



At the Court at Buckingham Palace

THE 6th DAY OF NOVEMBER 2019

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY
IN COUNCIL

The Public Appointments Order in Council 2019 (“the 2019 Order”) makes provision for an independent Commissioner to monitor the procedures adopted by appointing authorities when making appointments to public bodies.

It is desirable to revoke the 2019 Order and make further provision in relation to these matters. Her Majesty is pleased, by and with the advice of Her Privy Council, to order as follows—

Citation, commencement, revocation and saving provision

1.—(1) This Order may be cited as the Public Appointments (No. 2) Order in Council 2019 and comes into force on the day after the day on which it is made.

(2) The Public Appointments Order in Council 2019 is revoked except in relation to a selection process for a public appointment which is not concluded immediately before this Order comes into force.

Interpretation

2.—(1) The Interpretation Act 1978(a) applies to this Order as it applies to an Act of Parliament and, in particular, as if the 2019 Order were an enactment for the purposes of section 16(1) of that Act.

(2) In this Order—

“appointing authority” means, in relation to a public appointment—

- (a) a Minister of the Crown or, as the case may be, the Welsh Ministers, the First Minister for Wales or the Counsel General;
- (b) the NHS Trust Development Authority where an appointment is made by it on behalf of a Minister of the Crown or, as the case may be, the Welsh Ministers, the First Minister for Wales or the Counsel General;
- (c) in relation to the Office of Communications (OFCOM), a Minister of the Crown or, as the case may be, the Welsh Ministers, the Scottish Ministers or the Minister for the Economy in Northern Ireland;

(a) 1978 c. 30; the interpretative provisions of this Act have been amended extensively but there are no amendments to section 16.

“Commissioner” means the person appointed for the time being by Her Majesty in Council to be Her Majesty’s Commissioner for Public Appointments^(a);

“Governance Code” means the Governance Code for Public Appointments published under article 3 by the Minister for the Cabinet Office;

“public appointment” means, subject to paragraph (3), any appointment to a public body or public office (including any re-appointment or extension of an appointment) that is made by, or on the recommendation of, an appointing authority;

“public body or public office” means any body or office that is listed in Schedule 1 or, as the case may be, Schedule 2.

(3) The appointment of a person who is to be an employee of a public body or public office is not a public appointment for the purposes of this Order except so far as specified in Schedule 2. In this paragraph, “employee” has the same meaning as in section 230(1) of the Employment Rights Act 1996^(b).

(4) Where a provisional appointment is to be made before a public body or public office exists in law or before a body or office has been specified as a public body or public office for the purposes of this Order, the Minister for the Cabinet Office may notify the Commissioner that the appointment is to be treated as if it were a public appointment to a public body or public office for the purposes of this Order.

Governance Code

3.—(1) The Minister for the Cabinet Office must prepare, publish and keep under review a Governance Code which sets out—

- (a) the principles of public appointments, and
- (b) guidance on the practices to be followed in relation to making public appointments.

(2) Before publishing the Governance Code, including the principles of public appointments, and any amendments to them, the Minister for the Cabinet Office must consult the Commissioner and the First Minister for Wales.

Functions of the Commissioner

4.—(1) The Commissioner must exercise his or her functions under this Order with the object of ensuring that appointing authorities act in accordance with the Governance Code, including the principles of public appointments.

(2) The Commissioner must, in the manner the Commissioner thinks fit, carry out an audit of the procedures and practices followed by appointing authorities in making public appointments, including the interpretation and application by them of the Governance Code including the principles of public appointments.

(3) The Commissioner may conduct an investigation into any aspect of public appointments with the object of improving their quality.

(4) The Commissioner may conduct an inquiry into the procedures and practices followed by an appointing authority in relation to any public appointment whether in response to a complaint or otherwise.

(5) The Commissioner may require appointing authorities to publish specified summary information relating to public appointments.

(6) For the purposes of this article, appointing authorities must provide the Commissioner with any information the Commissioner reasonably requires.

Additional functions

5. The Commissioner may, at the request of a Minister of the Crown, carry out such additional functions as may be agreed between the Minister and the Commissioner.

(a) See the Order in Council dated 19th April 2016, which appoints Peter Riddell as Commissioner.

(b) 1996 c. 18.

Commissioner's annual report

6. The Commissioner must publish an annual report on public appointments which must include—

- (a) information arising from the audit carried out under article 4(2), including information about non-compliance; and
- (b) an account of any inquiry into the public appointment procedures and practices of appointing authorities.

Exercise of the Commissioner's functions, powers and duties

7. —(1) The Commissioner may delegate functions, powers and duties to—
- (a) an officer of the Commissioner; or
 - (b) for the purposes of the functions carried out under article 4(2) or additional functions carried out under article 5, any other person.
- (2) A delegation does not prevent the Commissioner from doing anything personally.
- (3) A delegation does not prevent the Commissioner's functions, powers and duties from remaining the responsibility of the Commissioner.

Richard Tilbrook

SCHEDULE 1

Article 2(2)

Bodies and Offices Regulated by the Commissioner for Public Appointments

Attorney General's Office

Her Majesty's Crown Prosecution Service Inspectorate

Department for Business, Energy and Industrial Strategy

Advisory, Conciliation and Arbitration Service

British Business Bank, Chair only

British Hallmarking Council

Central Arbitration Committee

Certification Officer

Civil Nuclear Police Authority

Coal Authority

Committee on Climate Change

Committee on Fuel Poverty

Committee on Radioactive Waste Management

Competition and Markets Authority Board

Competition Appeal Tribunal

Competition Service

Electricity Settlements Company Ltd, Chair and Senior Independent Director only

Financial Reporting Council

Gas and Electricity Markets Authority

Groceries Code Adjudicator

Labour Market Enforcement Director

Land Registry

Low Carbon Contracts Company Ltd, Chair and Senior Independent Director Only

Low Pay Commission

National Nuclear Laboratory

National Physical Laboratory (NPL) Management Ltd, Chair only

Nuclear Decommissioning Authority

Nuclear Liabilities Fund

Oil and Gas Authority, Chair only
Ordnance Survey, Chair only
Post Office Ltd, Chair only
Pubs Code Adjudicator and Deputy Pubs Code Adjudicator
Regulatory Policy Committee
Small Business Commissioner
UK Atomic Energy Authority
UK Research and Innovation

Cabinet Office

Advisory Committee on Business Appointments, excluding political members
Boundary Commission for England
Boundary Commission for Wales
Civil Service Pensions Board
Committee on Standards in Public Life, excluding political appointments
Equality and Human Rights Commission
House of Lords Appointment Commission, excluding political members
Office of the Registrar of Consultant Lobbyists
Security Vetting Appeals Panel
Senior Salaries Review Body
UK Statistics Authority Board

Department for Digital, Culture, Media and Sport

The Advisory Council on National Records and Archives
Arts Council England
Big Lottery Fund (The National Lottery Community Fund)
Birmingham Organising Committee for the 2022 Commonwealth Games Ltd
British Broadcasting Corporation
British Film Institute
British Library
British Museum
Charity Commission for England and Wales
Gambling Commission
Geffrye Museum
Historic Buildings and Monuments Commission for England
Historic Royal Palaces
Horniman Public Museum and Public Park Trust
Horserace Betting Levy Board
Imperial War Museum
Information Commissioner
National Citizen Service Trust
National Gallery
National Heritage Memorial Fund/Heritage Lottery Fund (The National Lottery Heritage Fund)
National Museums Liverpool
National Portrait Gallery
Natural History Museum
Office of Communications (OFCOM)
Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest
Royal Armouries
Royal Museums Greenwich
Science Museum Group
Sianel Pedwar Cymru (S4C)
Sport England
Sports Grounds Safety Authority
Tate
The Royal Parks
Theatres Trust

Treasure Valuation Committee
UK Sport
United Kingdom Anti-Doping Ltd
Victoria and Albert Museum
VisitBritain
VisitEngland
Wallace Collection

Department for Education

Adoption and Special Guardianship Leadership Board, Chair only
Child Safeguarding Practice Review Panel
Children's Commissioner for England
Construction Industry Training Board
Engineering Construction Industry Training Board
Film Industry Training Board
Further Education Commissioner's Office, Further Education Commissioner and Deputy Further Education Commissioner only
Her Majesty's Chief Inspector of Education, Children's Services and Skills
Independent Assessors for Student Finance, Appeals and Complaints
Institute for Apprenticeships and Technical Education
LocatEd
Office for Standards in Education, Children's Services and Skills (Ofsted)
Office for Students
Office of Qualifications and Examinations Regulation (Ofqual)
Residential Care Leadership Board, Chair only
School Teachers' Review Body
Social Mobility Commission
Social Work England
Student Loans Company Ltd

Department for Environment, Food and Rural Affairs

Advisory Committee on Releases to the Environment
Agriculture and Horticulture Development Board
British Wool Marketing Board
Broads Authority
Conservation Board for the Chilterns Area of Outstanding Natural Beauty, with the exception of parish members
Conservation Board for the Cotswolds Area of Outstanding Natural Beauty, with the exception of parish members
Consumer Council for Water
Covent Garden Market Authority
Environment Agency
Forestry Commission
Joint Nature Conservation Committee
Marine Management Organisation
National Park Authorities, with the exception of parish members
Natural England
Regional Flood and Coastal Committees, Chair only
Royal Botanic Gardens, Kew
Science Advisory Council
Sea Fish Industry Authority
Water Services Regulation Authority (OFWAT)

Department for International Development

CDC Group Plc
Commonwealth Scholarship Commission
Independent Commission for Aid Impact

Department for Transport

British Transport Police Authority
Civil Aviation Authority
Disabled Persons Transport Advisory Committee
Dover Harbour Board, Chair only
East West Rail Company
Harwich Haven Authority, Chair only
Highways England, Chair only
HS2 Ltd
Independent Commission on Civil Aviation Noise
London and Continental Railways Ltd
Milford Haven Port Authority, Chair only
Network Rail, Chair only
Office of Rail and Road
Port of London Authority, Chair only
Port of Tyne Authority, Chair only
Traffic Commissioners
Transport Focus

Department for Work and Pensions

BPDTS Ltd
Health and Safety Executive
Industrial Injuries Advisory Council
Money and Pensions Service
National Employment Savings Trust
Office for Nuclear Regulation
Pension Protection Fund, Chair only
Pension Protection Fund Ombudsman
Pensions Ombudsman
Pensions Regulator
Social Security Advisory Committee

Department of Health and Social Care

Advisory Committee on Clinical Excellence Awards, Chair and Medical Director only
Advisory Committee on Resource Allocation, Chair only
British Pharmacopoeia Commission
Care Quality Commission
Commission on Human Medicines
Committee on Mutagenicity of Chemicals in Food, Consumer Products and the Environment
Food Standards Agency
Health and Social Care Information Centre (NHS Digital)
Health Education England
Health Research Authority
Human Fertilisation and Embryology Authority
Human Tissue Authority
Independent Reconfiguration Panel
Monitor (part of the operating body known as NHS Improvement)
National Data Guardian
National Institute for Health and Care Excellence
NHS Blood and Transplant
NHS Business Services Authority
NHS Commissioning Board (NHS England)
NHS Counter Fraud Authority
NHS Litigation Authority (NHS Resolution)
NHS Pay Review Body
NHS Trust Development Authority (part of the operating body known as NHS Improvement)

NHS Trusts
Office for Strategic Coordination of Health Research, Chair only
Review Body on Doctors' and Dentists' Remuneration

Export Credits Guarantee Department (UK Export Finance)
Export Guarantee Advisory Council

Foreign and Commonwealth Office
Great Britain-China Centre
Marshall Aid Commemoration Commission
Westminster Foundation for Democracy

HM Treasury
Court of Directors of the Bank of England, with the exception of the Governor and Deputy Governors
Crown Estate Commissioners
Financial Conduct Authority
National Savings and Investments
Royal Mint Advisory Committee on the Design of Coins, Medals, Seals and Decorations
UK Government Investments

Home Office
Advisory Council on the Misuse of Drugs
Animals in Science Committee
Appointed Person under the Proceeds of Crime Act 2002
Biometric and Forensics Ethics Group
College of Policing Board of Directors
Commissioner for the Retention and Use of Biometric Material
Disclosure and Barring Service
Forensic Science Regulator
Gangmasters and Labour Abuse Authority
Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services
Independent Anti-Slavery Commissioner
Independent Chief Inspector of Borders and Immigration
Independent Family Returns Panel
Independent Monitor of the Disclosure and Barring Service
Independent Office for Police Conduct
Independent Reviewer of Terrorism Legislation
Members of the Visiting Committee of any immigration removal centre or short-term holding facility
Migration Advisory Committee
National Crime Agency Remuneration Review Body
Office of the Immigration Services Commissioner
Police Advisory Board for England and Wales
Police Remuneration Review Body
Security Industry Authority
Surveillance Camera Commissioner
Technical Advisory Board (for the Regulation of Investigatory Powers Act 2000), with the exception of Agency Members

Ministry of Defence
Armed Forces Pay Review Body
Defence Nuclear Safety Committee
Independent Medical Expert Group
Independent Monitoring Board for the Military Corrective Training Centre
Nuclear Research Advisory Council
Oil and Pipelines Agency

Royal Air Force Museum
Science Advisory Committee on the Medical Implications of Less-Lethal Weapons
Service Complaints Ombudsman
Single Source Regulations Office
Veterans Advisory and Pensions Committees

Ministry of Housing, Communities and Local Government

Architects Registration Board
Building Regulation Advisory Committee
Commission for Local Administration in England (Local Government and Social Care Ombudsman)
Ebbsfleet Development Corporation
Homes England
Leasehold Advisory Service (LEASE)
Regulator of Social Housing
The Housing Ombudsman
Valuation Tribunal Service

Ministry of Justice

Advisory Committees on Justices of the Peace
Advisory Council on Conscientious Objectors
Chair of the National Council of Prisoner Escort and Custody Services Lay Observers
Children and Family Court Advisory and Support Service
Civil Justice Council
Civil Procedure Rule Committee
Commissioner for Victims and Witnesses (Victims' Commissioner)
Court Examiners
Court of Protection Visitors
Criminal Cases Review Commission
Criminal Procedure Rule Committee
Family Procedure Rule Committee
Her Majesty's Chief Inspector of Prisons
Her Majesty's Chief Inspector of Probation
Independent Advisory Panel on Deaths in Custody
Independent Monitoring Board of any prison or young offender institution
Insolvency Rules Committee
Judicial Appointments and Conduct Ombudsman
Judicial Appointments Commission
Judicial Pension Board, independent Chair and independent members only
Law Commission, with the exception of the Chair
Legal Services Board
Multi-Agency Public Protection Arrangements Lay Advisers
National Chair of the Independent Monitoring Boards
National Mental Capacity Forum, Chair only
Non-Judicial Members of Disciplinary Panels of the Judicial Conduct Investigations Office
Parole Board, with the exception of judicial members
Persons appointed by the Lord Chancellor under section 2 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012
Prisoner Escort and Custody Services Lay Observers
Prisons and Probation Ombudsman
Prison Service Pay Review Body
Sentencing Council for England and Wales
Tribunal Procedure Committee
Youth Justice Board for England and Wales

Northern Ireland Office

Boundary Commission for Northern Ireland

Chief Electoral Officer for Northern Ireland
Equality Commission for Northern Ireland
Northern Ireland Human Rights Commission
Parades Commission for Northern Ireland

Scotland Office

Boundary Commission for Scotland

Welsh Government

Advisory Panel to the Welsh Language Commissioner
Agricultural Advisory Panel for Wales
All Wales Medicines Strategy Group
All Wales Programme Monitoring Committee for the European Structural Funds
Amgueddfa Cymru - National Museum of Wales
Aneurin Bevan Community Health Council
Aneurin Bevan University Local Health Board
Animal Health and Welfare Framework Group
Arts Council of Wales
Betsi Cadwaladr Community Health Council
Betsi Cadwaladr University Health Board
Board of Community Health Councils
Brecon Beacons National Park Authority
Cardiff & Vale Community Health Council
Cardiff & Vale University Health Board
Career Choices Dewis Gyrfa
Children's Commissioner for Wales
Commissioner for Older People in Wales
Cwm Taf Morgannwg Community Health Council
Cwm Taf Morgannwg University Local Health Board
Design Commission for Wales
Education & Skills Ministerial Advisory Group
Education Workforce Council
Future Generations Commissioner
Health Education Improvement Wales
Higher Education Funding Council for Wales
Hybu Cig Cymru
Hywel Dda Community Health Council
Hywel Dda University Health Board
Independent Remuneration Panel for Wales
Industry Wales
Life Sciences Hub Wales Board
Local Government Boundary Commission for Wales
National Academy for Educational Leadership
National Adviser for Violence against Women and other forms of Gender-based Violence,
Domestic Abuse and Sexual Violence
National Library of Wales
Natural Resources Wales
Pembrokeshire Coast National Park Authority
Powys Community Health Council
Powys Teaching Health Board
Public Health Wales NHS Trust
Qualifications Wales
Regulatory Board for Wales
Royal Commission on the Ancient and Historical Monuments of Wales
Snowdonia National Park Authority
Social Care Wales
Sports Council for Wales

Swansea Bay Community Health Council
Swansea Bay University Local Health Board
Velindre National Health Services Trust
Welsh Ambulance Services National Health Service Trust
Welsh Industrial Development Advisory Board
Welsh Language Commissioner
Welsh Revenue Authority

SCHEDULE 2

Article 2(3)

Specified Employee posts which are to be Public Appointments

Arts and Humanities Research Council, Executive Chair only
Biotechnology and Biological Sciences Research Council, Executive Chair only
Economic and Social Research Council, Executive Chair only
Engineering and Physical Sciences Research Council, Executive Chair only
Innovate UK, Executive Chair only
Medical Research Council, Executive Chair only
Natural Environment Research Council, Executive Chair only
Research England, Executive Chair only
Science and Technology Facilities Council, Executive Chair only

EXPLANATORY NOTE

(This note is not part of the Order)

This Order replaces the Public Appointments Order in Council 2019 (“the 2019 Order”). It sets out the duties and powers of the Commissioner for Public Appointments (“the Commissioner”). This Order largely restates the provisions of the 2019 Order.

The principal provisions of the Order are:

Article 2, which makes interpretative provision. Amongst other things, it defines “public appointment” for the purposes of this Order. The appointment to a body or office listed in Schedule 1 will not be a public appointment where that person will be an employee of that body or office. However, the appointment of a person to a post listed in Schedule 2 will be a “public appointment” within the Commissioner’s remit.

Article 3, which requires the Minister for the Cabinet Office to maintain a Governance Code setting out the principles, and guidance on the making, of public appointments and to consult before amending that Code.

Article 4, which sets out the functions of the Commissioner.

Article 5, which enables the Commissioner to undertake additional functions relating to appointments at the request of a Minister of the Crown.

Article 6, which requires the Commissioner to publish an annual report.

Article 7, which allows the delegation of any power of the Commissioner to any officer of the Commissioner. The Commissioner may also authorise any person to perform the functions of auditing selection practices and policies or any additional functions relating to appointments at the request of a Minister of the Crown under Article 5.