actually enhance, rather than diminish, ministers' ability to shape outcomes effectively with their limited time.

Support for ministers would be improved by our recommendation below, in the section on relationships within the system, that central teams should manage public appointments in departments. These teams would provide ministers with a single point of contact and source of expertise on appointments. Ministers would also be aided by the proposed new tracking system, which would increase the information available to them about the progress of appointments and enable the decisions they need to make to be flagged to them earlier.

Finally, while the primary focus should be on making appointments faster, there should also be adjustments to how the current system accommodates unavoidable delays. In particular, the loss of knowledge due to gaps between permanent chairs is very damaging. It could be significantly reduced by starting recruitment processes much earlier – as early as 18 months in advance for chairs and board members of the most prominent bodies – and issuing guidance that new chairs should be recruited well in advance of the incumbent's term expiring, to allow a proper handover to take place (see Figure 1 for the timescales involved). Aside from the time the appointments process itself takes, security vetting, notice periods and, in some cases, sign-off for remuneration can introduce additional months-long delays after an appointment decision is made, so starting processes well in advance is crucial.

Even when there has not been a delay in the process itself, starting late can lead to a damaging rush to conclude appointments before they become vacant. Where appointments entail select committee hearings, holding these at the last minute can undermine committees' ability to scrutinise candidates. Hearings scheduled at short notice may have poor attendance and may leave no time for alternative arrangements to be put in place should the committee fail to endorse a candidate. Two recent Cabinet Office examples include the appointment of the Registrar of Consultant Lobbyists, where Harry Rich was announced as the preferred candidate less than one week before the 2018 conference recess, after which he needed to be in post. This left the committee with little time to schedule a hearing or scrutinise the record of Mr Rich.³² There was a similar problem with the appointment of the new commissioner in 2021.³³

The Cabinet Office plans to create a single document listing the start and end dates of appointees, as the Scottish government currently does.³⁴ This should help ensure appointments start in good time, as it can flag clearly when departments need to start thinking about each appointment and enable candidates to see in advance when a role will be available.

Recommendation 1: The Cabinet Office should enable those involved in the public appointments system to easily track the progress of individual appointments, and should publish aggregate data on how long each stage takes. Ministers should make decisions only at the start and end of an appointments process.

2. Merit and politics

Ministerial appointments have a political element

Officially, everyone in the appointments system accepts that, in Lord Grimstone's words, "merit is the decisive factor and any political activity must be incidental to that".³⁵ Appointing the most skilled candidates is embedded in the code as one of the eight principles of public appointments – "all public appointments should be governed by the principle of appointment on merit" – and as the basis of the final ministerial decision – "it is then for ministers to determine merit and make the final appointment."³⁶

Nonetheless, those in the system recognise that there are two competing forces within public appointments, or at least two different judgments of merit: the ministerial and the official. And these two forces do not always pull in the same direction. This is inherent in a system where ministers make appointments and are accountable for them, while being subject to constraints. Even if the civil servant sitting on the panel is expected to be "responsible for representing... the minister's views throughout the process";³⁷ ministers will have a different perspective to officials on what is required to run a public body and the compatibility of particular candidates' views on how to do the job with their own policy aspirations.

The tensions between these two judgments of merit – by independent panellists, public body leaders or civil servants, and by politicians or their advisers – became more obvious under the Johnson administration. A perception of excessive politicisation has developed which, though exaggerated, reflects a genuine political interest in appointments stemming from ministers' and their advisers' desire to appoint people who are strongly aligned with them, and their distrust that officials and independent panellists can deliver this effectively.

Leaks in advance of competitions have suggested that certain politically prominent candidates are already preferred, implying in these cases that the government is not interested in the assessment panel's judgment of merit.³⁸ In one extreme case, leaks suggested that the government re-ran the appointment process for the chair of Ofcom to appoint a candidate previously deemed unappointable for the same role (see Box 5). Riddell has raised wider concerns about government attempts to appoint "people with clear party affiliations" as SIPMs and to pack assessment panels with

allies.³⁹ We have also heard that political vetting by special advisers (SpAds) or party officials has resulted in candidates being rejected, often at a late stage and without any right of reply, on the basis of political statements made in one of the houses or on social media.

Political affiliation appears to play the greatest role among the most senior appointments. Of the nine new chairs declaring political activity in 2020/21, eight were Conservatives,⁴⁰ and the recently appointed chairs of Ofcom, the BBC and the Charity Commission are all donors, peers or former candidates of the Conservative Party. The available quantitative evidence does not show that politicisation is deeply embedded elsewhere in the current system. Levels of declared political activity among appointees remain lower than under the last Labour government. But less than half of appointees actually answer this question when asked and the figures will not capture those who are not directly politically active but are nonetheless in close sympathy with a particular party.⁴¹

Box 5 **Appointment of the chair of Ofcom**

Conservative peer Lord Grade was announced in March 2022 as the government's preferred candidate to chair Ofcom, the regulator of the broadcasting, communications and postal industries. The previous chair, Lord Burns, departed in February 2021, with Maggie Carver filling the post temporarily. The appointment process was dogged by persistent media speculation in the summer of 2020 that former *Daily Mail* editor Paul Dacre was the government's preferred candidate for the role. Dacre was reportedly judged unappointable by the assessment panel in May 2021, and the government decided not to appoint from among the appointable candidates but to rerun the competition instead.⁴²

After further media leaks and speculation, Dacre publicly announced in November 2021, when applications reopened, that he would not reapply for the role despite being urged to try again "by many senior members of the government".⁴³ The government extended the application window in January 2022, but once it closed in February 2022, interviews were held promptly and Lord Grade was appointed.⁴⁴ In its report following Lord Grade's pre-appointment hearing with the DCMS select committee, the committee said: "This shambles of a process gives us great concern about the Department's ability to run effective and impartial public appointment competitions."⁴⁵

The media speculation that Dacre would reapply for this role despite being found unappointable may have been dampened if it was clear that ministers could not appoint candidates found unappointable by panels, and if the government had to publicly explain both its decision to rerun the competition and any changes to the selection criteria.

While a candidate's views on the issues facing their body or sector, and their ability to get on with ministers, are relevant to ministers' decision making, their political views outside their sphere of work should not be. But they do seem to be considered, often in a way that gives candidates no right of reply. For instance, Conservative Party officials and SpAds conducting due diligence on candidates can flag the political affiliation or social media comments of candidates and suggest they are not appointed, even when recommended by the panel. The commissioner has noted a tendency for "online checks becoming disproportionate or irrelevant to the role",⁴⁶ with candidates' views on Brexit, for instance, playing a role in appointment decisions regarding roles that are not Brexit-related.⁴⁷

Historian Mary Beard was apparently blocked from a role as a government-approved trustee of the British Museum for her "pro-Europe views".⁴⁸ Two interviewees also told us of a well-qualified candidate for one role who was passed over for speaking out against the government on an issue in a different sector in the House of Lords. We also heard that ministers in DCMS have consistently asked candidates to sign up to government policy statements before being offered an interview.⁴⁹ In March 2021, a trustee of the Science Museum withdrew her application for a second term after she was asked to "explicitly express support" for the government's policy on the removal of contentious historical objects.⁵⁰ While this issue may be somewhat relevant to the role, the government's approach is significantly more interventionist than has previously been the norm. As Riddell has stated: "It would be worrying, and contrary to the spirit of the Code, if otherwise appointable candidates are being ruled out because of their tweets on political issues of no relevance to the body concerned. This risks jeopardising the perceived independence of the bodies."⁵¹

Patronage also seems to have become embedded in parts of the appointments system. One successful appointee told us that, in practice, they felt they had to sound out No.10 before applying for a job, to check the government was not planning to give it to someone else. Another told us that when ministers suggested changes to the scores given to candidates, this "tends to happen with candidates with political connections". Leaked emails have suggested that Conservative Party officials emailed civil servants requesting that senior party donors be considered for public appointments.⁵² This is consistent with wider ongoing concerns about ethics and standards in public life,⁵³ and a general lack of trust in politicians to be honest and trustworthy and to act with integrity.⁵⁴ The government should see it as a priority to address these concerns.

Excessive patronage or politicisation has important consequences

It is neither surprising nor problematic that political factors play some part in ministerial decision making. But if decisions are made on the basis of political views or patronage rather than an appointee's skillset, or if the independent judgment of appointability is bypassed, then that is a contravention of the governance code as well as the original Nolan report's focus on "the overriding principle of appointment on merit".⁵⁵ Worries that patronage rather than merit would become the decisive factor in appointments drove the CSPL's initial criticism of the Grimstone changes,⁵⁶ and the

CSPL has again warned more recently that “it is unlikely that a system so dependent on personal responsibility [both of ministers to act with restraint and of the commissioner to speak out] will be sustainable in the long term.”⁵⁷

The perception of excessive politicisation deters good candidates from applying for appointments they see as pre-cooked. One interviewee told us they knew of “several directors of listed companies (including two chairs) who are unlikely to apply again [for a public appointment] after being passed over in favour of questionable candidates who happened to have a more politically palatable background”. Perceived politicisation also undermines public appointees once they are in post, if they are seen not to have got the job on merit, and erodes public trust in the institutions they manage.

A system that fails to adequately weigh judgments of merit also risks choosing less talented, less skilled and less experienced candidates. As Sir John Kingman has stated regarding science appointments: “There are costs to the UK, and to UK science, in turning superb people down. One does wonder whether this is a luxury the country can really afford.”⁵⁸ Empirical research comparing the performance of agencies headed by political appointees to those headed by career professionals in the US has suggested a more political appointment process may result in poorer service delivery.⁵⁹

Appointments to constitutional watchdog roles require special protections

The CSPL has rightly stated that “the appointment process for standards regulators requires a greater element of independence than is the case for other significant appointments”.⁶⁰ We would extend this view to those we call ‘constitutional watchdogs’* – public appointees who independently monitor and evaluate the behaviour of government and MPs. Any perception of patronage in appointments to this small group of bodies is damaging to their ability to make widely respected judgments.

Roles like the First Civil Service Commissioner or chair of the CSPL are traditionally not given to candidates with a political background, but rather to former public servants, to preserve independence. But these conventions have not always been followed in recent years. Baroness Stuart, former Labour minister and chair of Vote Leave, is the first politician appointed as First Civil Service Commissioner for over a century.⁶¹ While Baroness Stuart’s experience and integrity are not in question, a politician is a questionable choice for a key constitutional role intended to safeguard civil service impartiality, and greater scrutiny of this decision would have been appropriate. This is currently an unregulated crown appointment, not a public appointment – although “selection for recommendation must be on merit on the basis of fair and open competition”.⁶² It therefore falls into the category of roles we argue should be regulated but aren’t.

* Due to our specific focus on the public appointments system, this phrase refers in this report specifically to public appointees with a role in scrutinising the behaviour of politicians and the government; it therefore does not cover parliamentary bodies like the Electoral Commission or the Boundary Commission, which have been described elsewhere as constitutional watchdogs but are appointed by parliament not by ministers, or any other form of constitutional watchdog (such as parliamentary committees) whose members are not appointed by ministers. Source: Constitution Unit, ‘Parliament’s watchdogs’, UCL, [no date] retrieved 13 June 2022, www.ucl.ac.uk/constitution-unit/research/parliament/parliaments-watchdogs

Special processes already govern appointments to some roles which play a part in regulating government. The appointment of members of the Office for Budget Responsibility (OBR)'s Budget Responsibility Committee is subject to approval from the Treasury Select Committee,⁶³ giving the committee an effective veto on new members, and the appointment of a new chair of the UK Statistics Authority requires a motion in the House of Commons.⁶⁴ But these are exceptions. In general, parliament's ability to intervene in appointments is limited, even for roles which scrutinise the government. Committees have the right to hold pre-appointment hearings with the government's preferred candidate for a range of roles before they are appointed, and to issue a non-binding recommendation on whether the candidate should be appointed.⁶⁵ But negative select committee reports following pre-appointment hearings are often ignored by government.⁶⁶ The DCMS select committee chair recently released a statement, after the government proceeded with appointments to Ofcom and the Charity Commission despite its reservations, arguing that "the appointments process feels broken".⁶⁷

It seems clear that ministers should have a more limited role in selecting the leaders of bodies whose primary purpose is to regulate their behaviour. Such roles should be made significant public appointments (if they are not already).^{*} In addition, candidates who meet the current definition in the governance code of 'politically active' – those who have held party positions, donated significant amounts or stood for office in the past five years – should be barred from holding constitutional watchdog roles, as these office-holders must be seen to be completely independent of politicians. It is particularly important for these roles that ministers should use their judgment to ensure those they appoint are, and are perceived to be, politically impartial.

We have suggested a list of the bodies that should be treated in this way in Annex B. Our list differs slightly from suggestions previously made by the CSPL⁶⁸ and the House of Commons Liaison Committee.⁶⁹ But it would seem most sensible for the Liaison Committee to make the final decision on the bodies to which these rules should apply, as that is the fairest way to reflect the views of select committees. The Liaison Committee should also hold the list of who must be subject to a pre-appointment hearing.⁷⁰ To preserve parliamentary time, we recommend that individual select committees be able to agree not to hold an individual pre-appointment hearing – but this should not be taken by government as a renunciation of their right to hold pre-appointment hearings with future appointees to the same role.

Select committees should have a veto over appointments to constitutional watchdog roles

The Institute for Government has argued in the past that select committees should not just be able to express a view, but should have a veto over appointments that require a particularly high degree of independence.⁷¹ Many of the arguments still stand, and this would be a constitutionally appropriate approach. But select committee attendance and engagement at pre-appointment hearings in recent years has been poor, especially

* The Institute for Government has already recommended that the Independent Advisor on Ministerial Standards should be made a significant public appointment. Haddon C and Durrant T, *Reinforcing Ethical Standards in Government*, March 2022, www.instituteforgovernment.org.uk/publications/reinforcing-standards-government, p. 2.

from members of opposition parties. For the three pre-appointment hearings undertaken by PACAC in the 2021/22 parliamentary session, attendance averaged just over four members (out of 11 committee members), and just one opposition MP turned up for the hearings for the new Commissioner for Public Appointments and the new chair of the UK Statistics Authority.⁷²

Scheduling difficulties, exacerbated by the fact that some recent appointments have been announced weeks – or even days – before the incumbent’s term is set to end, may explain some specific cases. But research suggests that attendance is consistently lower at pre-appointment hearings than other select committee hearings.⁷³ Relatively low engagement from committee members could reflect a general lack of interest in carrying out this function, but it could also signify a lack of faith in the wider appointments system or an often correct belief that the committee’s views will not be taken on board by government.⁷⁴ Greater powers could, therefore, catalyse greater engagement.

One additional concern raised by an interviewee was that greater powers for select committees could politicise appointments further, as seemed to happen when they were introduced in some Canadian provincial parliaments.⁷⁵ However, this does not yet appear to have occurred with the appointments that already have a select committee veto – appointments to the Office for Budget Responsibility have generally been uncontroversial and resulted in a high quality of independently minded candidates – so this concern should not be overstated.

On balance, we propose that select committees continue to make non-binding recommendations regarding most key appointments as at present. The existence of a scrutiny process will at least cause the government to think twice about potentially controversial appointments. But we also recommend that they should be able to veto appointments to the constitutional watchdog roles listed in Annex B. They should also be given adequate time to schedule hearings, in order to achieve high attendance and to allow for consideration of their response afterwards.

Government should not be allowed to bypass judgments on appointability

The advisory assessment panel is the crucial stage of the appointments process where clearly independent judgments of merit are made. These judgments currently offer an effective safeguard against poor quality candidates in most cases, but some added protections should be implemented.

Panel members must be selected fairly and independently, particularly for roles that require independence from ministers. The CSPL has recommended that for some roles a majority of panel members should meet the criteria set out for SIPMs; that is, they should be independent of the department and not politically active.⁷⁶ This should apply to panels for constitutional watchdog appointments.

Panels are intended to provide a check on ministerial choice by making an independent judgment of the appointability of candidates. For this reason, they should set a sufficiently high bar for appointability in their deliberations to ensure all candidates put forward for ministers to consider are capable of performing the role to a high standard. Our proposals to streamline ministerial input should help to avoid panel members feeling under pressure to moderate their view, although clearly this approach makes it even more important that the role criteria are properly considered by panels and, in particular, that the departmental official on the panel fully understands the minister's expectations of the role.

We recommend removing the ability of ministers to appoint a candidate judged unappointable by an assessment panel.⁷⁷ We are also sympathetic to the recommendation made by the DCMS select committee that candidates who have been found unappointable in one appointments process should not be allowed to reapply if the exact same role is re-advertised due to a failed competition.⁷⁸ It is clearly an attempt to sidestep an independent judgment of merit if the government reruns a competition to allow a candidate found unappointable to apply again (see Box 5).

However, the current commissioner, William Shawcross, has argued that "barring anyone from applying for a public appointment would [not] be in keeping with the spirit of the Code".⁷⁹ In practice, it may also be illegal to prevent a repeat application for a role for which the selection criteria have changed. We therefore propose that if government reruns a competition for the same role, it should publicly justify why it has done so, and in particular it should publicly explain the need for any changes to the selection criteria.

Explicitly political vetting should be minimal

Due diligence – including following up on references – is important in public appointments to avoid embarrassing incidents such as Martin Thomas being obliged to resign a week after being appointed as chair of the Charity Commission.⁸⁰ Checking publicly available information about candidates is an important means of ensuring they can satisfy the principles of public life, referred to in the governance code, and of identifying potential conflicts of interest. Assessment panels need to be prepared to talk about aspects of someone's background that may be reputationally damaging. But the government should, of course, avoid making decisions about which candidate to appoint based on perceptions of their political views that are not relevant to their potential performance in the role.

While there is a place for some vetting of character and relevant political statements in the appointments process, there should be a shift away from some of the explicitly political character of vetting in recent appointments. Civil servants should not be expected to trawl through candidates' social media, flagging political content the government might disagree with, which is not in line with the civil service code's expectations of political impartiality.⁸¹ And candidates should be alerted to any

offending content in the interview process and given a right of reply, rather than just being filtered out at a later stage. Explicitly political vetting, if it is needed, should be done by SpAds and then sent to the panel to raise in the interview.

Recommendation 2. Ministers should not be able to appoint candidates judged unappointable by panels. For constitutional watchdog roles, select committees should have a veto over appointments.

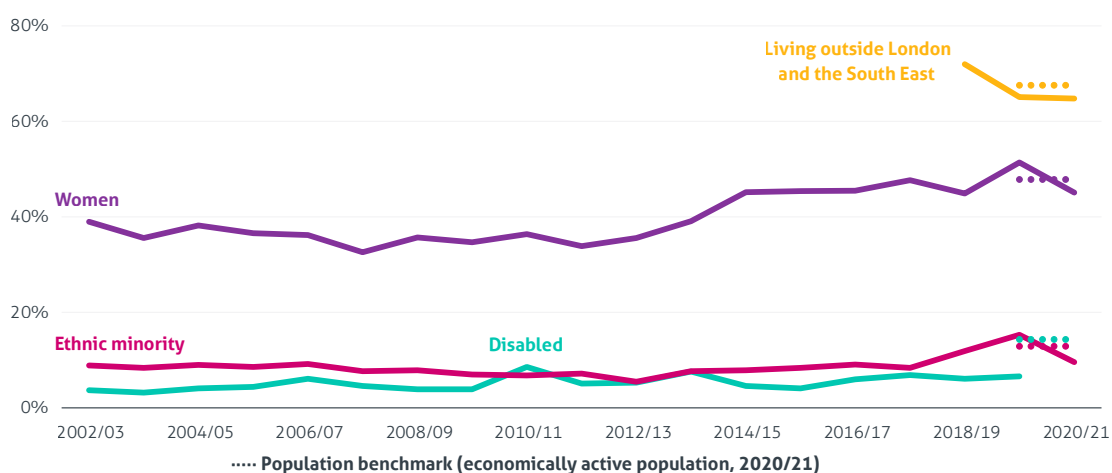
3. Attracting the best people

Progress has been good on some protected characteristics – but less so on other measures

The public appointments code emphasises diversity, which is one of the eight principles of public appointments. Diversity has been a priority for many working in public appointments – not only for reasons of fairness, but also because it can improve board scrutiny. There has been a particular focus on increasing the proportion of appointees with protected characteristics, relating for instance to ethnicity, gender and disability.

These efforts have achieved some success. In 2019/20, the proportion of those appointed or reappointed who were women or ethnic minorities exceeded the proportions in the working-age population for the first time (see Figure 3). While these proportions fell slightly in 2020/21 (perhaps in part due to the effects of the Covid pandemic, as well as the high number of reappointments), the ethnic diversity of public appointments remains higher than the diversity of comparable groups including senior civil servants⁸² and MPs.⁸³

Figure 3 Diversity of public appointees and reappointees, 2002/03 to 2020/21



Source: Public appointments data: OCPA annual reports 2011/12 to 2020/21. Notes: benchmarks are for the working-age, economically active population, except for the benchmark on living outside London and the South East, which refers to the economically active population of any age. Source: ONS, Table A02: Labour Force Survey Summary: economically active total population and female population (UK, aged 16-64); ONS, Labour market overview, UK, Table A08: Economic activity of people with disabilities aged 16-64: levels, UK, GSS Standard Levels (People); ONS, Labour market statistics time series, economically active population by region of the UK, and Table A09: labour market status: economically active by ethnicity: People (not seasonally adjusted).

Despite this progress, challenges remain. Disabled people are still under-represented among public appointees (albeit that the data relies on self-reporting and may be understated). Recent performance is not self-sustaining, so ongoing efforts will be needed to maintain current levels. The Cabinet Office's Diversity Action Plan for public appointments, published in June 2019 and setting three-year targets,⁸⁴ must be updated soon to give departments a sense of what the government's priorities are for making public appointees more diverse.

There are contrasting views on which aspects of diversity are most important. Some ministers and SpAds are focused on improving geographical and intellectual diversity – sometimes expressed in explicitly political terms, such as getting more Brexit voters into public roles. Administrators of the system often seem more interested in protected characteristics, although there has been less explicit focus on recruiting people who come from more than one under-represented group. Protected characteristics do not capture everything and we were told about candidates from less privileged backgrounds, for example, being advised by head-hunters that it was not worth them applying for roles on the basis that they did not have a protected characteristic. Socio-economic diversity is not currently a major focus of action, although it was acknowledged as an issue by many of those we spoke to. Data on the socio-economic background of appointees is poor, but there are plans in place to start collecting more information.⁸⁵

In an effort to do the right thing and also to secure politically acceptable appointees, we heard that ministers and SpAds may encourage those with protected characteristics whom they know and trust to apply for roles. This is likely to result in the appointment of relatively well-connected members of each group, leading to false confidence as to diversity performance based on the available data. To move beyond this, government should focus on improving outreach and removing barriers that discourage diverse candidates from applying. This should help those running public appointments to reach the best, and not just the most readily available, candidates.

Outreach to potential candidates requires ongoing effort

Ensuring a diverse and high-quality field of applicants requires considerable legwork, both in encouraging candidates to apply (outreach) and in supporting them through the process (candidate care). Central government efforts have focused more on outreach. More can be done, although it will always be essential for ministers and civil servants involved in particular recruitment campaigns within departments to be imaginative when considering who might be suitable for a role and to be energetic in seeking them out.

The Cabinet Office currently performs an outreach role through bespoke events and through social media, targeting those from disadvantaged groups who may be considering applying for public appointments and near-miss candidates who have applied previously. It often works indirectly through influencers who may have better access to these groups than the Cabinet Office does itself. The Cabinet Office has also launched a mentoring programme and runs outreach events encouraging people from

under-represented groups to apply for public appointments. But several people we spoke to felt there was an overly formulaic approach to this work and that it could be approached with greater ambition.

The Cabinet Office does not keep a central list of good candidates or reach out to potential candidates for specific appointments. Departments must ensure they do this effectively in their specialist areas. Some departments occasionally use executive search firms for tailored outreach (although many report difficulties in getting sign-off to use them). We heard mixed anecdotal evidence on whether more generalist head-hunters improved the range of candidates for roles, although it seems clear that head-hunting firms can be helpful in delivering a quality of candidate care the civil service struggles with and particularly in persuading high-profile candidates to apply. The civil service should learn from best practice among head-hunters in these respects, although challenges in making best use of head-hunters appear long-standing: a 2003 select committee observed that departments generally found head-hunters more useful to ease administrative burdens than to expand the pool of applicants.⁸⁶

The Grimstone review recommended that the Cabinet Office “develop and deploy their own head-hunting function”.⁸⁷ We propose a partial move in this direction. A new director-level ‘government chief talent officer’ – rather than a head-hunter per se – should be appointed as a centre of expertise in government, with a specific remit to:

- engage in strengthened cross-government talent development and outreach, especially targeting diverse candidates
- maintain lists of strong potential candidates, including those not appointed for one role who should apply again for another (building on the work already done by some departments)
- work with such candidates to encourage them to apply
- help departments to commission head-hunting services more effectively when these are needed, including by identifying the activities where they can add distinct value
- disseminate best practice and drive better performance by departments on candidate care and outreach.

Routine administrative and candidate care tasks should continue to be performed by departments. We also stop short of Grimstone’s proposed central head-hunting function per se because if, even with the proposed support from the chief talent officer, departments still need further support this may need to be provided from outside government. The chief talent officer should sit within the Cabinet Office but work closely with OCPA, and should have an appropriate staff to support their work. They will need to build strong relationships with departments, learning from best practice in departmental teams. Their role in sharing expertise across government will be particularly helpful for smaller departments that do not have a specialist appointments team.

Candidate care is poor and requires urgent attention

Candidate care can be poor for civil service recruitment as well as public appointments. But this is particularly consequential when recruiting people who are unfamiliar with the public sector and who may not understand public sector norms, or may have had senior careers elsewhere and expect better.

Nearly everyone we spoke to who had been through an appointment process told us that communication with candidates was a major problem. Candidates can hear nothing about a job for months, leading them to take other roles instead. Public appointments teams understandably do not want to reveal every cause of delay to candidates, particularly where ministers are involved, but the current system relies on unnecessarily impersonal holding emails, which can alienate candidates. We heard that candidates could also be better prepared for the timescales and intrusiveness of the vetting process, particularly where developed vetting is required.

This lack of communication is damaging to the diversity as well as the quality of candidates, if the only candidates prepared to apply or to wait on a decision are those who can afford months of uncertainty or who have been assured by a contact that they are still in the running. When decisions are made, candidates can be rejected without feedback and may infer – rightly or wrongly – that the government had another candidate in mind all along. Such perceptions do not encourage candidates to reapply for other roles. In the words of one interviewee: “The process treats serious people as if they are patsies. So you don’t get serious people.”

The governance code already sets out how to treat candidates, including keeping them informed about the application process, offering them constructive feedback if rejected and keeping a reserve list of appointable candidates for future roles.⁸⁸ But these recommendations are not always being followed. The Cabinet Office plans to introduce prompts within the new public appointments tracking system to remind appointments teams to communicate with candidates. They could also help improve candidate care by adding more detailed guidance on best practice, for instance suggesting a maximum gap between check-ins with candidates. Reducing delays in the appointments process, as outlined in the section on delays, would also improve the candidate experience.

Collecting and comparing data on candidate satisfaction would help drive further improvement. Departments should ask all candidates who applied for a role about their satisfaction with the appointments process. This already happens in Scotland, so a similar scheme should not be too difficult to implement.⁸⁹ The Cabinet Office should create a standard survey or satisfaction tracking tool for departments to use, so that data can be aggregated and used to compare and improve departmental performance. This would allow the centre of government to hold the worst performing departments to account, forcing permanent secretaries to tackle poor performance or invest more resources if needed.

Our interviews suggest that to improve, departments will need to invest much more in ongoing liaison with applicants throughout their application process, persuading individuals to apply, educating them about what to expect at each stage of the process,

keeping them closely informed on progress, and providing meaningful feedback to unsuccessful candidates after the process that might prepare them to apply for other roles in future. Some of these are areas in which a head-hunter may add value in the private sector – but we heard that even when government does use head-hunters, it often negotiates the price down to a point at which this kind of service is not in fact provided. The proposed chief talent officer should make government a more intelligent customer in this regard.

Better candidate care is also needed for reappointments. A number of our interviewees suggested that strong candidates being passed over for reappointment to the same role was a major problem with the appointments system, leading to a lower quality (or at least less experienced) group of appointees. But this does not seem to be borne out by the available evidence at an aggregate level. For UK and Welsh government public appointments, there were more reappointments than new appointments in 2020/21, for the first time in at least a decade, although reappointments were less than half as likely for ministerial appointments than for delegated appointments.⁹⁰

Nonetheless, there are some cases in which candidates have not been reappointed by ministers despite receiving strong appraisals from their chairs,⁹¹ including a case in 2020 where the commissioner felt the need to point out that candidates “deserve to be treated courteously whatever the decision and should, at minimum, be thanked for their service”.⁹² It can be damaging for a candidate’s career if it is assumed that they have been passed over for reappointment due to poor performance. Candidates who are eligible for and seek reappointment but are rejected should be entitled to receive feedback on why they have not been successful, especially in cases where they were recommended by their chairs. This would improve appointees’ experience of the process and their willingness to apply for other roles in future.*

If the presumption is against reappointment of ministerial appointees, it would help to clarify this to applicants in the advertisements for these roles, as we heard of several appointees being surprised by it. In addition, longer terms may be needed to allow time for appointees working on complex areas to get fully up to speed with their roles, even if this means their terms should be made non-renewable. UK Government Investments’ guidance on chair terms seems appropriate for NEDs too: “In a project with a long life span, it may be appropriate to appoint a chair for a term length of longer than three, but not more than five years.”⁹³ Some overly short terms may be difficult to change because they are embedded in legislation, but getting term lengths right is key to a highly performing board. Data from the new public appointments website should help to identify where short appointment terms are most common. Terms should be reviewed on a case-by-case basis as part of the public bodies review programme,⁹⁴ with a presumption towards slightly longer terms where three-year terms seem to be hampering the performance of a board.

* Performance management and dismissals of public appointees are beyond our scope. But it matters both to the performance of current appointees and the attractiveness of these roles to future candidates that performance management is done properly and that dismissals, where they occur, are based on a robust assessment of performance rather than on political differences.

Tangible barriers to entry disproportionately affect some groups

It would be wrong to dismiss candidate care as a superficial matter: it affects how candidates perceive the public sector, and their confidence and enthusiasm when putting themselves forward for appointment. But we also identified a number of tangible obstacles to appointment that are less widely discussed.

- **Remuneration.** Public appointments are varied, but their remuneration “differs enormously from post to post without apparent reasons”.⁹⁵ The government’s last Diversity Action Plan included a commitment to “undertake further exploratory work on remuneration for public appointments, with the understanding that *a clarified and consistent approach to pay, adjustments and expenses may attract, and continue to support, diverse applicants* [italics ours].”⁹⁶ Similarly, the Welsh government has acknowledged that pay is a “consistent barrier for many from protected groups”.⁹⁷ But neither government has made much public progress, and Michael Gove told the commissioner in 2021 that remuneration was “a matter for the relevant department”.⁹⁸

We were told of one job advert that required a candidate to do a day’s unpaid work a week and supply their own administrative support and office. This is an extreme example, but clearly such an advert cannot be expected to attract a diverse range of candidates. Even where roles are remunerated, this is often well below what the appointee could command in the private sector for similar work. One chair stated in 2018 that “because of the modest pay for public sector NEDs, there’s a whole section of society that can’t take on those sorts of roles”.⁹⁹ Comparable data is not available for the UK, but recent research in Scotland found that over half of public appointees felt that the level of remuneration paid did not reflect their responsibilities.¹⁰⁰

The Cabinet Office intends that its new appointments system will be able to collect more comprehensive information on pay levels for appointments, which should help to drive change. They should analyse the current remuneration levels using this data and issue principles on how remuneration for different roles should be decided, to ensure consistency. As part of this, they should also encourage public bodies to pay travel expenses for interviews and reasonable expenses for appointees, as this can be another barrier to applications for some roles.

- **Responsibilities.** It is not always clear to candidates what a role requires. One interviewee commented that overly generic job descriptions tend to put off those who do not already know. In particular, there is a lack of clarity as to how much time candidates should commit. This can lead to concerns over value for money: we heard reports of public appointees who were completely absent after their appointment, and also of one new appointee being told by a senior board member that “you can do as much or as little as you choose”. More broadly, appointees report that performance management is sometimes non-existent.

More commonly, though, a lack of clarity can lead to overwork, with jobs advertised (and remunerated) as taking one or two days a week when the expectation is for a near full-time role. Time commitments are also often much higher than what might be expected for a chair or NED role in the private sector. Candidates unwilling or unable to take on such open-ended responsibilities may be deterred from applying or may withdraw once the expectations are made clear to them. These effects may not be distributed equally: some evidence suggests, for example, that women are more likely to look for less time-intensive roles.¹⁰¹

Government is making an effort to improve in some of these areas, including rolling out a more comprehensive NED induction programme.¹⁰² But more could be done, particularly in ensuring job descriptions are detailed and accurate in terms of the time commitment expected.

- **Remote working.** The pandemic has shown how remote working can be effective for many organisations. Making remote working available wherever possible can help facilitate appointment of more geographically representative candidates in line with the government's levelling up agenda, as well as helping disabled applicants. It could also enable appointees to undertake additional activities remotely. The Cabinet Office should issue guidance encouraging this.
- **Employment status.** Some public appointees report worries about the extent of their legal indemnity for decisions, since they are appointees rather than employees of government. The Cabinet Office should make clear the extent of appointees' personal exposure as a result of their decisions, and public bodies should ensure insurance is available to appointees where needed to ensure candidates are not exposed to undue financial risk.

Reviews of public bodies should also consider whether some public appointments would be better reframed as executive roles and recruited according to normal civil service recruitment procedures, using more conventional employment models for remuneration, legal indemnity and working hours. We have heard examples of where bodies that make high work demands on their public appointees have made them executive rather than non-executive directors, with positive results, and this should be considered for other bodies as part of the public bodies review programme.

- **Select committee scrutiny.** Select committee scrutiny can put off candidates who lack experience dealing with parliament, especially when select committees question candidates on their appointment process and the ministerial decisions involved, rather than testing the candidate's own suitability. This focus in some recent hearings is neither fair to candidates nor a good use of parliamentary time.¹⁰³ It also risks unfairly undermining a candidate's reputation and ability to do the job, as with Orlando Fraser, whose candidature for chair of the Charity Commission was not endorsed by the culture select committee because of the way he was recruited, despite the committee saying they had "no grounds for concern about

Mr Fraser as an individual”.¹⁰⁴ Select committees should direct questions about the appointments process to ministers and appointing civil servants – calling them to appear alongside candidates when necessary – and not to candidates themselves.

The Cabinet Office should monitor progress in these areas and, where necessary, consider issuing further guidance to departments.

Recommendation 3. A new government chief talent officer, appointed within the Cabinet Office, should reach out to under-represented candidates and support departments to enhance candidate care, using data on candidate satisfaction to drive improvements.

4. The scope of regulation

Many ministerial appointments are not currently regulated

The principles of public appointments laid out in the governance code include that “processes for making public appointments should be open and transparent”.¹⁰⁵ But ministers appoint chairs of some public bodies and other roles without scrutiny from the commissioner. While regulation must be proportionate, the exclusion of appointments from regulation means details of panel members and criteria for appointment are not always published and the roles are not always advertised publicly, for example.

In some cases, this undermines the credibility of those appointed to these roles and raises questions about the propriety of spending public money on their remuneration.¹⁰⁶ There is no public or comprehensive list of the unregulated appointments made by government, so it is not clear what criteria are used to decide whether an appointment should be regulated or not, or whether those criteria are applied consistently.

Only appointments to certain types of public bodies, including non-departmental public bodies and non-ministerial departments, are generally subject to regulation. Ministerial appointments to the boards of executive agencies, one type of public body which delivered £80bn of public services in 2019/20,¹⁰⁷ are unregulated. Executive agency appointments have at times been controversial, for instance with the recent appointment of Conservative Party donor Simon Blagden to the advisory board of the UK Health Security Agency,¹⁰⁸ and their unregulated nature may contribute to doubts over their propriety. The role of commissioner itself is also unregulated, as well as – currently – appointments to the departmental boards which are expected to scrutinise government departments’ work.¹⁰⁹

Ministers should publicly justify why appointments are unregulated

The scope of regulation was expanded to include reappointments to non-departmental public bodies and appointments to non-ministerial departments, for instance, two decades ago.¹¹⁰ But observers of the appointments system, including the CSPL¹¹¹ and the previous commissioner himself,¹¹² have recently expressed concern that the number of unregulated appointments is growing, perhaps as a way for government to sidestep the requirements of the code.

Without data on unregulated appointments, it is difficult to verify the extent and nature of the problem. But some appointments of so-called government 'tsars' without any clear due process, as well as the appointment of Lex Greensill as an adviser to the Cabinet Office in 2012, have been criticised for lacking propriety and transparency.¹¹³ The Boardman review into Greensill's relationship with government concluded that "this area of public appointments is opaque and ill-defined. The process should be more clearly delineated, and requires greater transparency to maintain public confidence."¹¹⁴

Many more routine, but important, appointments still escape regulation. We have found no reason why ministerial appointments to executive agencies like the Insolvency Service, the National Infrastructure Commission or the Medicines and Healthcare products Regulatory Agency should not be regulated, especially as some of these appointees – particularly their chairs – can receive significant remuneration. The Grimstone review stated: "In a principles-based regime, all appointments made should fall within the regime unless the appointments are clearly transient or have no formal, accountability responsibilities."¹¹⁵ This is still true (although roles without direct accountability can still be influential, so that exclusion should not apply).

Departments should publish a list of all unregulated appointments that are made by ministers or, in the case of crown appointments, on their recommendation (including those where they have delegated decision making). The cabinet secretary, Simon Case, hinted in a PACAC hearing in late June 2022 that this may happen, saying that it was a "very obvious thing to do" but that the decision was up to ministers.¹¹⁶ Publishing this list would fulfil the recommendations of both the Grimstone review and the original Nolan review, which suggested that the commissioner should regulate all ministerial appointments to public bodies unless they are specifically listed as being excluded.¹¹⁷

When publishing this list, departments should also publicly explain why the appointments listed are not subject to regulation. Regulation should be the norm where a role is remunerated (excluding non-taxable expenses) or is expected to last for more than a year. If a role is advertised as short-term but continues to be required beyond one year, a regulated appointment process should ordinarily be held. If it is not, a further disclosure should be made explaining why.

The Institute for Government, along with the CSPL, has previously argued that departmental board members who are expected to offer external expertise and challenge to departments should be appointed in line with the principles of transparency and merit outlined in the governance code and regulated by the commissioner.¹¹⁸ The cabinet secretary said in a June 2022 select committee hearing that ministers would make this change,¹¹⁹ although it has not yet officially been announced. This will be a welcome step, but its effectiveness will rely on ministers fully submitting these appointments to the regulation process rather than relying on any workaround. The government lead NED should also be designated as a significant appointment.¹²⁰

Box 6 **Appointment of Gina Coladangelo as a non-executive director at the Department of Health and Social Care (DHSC)**

Gina Coladangelo was first appointed as an unpaid adviser, and then as a departmental NED at DHSC in 2020, after a career in communications and marketing. Her appointment was not regulated, as the appointment of departmental NEDs is not currently subject to regulation. There are few public details available about how she was chosen, although government guidance suggests that NEDs should be appointed through a “fair and transparent competition”.¹²¹

Ms Coladangelo was forced to resign as a NED, alongside Matt Hancock, the minister who appointed her, after it emerged that they had been conducting an affair during lockdown. It is not clear whether the affair started before or after her appointment, but she previously worked as an unpaid adviser to Hancock in the department and was an old university friend. Ms Coladangelo did not declare any personal connection to Mr Hancock when taking on the NED role.¹²²

If departmental NED appointments were regulated, as we recommend, they would be publicly advertised, an independent element would be involved in the selection process, and there would be more consistent scrutiny of potential conflicts of interest.

Although the commissioner’s own appointment is not currently regulated, the recruitment of the current commissioner was, in practice, conducted in line with the governance code.¹²³ The appointment process for future commissioners should be regulated and designated as a significant appointment, to demonstrate transparently that the process is being properly conducted. To resolve conflict of interest concerns around the commissioner overseeing the appointment of their successor, another nominated person should provide oversight (such as the chief executive of the Civil Service Commission). Such arrangements have been made for other appointments where the commissioner has been concerned about a conflict of interest.¹²⁴

Some appointments to less prominent bodies do not need to be made by ministers

Some appointments of NEDs for smaller or less prominent bodies could be undertaken by the chairs of those bodies, rather than ministers. This happens in some cases already – chairs of bodies like the Oil and Gas Authority or Highways England are appointed by ministers and in turn appoint most of their boards themselves. It also mirrors how things work in the private sector. We heard from a chair of one such body that this system works well and allows chairs to recruit board members with complementary skills. Another chair with experience in Northern Ireland and in the NHS, where chairs have more power over their appointments, said that those systems often produced better and more diverse candidates.

The Cabinet Office should therefore look again, as part of its public bodies review programme, at whether smaller bodies need ministerial involvement in as many appointments as at present, or whether board members might be more effectively recruited by the chairs of the boards in question, who are themselves appointed by ministers. Of course, chairs should still follow an open and merit-based recruitment process when making appointments.

The fact that delegated appointments seem to be faster than ministerial ones suggests that this could help to reduce delays.¹²⁵ But these appointments could be considered not just for delegation by ministers, but for removal from the public appointments Order in Council, in which case they would cease to be regulated by the commissioner. While the other proposals made in this section would increase the commissioner's and OCPA's workload, the exclusion of some lower profile board roles from the scope of regulation could partly counterbalance this.

Recommendation 4. Ministerial appointments to departmental boards or executive agencies, as well as the commissioner's own appointment and any other appointments which are remunerated or last more than a year, should be regulated by default. The government should publish an accurate list of all unregulated ministerial appointments, setting out the reasons why they are not regulated.

5. Relationships within the system

Responsibility for appointment processes can be too diffuse

Almost any regulated appointment currently requires input from across the public sector, potentially including public body staff, sponsor and appointment teams in the relevant department, departmental ministers and SpAds, ministers, advisers and staff at No.10 and the Cabinet Office, the commissioner's office and sometimes external head-hunting companies too. Such diffusion of responsibilities means that outcomes depend on relationships as much as formal process. Not all of the many people involved in any given process will be well versed in what needs to happen, when and why.

These factors make it important for one team to clearly take the lead on each process, with sufficient buy-in from everyone else. But while some departments have a central team managing all appointments, others delegate each appointment to the sponsor team for the relevant public body. We heard that the latter departments generally experience more contraventions of the code, as sponsor teams are likely to be less familiar with it. Mistakes in compliance can also come from departmental SpAds, for whom appointments are often only a small part of their work. Riddell has described some SpAds as having "scant understanding of the code",¹²⁶ and unsurprisingly this can lead to problems.

The complex range of actors also means that the quality of their relationships, and the ability of the system to triage tasks and decisions effectively without duplicating work, is crucial. These relationships function variably in practice. While some are strong, we have seen a tendency for people across the system to blame one another for

problems. Relationships have also been strained by recent leaks regarding high-profile roles: when candidates, ministers and civil servants across the system see details of shortlisted candidates or ministerial preferences in the media, this reduces their trust in each other and makes them less willing to share information openly.

The relationship between No.10 and departments was described differently from different positions in the system. It seems clear that communication could be improved, with some departmental teams not informing No.10 and the Cabinet Office about planned appointments in a timely manner. Some interviewees reported duplicate or conflicting steers coming from No.10 and the Cabinet Office, although we are told this has now been addressed and no longer occurs. Two departments also said they did not have access to an up-to-date version of the prime minister's interest list, which sets out the appointments about which No.10 needs to be kept informed. Of course it is to be expected that ministerial interests will change, and we have also been told the interest list is circulated regularly and that any departments unclear on it could simply ask. But very frequent or poorly understood changes to No.10's interest in appointments can make it time-consuming and frustrating for departments to second guess potential input from the centre.

The involvement of public bodies themselves in the appointments process can be limited. Public bodies do not always feel sufficiently involved in specifying the selection criteria for appointees to their boards, and some public body chairs have reported frustration at not being invited to sit on assessment panels to recruit new board members. Public body staff and chairs are often the best source of information on what skills they need on their board, which potential candidates with industry-specific skills might be approached for the role and how quickly recruitment needs to happen to ensure continuity. But we heard that departments do not always make good use of this expertise.

Central appointments teams should be the default

The governance code already states that departments should have a "specific central team or unit" overseeing their appointments process so that "expertise is retained and capacity built in one place".¹²⁷

Those departments with more than, say, 30 public appointees* should not only oversee, but should manage, their appointments processes centrally. This would make accountability clearer, with one civil servant ultimately responsible for the performance of their department on appointments. It would better support ministers, with one team responsible for advising them. It would also reduce contraventions of the code: the commissioner has noted that "evidence from the compliance visits shows the benefits of well-resourced central teams".¹²⁸ These central teams should make use of sponsor teams' knowledge of the public body and sector they are recruiting for when identifying and approaching candidates, and should agree the job criteria with sponsor teams. But the central teams should administer the process themselves.

* A list of departments by number of public appointees can be found here: Cabinet Office, *Public Appointments Data Report 2020/21*, Gov.uk, 21 October 2021, www.gov.uk/government/publications/public-appointments-data-report-202021, chart 3.1

Increased use of central teams should not prevent departments from engaging early on and in detail with public bodies about their own appointments. Those running an appointments process should seek input from both public body leaders and sponsor teams from the start, attempting to fit the person specification for the role around the needs of the body and aligning their work with public bodies' own talent strategies. This should also reduce the need for external head-hunters in some cases, as bodies seeking specialist expertise in a certain sector are likely to be aware of the small number of candidates with relevant skills and experience. Where there is significant ministerial interest, an early conversation between the body's leadership and the minister to discuss the requirements for the role should be considered. In any case, chairs should write a letter to the appointing minister at the start of each appointment process setting out their view of what the criteria for the role should be, and why. Even if they also speak with the minister, this would put their views on file in case of a change in minister before the appointment process is complete.

Departments with fewer than 30 public appointees could partner with larger departments to benefit from the expertise of a central team, as well as seeking help from the chief talent officer as already described. The Cabinet Office should also create guidance templates to support compliant appointments processes across government. To further enhance consistency, SpAds with a role in their department's appointments should all be offered training sessions on the governance code, provided either by their department's central team or that of a larger department with which theirs has partnered.

The right division of labour is important

Another key way to smooth relationships between different parts of the system, as well as to avoid contraventions of the code, is to ensure sufficiently senior civil servants sit on advisory assessment panels. We have been told the current internal guidance is that civil servants sitting on panels should be at least director level. We heard that this does not always happen, but permanent secretaries should ensure that it does. A number of interviewees pointed out that more senior civil servants are likely to have more experience working with ministers and senior stakeholders in the centre of government. This means they can provide better support to ministers to help them make decisions, but also that they can stand up to ministers who might seek to stretch the rules. They are also likely to have better stakeholder management skills, and therefore to be able to uphold the code while maintaining the confidence of all involved.

As well as senior civil servants being willing to sit on panels and devote time to appointments, it would also help if the Cabinet Office issued specific guidance on how to serve as a panel chair, especially for those serving only occasionally. This should focus in particular on how they should balance the duty in the code to represent the views of ministers with the important role of the panel in making a fair judgment on the appointability of candidates.

Finally, the functioning of the system could be improved through better co-ordination of tasks between No.10 and the Cabinet Office. The Cabinet Office is responsible for cross-departmental stewardship of the system, including specific duties on talent management and managing regulation, while No.10's role is primarily to feed in political views from the centre, including the prime minister, on specific appointments – although the prime minister can ask Cabinet Office ministers to provide advice and support regarding specific appointments. But we have heard that No.10 has taken on some system stewardship functions, including tracking key appointments, while Cabinet Office ministers and SpAds have at times provided their own steers on specific decisions. This has made the job of departmental officials managing appointments more difficult as they have had to keep track of multiple, conflicting steers and requests for information.

To simplify interactions as far as possible, No.10 should limit its intervention to those appointments that are crown or prime ministerial appointments, or that appear on the prime ministerial interest list. Cabinet Office ministers should avoid giving additional political steers on individual appointments outside their department, unless requested by the prime minister to do so. By agreeing together in advance a single reply to departmental requests for input – something officials tell us now happens – they should avoid providing dual steers to departments on individual appointments. And No.10 should also avoid exerting inappropriate influence that could undermine what may otherwise be a professional process that departments have tried to run (the Ofcom chair competition cited in Box 5 being an obvious example).

Recommendation 5. Where departments have more than 30 regulated appointees, their appointments should be administered by a central appointments team.

6. The role of the commissioner

Many of the commissioner's powers are only based on convention

Since the Grimstone reforms, the commissioner's office has developed new ways of regulating the system (most notably by auditing past departmental performance), has spoken out sensitively but firmly when necessary in specific cases, and has offered useful analysis of how more systemic problems should be solved. It has been aided in this by government's willingness to respect the commissioner's views. In particular, ministers have avoided overruling the commissioner on the choice of SIPMs and have not misused some of their more controversial powers under the current code by appointing a candidate found unappointable by a panel or making exceptional appointments without a competition for political reasons.

Yet the current system is vulnerable. In particular, the governance code stipulates that SIPMs must be independent of the department and must not be politically active, but the commissioner currently only needs to be "consulted" on the choice of SIPM.¹²⁹ In practice, this currently functions as a veto power for the commissioner, but that is not explicit in the code and could be overridden by ministers.¹³⁰ Former commissioners Sir Peter Riddell and Sir David Normington have stated that they had to ward off attempts by ministers to appoint politically aligned individuals as independent panel members

during their time as commissioner,¹³¹ and there is a risk that the commissioner's advice may be ignored by ministers in future. While the right to be consulted on SIPMs means that the commissioner can express public disapproval of inappropriate SIPM appointments, they have less influence over non-SIPM panel members.

A similar risk applies to the governance code itself. It has a weak legislative basis, based on an Order in Council and – although there is no suggestion that this would happen under the current government – it could be deleted entirely without parliamentary approval. Ministers agreed to consult Riddell about changes to the code in 2016 after pressure from PACAC, and there have not been any changes to the code since. But it is important that the commissioner and their office, who are likely to be most knowledgeable on the code as well as being responsible for upholding it, have the opportunity to input on any future changes.

The commissioner should be given greater regulatory powers

Returning to the pre-Grimstone powers of the commissioner would require a radical rewiring of the appointments system, and would carry significant risks. In particular, restoring the commissioner's right to choose 'assessors' to sit on assessment panels would risk making the commissioner once again half-regulator and half-participant in the system, putting them in the awkward position of managing the system and marking their own homework. It seems preferable to retain the clarity that the commissioner is primarily a regulator of the system.¹³²

Nonetheless, it is important that the regulatory role of the commissioner is formalised, and in some respects strengthened. The Institute for Government has previously argued that the commissioner's role should appear in primary legislation through a new standards bill, which would also put the Advisory Committee on Business Appointments, the independent adviser on ministerial standards and the ministerial code itself on a statutory footing.¹³³ The bill should stipulate that the commissioner is responsible for ensuring ministers comply with the governance code, giving the code a strengthened statutory basis too. These changes would mean the code and the role of commissioner could not, even in theory, be abolished without parliamentary scrutiny. This would give the commissioner more security – something Riddell has said would be "useful to have ... as a back-up" when exercising the commissioner's powers.¹³⁴ The Committee on Standards in Public Life has also made similar recommendations.¹³⁵

There should also be parliamentary committee oversight of the text of the governance code. As well as consulting first with the commissioner and the first minister for Wales, ministers should then be required to consult PACAC on any draft changes to the code before they are implemented, allowing time for PACAC to take evidence and to consult if it so chooses.¹³⁶ The commissioner and the first minister for Wales could, of course, participate in any PACAC consultation directly. If ministers did not accept any recommendations PACAC made in light of their consultation, they should be obliged to make an oral statement in the Commons explaining why.

Box 7 Appointment of the chair of the Office for Students

The Office for Students is a non-departmental public body that regulates higher education in England, and is sponsored by the Department for Education. A competition for the role of chair was launched in August 2020, and applications closed the following month.¹³⁷ In December 2020, Lord Wharton, a former Conservative MP and campaign manager for Boris Johnson's 2019 leadership bid, was announced as the government's preferred candidate. The five-person assessment panel included one former Conservative MP, another former councillor for the party, a peer holding the party whip and Nick Timothy, former chief of staff to Theresa May. Riddell later described the panel as "basically loaded" and said the "process wasn't as independent as I think it should have been",¹³⁸ while the Labour Party called the move "another example of cronyism".¹³⁹

Such panels may be less likely in future if, as we recommend, the commissioner must be consulted on the composition of entire assessment panels for significant appointments, and is given a veto over SIPMs who do not meet the independence requirements of the governance code.

The CSPL and Riddell have noted a number of other areas where the commissioner should have more powers.¹⁴⁰ These include a duty for SIPMs to report to the commissioner about the conduct of significant competitions, allowing the commissioner to monitor competitions in real time rather than relying on audit or complaints, and a right to be consulted on the make-up of entire assessment panels – and not just SIPMs – for significant appointments. The latter power was specifically proposed by Riddell after he observed "attempts to stretch the code by, for example, packing the composition of interview panels with allies", particularly in the case of the Office for Students, which had "a panel of five where there is no one with senior recent experience of higher education or a student involved" (see Box 7).¹⁴¹

We see no reason why these changes should not be adopted, as they strengthen the commissioner's ability to enforce the code without taking significant powers away from ministers. In addition, the commissioner should be given veto powers over the appointment of SIPMs who violate the current stipulation in the code that they must be "independent of the department and of the body concerned and should not be currently politically active",¹⁴² to ensure the current norm that no SIPM be appointed without the commissioner's approval endures.

Finally, we have heard that the limited time commitment of the commissioner can cause problems. If the commissioner is not working on a certain day of the week, that can mean decisions are slowed down, causing delays. This has at times been solved by the commissioner working above their expected hours (two days a week), but that

is not sustainable. The commissioner does not need to be a full-time position, but the government should consider increasing the time commitment when the role is next advertised, or hiring additional staff for the commissioner's office.

Recommendation 6. The role of the commissioner and the existence of the governance code should appear in primary legislation. Ministers should consult PACAC on any proposed changes to the governance code, allowing time for PACAC to take evidence and consult. If ministers do not adopt any recommendations then made by PACAC, they should make an oral statement in the Commons explaining why.

Conclusion

The persistent presence of controversial public appointments in the headlines is corrosive for the public appointments system as a whole and overshadows the better practice that is seen in more routine appointments. The current intense public focus on standards in public life presents a political opportunity for a well-considered package of reforms.

The new prime minister should prioritise restoring public trust in the public appointments system by acknowledging that things have not always worked as they should and quickly making those improvements that do not require a formal change in the governance code. Our headline recommendations on delays, attracting the best people and relationships within the system could all be implemented by the Cabinet Office and other departments without a change in the code. These reforms would go a long way towards professionalising the more chaotic and inefficient elements of the public appointments process, achieving greater transparency and standardisation across the system, increasing trust between all parties and therefore reducing some of the frictions.

With the benefit of several years' experience, it is also time for government to review the 2016 governance code. Our headline recommendations on merit and politics, the scope of regulation and the role of the commissioner all require changes to the code and should be prioritised during this review.

The table in Annex A itemises our more detailed recommendations in full. Cumulatively, they would make a significant difference to the smooth operation and public credibility of the appointments system without fundamentally shifting the balance of power between ministers, officials, public bodies and appointees.

Having made the changes recommended in this report, government should then operate the system for a three- to five-year period and see what happens. If our recommendations are implemented in full, and in particular if the greater transparency we propose is embraced as an incentive to improve underlying performance, this should be enough to increase trust. But the litmus test of success will be whether the future leaders of public bodies are appointed more promptly and enjoy greater public confidence than at present.

Further reforms could prove necessary, either because confidence does not improve or because delays continue to fall outside the government's own targets, for example. In that case, the greater transparency that will have been built into the system will enable those reforms to be developed in a more targeted way than is possible while underlying causes of problems are less clear and can be seen differently by different people.

More radical options might involve reverting to the pre-Grimstone system in some respects, or learning from the alternative systems that already exist – and appear to work well – in the devolved administrations. We know that the more limited role for ministerial choice in the Scottish system, for instance, will not be palatable to Westminster’s politicians. But if the current difficulties persist then a wider debate about the appropriate balance between merit and politics in public appointments may become unavoidable. That fact should strengthen the resolve of those who would like to retain something close to the current system through a process of incremental reform.

Annex A: Recommendations in full

Our recommendations are grouped according to the category of problem they address, and then ordered in terms of potential impact.

1. Delays

Issue	Recommendation	Rationale	Why not go further?
Slowness of appointment processes	1.1: The Cabinet Office should ensure its digitisation programme delivers a cross-government tracking system to manage the process of public appointments, which would allow all parts of government to keep track of individual appointments and pinpoint any delays.	Some areas of government are not aware of when or why things are running late. A system like this would ensure transparency of progress internally to government and could raise clear flags when there are delays. It would also enable those with a whole-system view to identify where delays are happening.	N/A
Too many ministerial touchpoints	1.2: The governance code should explicitly state that ministers can set the selection criteria, select the panel (subject to current rules), put forward candidates to be considered at the outset and make final decisions – but neither they nor their advisers should intervene in shortlisting or appointability decisions.	Ministerial interventions are one of the main causes of delays, so they should only be possible at certain points in the process.	To ensure political acceptability of appointees, ministers should still set selection criteria and make the final choice.

Issue	Recommendation	Rationale	Why not go further?
Slowness of appointment processes	1.3: There should be a public website, based on the tracking system above, listing the start and end date of appointments. It should display the progress of individual appointment processes through key stages, flagging when they are running late. The site should also provide aggregate data that can be assessed against performance targets.	This would allow the public, parliament and the commissioner to hold departments (and their ministers) to account for poor performance and specific late-running appointments. It should also encourage more candidates to apply as they would know in advance when roles will be available.	Releasing more granular data on performance may run the risk of overloading departments or running into data protection issues.
Processes starting too late	1.4: The Cabinet Office should issue guidance that departments should advertise appointments up to 18 months before the intended start of the term.	Many appointments take a long time, resulting in gaps between permanent post-holders. This guidance would encourage civil servants to move through the initial stages required before advertising well in advance.	Advertising further ahead would raise the risk that candidates are put off applying for a job that starts too far into the future.
Difficulty finding time in ministerial diaries for appointments decisions	1.5: Secretaries of state should fully delegate less prominent appointments to their junior ministers.	Junior ministers will have more contact with smaller public bodies on a day-to-day basis, and can provide a ministerial steer for less prominent appointments without waiting for guidance from their secretary of state.	Secretaries of state will still want to make decisions on the most important roles in their department.

Issue	Recommendation	Rationale	Why not go further?
Gaps between permanent appointments	1.6: The Cabinet Office should issue guidance that new chairs should be appointed a few weeks – or for large and complex organisations, months – before their predecessors finish, so that they can shadow the current chair.	This would allow for a proper handover without institutional memory or strategic direction being lost. It should also make it less likely that delays result in temporary appointments.	Co-appointees with different start dates for significant roles would avoid gaps more reliably, but would also undermine executive decision making where co-appointees disagree.
Slowness of appointment processes	1.7: Once data collection is up and running, a department confirming less than 75% of their appointments within three months of advertisement should trigger a potential select committee hearing with a representative from the department.	This would encourage buy-in from permanent secretaries and directors general, and drive performance improvement in departments.	Some leeway is appropriate for when things go wrong – departments cannot be expected to appoint within three months every time.
Slowness of appointment processes	1.8: The dates for sifting and interviews should be agreed with panel members before a competition is launched.	This would ensure appointments are not held up by scheduling difficulties, making the appointment faster and smoother for applicants.	N/A

Issue	Recommendation	Rationale	Why not go further?
<p>Lack of achievable target</p>	<p>1.9: The government’s three-month aim should be adjusted to conclude when the offer of an appointment is made or, where there is a pre-appointment hearing, when the government’s preferred candidate is decided (rather than when the appointee is publicly announced). Government should then treat this as a target that it expects to meet, rather than as an aim that may not be achieved.</p>	<p>The timing of an announcement is not always under the control of those making appointments, and a delay at the announcement stage does not always impair candidate care or succession planning. If government wants to meet the revised target, it should commit to it.</p>	<p>If the target time period was lengthened, this could remove a helpful impetus to reduce delays in the system.</p>

2. Merit and politics

Issue	Recommendation	Rationale	Why not go further?
<p>Constitutional watchdogs not seen to be fully independent of ministers</p>	<p>2.1: Appointments to roles that scrutinise the actions of politicians and the government, as determined by the Liaison Committee, should be made public appointments and should be subject to a veto from the relevant House of Commons select committee.</p>	<p>These roles provide checks and balances on the government, and so require some independence. A greater parliamentary role is the most democratically legitimate way of achieving this.</p>	<p>Greater select committee powers than those proposed would effectively shift the decision to parliament, rather than enabling parliament to provide a check on a ministerially led process. This would be disproportionately onerous.</p>
<p>Potential appointment of candidates deemed unappointable by an assessment panel</p>	<p>2.2: The provision in the governance code that enables ministers to appoint candidates judged unappointable should be removed.</p>	<p>This provision has not yet been used, but it causes concern that the principle of an independent assessment of appointability could be overruled, and it would be difficult to navigate in practice.</p>	<p>N/A</p>

Issue	Recommendation	Rationale	Why not go further?
Constitutional watchdogs not seen as fully independent of ministers	2.3: Candidates for appointment to constitutional watchdog roles should meet the criteria for not being 'politically active' set out in the governance code. Ministers should seek to appoint impartial figures to these and other high-profile regulatory or standards roles.	Greater assurance would be provided regarding the political independence of candidates.	A tighter definition of political activity could be adopted in the governance code, but we do not propose that because the current definition, which appears in the SIPM criteria, has proved broadly fit for purpose.
Constitutional watchdogs must be independent of government	2.4: Assessment panels for constitutional watchdogs should have a majority of fully independent members.	This would be a further check to ensure that government appoints people to key roles who are sufficiently impartial to fulfil their duties appropriately.	An exclusively independent panel may undermine ministers' confidence that their perspectives are understood by the panel.
Rerunning of processes to promote certain candidates	2.5: If government reruns a competition for the same role, it should publicly justify why it has done so, and in particular it should publicly explain the need for any changes to the selection criteria.	Rerunning a process should not be a way to enable someone judged unappointable to try again. This change would make it more difficult to rerun a process in order to bypass the original appointability decision.	Reruns should not be prevented completely, as sometimes they can be a useful way of recruiting a better candidate when the initial field is poor.

Issue	Recommendation	Rationale	Why not go further?
Pre-appointment select committee hearings may not occur in all cases where parliament desires them	2.6: The Liaison Committee should be able to update the list of which roles are subject to pre-appointment hearings.	Pre-appointment hearings are an important part of the scrutiny process, but the list of roles subject to them has not been updated since January 2019. Select committee chairs who comprise the Liaison Committee should be able to decide which appointments they think are important and worth scrutinising.	Allowing committees to hold hearings with any candidate they choose without warning risks introducing an additional delay and uncertainty into the process.
Select committees do not control their use of time on pre-appointment hearings	2.7: Select committees should be able to cancel individual pre-appointment hearings, but this should not be taken by government as a renunciation of their right to hold hearings with future appointees to the same role.	Select committees should be able to cancel hearings when they feel they are not needed, as only they should be able to decide how they use their time.	N/A
The bar for appointability of candidates can sometimes be set too low	2.8: Panels should be willing and encouraged to set a high bar for appointability, recognising that this is their only concrete control over the process.	Ministers should have a choice of candidates where more than one is appointable, but panels should not compromise on appointability in order to please ministers.	An alternative test to appointability, for instance requiring appointment of the 'most able', as in Scotland, would reduce ministerial choice.

Issue	Recommendation	Rationale	Why not go further?
Late-stage elimination of candidates based on political acceptability	2.9: Any social media vetting should be relevant and proportionate, should take place before interviews and should be discussed at interviews. Civil servants should not be expected to vet candidates' social media profiles for political content.	We have heard about candidates being ruled out of roles at the end of the process due to perceived political bias, particularly on social media. This results in failed processes at the last minute, delaying appointments and putting off potential applicants.	It would be difficult to stop ministers' advisers from engaging in social media vetting altogether, but it should be built into the system further in advance.
Exclusion of candidates due to political views	2.10: Candidates should not be required to sign up to general political statements as a condition of appointment.	Candidates should be recruited on merit for their judgment and expertise. Pre-agreed statements of political position could fetter that inappropriately once they are in post.	N/A
Select committees not given enough time for scrutiny	2.11: Appointment processes should be started early enough for successful candidates to be announced – and to have completed a select committee hearing where applicable – in time for an appropriate handover with their predecessors.	Select committees need sufficient time to prepare pre-appointment hearings and avoid appointments appearing as a fait accompli.	Beginning early enough to rerun a process before appointment would result in most candidates being appointed too early.

3. Attracting the best people

Issue	Recommendation	Rationale	Why not go further?
<p>Lack of some types of diversity and skills among public appointees</p>	<p>3.1: A government chief talent officer should be appointed within the Cabinet Office, with a remit to strengthen cross-government talent development and outreach, maintain lists of strong candidates and encourage applications, support commissioning of head-hunters where necessary, and share best practice across departments.</p>	<p>A chief talent officer could seek out the best candidates to attract to public service in a strategic way, keeping lists of those who should be considered for roles and providing leadership to departments on outreach, candidate care and use of head-hunting services.</p>	<p>This solution is preferable to simply removing the limits on the use of external head-hunters as it would allow government to develop more cost-effective internal expertise.</p>
<p>Lack of some types of diversity among public appointees</p>	<p>3.2: Having analysed current practice, the Cabinet Office should issue guidance on remuneration and expenses for public appointees (and on expenses for interviewees).</p>	<p>Inappropriately low pay may put off candidates in early or mid-career, or those who lack independent means. Excessive pay does not achieve value for the public sector.</p>	<p>A blanket pay structure or pay rise for public appointees would not be appropriate due to the range of jobs covered by the public appointments process.</p>

Issue	Recommendation	Rationale	Why not go further?
Single term candidates can struggle to become effective quickly	3.3: The Cabinet Office should consider whether certain expert bodies should have longer (and in some cases non-renewable) board terms, as part of their public bodies review programme.	Specialist bodies, especially those with executive boards, need experienced members. Short three-year terms, when reappointments are less common, mean bodies lack the required experience on their boards.	If original appointment decisions are for ministers, reappointments should be too. It would therefore be wrong to put limits on ministers' choice whether or not to reappoint public appointees.
Poor candidate care	3.4: The Cabinet Office should release guidance giving a maximum time between check-ins with candidates, and encouraging better liaison with applicants throughout the process.	Candidates have reported becoming disengaged with the process or accepting other jobs because they have not been contacted for long periods, or have been contacted only in a cursory way.	Further prescription could be disproportionate as case-by-case judgment is required.
Terms of appointment put candidates off	3.5: The Cabinet Office should issue more detailed guidance on how job requirements and personal liability should be communicated to candidates, and on the provision of indemnity insurance.	Candidates report being put off by the conditions of appointment in some roles, which are not formalised and may leave them personally open to legal challenges. The Cabinet Office should address these barriers to entry.	N/A

Issue	Recommendation	Rationale	Why not go further?
Poor candidate care	3.6: The Cabinet Office should create a tool to allow departments to track candidate satisfaction, perhaps including a survey at the end of the appointment process.	This would allow the Cabinet Office to assess departmental performance on customer care, and to hold those performing poorly to account.	N/A
Lack of some types of diversity among public appointees	3.7: Ministers and their advisers should not rely solely on personal networks to promote diversity, but should take an open-minded approach to candidates they may not otherwise have considered.	Tapping up a small pool of known candidates is not inclusive, even if it increases recruitment of those with protected characteristics.	The political aspect of appointments means that the use of personal networks cannot be eliminated.
Poor candidate care	3.8: Government should have a duty to inform rejected candidates for reappointment why they were rejected.	Board members who are passed over for reappointment, especially when their chairs judge their performance positively, may see this as an undeserved blot on their CV. The potential for this may put off prospective applicants for such roles.	If original appointment decisions are for ministers, reappointments should be too. It would therefore be wrong to put limits on ministers' choice of whether or not to reappoint public appointees.
Disabled and geographical accessibility of public appointments	3.9: The Cabinet Office should issue guidance on how public body boards should make good use of remote working.	Better use of remote working can open opportunities up to applicants from across the country, and make it easier for disabled people to join boards.	In-person boards may be more appropriate for some types of board activity.

Issue	Recommendation	Rationale	Why not go further?
Inappropriate designation of some roles as public appointments	3.10: The Cabinet Office’s public bodies review process should consider whether some public appointments would be more appropriate as full-time executive roles.	Some board positions requiring full-time work would be more suitable to conventional recruitment and employment terms rather than being treated as public appointments.	N/A
Candidates may expect to be reappointed for subsequent terms	3.11: Job adverts should make clear to candidates that, for ministerial appointments, single terms are the norm.	Clarifying the expectations of candidates around reappointment should help avoid any perception that candidates who are not reappointed have performed poorly.	It would be wrong to put limits on ministers’ choice of whether or not to reappoint public appointees.
Select committee scrutiny puts candidates off, and can be misdirected	3.12: Select committees should focus their questions on candidates’ strengths and weaknesses in pre-appointment hearings, rather than on the appointment process itself.	Candidates can be put off from making applications by hearings focused on things which are not in candidates’ control. If committees want to hold ministers or civil servants to account, they should call them as witnesses instead.	N/A

4. The scope of regulation

Issue	Recommendation	Rationale	Why not go further?
Executive agency appointments are unregulated	4.1: Ministerial appointments to executive agencies should be regulated.	Good governance around ministerial appointments matters, regardless of how a public body is classified by the Cabinet Office.	N/A
Growth in number and significance of unregulated appointments	4.2: Departments should regularly publish a list of all their non-regulated ministerial or crown appointments along with the reasons why they are not regulated. Regulation should be expected where a role is remunerated or lasts more than a year. If a temporary role continues to be required beyond one year, there should be a clear expectation that a regulated appointment process should have been held and, in cases where it has not, a further disclosure should be made explaining why.	Unregulated appointments are justifiable in some cases (for instance for unremunerated, temporary appointments), but the lack of transparency as to how many there are and why they are not regulated undermines trust.	It is right that some short-term appointments are not regulated, especially when appointments need to happen quickly.
Departmental NED appointments are unregulated	4.3: The government should follow through on its intention to regulate departmental NED appointments under the governance code.	Departmental NEDs are important. Their reputation is undermined if they are recruited without due process and transparency.	N/A

Issue	Recommendation	Rationale	Why not go further?
<p>The Commissioner for Public Appointments' own role is unregulated</p>	<p>4.4: The commissioner's role should be regulated under the governance code and should be designated as a significant appointment.</p>	<p>Recruitment for the current commissioner adhered to the governance code, although it was not required to. This expectation should be formalised and enhanced given the importance of the role. (Separately, we also propose designating the commissioner as a constitutional watchdog, which would involve additional protections.)</p>	<p>N/A</p>
<p>Chairs may be better placed than ministers to make decisions on some appointments</p>	<p>4.5: The Cabinet Office public bodies review programme should consider whether some lower profile board positions could be appointed by the chair of the board, rather than ministers. These roles could potentially be excluded from the scope of the public appointments process.</p>	<p>Non-chair appointments to boards where there is less ministerial interest can cause disproportionate administrative burden as well as unnecessary delay in appointments, particularly as ministers may be slow to turn their attention to these decisions.</p>	<p>The intention is to streamline operations where appointments matter less to ministers, not to reduce ministers' influence.</p>

5. Relationships within the system

Issue	Recommendation	Rationale	Why not go further?
<p>Inconsistent knowledge about appointments among sponsor team civil servants</p>	<p>5.1: Appointments in departments with more than 30 public appointees should be managed by central teams in each department, with input from sponsor teams on body-specific issues. The Cabinet Office should create templates to standardise processes elsewhere.</p>	<p>Central appointments teams develop specialist knowledge, leading to fewer contraventions of the governance code. They are also better able to manage relationships with No.10 and the Cabinet Office in a co-ordinated way.</p>	<p>A cross-government appointments process entirely managed by the Cabinet Office would be too unwieldy.</p>
<p>Lack of knowledge among special advisers of the appointments process</p>	<p>5.2: SpAds working on appointments in each department should receive training on how the system works and on the governance code.</p>	<p>SpAds who don't fully understand how public appointments work can create problems for civil servants running the system, and can even contravene the code. More training could help.</p>	<p>SpAds are entitled to input into the appointments process when acting on behalf of ministers in accordance with the code.</p>
<p>Public bodies are not sufficiently consulted on appointments</p>	<p>5.3: Public body chairs should send a letter to ministers outlining their proposed role criteria at the start of each process, and meet with ministers who take a significant interest to discuss the requirements of the role.</p>	<p>Public bodies, particularly their chairs, know what sort of experience they need on their boards, and should be proactively engaged in the job specification and search processes.</p>	<p>Ministers should retain control of the job criteria for roles they appoint.</p>

Issue	Recommendation	Rationale	Why not go further?
Replication of effort (and delays) in parts of the process	5.4: The Cabinet Office and No.10 should give a combined steer to departments, based on a clear delineation of their roles. No.10 should provide political input and the Cabinet Office should give guidance on regulation and talent, unless No.10 explicitly delegates its input to Cabinet Office ministers.	The Cabinet Office and No.10 should not be doing the same job of feeding in central views on individual appointments. Their steers should be combined so that departments receive a clear statement of their views, and there is no duplication of work.	N/A
Lack of clarity about which appointments are politically sensitive	5.5: No.10 should ensure it issues regular updates to its interest list to clarify the appointments it wants to be involved in, and should avoid getting involved ad hoc where possible. Departments that are unsure should ask	Some departments report not knowing which appointments are or are not of interest to No.10.	N/A
Lack of clarity about the role of civil servants on panels	5.6: The Cabinet Office should issue specific guidance for civil servants on how to be an effective panel member or panel chair.	Some panel members only serve occasionally, and might be helped by more information on how to represent ministers and make merit-based judgments in the role.	N/A
Poor stakeholder management by civil servants on panels	5.7: Permanent secretaries should ensure their directors prioritise serving on assessment panels, as per current Cabinet Office guidance.	Senior officials leading on appointments would be better at managing No.10 and standing up to ministers where needed.	N/A

6. The role of the commissioner

Issue	Recommendation	Rationale	Why not go further?
<p>Weak position of the governance code</p>	<p>6.1: Ministers should be required to consult PACAC in advance on any proposed changes to the governance code, allowing time for PACAC to take evidence and to consult. If ministers do not adopt any recommendations made by PACAC, they should make an oral statement in the Commons explaining why.</p>	<p>The governance code sets out the standards ministers and their departments should be held to – there should be checks against ministers’ discretion to water it down. Parliament should have a role in scrutinising any government plans to change the public appointments process before they take effect.</p>	<p>Ministers should remain accountable for the governance code, given their overall responsibility for public appointments. Parliament lacks the time or expertise to oversee the code directly.</p>
<p>Weak position of the governance code</p>	<p>6.2: The role of the commissioner and the existence of the governance code on public appointments should be laid out in primary legislation.</p>	<p>It should not be possible for ministers to abolish the commissioner’s role or the governance code.</p>	<p>Putting the full governance code in primary legislation would make it unduly difficult to change.</p>

Issue	Recommendation	Rationale	Why not go further?
<p>Politically aligned senior independent panel members (SIPMs)</p>	<p>6.3: The commissioner should have a veto over the appointment of SIPMs who do not meet the limits the code places on political activity and independence from the department.</p>	<p>SIPMs are intended to introduce an independent check on appointments decisions. This is undermined when figures with clear party links, for instance, are appointed to these positions. The commissioner’s current right to be consulted on SIPMs does substantially achieve this objective already, but this reform would add clarity to what already happens in practice.</p>	<p>The commissioner could be put in charge of appointing SIPMs, but this would muddy the distinction between the commissioner as regulator and departments as administrators of the system.</p>
<p>Panels lacking appropriate skills and experience</p>	<p>6.4: The commissioner should be consulted on the composition of entire assessment panels for all significant appointments.</p>	<p>There have been cases where panels have not had an appropriate range of skills or experience – this would ensure that they do.</p>	<p>It is not the commissioner’s role to appoint panellists and it would require too much time for them to sign off on panels for every appointment.</p>
<p>Commissioner under-informed about conduct of recruitment processes</p>	<p>6.5: SIPMs should have a specific duty to report to the commissioner, as some already do informally, about the conduct of significant competitions.</p>	<p>The commissioner does not always have sight of situations in which they might want to intervene in a competition. SIPMs having more formal reporting duties to the commissioner would provide an additional check.</p>	<p>N/A</p>

Issue	Recommendation	Rationale	Why not go further?
Commissioner's responsibilities can exceed the time available	6.6: The government should review the resourcing of the commissioner's office, including the time commitment of the commissioner's own role.	The commissioner only works two days a week – this can result in delays while departments wait for input. A greater time commitment and/or more staff may speed things up.	A full-time role would not seem necessary at present and may seem less independent.

Annex B: Constitutional watchdogs

In the 'Merit and politics' section of this report, we argued that a select group of public appointments to important roles, part of whose purpose is to scrutinise the behaviour of politicians and the government, require special protections. These 'constitutional watchdogs' should be designated as significant public appointments and be filled by candidates who are not politically active. Their appointments should also be subject to a veto, if the relevant select committee in the House of Commons does not think the government's preferred candidate is suitable for a role. The full list of constitutional watchdogs should be decided by the House of Commons Liaison Committee, but our initial suggestions are below:

- Commissioner for Public Appointments
- First Civil Service Commissioner
- Chair of the Advisory Committee on Business Appointments
- Chair of the Committee on Standards in Public Life
- Independent Adviser on Ministerial Interests
- Registrar of Consultant Lobbyists
- Chair of the Office for Budget Responsibility
- Chair of the Equality and Human Rights Commission
- Chair of House of Lords Appointments Committee
- Chair of the UK Statistics Authority
- Chair of the Judicial Appointments Commission
- Chair of the Committee on Climate Change
- Parliamentary and Health Service Ombudsman.

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Acknowledgements

This report has relied heavily on those across the public appointments system who discussed their experiences with us and provided feedback on our ideas. We cannot name them, but we are very grateful. We also appreciate the input we have received from colleagues at the Institute for Government over recent months. Many thanks to everyone who gave up their time.

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The Institute for Government is a registered charity in England and Wales (No.1123926) with cross-party governance. Our main funder is the Gatsby Charitable Foundation, one of the Sainsbury Family Charitable Trusts.