



House of Commons
Public Administration Select
Committee

**Pre-appointment
hearing for the dual
post of First Civil
Service Commissioner
and Commissioner for
Public Appointments**

Fourth Report of Session 2010–11

*Report and appendices, together with formal
minutes*

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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 and the Health Service Commissioner for England, 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 powers of the Committee 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 Clive Porro (Clerk), Ben Williams (Second Clerk), Louise Glen (Senior Committee Assistant) and Su Panchanathan (Committee Assistant)

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1 Report

Recommendation on appointment

1. On 21 July 2010, the Minister for the Cabinet Office, Rt Hon Francis Maude MP, notified the Committee that he planned to recruit a single individual for the separate posts of First Civil Service Commissioner and Commissioner for Public Appointments. Both posts fall vacant on 31 December 2010. He sought the Committee's agreement to hold a pre-appointment hearing in due course.

2. The Minister wrote again on 11 November 2010 to inform us that the Government proposed to appoint Sir David Normington KCB to both posts and asked the Committee to hold a pre-appointment hearing. **The Committee held the hearing on 16 November 2010. We are prepared to endorse this appointment. We have every confidence in Sir David as an individual. However, we have serious concerns about the appointment of a senior civil servant to this post. We are also concerned about the lack of consultation surrounding the proposal to combine these two roles in one person.**

3. **More generally, if these hearings are to have any real value committees must be better informed about the nature of the recruitment process. In particular they should be aware of the background and experience of the other candidates who made the short-list. This information should be supplied in a memorandum from the relevant minister in good time prior to the pre-appointment hearing itself.**

4. **We also have reservations about the ability of a civil servant to benefit from a significant public sector pension entitlement immediately before going on to secure another public appointment.**

The Roles

The First Civil Service Commissioner

5. The Civil Service Commissioners have been responsible for the appointment of civil servants since 1855. The role and functions of the Commissioners have been regulated by Orders in Council. The Constitutional Reform and Governance Act—which received Royal Assent in April 2010—provided for the creation of a statutory Civil Service Commission as a body corporate. Francis Maude wrote to the Chair on 9 November 2010 to inform the Committee that this part of the Act would come into force on 11 November.¹

6. The Commissioners, under the leadership of the First Commissioner, have four core activities:

- i. To bring their experience and judgement to bear on a range of important leadership, human resources and policy issues;

¹ The Constitutional Reform and Governance Act 2010 (Commencement No. 3) Order 2010 (SI2010/2703)

- ii. To chair all recruitment activity (around 100 a year)—for the top three levels of the Civil Service;
- iii. To ensure that recruitment at all levels across the Civil Service is open, fair and the best person for the job is appointed, by publishing a set of Recruitment Principles that must be followed for all Civil Service recruitment; and
- iv. To help uphold the core values of the Civil Service—integrity, honesty, impartiality and objectivity—by advising departments on the promotion of the Civil Service Code and hearing appeals from civil servants under it.²

Commissioner for Public Appointments

7. The Commissioner for Public Appointments regulates some 10,000 ministerial appointments to the boards of a range of public bodies in England and Wales. The Commissioner regulates public appointments by reference to a Code of Practice with seven ‘Code Principles’ (Ministerial Responsibility, Merit, Independent Scrutiny, Equal Opportunities, Probity, Openness and Proportionality). The detailed processes for public appointments which are contained in the Code of Practice expand upon, and apply, the Code Principles. The Commissioner is required to publish an Annual Report and to audit Departments’ adherence to the Code. The Commissioner has the power to recruit and train Independent Public Appointments Assessors (IPAAs), whom he/she accredits, and who are currently required to oversee every regulated appointment directly.

8. The post of Commissioner for Public Appointments was a recommendation of the Committee on Standards in Public Life in its first report in 1995 (the Nolan Report). The Committee recommended the post in order to increase public confidence in the public appointments process and the quality of appointments made under it.

9. The role of the Commissioner for Public Appointments is provided for in the Public Appointments Order in Council 2002 and subsequent amendments.³

Terms of appointment

10. The post will be equivalent in status to a Permanent Secretary in a Government Department and will be paid pro-rata on the same salary range. The dual post will require a time commitment of 3 days per week and attract a payment of £85,080 p.a. Appointment is on a single five year non-renewable term. The appointment is not pensionable. It will take effect from 1 January 2011.⁴

2 A fuller description of the role can be found in the position specification at http://www.civilservice.gov.uk/uploaded_files/300710111008_FCSC-CPA%20POSITION%20SPECIFICATION.pdf

3 *Ibid*

4 *Ibid*

The selection process

11. The appointment of Sir David has followed the process set out in the Constitutional Reform and Governance Act 2010 with regard to the post of First Civil Service Commissioner. Appointment is by the Queen on recommendation of the Minister for the Civil Service and after consultation with the First Ministers in Scotland and Wales and the leader of the opposition party. Both posts are also subject to pre-appointment hearings by this Committee.⁵ We had set aside time in our programme to ensure that, for our part, the process could be completed in an orderly and timely fashion. However, slippage in the Cabinet Office's timetable meant that the Minister was only able to confirm to the Committee the preferred candidate's name barely two working days before the session.

12. Sufficient time must be allowed if a committee is to discharge this scrutiny role effectively. It is essential that the selection process accommodates the pre-appointment hearings adequately. It is regrettable therefore that this Committee has been given so little time to prepare for and to hold a session with the candidate.

13. Moreover, the current system makes it difficult for select committees to be properly informed about the qualities of the preferred candidate. This is due to the late stage at which they become involved in the process. It is essential that committees have enough information to judge how the preferred candidate compares to the rest of the field. **We recommend that in future, select committees be provided with a brief memorandum on the type of career background and on the experience of the other candidates who made the short-list. This will enable them to make a more informed judgment.**

14. The Cabinet Office appointed Saxton Bampfylde as their advisers and search consultants to recruit candidates for these posts.⁶ **We have concerns about the use of recruitment consultants to identify potential candidates for public sector posts. A proper explanation of the role of such consultants and their fees and costs should be included in the memorandum recommended above as part of the scrutiny process.**

The combined posts

15. According to the Cabinet Office, the reason for combining these posts is to take forward work, initiated by the current post holders, to maximise synergies and efficiencies between the two appointments processes. It claims that the case for these synergies has been made in the past by both the Committee on Standards in Public Life (CSPL) and by this Committee.⁷

16. Our predecessor Committee's past consideration of institutional change among the bodies regulating propriety and ethics recognised the value of closer ties but favoured a more collegiate arrangement to ensure closer working relationships as "*a more focused*

5 The list of posts subject to pre-appointment hearings is published in the Government's response to the Liaison Committee. Liaison Committee, First Special Report of Session 2007-08, *Pre-appointment hearings by select committees: Government's response to the Committee's First Report of Session 2007-08*, HC 594.

6 http://www.civilservice.gov.uk/uploaded_files/300710111008_FCSC-CPA%20POSITION%20SPECIFICATION.pdf

7 *Ibid*

development of current trends whereby the Public Appointments Commissioner is already a Civil Service Commissioner.”⁸

17. Moreover there has been no formal consultation about the proposal to combine both posts. In evidence to us the Minister for the Cabinet Office explained that consultation had extended only as far as the current incumbents of the two posts.⁹ **While combining the posts may have merit, we condemn the lack of consultation surrounding the proposal to do so. This might be the correct decision but the Government has not made its case and nor does this proposal reflect the recommendation of our predecessor committee. We reserve our position about the wisdom of this reform, subject to our own examination of the impact it will have on the two Offices.**

Time commitment

18. Both the First Civil Service Commissioner and the Commissioner for Public Appointments each work three days a week in their respective posts. The time commitment for the combined role is also three days. At the same time Sir David is being asked to:

- develop and implement proposals for a more proportionate, principled and risk-based regulatory regime for public appointments, taking account of the current system for civil service appointments and focussing, in particular, on whether direct regulatory involvement is necessary for every single appointment; and
- implement the change to a statutory Civil Service Commission and maximise the contribution and expertise of the body of Commissioners.

Moreover, these changes will be happening against the backdrop of a Civil Service recruitment freeze; a major review of public bodies involving the abolition or reform of a large number of them and requiring the passage of enabling legislation; a proposed restructuring of elements of the National Health Service (including the abolition of the Appointments Commission which has hitherto regulated appointments to Trusts and other health bodies); and a Government’s Spending Review which demands significant administrative efficiencies in the public sector.

19. **While we recognise the constraints on the public purse, we have reservations that Sir David will be able fulfil the two roles as adequately as his predecessors on the basis of the same time commitment for both jobs as his two predecessors gave to each of theirs. There is a severe risk that one or both Offices will not receive the requisite amount of attention.**

8 Public Administration Select Committee, *Ethics and Standards: The Regulation of Conduct in Public Life*, Fourth Report of Session 2006-07, HC 121, para 101.

9 Uncorrected transcript of oral evidence taken before the Public Administration Select Committee on 3 November 2010 HC (2010-11)537-i, Q 143

The preferred candidate

20. Sir David Normington is currently the Permanent Secretary at the Home Office. He was previously Permanent Secretary at the Department for Education and Skills from 2001 to 2005. Sir David has been in the Civil Service since 1973. His *curriculum vitae* is appended to this Report.¹⁰ We recognise that Sir David has overseen significant change at the Home Office. We note that he has also held posts which have involved direct management of large numbers of staff and HR responsibilities. He also chaired the steering group in 2008 which considered a senior civil service workforce and reward strategy.

21. However, his experience has been gained entirely from within the Civil Service. In contrast, the current and most recent holders of the post of First Civil Service Commissioner have all been recruited from outside the Civil Service. The current incumbent, Rt Hon Dame Janet Paraskeva, was the Chief Executive of the Law Society prior to her appointment; Baroness Prashar (2000-2005) had been Director of the National Council for Voluntary Organisations and Executive Chairman of the Parole Board of England and Wales and Sir Michael Bett (1995-2000) came from a career with BT.

22. The current and previous Commissioners for Public Appointments, Dame Janet Gaymer QC and Baroness Fritchie have also been recruited from outside the Civil Service.

23. There is a view that these roles need to be perceived as independent if they are to enjoy the confidence of civil servants and of the public more widely. We are satisfied that Sir David has the professional competence and personal independence for the posts of First Civil Service Commissioner and Commissioner for Public Appointments. However, these two posts regulate recruitment into public service and are, respectively, the complaint authorities for breaches of the Civil Service Code and the Code on Public Appointments. Therefore, we have reservations about the desirability of moving away from the recent practice of appointing from outside the Civil Service, instead appointing a career civil servant to these posts, who is in this case, moreover, being appointed directly on his retirement.

Conclusion

24. In the circumstances we believe both posts should remain under particular scrutiny from this Committee. We invited Sir David to report on progress within a year to assess the impact which the creation of this dual post has had on the management of both Offices and we are pleased that he agreed.

¹⁰ Appendix 1

Conclusions and recommendations

Recommendation on appointment

1. The Committee held the hearing on 16 November 2010. We are prepared to endorse this appointment. We have every confidence in Sir David as an individual. However, we have serious concerns about the appointment of a senior civil servant to this post. We are also concerned about the lack of consultation surrounding the proposal to combine these two roles in one person. (Paragraph 2)
2. More generally, if these hearings are to have any real value committees must be better informed about the nature of the recruitment process. In particular they should be aware of the background and experience of the other candidates who made the short-list. This information should be supplied in a memorandum from the relevant minister in good time prior to the pre-appointment hearing itself. (Paragraph 3)
3. We also have reservations about the ability of a civil servant to benefit from a significant public sector pension entitlement immediately before going on to secure another public appointment. (Paragraph 4)

Selection process

4. Sufficient time must be allowed if a committee is to discharge this scrutiny role effectively. It is essential that the selection process accommodates the pre-appointment hearings adequately. It is regrettable therefore that this Committee has been given so little time to prepare for and to hold a session with the candidate. (Paragraph 12)
5. We recommend that in future, select committees be provided with a brief memorandum on the type of career background and on the experience of the other candidates who made the short-list. This will enable them to make a more informed judgment. (Paragraph 13)
6. We have concerns about the use of recruitment consultants to identify potential candidates for public sector posts. A proper explanation of the role of such consultants and their fees and costs should be included in the memorandum recommended above as part of the scrutiny process. (Paragraph 14)

The combined posts

7. While combining the posts may have merit, we condemn the lack of consultation surrounding the proposal to do so. This might be the correct decision but the Government has not made its case and nor does this proposal reflect the recommendation of our predecessor committee. We reserve our position about the wisdom of this reform, subject to our own examination of the impact it will have on the two Offices. (Paragraph 17)

Time commitment

8. While we recognise the constraints on the public purse, we have reservations that Sir David will be able fulfil the two roles as adequately as his predecessors on the basis of the same time commitment for both jobs as his two predecessors gave to each of theirs. There is a severe risk that one or both Offices will not receive the requisite amount of attention. (Paragraph 19)

The preferred candidate

9. There is a view that these roles need to be perceived as independent if they are to enjoy the confidence of civil servants and of the public more widely. We are satisfied that Sir David has the professional competence and personal independence for the posts of First Civil Service Commissioner and Commissioner for Public Appointments. However, these two posts regulate recruitment into public service and are, respectively, the complaint authorities for breaches of the Civil Service Code and the Code on Public Appointments. Therefore, we have reservations about the desirability of moving away from the recent practice of appointing from outside the Civil Service, instead appointing a career civil servant to these posts, who is in this case, moreover, being appointed directly on his retirement. (Paragraph 23)

Conclusion

10. In the circumstances we believe both posts should remain under particular scrutiny from this Committee. We invited Sir David to report on progress within a year to assess the impact which the creation of this dual post has had on the management of both Offices and we are pleased that he agreed. (Paragraph 24)

Appendix 1: Curriculum vitae

Present role: Permanent Secretary at Home Office 2006-present

I am the Permanent Secretary at the Home Office, a post I have held since January 2006. I lead a Department of 33,00 staff with a budget of over £10billion, responsible for policing and crime, immigration and asylum and counter terrorism. During the last five years I have worked successfully with five Home Secretaries to turn around the performance and reputation of the Home Office.

I am Whitehall's most senior and longest serving Permanent Secretary. I have sat on Gus O'Donnell's steering board for the Civil Service since 2005, helping to develop and guide the strategy for the Civil Service. Within the wider Permanent Secretary group I have made a particular specialism of senior leadership development and HR. I have sat on the Cabinet Secretary's Senior Leadership Committee (and its predecessor) since 2002 and have been closely involved in all major developments in senior leadership in the Civil Service over that time.

I have just announced my intention to retire from the Civil Service at the end of 2010 when I complete 5 years at the Home Office.

Previous career

2001-2005 Permanent Secretary at the Department for Education and Skills

Responsible for English education policy, children's social services, higher education, youth and adult skills. Budget: £45billion. Staff 5,000 (approx).

1998-2001 Director General for Schools, Department for Education and Employment

Responsible for raising standards in English schools. Member of the Department's Board.

1997-1998 Director General for Strategy and International, Department for Education and Employment

Responsible (in the first year of the new Labour Government) for the overall strategy of the Department and its (new) approach to the EU in the field of social affairs and employment.

1992-1997 Director for Personnel (HR) and Corporate Services, Department of Employment (1992-95) and Department for Education and Employment (1995-97)

Responsible for HR and training and development policies and (later) for estates, IT, procurement etc; and for overseeing the merger of education and employment.

1989-1992 Director for Strategy and Employment Policy, Department of Employment

Responsible for policy on labour market and unemployment.

1987-1989 Regional Director for Employment Service, London and South East
Responsible for 500 Jobseekers and Unemployment Benefit Offices and 10,000 staff.

1973-1987 Range of jobs in the fields of employment, training and industrial relations policy, including Principal Private Secretary to the Secretary of State for Employment (Tom King), Area Manager for North East London, Manpower Services Commission and leader of the Bill teams for the 1980 and 1982 trade union legislation.

Qualifications

B.A. Hons in Modern History at Corpus Christi College, Oxford.
Chartered Fellow of the Chartered Institute of Personnel and Development.

Current remuneration:

£189,000 per annum.

Appendix 2: Letter to Chair from Rt Hon Frances Maude MP, Minister for the Cabinet Office, 21 July 2010

Recruitment competition for First Civil Service Commissioner/Commissioner for Public Appointments

I am writing to let you know that the Cabinet Office is shortly to begin the recruitment process to fill the posts of First Civil Service Commissioner and Commissioner for Public Appointments. The five year non-renewable terms of the current postholders (Dame Janet Paraskeva and Dame Janet Gaymer respectively) come to an end in December 2010.

I plan to recruit for a single individual to fill both these posts. The two separate appointments processes for the civil service and public appointments would be retained. But the combined role would be used to achieve synergies and efficiencies between the two. I know that the case for closer alignment of the two regulatory frameworks has been made in the past by both your Committee and the Committee on Standards in public Life. I expect this change to promote proportionate and principle-based regulation in a more efficient manner without diluting the regulation of civil service and public appointments.

Both posts had previously been identified as appropriate for pre-appointment scrutiny by the relevant select committee. Accordingly I am seeking your agreement to your Committee holding a pre-appointment hearing for the Government's nominated candidate, following an open competition. If you agree, my officials will liaise with the Clerk of the Committee to identify possible dates in the Committee's calendar (likely to be in mid/late October). I will of course write to you again ahead of the hearing and following the open competition to let you know the name of the Government's nominated candidate.

Appendix 3: Letter to Chair from Rt Hon Frances Maude MP, Minister for the Cabinet Office, 11 November 2010

Pre-appointment Hearing: Dual Role Appointment of First Civil Service Commissioner and Commissioner for Public Appointments

As you will know, we have recently undertaken an open recruitment exercise to appoint a single postholder to the dual role of First Civil Service Commissioner and Commissioner for Public Appointments in succession to Dame Janet Pareskeva and Dame Janet Gaymer.

Following an open recruitment exercise, I am pleased to inform you that Sir David Normington, currently Permanent Secretary at the Home Office, is the Government's preferred candidate for this dual role. I would now like to formally invite you to hold a pre-appointment hearing to take evidence from the preferred candidate. I understand that next Tuesday, 16 November has been provisionally scheduled for the hearing. My officials are liaising with yours to provide the necessary background for the Commission's evidence session.

The Prime Minister will carefully consider the Committee's report on the hearing before deciding whether or not to proceed with the appointment.

Formal Minutes

Tuesday 16 November 2010

Members present:

Mr Bernard Jenkin, in the Chair

Nick de Bois
Paul Flynn
Greg Mulholland

Robert Halfon
Mr Charles Walker

Draft Report (*Pre-appointment hearing for the dual post of First Civil Service Commissioner and Commissioner for Public Appointments*), proposed by the Chair, brought up and read.

Motion made and Question proposed, That the Chair's draft Report be read a second time, paragraph by paragraph. – (*The Chair.*)

Amendment proposed to leave out from "That" to the end of the Question and add that "this Committee decline to read the draft report a second time because a career civil servant should not be appointed to roles that have previously been undertaken with distinction by independent persons; there has been no plausible case made to employ one person to fulfil tasks previously carried out by two persons; the new arrangement will reduce the effectiveness of both roles; and that this could lead to a return of the cronyism that the Nolan report sought to eliminate. – (*Paul Flynn*)

Question put that the Amendment be made.

The Committee divided.

Ayes 1

Noes 2

Paul Flynn

Greg Mulholland
Mr Charles Walker

Main Question put.

The Committee divided.

Ayes 2

Noes 1

Greg Mulholland
Mr Charles Walker

Paul Flynn

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

Paragraphs 1 to 24 read and agreed to.

Papers were appended to the Report as Appendices 1, 2 and 3.

Resolved, That the Report be the Fourth 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 23 November at 10.00 am

Witnesses

Tuesday 16 November 2010

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Sir David Normington KCB, Permanent Secretary, Home Office

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(The transcript of the above oral evidence session will be published separately at a later date as HC 601-i)

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 2010–11

First Report	Who does UK National Strategy?	HC 435
Second Report	Government Responses to the Committee's Eighth and Ninth reports of Session 2009-10	HC 150
Third Report	Equitable Life	HC 485 (<i>Cm 7960</i>)