

Public Appointments in Wales

A Commissioner for Wales?

March 2025

This is a supplementary report to accompany the Committee's substantive report on Public Appointments in Wales.

This report solely concerns the possibility of a Commissioner for Public Appointments for Wales and should be read alongside the substantive report, which also contains relevant information which has motivated some of these conclusions.



Chair's foreword

The Committee's report on Public Appointments in Wales exposed a series of failings which remain an impediment to sourcing and securing the widest breadth of quality candidates for public sector appointments.

As part of this inquiry, it became clear that not only were there failings in the Welsh Government's administration of the Public Appointments system but that the oversight of the Public Appointments Commissioner for England and Wales was not effective in improving the system.

Wales remains a small proportion of an England and Wales Commissioner's work and, as a result, there is no scope for them to devote the attention to Wales that will help facilitate the transformational change required in this space.

The Committee is convinced that a Commissioner devoted to Welsh Public Appointments could act as a driver of the transformation change that's required to ensure public roles in Wales attract the best candidates, who represent our society.

We must access talent from across Wales and ensure equality of opportunity regardless of a person's background. The focus on appointing candidates from the same pool, usually clustered in and around Cardiff, impedes Welsh public bodies and must be addressed with vigour.

The Commissioner could act to drive the change that's required in Wales. The Committee learned about the positive work undertaken by the Ethical Standards Commissioner for Scotland, who is able to be more interventionist in his approach to improving Scottish public appointments. We consider this model to be one that the Welsh Government should seek to emulate.

Whilst we acknowledge the capacity and funding constraints facing the public sector, we encourage the Welsh Government to see this as an investment in Wales' future, which will yield long-term benefits in the efficiency of our public bodies.

In a devolved world, an England and Wales Public Appointments Commissioner is no longer an approach that is fit for purpose. The Welsh Government has an opportunity to make a lasting commitment to improving the quality of public appointments for the long-term, in a way that will be more inclusive for all.

Mark Isherwood MS

Chair, Public Accounts and Public Administration Committee

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1. Introduction

- 1.** The Committee's report, *Public Appointments in Wales* (March 2025), is intended to accompany this report and summarises the Committee's work in this area, which revealed a series of troubling issues with the administration of public appointments in Wales.
- 2.** As part of our consideration of this topic, the Committee heard evidence from the Commissioner for Public Appointments for England and Wales,

2. Public Appointments Commissioner

- 3.** The Commissioner for Public Appointments ('the Commissioner') is the independent regulator of public appointments. The Commissioner's primary role is to provide independent assurance that public appointments made by UK and Welsh Government Ministers are made in accordance with the Governance Code on Public Appointments ('Governance Code').
- 4.** The Commissioner's functions are set out in the Public Appointments Order in Council 2019 ('Order in Council'). Key duties provided to the Commissioner by the Order in Council include:
 - Undertaking audits of public appointments procedures and practices followed by appointing authorities in making public appointments.
 - Conducting investigations into any aspect of public appointments with the objective to improve their quality.
 - Considering complaints and conduct inquiries of appointing authorities where necessary.
- 5.** The Commissioner does not make appointments himself or deal with the procedures relating to appointments which do not fall within his remit, such as civil service or judicial appointments. The Commissioner is expected to be an active advocate for diversity. The Commissioner produces and publishes the outcomes of complaints and investigations, as well as other publications relevant to his role, such as thematic reviews.
- 6.** The Commissioner, William Shawcross, was appointed to the role in September 2021. The House of Commons Public Administration and

Constitutional Affairs Committee held a pre-appointment hearing with Mr Shawcross on 16 September 2021.

7. In Scotland, the role is undertaken by the Ethical Standards Commissioner, whose functions are summarised later in this report.

8. During his pre-appointment hearing, Mr Shawcross told the House of Commons Public Administration and Constitutional Affairs Committee you would “go out of London as much as possible—to Wales, first of all”. We asked him if he had done this and how he would describe his engagement with the Welsh Ministers and the Welsh Government.

9. The Commissioner explained that for various reasons he had not been to Wales as much as he would have liked but on engagement, he stated:

“I think it's worked very well—as I say, too much at arm's length, and I have promised that I'm going to do much more to come to Cardiff, and to travel widely around England and Wales, next year. I've just published my annual report, and I've stated that that's my priority”.

10. At the time of our evidence gathering we considered the Commissioners Annual Report 2020-21, in which the then former Commissioner had reported “after this third round of compliance visits... overall, departments and the Welsh Government are improving”².

11. However, he identified three Welsh Government breaches of the Governance Code, with two of these described by the former Commissioner as “serious”³.

12. The first serious breach concerned the ‘significant political activity’ of an appointee to Careers Wales not being publicly disclosed, despite the candidate declaring it at the time of their application. Political activity is not a bar to an appointment, however, the Commissioner stated that “transparency around political activity is key to upholding the [Governance] Code’s principle of Openness”.

¹ RoP, 15 December 2022, paragraph 58

² Commissioner for Public Appointments, Annual Report 2020-21, page 21

³ Commissioner for Public Appointments, Annual Report 2020-21, page 40

13. We asked the Commissioner if he was concerned that over a quarter of those appointed by the Welsh Government in 2020-21 declared significant political activity, which compares with 5.7 per cent for the UK Government.

14. The Commissioner explained that the governance code is ‘absolutely clear that significant political activity, as such, is not a bar to appointment’. He added that individuals must be assessed on merit by a panel, and only go forward if they meet the agreed bar and stated:

‘The code mandates transparency, as you know, and candidates must declare any significant political activity, and their activity must be published upon their appointment’

15. The Commissioner explained that:

“My annual report, which has just been published, provides further transparency on overall numbers. I think the figures are this: last year, political activity for Welsh Government appointees and re-appointments was 8 per cent; in the year before that, 6.2 per cent. In 2021-22, this relates just to 17 people. You must interpret the data very, very carefully. So, I don't think there is any undue concern about this. Nearly all the appointments of people with some political activity have been announced in the proper fashion, and where there have been slight concerns or issues, we've raised them with the Welsh Government, and the Welsh Government has responded completely properly”.

16. We asked the Commissioner if he thought that the interpretation and the definition of political activity are correct in terms of since when then individuals applying for public appointments have been politically active. In response, he explained that he was not sure but that he thought:

“the important point is that people can have political views and be politically active, which is entirely appropriate in a democracy, but it must all be declared, and the appointments must be made not because of political activity but on merit. But political activity should not in itself discount people”.

17. We understand that the code stipulates that political activity should be declared for a period of up to the last 5 years. We raised concerns that there is often chatter—and not particularly within any political party, but within lots of them—that sometimes cronyism takes place when it comes to making public appointments. We asked the Commission if the 5-year time frame was sufficient and whether the period should be extended to any political affiliation an individual may have had going forward.

18. The Commissioner did not give a view on this stating that the Governance Code is written by the Government and is not his. He added:

“if people think it should be extended further back, that is something that can be debated, but it's not in my gift, I'm afraid”.

19. The second serious breach was about an appointee at Meat Promotion Wales, who intended to step down but was reappointed “at the last minute” by Welsh Government Ministers. The annual report states the member was not performance appraised as the body’s understanding was the individual would not be serving any longer. This breached the Code which stipulates no reappointment or extension can be made without a satisfactory performance appraisal.

20. A similar breach by the Welsh Government is also noted in the 2019-20 Annual Report when the Welsh Government made a reappointment to the Regulatory Board for Wales without a satisfactory performance appraisal. The 2020-2021 Annual Report states the Welsh Government recognised the errors and the Commissioner was satisfied it had rectified its process to prevent further breaches.

21. Paragraph 3.3 of the Governance Code allows, in exceptional circumstances, for Ministers to appoint a candidate without competition following a consultation with the Commissioner.

22. In his Annual Report 2020-21, the former Commissioner reported:

“As with last year the Welsh Government used the exceptional provisions in the code more often than Whitehall departments. There are as always day-to-day realities of keeping a board functioning as members come and go through no one’s fault; the Commissioner

continues to welcome pragmatic and open discussion with departments on changing needs brought about by the pandemic”.

23. Elsewhere in his Annual Report, the former Commissioner referred to the Code’s ‘Principle of Openness’ and the importance of transparency. He said:

“Despite the Code’s prohibition on ‘automatic’ reappointments... there are still instances where reappointments are presumed. The Commissioner reminds departments and appointees that ministers should be presented with a range of options, including going out to competition, with the Code’s emphasis on refreshing talent. Saying that, there is a balance to be struck between reappointment and fresh appointment in ensuring a body has the necessary skills and viewpoints to carry out its functions, remains quorate and uses the talent acquired through a competition to its fullest”.

24. For 2020-21, and 2021-22, up until 7 September 2021 (accessed 16 January 2022), the Commissioner’s website identified the names of 15 individuals who were appointed without competition to roles as Chairs or members of organisations related to the Welsh Government. A record of “exceptional appointments” is available on the Commissioner’s website. This shows that, subsequently, the Welsh Government has used the exceptional provisions to extend the appointments for the following:

- a Member of the Aneurin Bevan University Health Board for 12 months (March 2022);
- a Member of Public Health Wales for nine months (April 2022);
- and the Chair and a Member of the Independent Remuneration Panel, Welsh Government for two years and 12 months respectively (May 2022).

25. We raised concerns with the Commissioner that the Welsh Government appears to have used the exemption provisions to appoint without competition more times in 2021-22 than in the previous year, 2020-21 and sought his views on this

26. The Commissioner explained that the governance code gives Ministers practical options to ensure boards are quorate and able to develop their

functions. The code also allows for interim appointments when a competition isn't possible or can't be moved forward. The Commissioner stated:

"I've not been minded to raise serious objections to Welsh Ministers' use of exceptional provisions, but I do note that the volume of casework from the Welsh Government where my view is sought for exceptions under the code is out of proportion to the number of public bodies in Wales".

27. He added that he raised this point with the Welsh Government's Permanent Secretary and that he thought better management of competitions would reduce the number of some of these exceptional arrangements. He explained that he had suggested to the Welsh Government that better forward planning would be very helpful and the relationship between sponsor teams and the central public bodies unit needs to work better.⁴

28. Public bodies in Wales are grouped into two categories, those that are regulated by the Commissioner for Public Appointments and those that are non-regulated. Regulated bodies are listed in a Public Appointments Order in Council⁵, which lists the bodies subject to the oversight of the Commissioner. The Welsh Ministers are responsible for adding any devolved public bodies to that Order in Council. The First Minister is ultimately responsible for the oversight of appointments to these bodies, though in practice responsibility is delegated to other Cabinet Ministers.

29. The Welsh Government has confirmed that Welsh Ministers are responsible for making appointments to 48 regulated public bodies and 52 unregulated public bodies.

30. The Committee asked the Welsh Government to clarify on what basis Welsh Ministers decide whether a public body should be regulated or un-regulated. The Welsh Government's evidence states that Welsh Ministers decide which bodies should be regulated based on "advice from officials".

31. A letter to us from the Permanent Secretary stated that while the Cabinet Office provides general guidance on whether a body or office should be added to

⁴ RoP, 14 December 2022, paragraph 83

⁵ [The Public Appointments Order in Council 2023](#)

the Order in Council, "it considers ministers are best placed to determine" which appointments should be regulated⁶. It goes on to say:

*"There are usually reasons for roles/bodies not to be regulated, most notably where there are other formal, usually statutory processes which govern their appointment, where the volume and local nature of the roles makes ministerial involvement impractical or where a particular degree of independence from government is required"*⁷.

32. It does not provide criteria for when or why a public body should be regulated. An assumption could be made therefore that any public body which does not meet the criteria for a body to be non-regulated by default would be a regulated body.

33. We asked officials what criteria are applied by Welsh Government Ministers to decide whether a public body should be regulated by the Commissioner for Public Appointments and added to the list of bodies included in the Order in Council for public appointments.

34. We were told that Ministers are responsible for that in conjunction with advice from the Public Bodies Unit and guidelines from the Cabinet Office. That takes in several factors around any organisation that's being set up, such as its status, whether appointments are ministerial ones, and the legislation that underpins it⁸.

35. For clarity, the Chief Operating Officer explained there is no set of criteria⁹.

36. The Welsh Government's evidence paper to the Committee says that the 52 non-regulated public bodies voluntarily adhere to the Governance Code on Public Appointments that regulated bodies are obliged to comply with.

37. Previously the Welsh Government has told the Committee that some public bodies:

⁶ Letter from the Permanent Secretary, [Public Accounts and Public Administration Committee -- Welsh Government Annual Report and Accounts 2022-23](#), 15 April 2024

⁷ Letter from the Permanent Secretary, [Public Accounts and Public Administration Committee -- Welsh Government Annual Report and Accounts 2022-23](#), 15 April 2024

⁸ RoP, 17 October 2024, paragraph 212

⁹ RoP, 17 October 2024, paragraph 214

“... voluntarily follow all or part of the Code when making public appointments. Other unregulated public bodies may decide not to follow all or part of the Code”¹⁰.

38. In practical terms, we asked about the process for adding or removing Welsh devolved public bodies from the Order in Council and were told the process is set out through the Cabinet Office and the list is updated once or sometimes twice a year. It requires the Privy Council’s approval and is a lengthy process¹¹.

39. We confirmed with officials that the list of Orders in Council is published, but we also wanted to know how the Welsh Government communicates any proposals to amend the Order in Council to citizens, public bodies and the Senedd. The Chief Operating Officer was unable to confirm whether there was any process for communicating proposals¹².

40. We noted the Permanent Secretary told us previously that only some of the unregulated public bodies in Wales follow the Governance Code on Public Appointments. In relation to the 52 non-regulated bodies which voluntarily adhere to the Governance Code on Public Appointments, we asked Officials to clarify whether they all follow the Governance Code.

41. We heard that the regulated and unregulated status only refers to public appointments and not the scrutiny and accountability for the performance of those public bodies. The Director of People and Places explained that:

“... unregulated public bodies would still need to go through the usual decision reports, public appointment scrutiny by officials, such as myself and others, and then signed off by the relevant Cabinet Secretary. So, there is still a huge degree of regulation around that. They voluntarily comply with the code, as set out by the office of the Commissioner for Public Appointments”¹³.

¹⁰ Letter from the Permanent Secretary, [Public Accounts and Public Administration Committee – Welsh Government Annual Report and Accounts 2022-23](#), 15 April 2024

¹¹ RoP, 17 October 2024, paragraph 218

¹² RoP, 17 October 2024, paragraph 226

¹³ RoP, 14 December 2023, paragraph 233

3. Scotland's Commissioner

42. The office of the Commissioner was established in 2003 as a consequence of the Public Appointments and Public Bodies (Scotland) Act 2003 ('the Act').

43. The Committee was pleased to have the opportunity to meet with the Commissioner and his team at their offices in Edinburgh on 23 November 2023.

44. Their initial purpose was to prepare and publish a code for public appointments, as well as statutory guidance to govern public appointments in Scotland. Eventually, a function was conferred on the Commissioner to implement a strategy to drive increased diversity in Scottish public appointments, initially based on protected characteristics, albeit this function has now widened.

45. The Commissioner originally operated on a part-time basis, but it is now a full-time role. The office was established with 1 Scottish Government employee working on secondment but now is a fully staffed external body, maintaining offices separate from the Scottish Parliament and Government.

46. The Commissioner deals with approximately 100 regulated public bodies, with around 750 posts under their jurisdiction. It's noted that not all posts at regulated public bodies are regulated, with some bodies only having one regulated appointment (usually a Chief Executive or similar). This is defined by the Act, as well as by the Scottish Ministers where there are new public bodies established.

47. When describing the role of the office, the Commissioner summarised it as assuring the Scottish people that the best people are being appointed to these roles.

48. As part of the appointment process, Ministers decide the requirements for a role and provide a briefing to the Commissioner on the ideal candidate for a position. Whilst the Commissioner doesn't have a role in coming up with the initial criteria, both bodies have obligations around succession planning and therefore, in practice, the Commissioner does have a voice in the preliminary stages of recruitment.

49. The Commissioner will then appoint a Public Appointments Adviser, who answers to them and not the Scottish Government, to provide direct oversight. The Commissioner decides on the oversight required for an appointment based

on a series of factors, including the budget and functions of the relevant body. The Commissioner's office has 12 Public Appointments Advisers.

50. The Commissioner will also conduct audits and thematic reviews of appointments, which are published, to help the Scottish Government better understand the Code and to improve its appointment practices.

51. The Commissioner has the ability (and obligation) to halt progress if he finds material non-compliance with the Code.

52. In comparing the role of the Scottish Commissioner and England and Wales' Commissioner, the Commissioner noted that the latter didn't have direct oversight of appointments and didn't produce guidance or codes for the wider civil service. The Commissioner also noted that the England and Wales Commissioner couldn't find non-compliance and that Ministers drove processes.

53. Whilst he noted that the England and Wales Commissioner can subsequently audit appointment processes, without the initial direct oversight this is not effective and means there is very little by way of an audit trail for them to scrutinise.

54. The Commissioner faces three separate elements of Parliamentary scrutiny, including:

- The Local Government Committee scrutinises his work on complaints;
- The Standards, Procedures and Public Appointments Committee scrutinises his public appointments work, albeit his appearances there have been very rare;
- The Public Audit Committee scrutinises the functioning of his office.

4. A Commissioner for Wales?

55. In his evidence to the Committee Damian Bridgeman called for Wales to appoint its own Commissioner stating:

"I'd actually like to see Welsh Government take a really radical step and take public appointments back in-house fully, in the sense of we actually have a public appointments commissioner for Wales, or

something like that. Because, actually, when it becomes a generic sort of public appointments organisation across the bridge, they're not really understanding the demographics for Wales”¹⁴.

56. The Committee asked the Welsh Government’s Chief Operating Officer whether he would support the creation of a public appointments commissioner for Wales. He said that ultimately this was a political decision for Ministers but, from his perspective, the current system of an England and Wales Commissioner worked well:

“My personal approach to things like that is that the current system appears to be working quite well, we have a good relationship with the commissioner who covers Wales, and the processes are compliant and appear to be working reasonably well. So, I always start from the point of view of, 'What's the problem we're trying to solve, and what's the best route to do that?' But the current process, from a public bodies unit perspective, appears to be working effectively at the moment, so I think the question is, 'Is there a case for change?' Ultimately, that can be a political choice as well, going forward. But you look at what's the business case in terms of both the costs and the benefits that would be delivered through a separate commissioner for Wales”¹⁵.

57. As part of our consultation for this inquiry we sought the views of other Senedd Committees specifically on Senedd Committee pre appointment hearings but also on public appointments more broadly.

58. The Equalities and Social Justice Committee highlighted to us that pre-appointment hearings involve roles created by Acts of the Senedd and yet the appointments they have been involved with were at least partly reliant upon arrangements which pre-dated devolution and were shaped by Ministers in Westminster¹⁶. Quoting the Commissioner for Public Appointments – whose role in the words of a House of Commons Committee has been “downgraded” to that of “a watchdog with no enforcement powers” as part of recent reforms¹⁷.

¹⁴ RoP, 7 June 2023, paragraph 112

¹⁵ RoP, 14 December 2023, paragraph 248

¹⁶ [Correspondence from the Equalities and Social Justice Committee](#), 2 February 2023

¹⁷ House of Commons, [Public Administration and Constitutional Affairs Committee, 'Pre-Appointment Hearings: Promoting Best Practice,'](#) - Tenth Report of Session 2017–19

59. As stated above the Commission covers England and Wales with Scotland and Northern Ireland have established their own Commissioners to discharge these functions. The ESJ Committee support the idea that this appears to be an anomaly which merits further consideration and they would expect the Welsh Government to either defend this position or agree to wider reforms which address this.¹⁸

Our View

60. The regulation of public bodies in Wales is unclear and confusing. There are no defined criteria set out on whether a public body should be regulated or unregulated and decisions are made by Welsh Ministers based on advice from Officials. There are 52 un-regulated public bodies in Wales and while these can voluntarily adhere to the Governance Code on Public Appointments that regulated bodies are obliged to comply with it is not clear how many do so and whether or not they only follow parts of the Code.

61. We believe this all points to a lack of transparency and accountability for unregulated Public Bodies. There is no set criteria for which public bodies are regulated or unregulated and there is a lack of clarity on which parts of the Governance Code un-regulated bodies choose to and are adhering to. This makes it difficult for the public to understand how these bodies operate or for them to be held to account.

62. The position in Scotland seems to provide greater clarity and oversight over public appointments and the process is independent from government i.e. not led by Ministers. The Ethical Standards Commissioner for Scotland has a clear role in producing guidance and codes. We believe this approach to be better for good governance.

63. We also believe Wales' interests would be better met by having an individual solely responsible for overseeing public appointments in Wales. The Welsh context for public appointments is very different to that in England and greater attention needs to be given to meeting the specific needs and challenges within Wales. We don't feel this can be achieved within the existing arrangements which feel somewhat detached.

Conclusion 1. The present model of an England and Wales Public Appointments Commissioner is not working as effectively as it should in

¹⁸[Correspondence from the Equalities and Social Justice Committee](#). 2 February 2023

accessing the best talent for Welsh public appointments, with representation from all of Wales.

64. We believe that the model in Scotland offers a template for how this can be achieved in Wales, with an opportunity to consolidate the duties of a Public Appointments Commissioner alongside that of an existing Commissioner.

65. We believe any Welsh Commissioner should also have the powers held by the Ethical Standards Commissioner, including powers to:

- Appoint independent public appointment advisers who answer solely to the Commissioner, rather than to Ministers
- Conduct audits and thematic reviews of appointments, which are published, to help the Government better understand the appointment practices in place (and in the Scottish example, how the Code applies);
- Halt the progress of a recruitment exercise if material non-compliance with the Code is found;
- Publish an Annual Report, much like the England and Wales Commissioner currently does, setting out statistics on the appointments made as well as relevant indices such as how many individuals hold multiple appointments, performance against diversity targets etc.

66. This compares favourably with the powers of the England and Wales Commissioner, who doesn't have the same levels of direct oversight of appointments and doesn't produce Codes that would drive best practice. The retrospective approach of the England and Wales Commissioner is not a model we consider to be effective in changing appointment practices.

67. This new Commissioner should face similar levels of Parliamentary scrutiny to the Ethical Standards Commissioner.

Conclusion 2. A dedicated Public Appointments Commissioner for Wales, with the power to intervene in public appointments and appoint independent public appointment advisers would lead to improved outcomes and lead to a more diverse range of successful candidates.

Conclusion 3. The Committee acknowledges the funding challenges facing the Welsh public sector and believes that the model of the Scottish Ethical

Standards Commissioner could offer value for money, whilst also ensuring direct Welsh oversight of public appointments.

Recommendation 1. We recommend that the Welsh Government establish the role of a Public Appointments Commissioner for Wales, who would assume the responsibilities of the Commissioner for Public Appointments.

Recommendation 2. This role should be established on a joint basis alongside an existing remit, to ensure that the impact on the Welsh public purse is minimised.

Recommendation 3. The new Public Appointments Commissioner for Wales should hold the same powers as the Ethical Standards Commissioner in Scotland holds concerning public appointments, including (but not limited to) the ability to publish a Code for Public Appointments, and the ability to appoint public appointment advisers to support recruitment exercises.

Annex 1: List of oral evidence sessions.

The following witnesses provided oral evidence to the committee on the dates noted below. Transcripts of all oral evidence sessions can be viewed on the Committee's [website](#).

Date	Name and Organisation
15 December 2022	William Shawcross Public Appointments Commissioner
3 May 2023	<p>John Gallanders Former independent board member at Betsi Cadwaladr University Health Board</p> <p>John Cunliffe Former independent board member at Betsi Cadwaladr University Health Board</p> <p>Dr Rosetta Plummer Independent witness</p> <p>Shereen Williams, Chief Executive Local Democracy and Boundary Commission for Wales</p>
18 May 2023	<p>Dr Doyin Atewologun, Chief Executive Officer Delta Leadership and Inclusion Consultancy</p> <p>Chantal Patel Independent witness</p> <p>Tracey Burke – Director General, Climate Change and Rural Affairs Welsh Government</p> <p>Emma Williams - Director, Housing and Regeneration Welsh Government</p> <p>Stuart Fitzgerald - Deputy Director, Home and Places Welsh Government</p>
7 June 2023	Damian Bridgeman Social Care Wales
23 November 2023	Ian Bruce

Date	Name and Organisation
	Ethical Standards Commissioner for Scotland
14 December 2023	Tim Moss, Director General and Chief Operating Officer Welsh Government Kathryn Jenkins, Chief Security Officer Welsh Government
17 October 2024	Tim Moss, Director General and Chief Operating Officer Welsh Government Dominic Houlihan, Director, People and Places Welsh Government