



House of Commons
Public Administration Select
Committee

**The Business
Appointment Rules:
Government Response
to the Committee's
Sixth Report of Session
2006–07**

**Third Special Report of Session
2006–07**

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The Public Administration Select Committee

The Public Administration Select Committee is appointed by the House of Commons to examine the reports of the Parliamentary Commissioner for Administration, of the Health Service Commissioners for England, Scotland and Wales and of the Parliamentary Ombudsman for Northern Ireland, which are laid before this House, and matters in connection therewith, and to consider matters relating to the quality and standards of administration provided by civil service departments, and other matters relating to the civil service.

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The Committee is one of the select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 146. These are available on the Internet via www.parliament.uk.

Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at <http://www.parliament.uk/pasc>.

Committee staff

The current staff of the Committee are Eve Samson (Clerk), James Gerard (Second Clerk), Louise Glen (Committee Assistant), Anne Woolhouse (Secretary) and James Bowman (Senior Office Clerk).

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Third Special Report

The Public Administration Select Committee reported to the House on *The Business Appointment Rules* in its Sixth Report of Session 2006–07, published 14 June 2007 as HC 651. The Government Response was received on 16 October 2007 and is published below as an Appendix to this Report.

Appendix

The Government is grateful to the Committee for its detailed consideration of the Business Appointment Rules, including consideration of the findings contained in Sir Patrick Brown's review.

Before responding to the individual recommendations, the Government would also like to place on record its appreciation for the work of the Chairman and members of the Advisory Committee on Business Appointments—the Rt Hon Lord Mayhew of Twysden, Sir John Belloch, the Rt Hon Lord Maclennan of Rogart, the Rt Hon Lord Morris of Aberavon, the Lord Wilson of Tillyorn, Admiral Sir Kenneth Eaton and Sir Bryan Nicholson. Their dedication, care and expertise in carrying out the Advisory Committee's work is invaluable.

The Government's response to the conclusions and recommendations set out in the Committee's Sixth Report of the 2006–2007 Session is set out below.

We agree with Sir Patrick Brown that it would be appropriate for those leaving Crown service for other employment to be reminded of their continuing duty to keep confidential material confidential. However, we do not agree that this alone would be sufficient. We believe it is appropriate for the Advisory Committee to take into account the extent to which former Crown servants have been involved in particular policy issues and, if necessary, to ask applicants to delay taking up particular appointments. It may be helpful to redraft the rules to make clear that special advisers could be caught by this consideration. (Paragraph 19)

The Government agrees with the Committee's view that it is appropriate for those leaving Crown service for other employment to be reminded of their continuing duty of confidentiality after they leave Crown service. This duty of course applies equally in other circumstances, for example when individuals retire from Crown service. The Government will continue to work closely with departments to ensure that Crown servants are reminded of their continuing obligations after leaving Crown Service, whether or not they are retiring or moving to other employment.

The Government also agrees with the Committee's view that as part of its consideration of each application under the Business Appointment Rules it is appropriate for the Advisory Committee to take into account the extent to which former Crown servants have been involved in particular policy issues.

Special advisers are subject to the Business Appointment Rules in the same way as other civil servants, and applications from special advisers are subject to the same considerations, except that it is a Permanent Secretary rather than a Minister who makes the decision. The Government agrees with the Committee that it would be helpful to redraft the Rules to make clear that special advisers are included in this consideration.

The Government believes that there is also scope for the Rules and Guidance to be further clarified and updated in other places, and is working with the Advisory Committee on revisions. The revised rules will be incorporated into the Civil Service Management Code.

We believe it is inappropriate for former Crown servants to move almost directly to positions in which they may lobby former Ministers or colleagues. (Paragraph 20)

The Government notes the Committee's recommendation on this issue. There are circumstances where it is appropriate to include a ban on lobbying the Government and former colleagues for a prescribed period as a condition of taking up new employment. The Government believes that it is vital that former Crown servants should avoid any criticism that they are using what may be seen as privileged access to former contacts in Government to further the interests of their new employer. However, the Government continues to believe that this should be decided on the merits of individual cases.

We acknowledge that the current case by case approach means that those who wish to take up appointments will not be sure that they will be approved. Nonetheless we are concerned that a single sanction to be applied against a single test would not be adequate. We think there could be cases where the criterion of "material influence" would operate in ways which blocked appropriate appointments but did not prevent inappropriate ones. We do not believe that this will provide the public with reassurance that impropriety is prevented. (Paragraph 22)

An approach which is more clearly tailored to individual cases is both more likely to win the assent of those to whom it applies, and is more easily defended on the grounds of public interest. (Paragraph 23)

Although Sir Patrick Brown makes some valuable suggestions for improving the Business Appointment Rules, we consider that his single test and single sanction approach is not satisfactory. It might prevent straightforward corruption, but would not deal with more insidious uses of influence, and would not command public confidence. (Paragraph 25)

The Government shares the Committee's view that the present system provides for a flexible approach which enables decisions under the Rules to take account of the particular circumstances of each individual case. The Government agrees with the Committee that the more narrow approach proposed by Sir Patrick Brown of a single sanction applied against a single test would not be adequate to protect the public interest in ensuring that when a former Crown servant takes up an outside appointment there should be no cause for concern of impropriety.

We agree that if the public service ethos is to be maintained, those coming into Crown service from backgrounds in other fields should be properly inducted, and be given a clear explanation of what conduct is considered proper. (Paragraph 24)

The Government agrees with the Committee and Sir Patrick Brown that it is vital that new entrants to the Crown service at all levels should receive thorough and comprehensive induction training which makes clear what it means to undertake a role in public service.

As the Committee acknowledges, the new Civil Service Code, published in June 2006, is a key component of effective induction arrangements for civil servants. The Code clearly sets out the duties and responsibilities of civil servants, and the standards of conduct expected of them. The Cabinet Office and the Civil Service Commissioners are working closely with departments to ensure that they have robust induction procedures in place, and on a range of initiatives to ensure that the principles set out in the Code are embedded into departmental culture.

We believe that, as ACoBA itself proposes, former Ministers should be required to submit proposed appointments to the scrutiny of a Business Appointments Committee. They should accept the advice given to them. (Paragraph 27)

The Government accepts the Committee's recommendation. The new Ministerial Code published in July 2007 makes clear that on leaving office, Ministers must seek advice from the independent Advisory Committee on Business Appointments about any appointments or employment they wish to take up within two years of leaving office, apart from unpaid appointments in non-commercial organisations. The Code also makes clear that Ministers will be expected to abide by the advice of the Committee.

We believe that, to ensure consistency, the body which considers applications to take up business appointments from Crown servants should also be responsible for advising former Ministers on such appointments. (Paragraph 30)

The Government shares the Committee's belief that it is appropriate that a single body should be responsible for considering applications from Crown servants, and for providing advice to former Ministers in order to ensure a consistent and rounded approach to administering the Rules and Guidelines.

If the Civil Service increasingly recruits to senior posts from outside the civil service, it will become more important for the Civil Service Commissioners to be aware of the likely career paths of those recruits. It seems at the least odd that Ministers should be formally responsible for taking decisions about what jobs are suitable for former Crown servants, when their involvement in recruitment is so carefully regulated. (Paragraph 36)

The Advisory Committee on Business Appointments has operated effectively, and we see little benefit in changing its composition, or its way of working. However, we recommend that the Government considers whether decisions about future business appointments of senior Crown servants would be better taken by the Civil Service Commission than the Prime Minister or Head of the Home Civil Service. We acknowledge there are arguments in favour of the status quo, as well as arguments for change, but we believe the proposal deserves serious consideration. (Paragraph 40)

We believe it would be appropriate for the Chairman of the Committee on Business Appointments to be a Civil Service Commissioner, to ensure a coherent and collegiate approach to both appointment and exit from the civil service. (Paragraph 41)

The Government shares the view of the Committee and Advisory Committee that administering a system for vetting business appointments at a senior level requires a broad spread and balance of experience and expertise, and that the current combination works well.

The Government notes the Committee's view that there are arguments for developing the involvement of the Civil Service Commissioners in the business appointments process as well as maintaining the status quo. However, it notes that while the role of the Civil Service Commissioners is to regulate recruitment to the Civil Service, individual decisions are the responsibility of the relevant department. The Government will consider further the Committee's recommendations as part of the work to take forward the commitment in the Constitutional Reform Green Paper for legislation for the Civil Service.

15 October 2007

List of Reports from the Committee during the current Parliament

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

Session 2006-07

First Report	The Work of the Committee in 2005-06	HC 258
Second Report	Governing the Future	HC 123 (<i>cm 7154</i>)
Third Report	Politics and Administration: Ministers and Civil Servants	HC 122
Fourth Report	Ethics and Standards: The Regulation of Conduct in Public Life	HC 121
Fifth Report	Pensions Bill: Government Undertakings relating to the Financial Assistance Scheme	HC 523 (<i>HC 922</i>)
Sixth Report	The Business Appointment Rules	HC 651 (<i>HC 1087</i>)
Seventh Report	Machinery of Government Changes	HC 672
First Special Report	The Governance of Britain	HC 901
Eighth Report	The Pensions Bill and the FAS: An Update, Including the Government Response to the Fifth Report of Session 2006-07	HC 922 (<i>HC 1048</i>)

Session 2005-06

First Report	A Debt of Honour	HC 735
Second Report	Tax Credits: putting things right	HC 577 (<i>HC 1076</i>)
Third Report	Legislative and Regulatory Reform Bill	HC 1033 (<i>HC 1205</i>)
Fourth Report	Propriety and Honours: Interim Findings	HC 1119
Fifth Report	Whitehall Confidential? The Publication of Political Memoirs	HC 689
Sixth Report	The Ombudsman in Question: the Ombudsman's report on pensions and its constitutional implications	HC 1081
Seventh Report	The Ministerial Code: the case for Independent Investigation	HC 1457 (<i>HC 1088</i>)
First Special Report	The Attendance of the Prime Minister's Strategy Adviser before the Public Administration Select Committee	HC 690
Second Special Report	Ministerial Accountability and Parliamentary Questions: Government Response to the Committee's Fifth Report (Session 2004-05)	HC 853
Third Special Report	Inquiry into the Scrutiny of Political Honours	HC 1020