

MARCH 2018

DECISION NOTICE : PUBLIC BODY APPOINTMENT PROCESS, ARTS COUNCIL ENGLAND

AUTHORITY

1. The Governance Code on Public Appointments dated December 2016 states that the Commissioner should consider complaints made about a public appointments process.
2. Complaints should be raised with the appointing department in the first instance, which is responsible for having effective complaints handling procedures, for making applicants aware of their right to complain and for referring them to the Commissioner's complaints procedures. If, after investigation by the department, the complainant remains dissatisfied, they may bring their complaint to the Commissioner for Public Appointments.

METHODOLOGY

3. The Commissioner investigated the complaint through consideration of written, verbal and electronic evidence supplied by the complainant and the Department for Culture, Media and Sport.

OUTLINE OF COMPLAINT

4. The complainant expressed deep concern about the appointment of Elisabeth Murdoch to the National Council of Arts Council England.
5. The complainant's concern was that Ms Murdoch had previously made financial contributions to artistic interests of Sir Nicolas Serota, the current Chair of Arts Council England, while he was Director of the Tate. She has also made contributions to organisations chaired by Sir Nicholas' wife, Teresa Gleadowe. These contributions were made via the Freelands Foundation, an arts funding body founded by Ms Murdoch.

CONSIDERATION

6. The complainant approached the Commissioner on the grounds that Sir Nicholas had failed to highlight that these payments might constitute a conflict of interest, additionally this could also constitute a breach of the Nolan Principles of Public Life and was a likely breach of the government's Governance Code.



7. The Commissioner has been provided with a full set of papers relating to this appointment. His investigation focused on the application form submitted by Elisabeth Murdoch, and any notes made by the panel in relation to that, her interview and the final panel report.
8. The Commissioner noted that Ms Murdoch states in her application form, under the section dedicated to conflicts of interest, that Teresa Gleadowe is and advisor to the Freelands Foundation. She also states that her Foundation has pledged to support CAST, which is run by Teresa Gleadowe, with a grant of £50k should they be successful in receiving funding from the Arts Council England. She goes on to state that there will be instances where the Freelands Foundation will fund other organisations that are also funded by Arts Council England.
9. The Commissioner also noted that the final panel report to the Minister states that Ms Murdoch has declared the conflicts of interest as described above. It goes on to say that the candidate has stated that she *'was very used to having to declare conflicts and that she would have no problem doing so and recusing herself appropriately from any relevant discussion if one were to arise'*

DECISION

10. Paragraph 9.1 of the Governance Code states that public appointees are should uphold the standards of conduct set out in the Seven Principles of Public Life. *The Advisory Assessment Panel must satisfy itself that all candidates for appointment can meet these standards and have no conflicts of interest that would call into question their ability to perform the role. Candidates must be asked to declare potential conflicts of interest in their application. All potential conflicts of interest and how that might be managed must be discussed with an individual at interview. A potential conflict should not preclude a candidate from being shortlisted/appointed.*
11. In this case, the evidence shows that Ms Murdoch did declare conflicts of interest, and that this was discussed at interview. The panel report ensured that Ministers were also aware of the situation. In the Commissioner's view, this appointment has not breached the Governance Code.
12. Two members of the panel, including Sir Nicholas, correctly declared that they knew Ms Murdoch, as well as some other candidates. The Commissioner believes that, more generally, at least one non-official member of a panel should be, and be seen to be, independent of the department, the body concerned, and the likely candidates.
13. Additionally, the Commissioner noted that the announcement of Ms Murdoch's appointment, made on the gov.uk website, should have been clearer in mentioning possible conflicts of interest. This should have included her foundation's grants to organisations which have been - or are - associated with Sir Nicholas and his wife.
14. Finally, the Commissioner makes clear that although he worked for The Times/News International between 1991-2010, Elisabeth Murdoch has never had any involvement with the company nor has he ever met her.



**The Commissioner for
Public Appointments**

**OCPA Secretariat on behalf of
Peter Riddell**
Commissioner for Public Appointments