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Public Administration and Constitutional Affairs Committee

Better Public Appointments?: The Grimstone Review on Public Appointments

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Report, together with formal minutes relating to the report

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Public Administration and Constitutional Affairs

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The current staff of the Committee are: Dr Rebecca Davies (Clerk), Ms Rhiannon Hollis (Clerk), James Harrison (Second Clerk), Dr Adam Evans (Committee Specialist), Dr Henry Midgley (Committee Specialist), Ms Penny McLean (Committee Specialist), Rebecca Usden (Committee Specialist), Ana Ferreira (Senior Committee Assistant), Iwona Hankin (Committee Assistant), and Mr Alex Paterson (Media Officer).

Contacts

All correspondence should be addressed to the Clerk of the Public Administration and Constitutional Affairs Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 3268, the Committee’s email address is pacac@parliament.uk.
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Better Public Appointments?: The Grimstone Review on Public Appointments

Summary

In the United Kingdom there are hundreds of public bodies which have a role in the processes of national Government, but are neither Government departments, nor part of Government departments, which operate to a greater or lesser extent at an arm’s length from Ministers. These non-departmental public bodies (NPDBs) are of varying size and include bodies like art galleries, inspectorates, regulators, advisory committees. During the 1990s, there was widespread public concern that appointments were being made to public bodies for political reasons and without due process. Lord Nolan reviewed the system in 1995 and decided that a Commissioner for Public Appointments should be appointed, to establish a Code of Practice for public appointments and regulate the system according to that Code. The Code has been reformed a number of times, including recently by Sir David Normington in an effort to reduce bureaucracy.

In 2015, the Government established a review of the public appointments process, led by Sir Gerry Grimstone. Sir Gerry’s review reported in the spring of 2016, recommending that a number of changes be made to the system. Sir Gerry recommended that there should be a renewed focus on ethnic, gender and social diversity. Sir Gerry also recommended changes to the role of the Commissioner, removing many of his or her formal powers within the public appointments process (for example removing the power to appoint independent assessors to an interview panel). Sir Gerry recommended that these checks and balances be replaced by the appointments process being made more transparent, with the Commissioner being transformed into a commentator on the Government’s probity in following this process.

We have received evidence of widespread disquiet about Sir Gerry’s proposals. Although the Government has adopted them, it should think again. The Commissioner’s powers should be restored in order to safeguard public trust and confidence in the system. Furthermore the Government should clarify the role of pre-appointment hearings, including implementing the recommendations made by the Liaison Committee in 2011, and considering how scrutiny could be further improved in the future. Effective scrutiny both within the Government (through the Commissioner for Public Appointments) and in Parliament is vital to ensure that public trust and confidence in public appointments remains high and also that appointments are truly being made on merit.
1 From Nolan to Grimstone: the public appointments process since 1995

The Nolan report

1. Since 1995 public appointments in the UK have been regulated according to principles drawn up by Lord Nolan and the Committee on Standards in Public Life. The Committee was set up in 1994 by a Prime Ministerial announcement. Lord Nolan and the Committee on Standards in Public Life was asked by the then Prime Minister, Sir John Major, to:

   Examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities and make recommendations as to any changes in present arrangements which might be required to ensure the highest standards of propriety in public life.

A principal area of examination for the Committee in its first report (the Nolan report) was the question of appointments to Quangos (Quasi Autonomous Non-governmental bodies).

2. Prior to the Nolan report, each Government department had been responsible for making its own appointments to Non-Departmental Public Bodies (NDPB) and NHS bodies. As the Nolan report acknowledged, the “role of the central departments - the Treasury and the Office of Public Service and Science (OPSS) in the Cabinet Office - is limited to issuing guidance and maintaining a list of potential candidates.” The Public Appointments Unit (PAU) in the OPSS also produced a ‘Guide to Public Appointments Procedures’, which included “mandatory requirements for advising Ministers; advice on maintaining candidate lists/databases, advertising, executive search consultants and interviewing; examples of good practice; and sources of additional information.” While Government departments were recommended to consult the PAU when making appointments, they were not required to do so and, at the time of the Nolan report, the majority of departments maintained their own lists of appointments and some produced their own guidance.

3. The Nolan report noted that a number of concerns had been raised about the existing public appointments process, particularly about the lack of openness and transparency as to how candidates were recruited and appointments made, and regarding the propriety of the appointments process, and noted that:

   There is much public concern about appointments to Quango Boards and widespread belief that these are not always made on merit.

Although it found no strong evidence to support perceptions of bias, the report noted concerns expressed by some about the lack of a clear system of checks and balances:

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1 For more background on the Committee for Standards in Public Life see L. Maer, Committee on Standards in Public Life, House of Commons Library Briefing Papers, May 2015.
If decisions [about appointments] are not made on a personal and party basis - or even on caprice and whim - it is [according to some critics] largely because of the good sense of those in office, rather than because the system prevents such abuses. We share some of this concern, particularly about the absence of independent checks and balances, not least because suspicions of bias remain nearly impossible to prove or disprove. The resulting uncertainty does not provide solid ground on which to build public confidence in the system.7

In evidence to PACAC, Sir David Normington, who was at the time of the Nolan report a civil servant, told us that these concerns had merit. He told us that the pre-Nolan system had other disadvantages, including decreasing the diversity of appointments:

I was a civil servant in the 1990s, before 1995, when there was no regulation and I do remember it. It was a very informal time. People's names popped rather surprisingly out of hats. People got together and said, “Do you know anybody who could have this role?” I don't exaggerate. Sometimes there was selection panels and sometimes there was not but it was a wholly informal system and—this is really important—[the people] who we saw appointed, some of them very good, were mainly white men of a certain age from a certain background.

4. In addition, the Nolan report argued that “the main weakness” in the public appointments regime was “the absence of effective external scrutiny” with “no mechanism for the regular review of the work of individual departments and no means of identifying failures of system or practice.” The Nolan report stated that the perception of bias in appointments was “quite widespread” and that appointments “came from a narrow circle of business people”.8 This view is borne out by contemporary debates in Parliament: in the House of Lords, for example, Lord Morris of Castle Morris singled out the Welsh Office for criticism:

The Welsh Office has appointed a total of 1,261 people to those bodies; and, not surprisingly, 82 per cent of those appointed were male. Even when a token woman is occasionally appointed it often gives rise to the suspicion that it is another party political appointment, as when a constituency secretary to a Welsh Office Minister was appointed to the board of the South Glamorgan Health Authority, and, after protests in Parliament led by Welsh Labour Members, felt obliged to tender her resignation. The remark attributed in the press recently to the noble Baroness, Lady Denton, to the effect that she had never knowingly appointed a Labour supporter to any of the jobs under her wing would cause very little surprise in the hills and valleys of Wales.9

5. While the Nolan report concluded that Ministers should remain accountable for public appointments, it did recommend a set of checks and balances on this exercise of Ministerial power:

- All public appointments should be governed by the overriding principle of appointment on merit;

• Selection on merit should take account of the need to appoint boards which include a balance of skills and backgrounds. The basis on which members are appointed and how they are expected to fulfil their role should be explicit. The range of skills and background which are sought should be clearly specified;

• All appointments to executive NDPBs or NHS bodies should be made after advice from a panel or committee which includes an independent element;

• Each panel or committee should have at least one independent member and independent members should normally account for at least a third of membership;

• A new independent Commissioner for Public Appointments should be appointed, who may be one of the Civil Service Commissioners;

• The Public Appointments Commissioner should monitor, regulate and approve departmental appointments procedures;

• The Public Appointments Commissioner should publish an annual report on the operation of the public appointments system;

• The Public Appointments Unit should be taken out of the Cabinet Office and placed under the control of the Public Appointments Commissioner;

• All Secretaries of State should report annually on the public appointments made by their departments;

• Candidates for appointments should be required to declare any significant political activity (including office-holding, public speaking and candidature for election) which they have undertaken in the last five years;

• The Public Appointments Commissioner should draw up a code of practice for public appointments procedures. Reasons for departures from the code on grounds of ‘proportionality’ should be documented and capable of review.10

In addition, the Public Appointments process would operate under the Seven Principles for Public Life proposed by the Nolan report:

Box 1: The Seven Principles of Public Life

(1) Selflessness: Holders of public office should act solely in terms of the public interest.

(2) Integrity: Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

(3) Objectivity: Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

(4) Accountability: Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

(5) Openness: Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

(6) Honesty: Holders of public office should be truthful.

(7) Leadership: Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.


6. The Nolan principles remain as important today as they were when they were first announced in 1995. There was a consensus amongst the witnesses to our Inquiry, including both advocates and critics of the Grimstone report, in favour of these principles. It is absolutely clear that public trust depends upon the retention of the Nolan Principles in full. Any reform of the public appointments process must build upon, and strengthen, these principles if it is to command the public’s confidence and support.

The Commissioner for Public Appointments

7. The Government took forward the Nolan recommendations for Public Appointments through the Public Appointments Order in Council 1995, establishing the post of a Commissioner for Public Appointments. The current powers and remit of the Commissioner for Public Appointments can be found in the Public Appointments Order in Council 2015. The Commissioner’s responsibilities include:

- Publishing a Code of Practice that sets out the principles and core processes for merit-based selection;

- Monitoring compliance with the Code of Practice by regularly auditing the appointments processes within his remit;

11 The Public Appointments Order in Council 2015, August 2015.
• Requiring Public Appointment Assessors to chair the panels appointing Chairs of public bodies and senior statutory officeholders;

• Investigating complaints about the appointment processes for posts within his remit;

• Producing an annual report which provides detailed information about appointments processes, complaints made and issues that have arisen over the last 12 months;

• Promoting “economy, effectiveness and diversity and equality of opportunity” in the procedures for making public appointments, “with the object of maintaining the principle of selection on merit in relation to public appointments.”

8. The types of appointments that fall within the remit of the Commissioner for Public Appointments include:

• Executive non-departmental public bodies;

• Advisory non-departmental public bodies;

• Certain health bodies (not Foundation Trusts);

• Public Corporations;

• Public Broadcasting Authorities;

• Certain Utility Regulators;

• Non-Ministerial Departments;

• National Park Authorities in England and Wales; and

• Conservation Boards for Areas of Outstanding Natural Beauty.

In addition, the Commissioner may, at the request of a Minister of the Crown, carry out such additional functions relating to appointments (whether public or otherwise) as may be agreed between the Minister and the Commissioner. However, the Commissioner is not responsible for making appointments himself. Rather he provides information about the availability of public appointments and deals with the procedures for responding to queries relating to appointments that fall outside his remit, for example civil service or judicial appointments. The running of the appointments process is the responsibility of the relevant Government department.

**Sir David Normington’s tenure as Commissioner for Public Appointments**

9. Since the post and office of the Commissioner was established in 1995, there have been four Commissioners for Public Appointments. Between 2011 and April 2016, Sir David Normington held the role alongside the post of First Civil Service Commissioner.

10. During Sir David’s tenure, he made a number of changes to the role of Commissioner and to the appointments process. These changes included:

• A revised and significantly shorter Code of Practice;

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12 The Public Appointments Order in Council 2015, August 2015.
• New high quality Public Appointments Assessors to chair the most important competitions;

• New responsibilities for Head of Departments and Agencies to ensure compliance with the code;

• A new audit contract and methodology to monitor Departments’ performance;

• A recommendation that the Government establish a Centre for Public Appointments to spread good practice in government, issue guidance and offer leadership.\(^\text{13}\)

The Government agreed with Sir David’s reforms. It established a Centre for Public Appointments, which now sits within the Cabinet Office. The Centre says that it “provides leadership and guidance to departments both to improve the quality of the appointments process and also to widen the pool of candidates applying for vacancies”. It has responsibility for promoting public appointments, improving diversity, developing policy and supporting talent.\(^\text{14}\)

11. Whilst Sir David’s reforms have had an impact, in his evidence to the Grimstone review, he said that they had had less impact than he had initially hoped. Sir David said:

It has, however, been a slow process getting Departments to use their new discretions. Few put real effort into attracting a more diverse field preferring to depend on conventional advertising or headhunters. The selection process is often left in the hands of sponsor teams, which have no experience of recruitment and/or with junior officials whose responsibility for appointments is one of many. Some Departments have found it convenient to stick to the prescription of the previous Code as a comfort blanket; some have continued to use their previous list of assessors as independent members, rather than using the requirement to engage an independent member to bring wider perspective and challenge to the Department. This has also coincided with a period of retrenchment in the resources available in Departments for public appointments. A number of central units in Departments, which had real expertise in public appointments and which I had hoped would drive the change, have been abolished.\(^\text{15}\)

Sir David said that he was preparing a new code for public appointments, when the Grimstone review was announced, which would have helped deal with some of these issues.

12. Sir Gerry Grimstone said that Sir David had done a “tremendous job within the experience of his background”.\(^\text{16}\) The Rt Hon Matthew Hancock MP, Minister for the Cabinet Office and Paymaster General, also paid tribute to Sir David’s work, saying that “Sir David reduced some of the bureaucracy around the system and that was commendable and it made progress but the system remains much too bureaucratic and unclear.”\(^\text{17}\)


\(^\text{14}\) Centre for Public Appointments, *About Appointments*.


\(^\text{16}\) Q63

\(^\text{17}\) Q110
13. Sir Gerry Grimstone and the Minister rightly commended Sir David Normington for his work as Commissioner for Public Appointments. Sir David’s work has made the system of appointments much more efficient than it was in the past while retaining its independence and conformity with the Nolan principles. Sir David’s approach has been widely endorsed and his 2012 reforms have simplified the system. The Government and Sir Gerry Grimstone have judged prematurely that these reforms will necessarily fail, before Departments have fully implemented them.

The Code of Practice

14. One of the Commissioner’s main responsibilities is to publish the Code of Practice that sets out the regulatory framework for public appointments that fall under the Commissioner’s remit. As the Commissioner for Public Appointments’ website explains, “the Code is based on three core principles - merit, openness and fairness - and sets out the essential requirements for meeting those principles.”18 The most recent Code of Practice (prepared by Sir David) was published in 2012.19 As the Public Administration Select Committee reported in 2011, this (then draft) code simplified the process of public appointments, made clear what procedures (such as an interview panel) were essential and sought to make the entire process more efficient.20 The Government, in its response to Sir David’s suggested new code, welcomed “the draft Code which focuses on the key principles and elements of process and practice which government departments should adhere to when making public appointments.”21

The role of Ministers in the Public Appointments Process

15. As emphasized by the Nolan report in 1995,22 Ministers are ultimately responsible for public appointments and under the existing appointments system are involved at every key stage of the appointment process, including making the final choice from the list of appointable candidates that they are presented with by the Interview Panel.23 The Panel must include an independent member, a senior official (charged with communicating the Minister’s views to the Panel) and a Chair (either appointed by the Minister or an assessor from the Public Appointment’s Commission). The Panel prepares a report covering all the individuals interviewed, Ministers are entitled to meet with all the appointable individuals and they can be informed of all stages of the appointment process. Ministers currently should be:

- Consulted before a post is advertised and agree the role specification, selection process, composition of the selection panel, selection criteria and publicity strategy. At the same time, Ministers should be asked for the names of any potential applicants to be invited to apply.
- Consulted about the use of executive search agencies. Where external firms are used, officials must ensure that the headhunters are aware of Ministers’ views at all

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19 The Commissioner for Public Appointments, Code of Practice for Ministerial Appointments to Public Bodies, 1 April 2012.
stages of the process. A meeting between the Minister and the headhunters should be encouraged before the search begins and the headhunters should be present when the Minister meets the Chair of the panel.

- Provided with the opportunity to meet with the Chair of the panel at the start of the competition. The Chair of the panel must ensure that the panel fully understands the Minister’s expectations about the role and the type of person they are seeking. The Chair of the Panel must keep the Minister informed at all stages of the process.

- Provided, before the competition closes, with a report on the strength and diversity of the field so that the Minister can decide whether they wish to ask the panel to extend the deadline for applications. Officials should keep the Minister’s office informed and build some flexibility into the timetable to allow for this.

- Provided with a copy of the list of applicants, and the long list and short list of applicants. Ministers’ views should be sought at all stages about the expertise, experience and skills of the candidates. Longlisting is an important stage of the process and Ministers should be advised if the Panel plans to move straight to shortlisting. The views of the Minister should be recorded in writing and provided to all members of the panel. Ministers cannot add or remove a candidate from a long or short list, but their views on candidates’ experience and suitability for the role should be reflected at these stages of the process. They can ask selection panels to review their lists in light of their comments.

- Informed in good time if the panel decides not to interview a potential candidate they have recommended. The panel must give the reasons for the decision not to interview and decisions should not be communicated to candidates until the Minister has responded.

- Given a choice of appointable candidates at the end of the process. The panel’s role is to decide whether candidates are appointable and they should not rank candidates. The panel should report to Ministers on the strengths and weaknesses of all individuals.

- Given the option to meet with the appointable candidates. In this circumstance, the Minister must meet all the appointable candidates and be accompanied by the Chair of the interview panel or their nominee. Officials should also provide Ministers with the composition of the existing Board to inform their decision. One of the important considerations will be the diversity of the Board.

Finally, at the conclusion of the process, the Minister may choose not to appoint any of the appointable candidates and re-run the competition.24

16. There is a broad consensus in favour of Ministers being ultimately responsible for public appointments. The Nolan report, for example, emphasized that Ministers are ultimately responsible for making public appointments25 and the Committee on Standards in Public Life has considered this principle on two occasions since the Nolan principles were introduced. In 2005, the Committee said that Ministers should be involved in appointments as they were “the legitimate embodiment of ministerial responsibility and

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24 Centre for Public Appointments, *Public Appointments: Guidance to Departments*, March 2015, pp.3–4
accountability and the requirement to make excellent merit-based appointments.” In its 2005 report, the Committee reaffirmed its support for the public appointments system as created in 1995, making recommendations to simplify the process and give more confidence to the public.

17. In 2011, the Committee returned to the issue and said:

The ultimate responsibility for public appointments remains with Ministers. It is important that the regulatory framework assists them in ensuring that appointments are based on merit, that they are transparent and that there is an independent element involved.

The most recent Commissioner for Public Appointments, Sir David Normington, is also strongly in favour of Ministers continuing to play a key role in the appointments process. According to Sir David:

It is essential for the health of the democratic process and the effective conduct of Government that Ministers make the final decision on who is to sit on the boards of these bodies and it is inevitable and desirable that they should choose people who are willing to work within the policy framework of the Government of the day.

18. Flexibility for Ministers in the existing public appointments process is provided by a number of specific exemptions where Departments have the ability to appoint without following the Code in every respect. As Sir David Normington has explained, “the Commissioner also has an overriding power to grant exemptions where it is justified by the public interest. These are usually used where there is an urgent business need or an unexpected resignation or illness.” The Minister cited, as an example of an exceptional appointment, the appointment of an interim chair of the Environment Agency after the resignation of Sir Phillip Dilley in January 2016.

19. The Commissioner can and has used his powers of exception to make appointments, at the request of Ministers, without a competition where there is an overriding public interest in filling a role quickly, or where there is an outstanding candidate with unique skills and knowledge. According to Sir David:

Provided this is used sparingly and there is complete transparency about why the appointment is being made without a competition, I do not see why it

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31 Q160
could not be used in more cases. It might help to meet Ministers’ concerns that sometimes a competition is unnecessary when everyone agrees that there is a highly suitable candidate.32

20. Appointments to public office are rightly ministerial appointments and Ministers must retain the ability to have the final say on appointments. However, it is equally imperative that Ministers make public appointments in a properly regulated environment, with a strong Commissioner for Public Appointments equipped with the powers required to maintain the Nolan principles and public confidence in the appointments process. This is compatible with the ability of Ministers to appoint candidates who they are confident will be able to work within the framework of present Government policy, and as Sir David’s comments show, that can be achieved within the present system.

2 The Grimstone Review of the Public Appointments Process

21. On 23 March 2015, the Government announced, in a written statement to the House of Commons by the then Minister for the Cabinet Office and Paymaster General, the Rt Hon Francis Maude MP, that Sir Gerry Grimstone had been asked to lead a review into the Office of the Commissioner for Public Appointments. This review would be “the first review of the Office’s status and role since the role of the Commissioner for Public Appointments was created”, with the purpose of establishing “the continuing need for the Office, and to examine its scope and responsibilities.” In particular, the review would “consider the Office’s role in regulating the process by which Ministers make appointments to the boards of certain public bodies and certain statutory offices”.

22. Few outside commentators reacted to the announcement of the Grimstone review. Press comment was mainly factual at the time. Charles Moore, writing in April 2016, justified the review and criticised Sir David, saying:

What we have instead of “the days of political and personal patronage”, which Sir David dislikes, is the heyday of Civil Service patronage, which he has helped dispense. Whitehall controls the process, the people who manage it and the people those people recommend for appointment.

Mr Moore named cases such as the appointments of Andrew Roberts and William Shawcross in which he argued the public appointments process had been used to exclude people or attempt to exclude people on the basis of their political opinions.

23. The review was given the following terms of reference:

The role of the Commissioner for Public Appointments was created by the Public Appointments Order in Council 1995 on 23 November 1995, following recommendations made by the Committee on Standards in Public Life (under the chairmanship of Lord Nolan). We are now twenty years on, and this provides a suitable opportunity to review the role of the Commissioner and the processes around public appointments. In the light of the range and diversity of public appointments, it is important to ensure that the procedures are both effective and proportionate. The review will be led by Sir Gerry Grimstone and will report to the Minister for the Cabinet Office.

It was initially intended that the review would report by the summer of 2015. However in a written statement by the current Minister for the Cabinet Office, Matthew Hancock, on 2 July 2015, it was announced that the review would report “later this year”. The review, Better Public Appointments: a Review of the Public Appointments Process was eventually published on 11 March 2016. Mr. Hancock told the Committee that:

It [the report] was not delayed. There was a deliberation. We were listening to Sir Gerry and then there was a deliberation in Government about the publication of the Government response; whether that should be done at same time or [whether Government should] publish one and then the other.38

24. Sir Gerry Grimstone was appointed to carry out the review by the Cabinet Office without a competition. He said that he had been appointed because of his previous involvement with the triennial review of the Civil Service Commission and his experience of being a non-executive director at the Ministry of Defence.39 Sir Gerry did not receive a payment for the work he undertook.40 During the course of his review Sir Gerry interviewed “over 100 stakeholders as part of this work, Ministers, ex-Ministers, candidates, civil servants, academics and head-hunters”.41 He did not take evidence in public or from stakeholders in civil society.

The Grimstone review: diagnosis and remedies

Diagnosis: problems with the current public appointments system

25. The Grimstone report argues that the system of public appointments in the UK has been a “major success” and in particular commends the “pragmatic and sensible” recommendations made by Lord Nolan. The report says that the Commissioner for Public Appointments and the Nolan reforms in general have been successful in “raising both the perceptions and reality of standards of public life in the UK”.42 In oral evidence, Sir Gerry Grimstone acknowledged that Sir David Normington had done a “tremendous job”.43

26. Nevertheless, Sir Gerry Grimstone contends that successive Commissioners have made the appointments process more elaborate, bureaucratic and complex. For example, they have increased the number of processes “covering ministerial responsibility, merit, independent scrutiny, equal opportunities, probity, openness and transparency, and proportionality”. Sir Gerry also says that the Commissioner exerts increasing control and influence over the Public Appointment Assessors on selection panels (these assessors are now appointed, and have their duties allocated, by the Commissioner for Public Appointments).44 In oral evidence, Sir Gerry contended that “I found huge frustration with the present system from virtually everybody that I spoke to.”45 In his report, Sir Gerry says that in his survey of 28 public appointees, 42% said the process from advert to appointment had taken over three months.46

27. Sir Gerry Grimstone’s report acknowledges that Sir David Normington used the “opportunity presented” by his dual role as Commissioner for Public Appointments and First Civil Service Commissioner to “bring public appointments processes more into line with the principles-based approach that the Civil Service Commission operates”.47

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38 Q150
39 Q104
40 Q105
41 Q63
43 Q63
45 Q63
However, it also criticises the list of appointments that fall within the Commissioner’s remit, suggesting that all public bodies should be included instead of just those on a specified list. The report notes that “some confusion remains in the system about who is responsible for what and what rules or guidance should be followed”. It also identifies a desire among Chairs of Boards for greater influence in the appointment of board members.\(^{48}\)

28. One particular line of criticism directed by Grimstone at the public appointments process is the length of time that some appointments take. According to Sir Gerry, “present processes can generate a huge amount of frustration among candidates”.\(^{49}\) Referring to a survey he conducted of 28 public appointees, Sir Gerry highlighted that only 42% of respondents said that the process from advert to decision took three months or less. The biggest delay, according to this survey, seemed to be between the panel interview and the result: 37% of the surveyed appointees heard within a month, 33% within 2 months, 11% within 3 months and a small number of appointments took much longer to hear back. Such delays, in his view, “are both inefficient and can deter good, busy people from applying”. According to the Grimstone report, delays are often not explained, meaning that candidates can be “left in the dark about what is happening for months after being interviewed”\(^{50}\)

29. On the subject of diversity, the Grimstone report found that, while progress had been made in increasing gender diversity in the appointments process, this was less the case when it came to Black, Asian and Minority Ethnic (BAME) and disabled appointees. According to Sir Gerry, “more needs to be done across all areas of diversity, including for example, occupational background and geographical diversity” and noted that many of the people he had spoken to “were concerned that we don’t seem to be able to attract a sufficiently wide range of people to apply to be considered for public appointments”. According to Sir Gerry, relying on “people sufficiently knowledgeable or motivated enough to read the Cabinet Office newsletter or look at the Cabinet Office website is clearly in itself not sufficient”. He therefore suggested that “much more active processes are needed to reach out to people and to publicise vacancies across, for example, private sector corporate talent programmes, talent management programmes, relevant specialist networks and associated social media”\(^{51}\)

30. Sir Gerry recognised that some progress had been made in some areas of diversity. He said in his report that:

Public appointees should be representative of our society and, in at least one respect, tremendous progress has been made on this in recent years. Through a sustained campaign overseen by ministers, the proportion of women being appointed to public body boards has risen to 45% in 2014–2015, an increase of over 10% in three years. There has also been strong progress with women being appointed as chairs.\(^{52}\)

However he added that more progress needed to be made, especially with regard to ethnic minority and disabled candidates.

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31. Many of Sir Gerry’s criticisms had been anticipated elsewhere. The Public Administration Select Committee (PASC) in 2014 heard “complaints about delays and difficulties in finding suitable people, and inadequate pay”. The Committee also found that there was “no apparent consistency to which appointments are or are not regulated, as no explanation was given in Cabinet Office written evidence in response to our direct question on this” and also criticised the lack of diversity in appointments. PASC concluded in 2014 that “public appointments are not sufficiently transparent, representative, or accountable.” In its response, the then Government said that it was working to make appointments more representative and diverse, and argued that processes were already transparent.

32. The public appointments system has been criticised recently from other directions. Charles Moore, writing in *The Spectator*, made allegations that in some cases, under the present system, perfectly good candidates are being rejected because of political concerns: in his articles he refers to the case of an appointee at the Natural History Museum who allegedly was turned down because of his views on global warming. We have also received evidence that Ministers and assessors have disagreed recently about the competence of candidates for appointment at the National Portrait Gallery (see the separate section below).

### Conflicts of Interest

33. PACAC has also noted the recent reports of the Women and Equalities Committee and the Joint Committee on Human Rights on the appointment of the Chair of the Equalities and Human Rights Commission. Both reports expressed concerns about the transparency of the appointments process for that appointment. In their report, the Woman and Equalities Committee have expressed the hope that:

> The Government will learn lessons from this appointment, particularly in relation to the processes followed by the selection panel, which Sir David Normington told us did not specifically address the issue of Mr Isaac’s role as a senior partner in Pinsent Masons. The Liaison Committee and Cabinet Office guidelines on pre-appointment hearings do not cover the release of panel documents, even in part, which limited our ability to scrutinise the quality of the panel’s decision and we recommend that this guidance be reviewed. The independent candidate selection process lacked transparency and appeared not to pay full attention to the written guidance

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55 Public Administration Select Committee *Who’s accountable? Relationships between Government and arm’s-length bodies*, HC 110, November 2014, p.27.
57 Charles Moore *The Spectator Notes*; The Spectator, April 2016.
Following the publication of this report, Peter Riddell, the new Commissioner for Public Appointments, wrote to the Chairs of the Woman and Equalities Committee and Joint Committee on Human Rights. He said that he had reminded assessors “of the need to ensure that potential or perceived conflicts of interest are fully considered by the [interview] panel”. He also recommended that “whatever emerges from the current review of the public appointments process, I believe that potential conflicts of interest needs to be addressed more explicitly by interview panels”.

34. The current public appointments regime has been in place, with some important modifications, since 1995. While former Commissioners, including Sir David Normington, have played an important role in seeking to ensure an effective and reliable system of public appointments, the current regime is not without fault. There have been frequent complaints of delays and an overly bureaucratic appointments process, directed at Government departments as well as the Office of the Commissioner for Public Appointments.

35. We note the concerns raised by the Women and Equalities Committee and the Joint Committee on Human Rights about the recent appointment of the Equalities and Human Rights Commission. The Women and Equalities Committee stated that “there wasn’t clear accountability for decision making at each step of the independent selection process” and the Joint Committee on Human Rights said that they hoped the Government had learnt lessons about the appointment process from the experience. 59

36. The new Commissioner for Public Appointments, Rt Hon Peter Riddell, should continue to remind appointment boards of the need to consider conflicts of interest more explicitly. The Government and the Commissioner should ensure that any reformed appointment process includes a consideration of potential conflicts of interest and the mitigation thereof.

Proposed remedies: proposals for reform of the Public Appointments Process

37. The Grimstone review report contains 41 recommendations for reform of the public appointments process. Grimstone claims they “build very much on the valuable work” done by Sir David Normington and the Nolan principles, described by Sir Gerry as the “cornerstone of our public appointments process”. 60 However, as the Grimstone report notes, “having a set of principles is one thing, applying them in practice is another”. His recommendations are aimed at balancing Ministerial responsibility for public appointments and the need for public confidence in an “efficient, transparent and fair” appointments process that is “not unduly cumbersome”. 61 Grimstone’s recommendations cover the public appointments process more generally as well as the balance of responsibilities between key stakeholders such as the appointing Minister and the Commissioner for Public Appointments.

38. With regard to the broader public appointments process, Grimstone recommends that a “set of principles should govern the making of public appointments” and that these

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59 Women and Equalities Committee, Appointment of the Equalities and Human Rights Chair, May 2016 p.12, Joint Committee on Human Rights, Appointment of the Equalities and Human Rights Chair, May 2016, p.12.
principles “should be based on an updated version of Lord Nolan’s original Principles and Recommendations”. He recommends that the new Public Appointments Principles should be as follows:

**Box 2: Grimstone’s proposed Public Appointments Principles**

(a) Ministerial Responsibility - The ultimate responsibility for appointments and thus the selection of those appointed rests with ministers who are accountable to the public for their decisions and actions;

(b) Selflessness - Ministers when making appointments should act solely in terms of the public interest.

(c) Integrity - Ministers when making appointments must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

(d) Merit - All public appointments should be governed by the overriding principle of appointment on merit and the need to appoint boards which include a balance of skills and backgrounds. When giving advice on merit to ministers, Advisory Assessment Panels must contain an independent element.

(e) Openness - Processes for making public appointments should be open and transparent.

(f) Diversity - Public appointments should reflect the diversity of the society in which we live. Ministers should have this front of mind when making appointments including when agreeing the composition of their Advisory Assessment Panels.

(g) Transparency - There should be established assurance processes with sufficient checks and balances importantly including an independent regulator to maintain public confidence in the public appointment process.


Grimstone recommends that these Public Appointments Principles “and the key associated public interest requirements” for public appointments should be detailed in an Order in Council “backed up by a concise Governance Code, agreed by ministers, containing the recommendations of this review”.

39. At present the Commissioner for Public Appointments regulates a listed number of public appointments. Grimstone concludes that the effort spent listing these appointments within the Public Appointments Order in Council is not “well-directed” and proposes instead that all public appointments should be made in accordance with the Principles listed above. However, Grimstone also recommends that the process followed in making appointments “should be proportional to the significance of the appointment”:

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All appointments are important but some are more significant than others because of the size of the body concerned, the importance and sensitivity of the role, or because the post carries with it regulatory responsibilities. The Minister for the Cabinet Office in consultation with the Commissioner for Public Appointments should agree with ministers which appointments within their responsibilities should be deemed as significant and therefore require enhanced handling.\textsuperscript{64}

In addition, Grimstone notes that there will be “exceptional occasions when ministers may decide that a full appointments process is not appropriate or necessary”.\textsuperscript{65} In those instances, he recommends that “there should always be an independent scrutiny before the appointment is announced, perhaps by the lead non-executive board member of the relevant department, to ensure that the process has been conducted with integrity”. As a further safeguard, Grimstone proposes that all such appointments should be notified to the Commissioner for Public Appointments “who will no doubt intervene if there has been a flagrant breach of process”.\textsuperscript{66} While these proposals mirror the existing capacity of the Commissioner to waive the full appointments process in certain instances (see paragraph 15), these recommendations take the power to override away from the Commissioner and place it in the hands of Ministers.

40. Other recommendations made by Grimstone include providing the Chairs of Boards to which a candidate is being appointed with a voice in their appointment, the replacement of Commissioner-appointed independent Assessors with Department-appointed Advisory Assessment panels, and giving Ministers the power to appoint individuals that a panel has not deemed appointable, with a requirement to justify this decision to Parliament.

41. Grimstone also recommended some significant changes to the role and power of the Commissioner for Public Appointments. The Commissioner should not, in Grimstone’s view, play a role in the recruitment process but rather assure Parliament and the public that the process is carried out in accordance with the Public Appointments Principles. Currently the Commissioner certifies independent Public Appointments Assessors who chair interview panels and certify that the appointment has been made according to the public appointments process. These posts will disappear if Sir Gerry’s recommendations are adopted.

42. The Commissioner’s role would become much more of a monitoring one under Grimstone’s proposals. For example, Grimstone recommends that the Commissioner should report and intervene in any process which appears to contravene the Principles and should be able to conduct spot checks and receive complaints to support this. Additionally the independent member of the panel should be able to contact the Commissioner should they feel there was a breach. In exceptional circumstances when a Minister appoints without the full process, Grimstone envisages that the Commissioner for Public Appointments would publicly intervene.\textsuperscript{67}

43. Grimstone also recommends that Permanent Secretaries should supply the Commissioner with an annual statement summarising appointments made during the year and certifying they had followed the Principles. These annual statements would

be a summary of the statements that each Permanent Secretary would sign after every appointment process was concluded. The Commissioner would be entitled to see statements confirming that each individual appointment process had been conducted according to the rules. Furthermore, the Commissioner should publish annual reports about public appointments which include data about appointments and applicants and commission thematic reviews of appointments. The Commissioner should be an advocate for diversity.

44. **Whilst there are legitimate criticisms of Sir Gerry’s proposed new appointments process, the Grimstone report’s emphasis on diversity is to be welcomed. It is vital that appointees to important positions reflect the social diversity of the United Kingdom. The Grimstone report correctly identifies full and proper representation of gender, social, geographic, ethnic minority, occupational and disabled diversity as being important for the public sector.**

45. **The Government has successfully increased the number of appointments of women in the last few years. The Government should continue to strive to improve gender diversity. The Cabinet Office should continue similar work to improve ethnic minority and disabled diversity, including creating a target for each group so that Parliament can measure success in this area. The Commissioner should immediately implement Sir Gerry’s suggestion that diversity becomes one of the principles of public appointment, to demonstrate publicly the Government’s commitment in this area.**
3. Responses to the Grimstone Review

The Government’s response to the Grimstone Review

46. The Government “warmly” welcomed the Grimstone report on its publication, with the current Minister for the Cabinet Office and Paymaster General, Matthew Hancock, describing the report’s recommendations as strengthening the existing public appointments processes and “building on work undertaken by Sir David Normington during his 5-year tenure”.68

47. Mr Hancock went on to announce that the Government would implement the Grimstone recommendations as follows:

- Ministers should continue to make public appointments on merit. The Order in Council will be refreshed to take account of Sir Gerry’s recommendations. We want to consider views and bring forward changes in a new governance code. This will set out the new Public Appointment Principles and provide detail on the process by which appointments should be made.

- All public appointments, with a limited number of exceptions, will be in the scope of this new remit. We have subsequently heard from Peter Riddell that there is ‘uncertainty at present over the Order in Council, notably on the number of appointments covered by the code.’69

- The Government agrees that ministers should be assisted by advisory assessment panels containing a strong element independent of the body being appointed to. Mr Hancock told us that the role of the independent member would be strengthened by the transparency offered under Grimstone.70

- Political activity should not affect any judgment of merit nor should it be any bar to appointment or being a member of a panel. The Government agrees that there should be transparency over significant political activity.

- As now, at the start of the recruitment process, Ministers will agree the job description for the role, the length of tenure and remuneration. Ministers must also agree the composition of the advisory assessment panel and how they will be actively informed of the progress at every stage throughout the competition. The same applies to decisions on reappointments.

- The Government agrees with Sir Gerry that as well as keeping the Minister updated on progress at every stage, the panel must be made familiar with the Minister’s requirements and views in writing or in person at every stage including after the long and short lists are determined. The official on the panel will also represent the Minister’s views. Before interviews are conducted Ministers should feel free to put names forward to the advisory assessment panel for interview. The presumption should be that these candidates are interviewed.71

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69 Letter from Rt Hon Peter Riddell, Commissioner for Public Appointments, to Bernard Jenkin MP, Chair, PACAC, 27 June 2016.
70 Q200
Mr Hancock also stated that the Government agreed with Grimstone’s “strong emphasis on the value that board chairs can bring to the process of developing role profiles and criteria for appointments”, his recommendation “that Ministers should notify the Commissioner of their intention to appoint without competition, with their reasons, ahead of announcing any such appointment”, the emphasis “that Sir Gerry places on more diverse assessment techniques” and that “there are some appointments that attract more scrutiny due to the sensitivities of the roles.” On this latter point, Mr Hancock said that determining what roles count as significant would be decided by ministers following consultation between the Minister for the Cabinet Office and the Commissioner for Public Appointments. However, as a starting point, “the Government will regard all appointments subject to pre-appointment hearings by select committees and all chairs of public bodies as ‘significant.’”

48. Roles currently subject to pre-appointment hearings by select committees are listed in Annex One to this report.

The wider response to the Grimstone review

49. While warmly welcomed by the Government, the Grimstone review’s recommendations have been the subject of a wide array of criticism and concern from different stakeholders, including the Committee on Standards in Public Life and the outgoing Commissioner for Public Appointments, Sir David Normington.

Sir David Normington’s criticisms of the Grimstone proposals

50. One of the most prominent critics of the Grimstone proposals has been the most recent Commissioner for Public Appointments, Sir David Normington. In an article for The Independent, on 18 March, Sir David outlined four particular criticisms of the Grimstone review. He criticised Grimstone’s view of the role of the Commissioner:

Currently, the Commissioner provides public assurance that those who are appointed to public bodies are up to the job. It is not clear from the Grimstone report how much of this will continue. Indeed the report appears to remove most of the Commissioner’s powers.

Secondly he suggested that the Commissioner, not the Government, should set the rules for appointments:

At present, the Commissioner is responsible for producing a Code setting the standards against which Departmental practice is monitored. The Grimstone model would transfer this rule-setting power to Government. Monitoring in future would be done largely by Departments themselves, not through independent audit.

73 Sir David Normington, Public appointments are finally made on talent, not connections, but we must fight to keep it that way, The Independent, 18 March 2016.
74 Sir David Normington, Public appointments are finally made on talent, not connections, but we must fight to keep it that way, The Independent, 18 March 2016.
Thirdly he argued that Departments should not be able to select their own selection panels:

Selection panels are the key to assessing the suitability of candidates against the job description. Nolan was clear that panels should contain an independent element, to increase objectivity and public credibility. Under the Grimstone proposals, panels are wholly appointed by Ministers; the Commissioner’s power to choose independent panel chairs for highly-sensitive appointments is removed. Panels would also be expected to give automatic interviews to individuals suggested by Ministers, irrespective of whether they match the criteria for the role.\textsuperscript{75}

Lastly, Sir David drew attention to the new powers of Ministerial override:

In a democratic system Ministers must be able to make the final decision on whom to appoint\textsuperscript{76} The problem with the Grimstone report is that it goes much further. Not only can Ministers ignore the advice of the panel, they can also decide to dispense with a competition altogether and appoint who they like. The Commissioner is taken right out of the equation.\textsuperscript{77}

51. Sir David elaborated on these criticisms in his written and oral evidence to PACAC. He stated that at “one level” the Grimstone report is “quite a reassuring report… [with] lots in it about a robust regulatory framework and appointment on merit”.\textsuperscript{78} For example, on the report’s factual findings, Sir David has noted that the report “draws heavily” on his own analysis of poor practice in appointments and “correctly identifies delays in making appointments and the lack of black and minority ethnic diversity as key areas needing improvement.” Sir David commented that the report contains “sensible proposals for increasing the dedicated resources in Departments devoted to public appointments and for setting a three-month deadline for the completion of appointments, against which Departmental performance can be monitored”.\textsuperscript{79}

52. However, while Sir David conceded that the Grimstone review “identifies some problems” and contains good intentions about robust regulation and appointment on merit, he took the view that these good intentions are not carried through into the report’s recommendations.\textsuperscript{80} Sir David argued that the Grimstone review “dismantles the current system [of public appointments], it transfers all the key decisions to Ministers and it weakens the role of the Public Appointments Commissioner”.\textsuperscript{81}

53. The Grimstone report makes Departments individually more responsible for appointments than they were in the past. In 1995, the Nolan Report concluded that “actual practice [in making appointments] varied widely” between departments.\textsuperscript{82} Nolan recommended a more consistent legal framework and a public appointments code in order to mitigate this risk.\textsuperscript{83}

\textsuperscript{75} Sir David Normington, \textit{Public appointments are finally made on talent, not connections, but we must fight to keep it that way}, The Independent, 18 March 2016.
\textsuperscript{76} Sir David Normington, \textit{Public appointments are finally made on talent, not connections, but we must fight to keep it that way}, The Independent, 18 March 2016.
\textsuperscript{77} Q3
\textsuperscript{78} HAG02 (Sir David Normington).
\textsuperscript{79} Q3
\textsuperscript{80} Q3
\textsuperscript{81} Standards in Public Life \textit{First Report of the Committee on Standards in Public Life}, May 1995, p.69.
\textsuperscript{82} Standards in Public Life \textit{First Report of the Committee on Standards in Public Life}, May 1995, pp.6, 78.
54. On the subject of delays in the appointments process, one of the main criticisms of the existing processes levelled by the Grimstone report, Sir David contends that the existing procedures and processes are not to blame. The current Code of Practice, for example, is only nine pages long and, according to Sir David, “it says that processes need to be proportionate”. Sir David identifies Departments and Departmental officials and Ministers themselves as “significant” causes of delay. Furthermore, while Sir David has welcomed the three month deadline for public appointments as “sensible”, he claims that he does “not see anything in the rest of it [Grimstone] that will speed up the process”.

55. Sir David’s evidence strongly suggests that Grimstone would result in an appointments process where Ministers become more powerful at the expense of the Commissioner for Public Appointments’ ability to ensure fairness and transparency. According to Sir David, “in the report every time there is a choice about whether to give a role to the Commissioner or a power to the Minister, the report comes down on the side of the Minister.” Citing the Code of Practice as an example, Sir David noted that the Nolan report was “very clear that the Commissioner should write the code of practice because that sets the basic rules”. According to the Grimstone review, this power would be transferred to Ministers.

56. Another example of the shift in power from the Commissioner to Ministers, cited by Sir David Normington, can be found in the proposal to abolish the existing system of independent assessors appointed by the Commissioner, in favour of independent chairs appointed by Departments. Sir David commented that his experience of tussles “over who the independent member should be” in the current appointments regime, including attempts “to put relatives of Ministers [ … ] political donors, office holders, and so on [onto appointment boards as independent members]” is what has made him “worried about how much the new system depends on the independent panel member”. Peter Riddell, the current Public Appointments Commissioner, has also expressed concerns to this committee: he said that he is concerned ‘specifically about people who are politically active fulfilling the role of independent panel members or senior independent panel members’, particularly given the fact that they will now be the sole independent voice on the panel. Mr Riddell explained this, saying that ‘I do not believe that the man or woman in the street would consider someone to be properly independent if they had links to the public body concerned, the appointing department or the governing party.’

57. Sir David’s evidence to the Committee suggested that the cumulative impact of Grimstone’s recommendations would be the relegation of the Commissioner to a “sort of commentator and bystander”, the “undermining” of the principles set out in the Nolan report and the risk that the public appointments process will “edge us back to 1995 and before” with declining public confidence and more controversial public appointments.

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83 Q12
84 Q10, 11, 12, and 14
85 Sir David Normington (BAG02); Q15
86 Q17
87 Q17
88 Q20, 23
89 Letter from Rt Hon Peter Riddell, Commissioner for Public Appointments, to Bernard Jenkin MP, Chair, PACAC, 27 June 2016.
90 Q5, 20, 21, 31
The Committee for Standards in Public Life’s response to the Grimstone review

58. On the day of the Grimstone report’s publication, the Committee on Standards in Public Life (CSPL) issued a statement welcoming Grimstone’s attempts to “improve the transparency of the public appointments process”, while expressing unease “about the cumulative effect of the other changes suggested”. In particular it warned:

The Committee fears that the changes will remove some of the independent checks and balances of the public appointments process and may have the unintended effect of offering limited protection for Ministers who wish to demonstrate they have appointed on merit alone.

The concerns were outlined in greater detail in CSPL’s written evidence. They agreed that Ministerial responsibility must remain, but argued that:

In all cases, there needs to be sufficient visible, independent scrutiny to safeguard the propriety of the process and provide public assurance that appointments are not made on the basis of personal or political patronage. There is a clear risk that the practical application of Sir Gerry’s proposals when taken together may dilute the checks and balances of the system, particularly when considered alongside the proposed reduction of the role and powers of the CPA.

59. The CSPL said in its initial response to Grimstone that it was concerned “about the potential cumulative effect of the individual recommendations”. As they explained later:

A system where the regulator has reduced powers and in which Ministers: set the rules by drawing up the Governance Code; decide whether or not to run an appointment process without referral to the CPA; determine the membership of appointment panels, including the independent member; include on such panels an official acting as the Minister’s representative; and may interview and appoint a name marked ‘below the line’ by the panel, could all add up to a public perception of a system which was being operated under increased political patronage. It could also run counter to the intentions to increase transparency and diversity.

60. While the CSPL endorses Sir Gerry’s call for principles-based regulation, they also argue that “principles do need to be supplemented with guidance and adequate training to be effective in practice. Consistency of treatment of applicants across departments is essential if the appointments process is not to be open to unnecessary challenges which could bring the system into disrepute.”

91 Committee on Standards in Public Life, Grimstone report on public appointments - Committee’s response, 11 March 2016.
92 Committee on Standards in Public Life, Grimstone report on public appointments - Committee’s response, 11 March 2016.
93 BAG05 (Committee on Standards in Public Life).
94 Committee on Standards in Public Life, Grimstone report on public appointments - Committee’s response, 11 March 2016.
95 BAG05 (Committee on Standards in Public Life).
96 BAG05 (Committee on Standards in Public Life).
Other responses to the Grimstone review

61. The Grimstone review has also been criticised by a range of other commentators. These include politicians, academics, professionals and private individuals with experience of Government appointments.

62. There was a consensus amongst many of those submitting evidence to our inquiry that the Grimstone review undermined the process of public appointments. The Better Government Initiative said that the report:

Would in practice lead to a decisive shift away from appointments being made on the grounds of merit rather than as a result of personal and political connections with appointing ministers.97

Professor Matthew Flinders and Dr Alexandra Meakin agreed:

Some of Sir Gerry’s recommendations risk undoing much of the work completed over the last twenty years to restore public trust in ministerial appointments,… giving the impression- correct or incorrect- that ministers are policing their own appointments.98

Saxton Bampfylde, a recruitment company, told us that the measures:

Would tend to undermine what has been achieved by the Nolan guidelines, do not provide adequate safeguards against Ministerial patronage and create significant risks.99

63. The Official Opposition have echoed these concerns. Anna Turley MP, speaking for the Opposition, told the Commons on 18 April that the Labour Party feared that:

Dismantling the powers of the independent Commissioner for Public Appointments will open the door to political cronies being gifted public service jobs either as a reward for donations or to create an army of political enforcers in the public sector’.100

These comments have been echoed by Tom Watson, Deputy Leader of the Labour Party.101

64. Written evidence echoed the concerns of Sir David Normington about particular measures proposed by Grimstone. These included concerns about:

• Ministers setting the public appointments code;102

• The abolition of the public appointments assessors, a ‘retrograde step’ in the opinion of Professor Flinders and the choice of independent panel members by Ministers;103

• The involvement of senior civil servants as chairs of panels;104

97 BAG07 (Better Government Initiative).
98 BAG06 (Professor Matthew Flinders and Alexandra Meakin).
99 BAG03 (Saxton Bampfylde).
100 HC Deb, 18 April 2016, col 663
102 BAG05 (Committee for Standards in Public Life); BAG06 (Professor Matthew Flinders and Alexandra Meakin).
103 BAG03 (Saxton Bampfylde); BAG05 (Committee for Standards in Public Life); BAG06 (Professor Matthew Flinders and Alexandra Meakin).
104 BAG07 (Better Government Initiative).
• Ministers making appointments without using the public appointments process;105
• Ministers appointing people considered not to be appointable by the panel.106

Commentators have also criticised the reliance placed by Sir Gerry on transparency to ensure that principles are followed under the new system in the absence or more formal controls. One critic, writing in Civil Society, suggested that supporters of Grimstone display a “touching faith” in the ability of transparency to mitigate for the changes that he recommended.107

65. Specific concerns were also raised with us about the lack of definition of some categories in the Grimstone proposals. For example, Grimstone said that some transient appointments would not require the full process. Dr Ruth Levitt and Dr William Solesby of King’s College London estimate between 1997 and 2012 there were 260 such transient appointments but also point out that Grimstone does not offer a definition of the term. Dr Levitt and Dr Solesby argued that it was important for all appointments to have some sort of standardised process, performing as “a safeguard to prevent Ministerial patronage, and to prevent lip service rather than true adherence to the Principles” 108

Response from the Cabinet Office and Sir Gerry Grimstone

66. We gave Sir Gerry Grimstone and the Minister for the Cabinet Office an opportunity in our hearing to respond to the criticisms made of the proposed new system by Sir David Normington. Sir Gerry disagreed with the accusation that he has weakened the role of the Commissioner:

I would not have wanted to write a report that diminished the role of the Commissioner, and if some people have misinterpreted my report as diminishing the role of the Commissioner, I would correct them. I believe the Commissioner will be stronger under my recommendations than the present process. This may be uncomfortable going forward. It will require a good Commissioner, but I am not advocating a weak Commissioner.109

67. The Minister also denied that Grimstone weakened the system. He said that rather than weakening the Commissioner, the report clarified his or her role.

Ultimately it shifts the system from a confused one where the Commissioner is both part of the Executive and a regulator to one where there is regulation based on transparency and Ministers making decisions about the people who are appointed to run parts of the Government and the public sector and who are deciding on and implementing Government policy.110

105 BAG07 (Better Government Initiative); BAG06 (Professor Matthew Flinders and Alexandra Meakin).
106 BAG05 (Committee for Standards in Public Life).
107 A. Purkiss, Changes to the Public Appointments system are a risk to the sector, Civil Society, April 2016.
108 BAG01 (Dr Ruth Levitt and Dr William Solesbury).
109 Q90
110 Q137
He went on to say that:

I think the Grimstone proposals strengthen the power of the Commissioner and they do in two ways. The first is that now some appointments are Office of the Commissioner for Public Appointments regulated and some are not and this instead will make sure that all appointments come under the system. Secondly the power of transparency and accountability is incredibly important here.\footnote{Q160}

68. Sir Gerry Grimstone argued that the new power to hold the Government to account in a transparent way was vital to the new system. He believed that “Nolan would applaud the transparency that I am suggesting.”\footnote{Q65} Sir Gerry said that:

Whenever a Department is doing an appointment, it should be possible to go to the webpage of that Department to see the appointments that are underway at any one moment, who the selection panel is, with any affiliations appropriately regarded, the time the process started and the time it is going to complete. I want this to be more open.\footnote{Q65}

Sir Gerry argued that in his system that it will be “absolutely clear if somebody is gaming the system”.\footnote{Q70} The Minister agreed:

One of the very strong parts of the Grimstone review is the clarity it brings; that decisions of the Ministers- they should be engaged in all parts of the process- and then use the transparency of the Commissioner no doubt held to account by Parliament alongside Ministers- to have a much less bureaucratic system so that we can get the best people into these places.\footnote{Q110}

69. Sir Gerry also defended his review against some of the specific allegations made by Sir David and other commentators. He said that, with respect to the code:

It would be absurd to have a process where the Commissioner was not happy with the code of practice and was being asked to operate a code of practice that he felt was inappropriate. Of course the code of practice has to be agreed between Ministers and the Commissioner.\footnote{Q66}

He also clarified his views on the pre-appointment panel:

As now the selection panel is formally in the hands of Ministers. I talk about the selection panel being notified to the Commissioner at the start of the process and the Commissioner be encouraged to intervene if he felt that selection panel was inappropriate.\footnote{Q65}
Sir Gerry told the Committee that he drew on his private sector experience to write the review. In his view, the current system was “over-complicated” whereas in the private sector, appointments happen “with huge efficiency”.\(^{118}\)

70. Many distinguished observers of the appointments system have expressed considerable concern about Grimstone’s proposals - these must not be dismissed. The system of public appointments must be seen to ensure that appointments are being made on merit. Given the criticisms that have been made, it is clear that, without extensive amendment, the Grimstone proposals will not and cannot sustain public confidence.

71. In particular, the Grimstone proposals significantly weaken the role of the Commissioner for Public Appointments. Sir Gerry has denied this but it is clear that his report removes all powers of decision making from the Commissioner. Under Sir Gerry’s proposals, the Commissioner’s role is to expose and publicise flaws in the process for any particular appointments.

72. \textit{Sir Gerry Grimstone told us that the Commissioner would still need to agree the Public Appointments Code before it came into operation. This commitment is welcome. The Government should ensure that the Commissioner retains a veto over the code, ensuring that it cannot be put into force without his agreement.}

73. \textit{The Grimstone proposals create ambiguity around the concept of an exceptional appointment. The new Commissioner should set out what in his view constitute the circumstances in which an exceptional appointment might be made.}

74. \textit{Likewise, the Commissioner should set out clearly in guidance what in his view constitutes a ‘transient appointment’ for which the full procedure is not needed. The Government should also treat this guidance as binding.}

75. \textit{It is welcome that the code will now apply to all public appointments. However the definition of ‘significant’ and ‘insignificant’ appointments is not clear. The Commissioner for Public Appointments should prepare guidance on this for departments and this guidance should be published.}

76. \textit{In the cases of an exceptional, a transient and a significant appointment, the Government must treat the Commissioner’s guidance as binding and request clarification from him or her in any cases of ambiguity. The Commissioner should write to the relevant Select Committee should he or she feel that the guidance has been breached and an appointment has been made without the full procedure being used.}

77. \textit{The Grimstone Review’s proposal that Departments should appoint the independent panel member is a retrograde step. The Nolan report replaced variable Departmental practice with a central code for appointments and called for the introduction of a more consistent legal framework around appointments. The Grimstone reforms put this increased consistency at risk by granting individual Departments more power. The Minister is wrong to say that the Commissioner’s involvement in selecting an independent assessor made him part of the executive. The Government should reconsider their stance on this issue, taking into account the representations that we have received from the former Commissioner and other commentators.}

\(^{118}\text{Q70}\)
78. Peter Riddell is right to say that the public needs to be confident in the independence of independent panel members. It is clear that panel members who have worked with the government or have political links to ministers will not be seen as truly independent. The Government must recognise that independent panel members provide the public with assurance and it is vital that they are seen to be independent. We invite the Government to make clear how it will address the concerns raised by Peter Riddell.
4 The implementation of the Grimstone review

79. The Government accepted Sir Gerry’s proposals. Matthew Hancock, the Minister for the Cabinet Office, issued a statement welcoming the publication of the review and announcing his own proposed way forward. The Minister announced that the Government would take forward the report’s recommendations in consultation with the new Commissioner for Public Appointments.\textsuperscript{119}

80. The new Commissioner, Peter Riddell, was appointed following two hearings with PACAC and the publication of our report on his appointment.\textsuperscript{120} In our report on his appointment, we clarified that the delay to our process was due to the late publication of the Grimstone review, saying that “because of this timescale [between the publication of the Grimstone report and our first hearing on Mr Riddell’s appointment] we had had no opportunity, by the time of Mr Riddell’s appearance before the Committee on 21 March, to consider the Grimstone review.”\textsuperscript{121} The Government announced they would publish a new code and new Order in Council “in due course”.\textsuperscript{122}

81. We have received correspondence from Peter Riddell, providing an update on progress with the implementation of the Grimstone report. Mr. Riddell told us that ‘considerable progress’ had been made on the production of the draft code but there was ‘more uncertainty’ about the Order in Council defining which appointments are subject to the code. He also told us of his concerns about the definition of independent members (as discussed in paragraph 56). Mr Riddell has told us that work continues on the new transparency arrangements as well. He said that ‘it is essential that the new transparency and appointments systems are launched at the same time’.\textsuperscript{123}

Suggested changes to Grimstone’s proposals and an enhanced role for Parliament

82. Witnesses to our Inquiry suggested how their criticisms of the review could be mitigated through reforms. We received a number of recommendations for various stages of the process. For example, Sir David Normington in written evidence told us that he believed that the code for public appointments should be agreed by the Commissioner. Sir Gerry Grimstone did not make this recommendation in his report, but as discussed above, agreed when giving evidence to the Committee that this was sensible.\textsuperscript{124} Sir David Normington also recommended restoring significant powers to the Commissioner, such as the power to veto independent panel members and the right to be consulted over

\textsuperscript{123} Letter from Rt Hon Peter Riddell, Commissioner for Public Appointments, to Bernard Jenkin MP, Chair, PACAC, 27 June 2016.
\textsuperscript{124} See paragraph 72, \textit{BAG02} (Sir David Normington).
the membership of an interview panel. Sir David also recommends the retention of the existing system whereby appointments made outside the normal rules should require the Commissioner’s agreement. 125

83. Another strand of evidence suggested that, were the Grimstone proposals to be implemented by the Government, Parliament’s role in the appointments process should be enhanced. For example, the Committee for Standards in Public Life (CSPL) suggested that a way of inspiring public confidence in the appointments process, post-Grimstone, “might be to enable PACAC to review an appointment process on occasions when there may be grounds for concern”. While emphasizing that they did not intend that PACAC should intervene in the pre-appointment hearings conducted by other Select Committees, the CSPL suggested that “PACAC might have the power to review the appointment process.” Such a power, according to the CSPL, “may have the further advantage of deterring undesirable conduct.” 126 As for how such a review power could operate, the CSPL outlined the following possibilities:

Possible options are that the CPA or the independent member of the panel might flag up any concerns to PACAC about a particular appointment process. In line with their regulatory functions, the CPA might be able to ask for the appointment papers for a particular process, or might be routinely given the papers for all Chair or ‘significant’ appointments for example. If the CPA remained concerned after examining the papers, the Commissioner might then flag their concerns to PACAC which would then be able to review the process, ideally before the final stages and before a candidate had been identified.127

The Committee suggested that this would only happen on an occasional basis.

84. The Commissioner should be involved in any discussions relating to a breach of the public appointments rules. In order to retain the transparency of the rules, the Commissioner should certify publicly that the Government are justified in expediting the process. If the Commissioner does not certify that the Government are justified, this should immediately trigger a pause in the appointment and the relevant Select Committee should be able to hold a hearing to confirm or veto the appointment. We would welcome comments by other Select Committees on how the code operates within their field of competence.

85. We do not question the merits of holding a review of the public appointments process, but this review should have aimed to reinforce the changes made by Sir David Normington. Instead, the Grimstone review threatens to undermine the entire basis of independent appointments. Rather than build on Sir David’s work, it effectively demolishes the safeguards built up by Lord Nolan. The Government’s adoption of the Grimstone proposals is very worrying. The Government must make significant changes to the proposals in order to robustly deliver a public appointments process in which the public can have confidence.

125 Q39; BAG02 (Sir David Normington).
126 BAG05 (Committee for Standards in Public Life).
127 BAG05 (Committee for Standards in Public Life).
86. Peter Riddell is correct to say that if the Government wishes to change the way that public appointments are made, it is essential that it does not do this in a piecemeal fashion. The recommendations in this report and the transparency arrangements are key safeguards which are required before any other changes are made to the appointments process.
5 Parliamentary Scrutiny of Appointments

87. Under the current appointments regime, as established by the 2007 White Paper *The Governance of Britain*, a select number of public appointments are subject to an advisory pre-appointment hearing by the relevant Select Committee of the House of Commons. A list of these posts is set out in Annex A of this report. Pre-appointment hearings have existed for the past ten years. Sir Gerry Grimstone commented that, whilst his report did not cover pre-appointment hearings:

> Being an inquisitive person, I did think about it. I found the present system rather incoherent. I found it hard to detect any particular pattern in the present system, but I felt I would be putting my hand into a hornets’ nest if I came between Parliament, the committees and the Executive on that. But I did notice there was some incoherence in how these processes seem to work. The point that was put to me by some people was that everybody understands there has to be scrutiny. When there is scrutiny, let us build it into the process, let us make the candidates aware of that and let us make it part of the process. But I would encourage some greater coherence in that.

88. Sir Gerry Grimstone is right to say that the current system of pre-appointment hearings is confused. It is unclear why some appointments are subject to pre-appointment hearings and others are not. It is also unclear why some posts like the Comptroller and Auditor General are subject to enhanced approval procedures within Parliament whilst others are not. Recent cases have suggested clarification is needed about the role of Select Committee in the appointments process.

89. In 2011, the Liaison Committee’s report, *Select Committees and Public Appointments* pointed towards a way that Parliament could rationalise how it treats public appointments. The report explored the effectiveness of pre-appointment hearings and suggested that the list of posts to which this procedure applies should be refined into three different categories, with a sliding scale of Parliamentary influence and involvement.

90. For the first tier of appointments (termed ‘Category A posts’ in the report), the Liaison Committee concluded that there are a “number of posts over which the House should exercise formal control on the pattern provided by arrangements for the appointment of the Comptroller & Auditor General or the Chair of the Office of Budget Responsibility”. According to the Liaison Committee, these should relate specifically to “posts where the remit is associated with the functions of Parliament or to holding the Executive to account as a constitutional proxy for Parliament.” The Committee recommended that these

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129 The current list of appointments for which pre-appointment hearings apply can be found in: Cabinet Office Guidance: pre-appointment scrutiny by House of Commons select committees, November 2013, p.8–11.
130 Q98
Category A posts should be confirmed by a vote on the floor of the House of Commons, and that any dismissal should also require ratification by the House if this is recommended by the relevant select committee.\textsuperscript{132}

91. The second tier of public appointments (‘Category B posts’) would be subject to an “effective veto”, “in other words, if the committee recommended against the appointment of the preferred candidate the onus would be on the Minister to show why the appointment should proceed if he or she were so minded”. It would then “be open to either the Minister or the committee to seek a resolution on the floor of the House” in the event that both parties failed to agree on the choice of candidate. Finally, for ‘Category C posts’, an advisory pre-appointment hearing would be offered to the relevant Select Committee.\textsuperscript{133}

92. In our recent report on the appointment of the Commissioner for Public Appointments, we recommended that, in light of the Grimstone proposals, “in future the appointment of the Commissioner should be subject to a resolution of both Houses of Parliament”.\textsuperscript{1} Such a resolution, we argued, “would underline, and act as a public reassurance of, the independence and status of the Commissioner for Public Appointments”. We reiterate that recommendation in this report and note with interest that the Chancellor of the Exchequer agreed, during the passage of the Bank of England and Financial Services Act 2016, that future appointments of the Chief Executive of the Financial Conduct Authority should be subject to pre-appointment hearings with the Treasury Select Committee. Furthermore, the Chancellor agreed that, should the Treasury Select Committee recommend in its pre-appointment report that the appointment should be put as a motion before the House of Commons, the “Government would make time for this motion and respect the decision of the House”.\textsuperscript{134}

93. John Wadham, formerly General Counsel for the Equality and Human Rights Commission and Deputy Chair of the Independent Police Complaints Commission, has suggested that the government should consider whether enhanced Parliamentary procedures, like those used to appoint the Comptroller and Auditor General, should be established for appointments that have “a role in holding the Government to account, protecting the rights of the citizen or promoting equality or human rights”. These appointments, according to Mr. Wadham, “should be sponsored, supported and accountable directly to Parliament and not to Government departments or to Ministers”.\textsuperscript{135}

94. In 2012, the Government responded to the Liaison Committee’s recommendations. The Government said that whilst they agreed that there were appointments (like the Comptroller and Auditor General, or the Public Health Service Ombudsman) where Parliament should have a veto, “the Government cannot agree to Select Committees having an effective veto on a wider range of positions”.\textsuperscript{136}

95. The Government should reconsider their opposition to the recommendations of the Liaison Committee’s 2011 report. It is wholly appropriate, that some of the most important posts should be subject to the same processes as the appointment of the


\textsuperscript{134} Letter from the Chancellor of the Exchequer to the Rt Hon Andrew Tyrie MP, 19 April 2016.

\textsuperscript{135} BAG 04 (John Wadham).

Comptroller and Auditor General. Rather than deciding this on a case by case basis, the Government should return to the recommendations made by the Liaison Committee in 2011 and discuss with the Committee how they might be implemented.

96. When a pre-appointment hearing is held, the current guidance says that the relevant committee should receive “the name of the Government’s preferred candidate for a post, relevant details about the candidate (including a CV and any declaration of interests) together with information on the selection process and the field of candidates.”137

97. The Women and Equalities Committee and the Joint Committee on Human Rights said that in the case of David Isaacs’ appointment to the Equalities and Human Rights Commission as Chair:

The Liaison Committee and Cabinet Office guidelines on pre-appointment hearings do not cover the release of panel documents, which limited our ability to scrutinise the quality of the panel’s decision and we recommend that this guidance be reviewed.138

In this case, the Committees felt that they should write to ministers for evidence about any potential conflicts of interest.

98. In order to carry out their role in pre-appointment hearings, Committees should be made aware of any significant risks (such as a conflict of interest) discovered in the course of the appointments process and any mitigations designed by the Department. In some cases, this may need to be confidentially communicated to the Committee. The Government should begin to provide such information to all upcoming pre-appointment hearings. The Government and the Liaison Committee should amend the guidance for pre-appointment hearings to reflect this point.

137 Liaison Committee guidelines for committees holding pre-appointment hearings.
Conclusions and recommendations

From Nolan to Grimstone: the public appointments process since 1995

1. The Nolan principles remain as important today as they were when they were first announced in 1995. There was a consensus amongst the witnesses to our Inquiry, including both advocates and critics of the Grimstone report, in favour of these principles. It is absolutely clear that public trust depends upon the retention of the Nolan Principles in full. Any reform of the public appointments process must build upon, and strengthen, these principles if it is to command the public’s confidence and support. (Paragraph 6)

2. Sir Gerry Grimstone and the Minister rightly commended Sir David Normington for his work as Commissioner for Public Appointments. Sir David’s work has made the system of appointments much more efficient than it was in the past while retaining its independence and conformity with the Nolan principles. Sir David’s approach has been widely endorsed and his 2012 reforms have simplified the system. The Government and Sir Gerry Grimstone have judged prematurely that these reforms will necessarily fail, before Departments have fully implemented them. (Paragraph 13)

3. Appointments to public office are rightly ministerial appointments and Ministers must retain the ability to have the final say on appointments. However, it is equally imperative that Ministers make public appointments in a properly regulated environment, with a strong Commissioner for Public Appointments equipped with the powers required to maintain the Nolan principles and public confidence in the appointments process. This is compatible with the ability of Ministers to appoint candidates who they are confident will be able to work within the framework of present Government policy, and as Sir David’s comments show, that can be achieved within the present system. (Paragraph 20)

The Grimstone Review of the Public Appointments Process

4. The current public appointments regime has been in place, with some important modifications, since 1995. While former Commissioners, including Sir David Normington, have played an important role in seeking to ensure an effective and reliable system of public appointments, the current regime is not without fault. There have been frequent complaints of delays and an overly bureaucratic appointments process, directed at Government departments as well as the Office of the Commissioner for Public Appointments. (Paragraph 34)

5. We note the concerns raised by the Women and Equalities Committee and the Joint Committee on Human Rights about the recent appointment of the Equalities and Human Rights Commission. The Women and Equalities Committee stated that “there wasn’t clear accountability for decision making at each step of the independent selection process” and the Joint Committee on Human Rights said that they hoped the Government had learnt lessons about the appointment process from the experience. (Paragraph 35)
6. The new Commissioner for Public Appointments, Rt Hon Peter Riddell, should continue to remind appointment boards of the need to consider conflicts of interest more explicitly. The Government and the Commissioner should ensure that any reformed appointment process includes a consideration of potential conflicts of interest and the mitigation thereof. (Paragraph 36)

7. Whilst there are legitimate criticisms of Sir Gerry’s proposed new appointments process, the Grimstone report’s emphasis on diversity is to be welcomed. It is vital that appointees to important positions reflect the social diversity of the United Kingdom. The Grimstone report correctly identifies full and proper representation of gender, social, geographic, ethnic minority, occupational and disabled diversity as being important for the public sector. (Paragraph 44)

8. The Government has successfully increased the number of appointments of women in the last few years. The Government should continue to strive to improve gender diversity. The Cabinet Office should continue similar work to improve ethnic minority and disabled diversity, including creating a target for each group so that Parliament can measure success in this area. The Commissioner should immediately implement Sir Gerry’s suggestion that diversity becomes one of the principles of public appointment, to demonstrate publicly the Government’s commitment in this area. (Paragraph 45)

**Responses to the Grimstone Review**

9. Many distinguished observers of the appointments system have expressed considerable concern about Grimstone’s proposals - these must not be dismissed. The system of public appointments must be seen to ensure that appointments are being made on merit. Given the criticisms that have been made, it is clear that, without extensive amendment, the Grimstone proposals will not and cannot sustain public confidence. (Paragraph 70)

10. In particular, the Grimstone proposals significantly weaken the role of the Commissioner for Public Appointments. Sir Gerry has denied this but it is clear that his report removes all powers of decision making from the Commissioner. Under Sir Gerry’s proposals, the Commissioner’s role is to expose and publicise flaws in the process for any particular appointments. (Paragraph 71)

11. Sir Gerry Grimstone told us that the Commissioner would still need to agree the Public Appointments Code before it came into operation. This commitment is welcome. The Government should ensure that the Commissioner retains a veto over the code, ensuring that it cannot be put into force without his agreement. (Paragraph 72)

12. The Grimstone proposals create ambiguity around the concept of an exceptional appointment. The new Commissioner should set out what in his view constitute the circumstances in which an exceptional appointment might be made. (Paragraph 73)

13. Likewise, the Commissioner should set out clearly in guidance what in his view constitutes a ‘transient appointment’ for which the full procedure is not needed. The Government should also treat this guidance as binding. (Paragraph 74)
14. It is welcome that the code will now apply to all public appointments. However, the definition of ‘significant’ and ‘insignificant’ appointments is not clear. The Commissioner for Public Appointments should prepare guidance on this for departments and this guidance should be published. (Paragraph 75)

15. In the cases of an exceptional, a transient and a significant appointment, the Government must treat the Commissioner’s guidance as binding and request clarification from him or her in any cases of ambiguity. The Commissioner should write to the relevant Select Committee should he or she feel that the guidance has been breached and an appointment has been made without the full procedure being used. (Paragraph 76)

16. The Grimstone Review’s proposal that Departments should appoint the independent panel member is a retrograde step. The Nolan report replaced variable Departmental practice with a central code for appointments and called for the introduction of a more consistent legal framework around appointments. The Grimstone reforms put this increased consistency at risk by granting individual Departments more power. The Minister is wrong to say that the Commissioner’s involvement in selecting an independent assessor made him part of the executive. The Government should reconsider their stance on this issue, taking into account the representations that we have received from the former Commissioner and other commentators. (Paragraph 77)

17. Peter Riddell is right to say that the public needs to be confident in the independence of independent panel members. It is clear that panel members who have worked with the government or have political links to ministers will not be seen as truly independent. The Government must recognise that independent panel members provide the public with assurance and it is vital that they are seen to be independent. We invite the Government to make clear how it will address the concerns raised by Peter Riddell. (Paragraph 78)

The implementation of the Grimstone review

18. The Commissioner should be involved in any discussions relating to a breach of the public appointments rules. In order to retain the transparency of the rules, the Commissioner should certify publicly that the Government are justified in expediting the process. If the Commissioner does not certify that the Government are justified, this should immediately trigger a pause in the appointment and the relevant Select Committee should be able to hold a hearing to confirm or veto the appointment. We would welcome comments by other Select Committees on how the code operates within their field of competence. (Paragraph 84)

19. We do not question the merits of holding a review of the public appointments process, but this review should have aimed to reinforce the changes made by Sir David Normington. Instead, the Grimstone review threatens to undermine the entire basis of independent appointments. Rather than build on Sir David’s work, it effectively demolishes the safeguards built up by Lord Nolan. The Government’s adoption of the Grimstone proposals is very worrying. The Government must make significant changes to the proposals in order to robustly deliver a public appointments process in which the public can have confidence. (Paragraph 85)
20. Peter Riddell is correct to say that if the Government wishes to change the way that public appointments are made, it is essential that it does not do this in a piecemeal fashion. The recommendations in this report and the transparency arrangements are key safeguards which are required before any other changes are made to the appointments process. (Paragraph 86)

**Parliamentary Scrutiny of Appointments**

21. Sir Gerry Grimstone is right to say that the current system of pre-appointment hearings is confused. It is unclear why some appointments are subject to pre-appointment hearings and others are not. It is also unclear why some posts like the Comptroller and Auditor General are subject to enhanced approval procedures within Parliament whilst others are not. Recent cases have suggested clarification is needed about the role of Select Committee in the appointments process. (Paragraph 88)

22. The Government should reconsider their opposition to the recommendations of the Liaison Committee’s 2011 report. It is wholly appropriate, that some of the most important posts should be subject to the same processes as the appointment of the Comptroller and Auditor General. Rather than deciding this on a case by case basis, the Government should return to the recommendations made by the Liaison Committee in 2011 and discuss with the Committee how they might be implemented. (Paragraph 95)

23. In order to carry out their role in pre-appointment hearings, Committees should be made aware of any significant risks (such as a conflict of interest) discovered in the course of the appointments process and any mitigations designed by the Department. In some cases, this may need to be confidentially communicated to the Committee. The Government should begin to provide such information to all upcoming pre-appointment hearings. The Government and the Liaison Committee should amend the guidance for pre-appointment hearings to reflect this point. (Paragraph 98)
Annex 1: Posts currently subject to pre appointment hearings by select committees

HM Chief Inspector of the Crown Prosecution Service
Chair of the Higher Education Funding Council for England
Chairs of the Research Councils
Director of the Office for Fair Access
Chair of Competition and Markets Authority
Chair of the Technology Strategy Board
Groceries Code Adjudicator
Chair of the Advisory Committee on Business Appointments
Chair of the Charity Commission for England and Wales
Chair of the Committee on Standards in Public Life
Chair of the House of Lords Appointments Commission
Chair of the UK Statistics Authority
First Civil Service Commissioner
Commissioner for Public Appointments
Parliamentary Commissioner for Administration (office also held by Health Service Commissioner)
Local Commissioners for Administration in England
Chair of the Homes and Communities Agency
Chair of the Homes and Communities Agency’s Regulation Committee
Chair of OFCOM
Chair of the BBC Trust
Chair of S4C
Chair of the Equality and Human Rights Commission
Chair of the Committee on Climate Change
Chair of the Gas and Electricity Markets Authority (GEMA)
Chair of Natural England
Chair of the Environment Agency
Chair of the Gangmaster Licensing Authority
Chair of the Water Services Regulatory Authority (OFWAT)
HM Chief Inspector of Education, Children’s Services and Skills
Children’s Commissioner for England
Chief Regulator for Ofqual
Chair of the Social Mobility and Child Poverty Commission
Chair of the Independent Commission for Aid Impact
Chair of the Care Quality Commission
Health Service Commissioner for England (office also held by Parliamentary Commissioner for Administration)
Chair of the Food Standards Agency
Chair of Monitor
Chair of NHS England
Chair of the Judicial Appointments Commission
Chair of the Office for Legal Complaints
HM Chief Inspector of Prisons
HM Chief Inspector of Probation
Information Commissioner
Prison and Probation Ombudsman
HM Chief Inspector of Constabulary hair of the National Institute for Health and Care Excellence
Chair of the Office of Rail Regulation
Comptroller and Auditor General
Chair and Members of the Budget Responsibility Committee
Chair of the Social Security Advisory Committee
Pensions Ombudsman
Pension Protection Fund Ombudsman
Service Complaints Commissioner

139 Cabinet Office Guidance: pre-appointment scrutiny by House of Commons select committees
Formal Minutes

Tuesday 28 June 2016

Members present:

Bernard Jenkin, in the Chair

Ronnie Cowan          Mr David Jones
Mr Paul Flynn          Tom Tugendhat
Mrs Cheryl Gillan     Mr Andrew Turner
Kelvin Hopkins

Draft Report (*Better Public Appointments?: The Grimstone Review on Public Appointments*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 98 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Third Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Tuesday 5 July at 9.15am.]
Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the inquiry publications page of the Committee’s website.

Tuesday 12 April 2016

Sir David Normington

Sir Gerry Grimstone, author of the Grimstone Review

Rt Hon Matthew Hancock MP, Minister of State at the Cabinet Office and Paymaster General
Published written evidence

The following written evidence was received and can be viewed on the inquiry publications page of the Committee’s website.

BAG numbers are generated by the evidence processing system and so may not be complete.

1. Better Government Initiative (BAG0007)
2. Committee for Standards in Public Life (BAG0005)
3. Dr Ruth Levitt (BAG0001)
4. John Wadham (BAG0004)
5. Sarah Anderson CBE (BAG0008)
6. Saxton Bampfylde (BAG0003)
7. Sir Bernard Crick Centre for Public Understanding of Politics (BAG0006)
8. Sir David Normington (BAG0002)
List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee’s website.

The reference number of the Government’s response to each Report is printed in brackets after the HC printing number.

**Session 2016–17**

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