



Fifteen Years of Regulation of Public Appointments – the Lessons for the Future

Dame Janet Gaymer DBE QC
(Hon.)

14 March 2011



Since I was last here...

- Five year non renewable term as third Commissioner for Public Appointments completed December 2010
- Still separate Commissioners for Scotland and certain bodies in Northern Ireland
- Three Prime Ministers and a General Election – leading to a Coalition Government



A Reminder of the Regulatory Framework

- The genesis of the Commissioner – the Report of the Nolan Committee in 1995
- Concerns about standards of conduct of all holders of public office
- Final selection of candidates remains with Minister
- Overriding principle – appointment on merit



Responsibility for the Regulation of Appointment processes

- Ministerial appointments to public bodies – the Commissioner for Public Appointments
- Civil Service appointments – The First Civil Service Commissioner and Civil Service Commission
- Judicial appointments – The Judicial Appointments Commission



The Commissioner for Public Appointments

- Appointed by H.M The Queen and independent of government
- Not a civil servant
- Does not make appointments but regulates the appointments process through a mandatory Code of Practice
- Audits compliance, hears complaints and publishes an Annual Report
- Framework underpinned by Seven Principles



The Seven Principles

- Ministerial responsibility
- Merit
- Independent Scrutiny
- Equal Opportunity
- Probity
- Openness and Transparency
- Proportionality



Developments during the Last Five Years

- Pre-appointment scrutiny of certain candidates by a parliamentary Select Committee (comprised of politicians from all parties)
- The effect of the financial crisis on public sector spending - “ a bonfire of the quangos”
- One person will perform both Commissioner roles (public appointments and civil service) from 2011
- Private sector directors appointed to Departmental Boards



Lessons about Process

- The core elements of the process have stood the test of time
- Publicisation of appointments, short and long listing, interview, press release – everyone must apply and all applicants are treated the same
- Scrutiny of the entire process by an Independent Public Appointments Assessor, now accredited by the Commissioner
- But.....



Some Lessons for the Future

- Transparency - for example, publicising vacancies
- Appropriate selection criteria – which do not change during the process and which attract as diverse a field of applicants as possible
- The role of the Minister must be clearly understood – including by the Minister
- Effective, regular and transparent performance evaluation of appointees still an issue



Lessons about Regulation

- The continuing importance of being an independent regulator
- The appropriate balance between principles and rules, if processes are to improve
- But some things never change



Independence

- An increasing tendency to transfer to independent bodies the delivery of functions previously the preserve of Government
- This tendency reversed by the current Government
- Independence can be compromised – for example by limits on remit, financial and human resources and powers of enforcement
- But advantages of independent regulation still valued



The Benefits of Independent Regulation

- More consistency of decision making
- Long term rather than short term thinking
- More transparency
- Better accountability
- More trust between regulated and regulator
- Freedom from political interference



The Balance between Principles and Rules

- Lack of appointments expertise in government departments may inhibit introduction of totally principles – based system
- Frequent changes of personnel impede know how retention
- However aim should be personal and departmental responsibility for ethical behaviour



Some things never change

- The concern about bureaucracy – the rigid application of rules, “inconvenient” and liable to put off applicants?
- Delays in the process caused by human failings – for example organising diaries and busy Ministers

Has regulation worked and what next?



- The role of Commissioner was a response to a crisis in public life but it has proved its worth
- The next challenge – to build on the learning to date
- However not all appointments processes regulated and charges of patronage still occur
- A need to bring closer together the regulation of different appointments processes with a view to an overall appointments strategy in public life



And a further need to remember a saying

“The British acquire their institutions by accident and lose them in a fit of absentmindedness.”