



Code of Practice for Ministerial Appointments to Public Bodies in Scotland

Consultation Opportunity

The consultation document accompanying this questionnaire contains the proposed Code of Practice for Ministerial Appointments to Public Bodies in Scotland. The Code is designed to develop the regulatory framework in place prior to the appointment of a Commissioner for Public Appointments in Scotland. The Commissioner has adopted the regulatory framework which was in place as the interim Code until the new Code has been agreed. The questions contained in this response form arise from some of the differences between the interim Code and the proposed Code. We would welcome your opinions of the changes proposed.

How to access copies of the Code

Copies of both the interim Code currently in use in Scotland and the proposed Code of Practice for Ministerial Appointments to Public Bodies in Scotland may be accessed:

on the Commissioner's website	www.publicappointments.org
by telephone	0131 718 6268
by email	info@ocpa-scot.org.uk

by writing to

Karen Carlton
Commissioner for Public Appointments in Scotland
9-10 St Andrew Square
Edinburgh
EH2 2AF

The text of this Code can be made available in alternative formats; requests for alternative formats should be made to the Commissioner's office as above.

How to respond

Please indicate your opinions about the proposed Code and any other comments you wish to make on this questionnaire. If you wish to complete and submit the questionnaire electronically you can do so at: www.publicappointments.org/consultations

Timeframe for consultation

We are inviting written responses to this consultation by **30 September 2005**.

Thank you for your interest.



Code of Practice for Ministerial Appointments to Public Bodies in Scotland

Consultation Opportunity

Please answer the questions below and add any other comments you wish to make at the end of this questionnaire.

1. The Principles of the Code of Practice

The principles contained in the interim Code have been adapted to reflect the Member's Model Code of Conduct adopted under the Ethical Standards in Public Life etc (Scotland) Act 2000 insofar as they refer to the public appointments process.

Please see **Section 2 of the proposed Code**

Question

Do you accept that the proposed principles reflect the requirements of a public appointments process which is built on merit and must gain the confidence of the people of Scotland? Please give reasons.



Please use this additional space if you require it.

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2. Taking a proportionate approach to public appointments

The interim Code requires different approaches to be taken to appointments to what are classed as upper and lower tier public bodies. A body falls into the upper tier category if it meets one or both of the following:

- Members (excluding the chair) individually receive £5,000 or more per annum in fees and/or honoraria (excluding travel, subsistence and other expenses such as child care and loss of earnings).
- The body receives £10 million or more of government funding per annum through the sponsor department.

A body falls into the lower tier category if it meets both of the following:

- Members (excluding the chair*) individually receive less than £5000 in fees and/or honoraria (excluding travel, subsistence and other expenses such as child care and loss of earnings) and
- The body receives less than £10 million of government funding per annum through the sponsor department.

* If the chair receives more than £20,000 that appointment alone is subject to upper tier procedures.

The proposed Code removes the tiers and requires all public bodies to follow the practices it outlines.

This is designed to ensure consistency in appointment practices and to develop expertise in the application of a single process. To enable sponsor departments to deal both efficiently and effectively with the diverse range of appointments made, the Code allows a proportionate approach to be taken at each stage in an appointment round. The approach will be appropriate for the size and purpose of the public body and the posts to be filled.

Please see Section 3 paragraph 1 and Section 4 paragraph 10.3 of the proposed Code

Question

Do you agree that every application for a public appointment should be subject to the same process?

Please give reasons.



Please use this additional space if you require it.

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3. Anonymity

The interim Code allows applicants' personal details to be known throughout the appointments process. The proposed Code requires applications to be anonymised in the early stages of an appointment round. This is to ensure that applications are judged purely on merit and to remove any potential concern that information about applicants – other than how they meet the criteria described in the person specification – may affect assessment decisions made during the early stages of an appointment round.

Please see Section 3 paragraph 5 and Section 4 paragraphs 13.1, 17.3, 19.1 and 19.10 of the proposed Code

Question

Do you agree that this should be implemented? Please give reasons.



Please use this additional space if you require it.

A large, empty rectangular box intended for additional information or comments.



4. Statutory nominations

A statutory right to nominate arises where a public body's founding legislation or constitution states that an organisation has the right to nominate individuals to the Minister for appointment to that public body. Under the proposed Code nominating bodies will be asked to nominate individuals who meet the criteria in the person specification agreed for nominated individuals. To ensure consistency of assessment and equality of treatment to all applicants, individuals nominated will be required to progress through the appointments process in the same way as other applicants.

Please see Section 4 paragraph 7.1 c and paragraph 15 of the proposed Code

Question

Do you agree that applications from statutory nominees should be subject to the same process?

Please give reasons.



Please use this additional space if you require it.

A large, empty rectangular box intended for additional information or comments.



5. Political activity

Political activity is not a part of the appointment process. Under the interim Code all applicants are asked to complete a political activity declaration form. The form asks for information already in the public domain; it does not ask for personal or private information such as membership of political parties or voting preferences. Information contained in this form is included in publicity about the person appointed and thus is not used until an appointment is made. The proposed Code states that only the appointed candidate should complete the political activity declaration form. This is designed to reinforce the fact that political activity is neither a recommendation for nor a deterrent to appointment. The Commissioner recognises that it will in future be necessary to collect a range of information about applicants – which will include political activity – to identify trends which emerge in converting applications to appointments. This will be addressed during the development of her Equality and Diversity Strategy.

Please see Section 4 paragraphs 17.2 n, 17.7 and 28.2 of the proposed Code

Question

Do you agree that, to underline the fact that political activity is not part of the public appointments process, completion of the political activity declaration form should be confined to successful applicants?

Please give reasons.



Please use this additional space if you require it.

A large, empty rectangular box provided for additional information or comments.



6. Length of time an individual may remain on the board of a public body

The interim Code states that no individual may remain on the board of a public body for more than 10 years. The proposed Code states that an appointment secured through open competition may be followed by one re-appointment subject to evidence of satisfactory performance. An individual who has served an initial term and has been re-appointed may choose to apply for a further term on the board of the same public body. If so, the application will be made in open competition and compared against all other applications. If the individual is appointed they may be re-appointed subject to evidence of satisfactory performance. Thus, in the situation described, an individual who demonstrates that he or she is the most meritorious applicant may serve more than 10 years on one board.

A public body should be able to access the skills, knowledge and personal qualities required on the board and appointment must be based on merit. Scottish Ministers have stated their commitment to increase the range and diversity of people serving on the boards of our public bodies. Appointing a board member for further terms may be in conflict with this stated commitment.

Please see Section 30 of the proposed Code

Question

Should the 10 year rule be removed to ensure that an individual's merit is not overruled by a time limit to their service on one board? Please give reasons.



Please use this additional space if you require it.

A large, empty rectangular box intended for additional information or comments.



7. Please use this section to outline any other comments you would like to make.

A large, empty rectangular box provided for the respondent to enter their comments.



How your response will be used

All responses will be analysed and considered along with any other available evidence to inform the work of the Commissioner in finalising the Code.

Confidentiality

Copies of all responses received will be placed on the OCPAS website and/or made available to the general public in the OCPAS office. The views expressed may be quoted or referred to in any future review of responses. All responses which do not indicate a requirement for confidentiality will be checked for any defamatory material before being made publicly available. If you do not wish your response to be made public, please ensure that you indicate clearly that all or part of your response is to be treated as confidential. Confidentiality will be respected. We will still count confidential responses in any statistical analysis and your views will be taken into account in the same way as for non-confidential responses.

Process following consultation

Following consultation the Commissioner's Office will write to all who have participated in the consultation to indicate the outcome of the consultation exercise and its impact on the formation of the Code.

Your information

Please complete the details below and attach with your response.

1. Are you responding as (please tick appropriate box):

An individual? (go to 2a/b, 3)

On behalf of a group or organisation? (go to 2c/d, 3)

Individuals

2a. Do you agree to your response being made public (on the OCPAS website and in the OCPAS office)?

Yes (go to 2b below)

No

If you wish part of your response to remain confidential please indicate which part or parts:

Question 1

Question 2

Question 3

Question 4

Question 5

Question 6

2b. Where no confidentiality is requested, we will make your response available to the public on the following basis (please tick one box):

Make my response and name available

Make my response available, but not my name



On behalf of groups or organisations

2c. Do you agree to your response being made public (on the OCPAS website and in the OCPAS office)?

Yes (go to 2d below)

No

If you wish part of your response to remain confidential please indicate which part or parts:

Question 1

Question 2

Question 3

Question 4

Question 5

Question 6

2d. Where no confidentiality is requested, we will make your response available to the public on the following basis (please tick one box):

Make my response and organisation's name available

Make my response available, but not my organisation's name

Further Contact

3a. We may wish to contact you again in the future to clarify comments you make in your response.

Are you content for us to do so?

Yes

No

3b. We may wish to contact you again in the future for consultation or research purposes.

Are you content for us to do so?

Yes

No

Name

Address

Postcode



Returning Your Questionnaire

There are several ways to complete this questionnaire, once downloaded, print and complete the document and return it to the postal address supplied, alternatively you can complete it electronically and either print and return it to the postal address supplied; or click the link below which will automatically save and attach your completed questionnaire to an email addressed to us.

Returning by post:

Consultation Response
Office of the Commissioner for Public Appointments in Scotland
9-10 St Andrew Square
Edinburgh
EH2 2AF

Returning by email (ensure you have completed all questions to your satisfaction):

[Click here to email your completed form to us.](#)

If you have any comments about how this consultation exercise has been conducted, please send them to:

Catherine M Pringle
Office of the Commissioner for Public Appointments in Scotland
9-10 St Andrew Square
Edinburgh
EH2 2AF