

## **CIVIL SERVICE COMMISSION**

### **Q and A: MINISTERIAL INVOLVEMENT IN APPOINTMENTS**

#### **Q: What is the Commission's role?**

The Civil Service Commission is a statutory body established by Parliament to provide assurance that recruitment to the Civil Service is on merit on the basis of fair and open competition. This is a legal requirement that applies to all organisations that employ civil servants.

This means that when the Civil Service is recruiting it must advertise the vacancies publicly and the jobs should be offered to the best candidates from those who apply, following a fair selection process.

Civil Service jobs should be won on the basis of what someone can do; not on who they know, or what connections they have.

#### **Q: What is the legal position?**

The principle of recruitment on merit to an impartial Civil Service was first established in the middle of the 19<sup>th</sup> century.

It was established in statute by the Constitutional Reform and Governance Act 2010.

#### **Q: When was this last discussed by Parliament?**

The principle of recruitment on merit was discussed by Parliament during the passage of the Constitutional Reform and Governance Act in 2009 and 2010. Parliament confirmed the importance of this long standing principle.

The Constitutional Reform and Governance Act was passed with support from all parties at the end of the Labour administration in 2010. The provisions of the Act were brought into effect by the Coalition Government in November 2010.

## **Q: What does the Civil Service Commission do?**

As required by law, the Commission publishes its Recruitment Principles <http://civilservicecommission.independent.gov.uk/civil-service-recruitment/> which spell out what the legal requirement of selection for appointment to the Civil Service 'on merit on the basis of fair and open competition' means in practice. The Principles also describe the limited exceptions that are allowed to the merit principle and how they may be used.

All organisations that employ civil servants must follow the provisions of the Recruitment Principles.

To check that departments are following the Recruitment Principles, the Commission has a contract with an external firm that carries out a compliance monitoring audit each year to check that Civil Service recruitment is being conducted in accordance with the Recruitment Principles. The Commission reports on this in its Annual Report <http://civilservicecommission.independent.gov.uk/publications/annual-reports/> .

In addition Civil Service Commissioners chair the selection panels for the most senior jobs in the Civil Service to ensure that selection is made on merit on the basis of fair and open competition.

## **Q: Who are the Civil Service Commissioners?**

There are currently 12 Civil Service Commissioners who all work part time. They are themselves selected on merit after fair and open competition, and serve a five year term of office.

The Commissioners come from a variety of backgrounds, <http://civilservicecommission.independent.gov.uk/about-us/civil-service-commissioners/> many from the private sector, and also from the voluntary sector and the public sector. The lead Commissioner, called the First Civil Service Commissioner, is currently Sir David Normington. He is also the Commissioner for Public Appointments.

**Q: How can Ministers be involved now?**

The Commission believes that Ministers should have significant influence on the appointment of senior civil servants with whom they work closely. This is a very small number of appointments each year.

But that does not mean that Ministers should, or need to, have the final choice on who is selected. Ministers may ultimately refuse to appoint a selected candidate, but they may not pick and choose between candidates.

Ministers can be involved by:

- being consulted at the outset on the nature of the job, the skills required, and the best way of attracting a strong field.
- agreeing the final job description and person specification, and the terms of the advertisement.
- agreeing the composition of the selection panel, in particular to ensure that there is sufficient external challenge.
- meeting each of the short listed candidates, to discuss his or her priorities and feedback to the panel on any strengths and weaknesses to probe at final interview.

**Q: What is different about Permanent Secretary appointments?**

Permanent Secretaries are the lead officials in their departments and are responsible for ensuring that the department delivers the Ministers' priorities.

The reality is that Secretaries of State have to have a strong and effective working relationship with the Permanent Secretary in their department: if this relationship does not work then this will have serious consequences for the effective operation of the department.

To recognise this reality the Commission has published a [Practice Note on Ministerial involvement in Permanent Secretary Competitions.](#)

<http://civilservicecommission.independent.gov.uk/wp-content/uploads/2012/12/EXPLANATORY-NOTE-PERM-SEC-COMPETITIONS-MINISTERIAL-INVOLVEMENT.pdf>

This is a definitive statement of how Secretaries of State can be involved, and are encouraged to be involved by the Commission.

**Q: Haven't Ministers always been able to pick their Permanent Secretaries?**

It is only relatively recently that competitions for Permanent Secretary vacancies have been opened up to candidates from outside the Civil Service: prior to this Permanent Secretaries were always recruited internally from existing civil servants.

The legal requirement of recruitment on merit applies to situations where a Civil Service post is opened up to those who are not civil servants, it relates to entry into the Civil Service: if there is a vacancy that is opened to non-civil servants then anyone should have a chance to apply and the selection must be done by a fair process.

In the past, when Permanent Secretary vacancies were only available to existing civil servants, it may well have been the case that Ministers were in effect given some choice between internal candidates.

**Q: Why should Ministers be involved at all?**

Ministers have to work very closely with their lead officials who are charged with delivering the Ministers' priorities. Ministers should therefore be able to play a part in drawing up the job and person specification to ensure that they reflect their understanding of the challenges facing the department.

It is also right that Ministers should offer to brief short-listed candidates and feed into the panel any observations they have, and areas that they believe the panel should test. External candidates will want to meet the person with whom they will be working so closely, and this is accommodated within an approach that ensures that selection is made on merit through a fair process.

But the appointment is not a personal one; it is to a politically impartial Civil Service. Civil servants are bound by the Civil Service Code to serve the Government of the day whatever its political colour. Permanent Secretaries may have to serve successive Secretaries of States, with different personalities, and different political philosophies.

This is why the final decision on who is the best candidate is made by the selection panel not the Minister.

**Q: Why won't the Commission agree to the Government's proposal?**

In the Civil Service Reform Plan the Government acknowledged that Ministers already had involvement in the most senior Civil Service appointments, and indicated its belief that there was a case to go further. It indicated that it would consult with the Civil Service Commission specifically on how the role of the Secretary of State in Permanent Secretary recruitment could be strengthened.

In the course of our discussions with the Government we made it clear that we did not believe that giving Ministers a choice of candidates was compatible with the role given to the Commission by the Constitutional Reform and Governance Act. However, the Commission does not believe that the extent to which Ministers can be involved is well understood by the public, by civil servants, or indeed by all Ministers.

The Commission has therefore published its [Practice Note on Ministerial involvement in Permanent Secretary Competitions](#).

<http://civilservicecommission.independent.gov.uk/wp-content/uploads/2012/12/EXPLANATORY-NOTE-PERM-SEC-COMPETITIONS-MINISTERIAL-INVOLVEMENT.pdf>

This describes in much more detail than before how Ministers may be involved from the beginning of the process in shaping the role and agreeing panel membership; to the end, where the Minister may be invited to play a further role if the panel cannot initially decide between two candidates with different skill sets.

**Q: Who is on the selection panel?**

The composition of the selection panel for Permanent Secretary competitions is proposed by the Cabinet Office, who run the recruitment process. It has to be agreed

by both the Secretary of State and the First Civil Service Commissioner (who is the chair of the selection panel).

Panel members for Permanent Secretary competitions will be selected to provide a high quality panel that is really able to test the candidates against the breadth of the role. It will include the Head of the Civil Service, or the Cabinet Secretary, and a number of senior figures from outside the Civil Service; usually these will include a non-executive director from the department.

**Q: What is changing as a result of the Civil Service Reform Plan?**

There is now a much clearer statement on how Secretaries of State may be involved at all stages of the selection process for Permanent Secretary appointments. This includes for the first time the description of a role they may play at the end of the process at the invitation of the First Civil Service Commissioner if the panel needs to gather more evidence to choose between two candidates, who are very close, but who offer different skill sets.

**Q: What if the Minister doesn't want to appoint the recommended candidate?**

Ministers, and the Prime Minister, may decide not to appoint the selected candidate.

If the Minister does not believe that the panel has picked the best candidate he or she may explain to the panel why, and ask the panel to reconsider. The panel can decide to change its merit order after considering points made by the Minister. The panel will then have to ask the whole Board of the Civil Service Commission to endorse this alteration to the merit order. (This is a long-standing procedure that has always been found in the Commission's Recruitment Principles.)

**Q: Ministers have a choice for Public Appointments: why not civil servants?**

Ministers are responsible for making appointments to the Boards of hundreds of arms length public bodies, from NHS Trusts to the BBC. The Commissioner for Public Appointments provides assurance that the principle of selection on merit is maintained: there is not the same requirement as the Civil Service that the selection must be on merit on the basis of fair and open competition. For Public Appointments selection panels provide Ministers with a list of a number of candidates who are considered by the panel to be appointable.

There are significant difference between Civil Service employment and Public Appointments.

Appointment to the Civil Service is an employment relationship. Civil servants are generally salaried permanent employees carrying out executive functions. They are required to be politically neutral and to serve the government of the day, and all successive governments, in a single post at any one time.

Ministerial appointees to the boards of public bodies are office holders with limited fixed terms, usually three to five years. They need not be politically neutral. They can hold multiple posts and are usually in non-executive, governance roles, for which they may be paid or unpaid.

**Q: Do Ministers get to pick their civil servants in other countries?**

Practice varies greatly from country to country.

Among Westminster style democracies, the UK is near one end of the spectrum, with New Zealand, in allowing no choice for Ministers in the choice of senior civil servants. The USA is at the other end of the spectrum: with a change of government all senior officials are replaced with appointees of the incoming President.

Arrangements for the appointment of senior officials are one aspect of the governance arrangements for each country which vary greatly within written, and unwritten, constitutional settlements.

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