

FM Scrutiny Committee - the Process for, and Scrutiny of, Major Public Appointments in Wales

1. Background – public appointments process

There are two different types of public appointments, regulated and unregulated. Regulated appointments must comply with the Public Appointment Commissioner's Code of Practice on Ministerial Appointments to Public Bodies. There is no requirement to abide by the Code for unregulated appointments but the Welsh Government seeks to ensure that all public appointment exercises comply with it.

Significant public appointments form a mixture of regulated and unregulated appointments. For example, the Children's Commissioner post is not regulated but the Chair of the Arts Council is.

The responsible Minister agrees the recruitment process and documentation at the beginning of each recruitment exercise. An interview panel oversees the appointments process. A Public Appointments Assessor chairs all Chair posts to regulated bodies. Panels (whether regulated or not) always contain an independent panel member.

The interview panel produce an interview report at the end of the appointments process. This is sent to the responsible Minister with a recommendation regarding whom to appoint and/or requesting that the responsible Minister meet with the appointable candidates prior to making a decision. Ultimate responsibility for public appointments rests with Ministers. Finally the appointment of the successful candidate must be publicised.

2. Update on issues Raised by the Committee in March 2015

2a) Commissioner Posts and the role/involvement of the National Assembly

At the Committee meeting in March 2015 the Committee raised concerns that Commissioners are appointed and funded by the Welsh Government. They recommended that these appointments should be made by the National Assembly in order to strengthen independence and accountability.

The Welsh Government has already sought to involve the National Assembly in the appointments process. For example, the interview panel for Commissioner posts always includes at least one AM. The interview panel for the Welsh Language Commissioner has one representative from the National Assembly while the interview panel for the other Commissioner posts contain a representative from each of the main political parties.

Assembly Committees can choose to scrutinise the work of the Commissioners, and invite them to Committee meetings to give evidence, thereby testing their effectiveness and independence.

2b) Recommendations from the Review of the Children's Commissioner

The Committee previously asked the First Minister to consider standardising the length of tenure and reappointment of Commissioners and passing a Commissioners Bill. The Children's Commissioner's role and functions were reviewed in 2015 and the Cabinet discussed the findings of the review and implications for other posts.

Commissioner's tenures are defined in legislation. Whilst Ministers see the rationale in having greater consistency and coherence between Commissioners, they are not yet persuaded of the need for a single piece of legislation or amending existing legislation in order to bring greater consistency. It is worth bearing in mind many of the differences between the Commissioners reflect their respective roles and functions, which are specific to their remits.

Any new legislation will be for the new government following the elections.

3. UK Review of Public Appointments

Sir Gerry Grimstone has conducted a review of the Office of the Commissioner for Public Appointments. The outcome of the review is not yet available but changes are expected to the role of the Public Appointments Commissioner and the public appointments process. The Welsh Government's arrangements for making appointments will be reviewed once the outcome of the review is known.

4. Diversity of Public Appointments (see doc 1))

The Welsh Government has a target to increase the number of women on Boards to 40%. The notes section at the bottom of the doc 1 includes a definition of each of the terms used in the data tables. Please note that figures for 2015/16 will not be available until April 2016.

Document 1

31 March 2011 – 1 April 2012		
	Regulated	Unregulated
Total number of appointees serving on Boards	355 - 206 male (58.03%) - 149 female (41.97%)	268 - 191 male (71.27%) - 77 female (28.73%)
New Appointments	36 - 25 male (69.44%) - 11 female (30.56%)	23 - 15 male (62.22%) - 8 female (34.78%)
Re-appointments	40 - 22 male (55%) - 18 female (45%)	50 - 44 male (88%) - 6 female (12%)

31 March 2012 – 1 April 2013		
	Regulated	Unregulated
Total number of appointees serving on Boards	357 - 211 male (59.1%) - 146 female (40.9%)	231 - 161 male (69.7%) - 70 female (30.3%)
New Appointments	99 - 46 male (46.46%) - 53 female (46.46%)	15 - 12 male (80%) - 3 female (20%)
Re-appointments	36 - 27 male (75%) - 9 female (25%)	28 - 16 male (57.14%) - 12 female (42.86%)

31 March 1 2013 – 1 April 2014		
	Regulated	Unregulated
Total number of appointees serving on Boards	407 - 234 male (57.49%) - 173 female (42.51%)	223 - 154 male (69.06%) - 69 female (30.94%)
New Appointments	72 - 40 male (55.56%) - 32 female(44.44%)	14 - 11 male (78.57%) - 3 female(21.43%)

Re-appointments	108 - 68 male (62.96%) - 40 female(37.04%)	46 - 23 male (50%) - 23 female(50%)
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31 March 2014 – 1 April 2015		
	Regulated	Unregulated
Total number of appointees serving on Boards	416 - 238 male (57.21%) - 178 female (42.79%)	240 - 162 male (67.5%) - 78 female (32.5%)
New Appointments	63 - 24 male (38.1%) - 38 female (60.32%) - 1 undeclared (1.59%)	85 - 63 male (74.12%) - 22 female(25.88%)
Re-appointments	77 - 40 male (51.95%) - 36 female (46.75%) - 1 undeclared (1.3%)	18 - 13 male (72.22%) - 5 female (27.78%)

Notes:

1. Total number of appointees serving on Boards or statutory office. This is for boards administered by the Welsh Government. This figures includes all board members (who can serve up to 10 years) whether or not they have been recruited or re-appointed during the timeframe specified. Please note that although this figure includes appointees serving on Boards administered by the Welsh Government not all of the Board members will necessarily be appointed by the Welsh Government. For example, the National Library of Wales has 15 members, 8 of which are appointed by the Welsh Government and 7 of which are appointed by the National Library.
2. New Appointments – appointment of a new individual to a public board or statutory office within the time period specified.
3. Re-appointment - re-appointment of an existing board member within the timeframe specified.
4. Regulated appointments are those regulated by the Commissioner for Public Appointments.
5. Unregulated appointments are not regulated by the Commissioner for Public Appointments but are recruited to in line with the Nolan principles and the principles of merit, fairness and openness.