

PUBLIC ADMINISTRATION SELECT COMMITTEE

Business Appointment Rules: Issues and Questions Paper

The Public Administration Select Committee (PASC) is undertaking an inquiry into the role of the operation of the Business Appointment Rules and the Advisory Committee on Business Appointments (ACoBA). PASC will examine the effectiveness of the Business Appointment Rules, as revised in 2011, in ensuring propriety in the future employment of former ministers and ex-senior crown servants, and consider the potential of the Big Society agenda to increase traffic through the 'revolving door' between business and the voluntary sector and the Civil Service.

This paper sets out the issues and outlines key questions that those wishing to submit evidence are invited to consider. **The deadline for submitting written evidence is noon on Friday 3 February 2012.**

Background

The Business Appointment Rules govern the take-up of private or third-sector employment by former ministers and Crown servants. The rules for former ministers state that "it is in the public interest that that former ministers with experience in Government should be able to move into business or into other areas of public life, and to be able to start a new career or resume a former one". The rules for former crown servants similarly emphasise the public interest that "people with experience of public administration should be able to move into business or other bodies, and that such movement should not be frustrated by unjustified public concern over a particular appointment". Both the rules for former ministers and crown servants also emphasise that "there should be no cause for any suspicion of impropriety" when a former minister or crown servant takes up a new appointment or employment.

ACoBA is an independent committee which advises the Prime Minister (and where appropriate, the Foreign Secretary) on the application of the Business Appointment Rules for senior Crown servants, and also advises ministers directly, on any appointments they wish to take up within two years of leaving office. It is an advisory non-departmental public body sponsored by the Cabinet Office and has a membership of seven who are appointed by the Prime Minister: three senior Parliamentarians nominated by the leader of each of the three main political parties; and a representative of each of the four main areas of responsibility and expertise covered by ACoBA: the Civil Service, Diplomatic Service, Armed Forces and the business sector.

The Business Appointment Rules were revised in 2011 to set out a new “general principle” of a two year ban on former ministers lobbying Government after they leave office. The Ministerial Code requires that former ministers seek, and abide by, the advice of ACoBA before taking up any outside appointment or employment within two years of leaving their Ministerial post.¹

The Civil Service Management Code requires departments to impose similar requirements on civil servants: former senior civil servants must seek ACoBA’s advice before accepting any outside appointment or employment within two years of their last day in service. Crown servants at lower grades must seek the advice of their department. As a result of the 2011 revision to the Business Appointment Rules, all applications by special advisers are now referred to ACoBA, regardless of seniority.

Previous inquiries

In February 2011, PASC held a one-off evidence session with the Chairman of ACoBA, Rt Hon the Lord Lang of Monkton, on the revised Business Appointment Rules, and raised questions about the membership of ACoBA and its working practices.

ACoBA and the Business Rules were also covered in a number of different reports by the PASC in the last Parliament. In November 2009, the Committee held a ‘pre-appointment’ hearing with Lord Lang, who had already begun serving as interim Chair. The Committee retrospectively endorsed his appointment, but expressed concerns about the Government’s failure to comply with the Office of the Commissioner for Public Appointments’ rules in making the appointment, and said that if found it “hard to imagine a system less designed to promote public trust in ACoBA’s work”.²

Other reports on this topic by the PASC in the previous Parliament included the *Third Special Report of Session 2009–10: Lobbying*; the *First Report of Session 2008–09: Lobbying: Access and Influence in Whitehall*; and the *Sixth Report of Session 2006–07: The Business Appointment Rules*.

Issues:

The revolving door

There is continuing concern about the movement of personnel between the private sector and the civil service. In December 2011 the *Sunday Telegraph* described “the practice known as the “revolving door”, where ministers, officials or military officers involved in controversial public-sector contracts then go on to work, at high salaries, for the beneficiaries of those same contracts” as “a potentially even worse scandal than lobbying”.³

¹ Ministerial Code paragraph 7.25

² Public Administration Select Committee, “Selection of a new Chair of the Advisory Committee on Business Appointments” Third Report of Session 2009–10, HC 42-I, paragraph 11

³ ‘A scandal worse than lobbying?’ *Sunday Telegraph*, 11 December 2011, p 24

There are a number of factors which are likely to increase the numbers of civil servants moving between Whitehall and the private sector:

- There is a growing demand for civil servants with external expertise, as reported by former ministers in PASC's recent report *Change in Government: the agenda for leadership*.
- Structural reforms in the Civil Service as part of the Government's deficit reduction agenda seem likely to mean a significant number of individuals leaving the civil service and looking for outside appointments.
- The Government's Big Society agenda calls for a greater diversity of providers for public services, which will increase the potential for movement of employees between the traditional public, private and third sectors, thus leading to potential conflict with the Business Appointment Rules.

Enforcement of ACoBA advice

Neither the Ministerial Code nor civil servants' terms and conditions of employment are directly enforceable after an individual leaves office. ACoBA itself is a purely advisory body and cannot enforce compliance with its advice: compliance tends to be a matter of goodwill and acceptance by the individual and new employer of the benefits of being seen to behave with propriety.

Membership of ACoBA

In January 2009 the previous PASC called for the membership of the Advisory Committee on Business Appointments changed to better reflect the make-up of society.⁴ These concerns remain, and criticism of the nature of ACoBA's membership persists.⁵

ACoBA has recently advertised for two lay members to join the Committee. The Committee is yet to replace the Civil Service representative, Dame Juliet Wheldon, who resigned for personal reasons in July 2011.⁶

The Committee would like to receive written evidence on the following issues in particular:

- 1. How can Government draw in and benefit from external expertise without giving rise to concern over propriety and undue influence?**
- 2. Does the Big Society model of government, under which officials will increasingly procure public services from the private sector and civil society, require a change in approach to business appointments after employment in the public services?**
- 3. Do the Business Appointment Rules work against recruitment of experts into Ministerial and official ranks?**

⁴ Public Administration Select Committee, *Lobbying: Access and influence in Whitehall*, First Report of Session 2008-09, HC 36-I

⁵ Off the Leash *The Daily Express* 24 March 2010 p. 16

⁶ ACoBA website

4. **Whose responsibility should it be to monitor the contact between Government and outside interests for signs of undue influence, and how could this be achieved in a proportionate manner?**
5. **How effective is the Advisory Committee on Business Appointments?**
 - a) **Should the membership of the Advisory Committee on Business Appointments be revised to better reflect the make-up of society?**
 - b) **Is the current structure of Advisory Committee on Business Appointments ready to handle a short-term rise in civil servants leaving the service, and in the longer term a growing traffic between the Civil Service and private/third sector?**
 - c) **Should the remit of the Advisory Committee on Business Appointments be extended to allow the Committee to enforce compliance with its advice?**

How to respond

Responses should be submitted **by noon on Friday 3 February 2012** by email to pasc@parliament.uk. If you do not have access to email, you may send a paper copy of your response to the Clerk of the Public Administration Select Committee, Committee Office, First Floor, 7 Millbank, London SW1P 3JA.

Each submission should:

- be no more than 3,000 words in length;
- begin with a short summary in bullet point form;
- have numbered paragraphs; and
- be in Word format or a rich text format with as little use of colour or logos as possible.

Submissions should be original work, not previously published or circulated elsewhere, though previously published work can be referred to in a submission and submitted as supplementary material. Once submitted, your submission becomes the property of the Committee and no public use should be made of it unless you have first obtained permission from the Clerk of the Committee.

Please bear in mind that the Committee does not investigate individual cases.

The Committee normally, though not always, chooses to publish the written evidence it receives, either by printing the evidence, publishing it on the internet or making it publicly available through the Parliamentary Archives. If there is any information you believe to be sensitive you should highlight it and explain what harm you believe would result from its disclosure; the Committee will take this into account in deciding whether to publish or further disclose the evidence.

For data protection purposes, it would be helpful if individuals wishing to submit written evidence send their contact details in a covering letter or e-mail. You should be aware that there may be circumstances in which the House of Commons will be required to communicate information to third parties on request, in order to comply with its obligations under the Freedom of Information Act 2000.