

HOUSE OF LORD APPOINTMENTS COMMISSION

Minutes of the First Meeting, 5 June 2000

Present: Lord Stevenson (Chair)
Baroness Dean
Lord Dholakia
Dame Deirdre Hine
Lord Hurd
Felicity Huston
Angela Sarkis

Jim Barron (Secretariat)
Judith Simpson (Cabinet Office)

Apologies: Jonathan Tross (Cabinet Office, on leave)

Introduction

1. Lord Stevenson welcomed everyone to the first meeting of the Appointments Commission. His intention was to have a first discussion of the Commission's remit and some of the administrative arrangements, not to take decisions, which could wait until later meetings when the Commission would have an opportunity to consider the issues thoroughly on the basis of worked-up papers. He hoped the Commission would be in a position to make a public announcement about its work in the early Autumn.

2. Lord Stevenson reported that he had met each member of the Commission individually and had held several meetings with Cabinet Office officials. He had arranged to meet Mr Hague, Mr Kennedy, Lord Strathclyde, Baroness Jay and Lord Rodgers over the next ten days. He had also, exceptionally, agreed to meet Lord Craig who had very strong views on the work of the Commission. He had no plans to see the Prime Minister but would do so if the need arose. He would tell the political parties that the Appointments Commission wished to enjoy good relationships with them but stress that it had been set up as an independent Commission and would operate as such. He agreed with the suggestions that he should also meet the three Chief Whips in the House of Lords, the First Secretaries in the Scottish Parliament and National Assembly for Wales, and the First Minister and Deputy First Minister in the Northern Ireland Assembly.

3. As members of the Commission were already being approached with nominations, the Secretariat was asked to develop a system for handling names in advance of the Commission's drawing up its formal procedures. The Commission wished to avoid any suggestion that individuals were being given a head start, but it would seem a little abrupt to say nominations could not be accepted now. A standard letter to the nominator, acknowledging receipt and advising that no consideration

would be given to the nomination until the Commission had worked up its procedures appeared to be the best way forward.

4. Lord Stevenson said Jonathan Powell had confirmed that the Prime Minister did not expect the Appointments Commission to play any part in the Birthday Honours List. The Commission agreed it would be better if there were no peers on the List, but if this were the Government's intention, the Commission would not be ready to consider names. Those members who were also on the Political Honours Scrutiny Committee were not aware of any proposals at this stage. This raised the question of whether or not it would be better to separate the Commission's recommendations from the New Year and Birthday Honours Lists. The Commission would wish to return to this issue in due course. In terms of party political nominations, Jonathan Powell had said the Government was expecting to publish another list later in the year, about October/November. The Cabinet Office would check the timing because the Commission had yet to develop its scrutiny procedures and could not handle a list suddenly sprung on it.

The Appointments Commission's relationship with the Cabinet Office

5. Lord Stevenson explained that Jonathon Tross was the Head of the Constitution Secretariat. Judith Simpson and Jim Barron were Deputy Directors within the Secretariat. Judith explained that she had the policy lead on the reform of the House of Lords. She had been until now the guardian of the Appointments Commission's role. She saw her task as briefing the Commission on the background and the Government's expectations, and would expect to withdraw from the Commission's meetings once this had been done. In relation to the Wakeham report, she confirmed that the Government had accepted the outline, including the recommendation that there ought to be a statutory Appointments Commission. However, the Government had yet to agree the powers and functions of the statutory Commission, for example, whether or not the Appointments Commission should make political appointments, as had been recommended. The Commission invited Judith to present papers to the next meeting which set out the Government's expectations for the Commission and the relationship with the Wakeham reforms, and discussed, as far as she felt able to go, the current thinking on a number of key issues.

6. Jim Barron explained that although he was a member of the Cabinet Office and reported to Jonathon Tross for staffing and other resource purposes, his task was to look after a number of bodies which were independent of Government but supported by the Cabinet Office. These were the Civil Service Commissioners, the Commissioner for Public Appointments and the Advisory Committee on Business Appointments. It had seemed sensible to place support for the Appointments Commission within that broad family. He and his staff were used to working independently but clearly defined working procedures would need to be established which demonstrated this independence to the outside world. He was currently recruiting a team to support the Commission. Lord Stevenson expected the Commission would give a public briefing in early Autumn on how it would set about its business. He hoped the Commission would take everyone by surprise by being very open and transparent about its procedures, for example, how it intended to handle conflicts of interest.

7. This raised the question of whether or not the Commission needed to make a public statement about how it was setting about its task. A number of members had been asked the question. It was agreed that there was little the Commission could say now but the Secretariat should draw up a "line to take" which members could use. This would last until the next meeting, after which a new "line to take" would be developed. This might shadow what the Commission would say in the Autumn. The Secretariat was asked to offer advice at the next meeting on the general issue of handling the press.

Conflicts of Interest

8. Jim Barron explained that as a non-departmental public body the Commission must have a Code of Practice. A core element would be the handling of conflicts of interest. The key issue was the relationship between the Appointments Commission, and its individual members, and nominees, but the Code would also have to cover gifts and hospitality, political activities and the acceptance of other appointments.

9. The Appointments Commission itself was unlikely to have a direct pecuniary interest with any nominee, unless it were to employ agents such as a firm of search consultants and someone closely associated with the consultants was nominated. The Commission would need to consider whether or not it was fair to exclude such nominees from consideration for a peerage and if it was minded to do so, where to draw the line, for example, a search consultancy might be part of a management consultancy which in turn was part a accountancy firm.

10. It was more likely that individual members of the Commission might have or have had a relationship with a nominee. It would seem a step too far to discount any knowledge the member had about the individual because the Commission had been set up to exercise its judgement on the merits of individual cases. The important thing was to declare and record the relationship so that other members were aware of it.

11. There would seem to be three broad categories of relationship:

- i. where a member was a business partner or had business dealings with a nominee;
- ii. where the member and nominee were acquaintances, in either a business or personal capacity. For example, where the member had met a nominee at dinner on several occasions, or belonged to the same professional organisation or sat on the same board of a charity; and/or
- iii. where the member and the nominee were friends or relatives.

12. In terms of procedures, the member should declare the relationship and the Secretariat would record it (precisely when this happened would depend on the Commission's nomination procedures). Members should also declare a similar relationship held by a close family member. The same procedures should apply to the Secretariat and to any agents used by the Commission, for example, search consultants. Relationships would remain confidential while the nomination process was in play and always for those who were not recommended. The Commission

would need to decide whether to publish the relevant parts of its register for recommended nominees when their peerages were announced.

13. In terms of the other aspects of the Code, it was important to keep a register of the receipt of gifts and hospitality from nominees (though this might be covered by the procedures for dealing with relationships). The independent members on the Commission had declared any political activity undertaken in the last five years as part of their selection process and this had been published when the membership of the Commission had been announced. Any change to that should be declared and published. The Commission might also feel that any member who was offered an appointment while on the Committee should talk to the Chairman about it. If an offer was made after a member stepped down from the Commission which raised a question, the Commission might also feel the former member should discuss that with the Chairman. As Jim was Secretary to the Advisory Committee on Business Appointments, he could offer advice on how the Committee dealt with such matters.

14. The Commission agreed that the issue needed to be discussed carefully. They could not assume that when a recommendation was made the world would believe that everything was in order. This suggested the need to publish the Code of Practice and for the avoidance of doubt, details of any relationship between the Commission and a recently elevated peer, probably on the Commission's Website. As part of the discussion, the Commission would need to look at the following issues: if the relationship was very close, should the member withdraw from the discussion? Could a distinction be drawn between taking part in a discussion and standing back from the decision? Was there a difference in the approach to the two aspects of the Commission's work, recommending peers and scrutinising party nominations? The Secretariat would produce a paper for the next meeting.

The type of people for whom the Commission is looking

15. Lord Hurd said that the understanding of what constituted a working peer was cloudy and had changed during the years. Lord Wakeham had called for a clear definition. He also envisaged that peerages could be offered as Honours but that this would not lead to an automatic entitlement to sit in the second chamber. However, a definition had not been produced yet and Lord Falconer, speaking in the House of Lords, had said it was a matter for the Appointments Commission to decide. There was currently a mixed economy of honorary and working peers and, in his view, the Commission should not close the door on either type. Baroness Dean agreed it was a difficult question. Not all cross-benchers were independent, some were political nominees. Part of the Government's intention in setting up the Appointments Commission was to encourage the appointment of members who were able to contribute to the workings of the House, but the record of the last session revealed that not all cross-benchers turned up regularly. Lord Dholakia thought the picture might become clearer when the Commission had set out its criteria. Angela Sarkis agreed the Commission should not come down on one side and require peers to work when the present system did not do that. At the same time, the Commission was charged with looking for new people, who would bring a different set of skills. It was probably a question of degree and greater guidance. Lord Stevenson emphasised that the Commission had no powers of enforcement. New peers might be expected to make a contribution to the work of the House, that is to speak on certain subjects, but

the Commission could not force them to do so. The Commission's task might be to share with the world its own thinking on the subject, to set out the problem and the ambiguities and show how it had come to its conclusion.

16. Lord Stevenson raised the question of how the Commission wished to handle peerages which by tradition were awarded to holders of certain appointments, for example, the Archbishop of Canterbury and the Head of the Home Civil Service. He asked the Cabinet Office to find out how many "automatic" peerages there were and when they would come up, so that the Commission could decide whether it was a significant issue.

17. Turning to the issue of numbers, Lord Stevenson said that the expectation was eight to ten recommendations a year. However, the Commission should think about whether or not it should discuss with the Government the possibility of having a higher number at which to aim, certainly for the first round. If the Commission could announce, say, twenty names, this would show the world what the Commission (and the Government) was trying to achieve. It was agreed that the Commission should not pin itself to a particular target. Although an open nomination was likely to attract a huge number of nominees, the Commission should not recommend anyone who was not up to the job and it was possible that the Commission might not feel able to recommend twenty names. It would be better to have a range at which to aim.

18. Lord Stevenson raised the issue of merit versus balance. He said it would be possible to fill the number with white, middle-class, men over the age of sixty of outstanding quality and achievement who lived or worked in Central London but the Commission's remit was to go wider than that. Angela Sarkis said that the real challenge for the Commission was to find those who were not obvious nominees. The Commission needed to watch that in doing so, it was not in effect applying a higher criteria to them than would be applied to others. The Commission might not be able to identify a sufficient range of people itself. It was also unlikely that the Senior Civil Service would be the best source for such nominees.

19. Lord Stevenson agreed that the Commission needed to consult widely and that it should use search consultants occasionally. Lord Hurd was cautious about relying too heavily on outside advice: there was no job description and it was unlikely nominees would be interviewed. The Commission should though make it clear where the balance lay. Some people would not be able to spend time in the House because they were busy running, for example, a large school but that was the type of individual who was being sought rather than someone who was being honoured for his or her achievements twenty years ago. Baroness Dean described the Commission's task as reaching those parts of the system which others could not reach. Members needed to look to their regional contacts to encourage nominees. At the same time, the Commission was dealing with a part-time House of Lords and needed to be careful it did not apply a higher standard to its recommendations. Dame Deirdre Hine thought it would be difficult if the Commission did not interview the shortlisted nominees as otherwise it could have no means of assuring itself that the individual could do the job. Felicity Huston reminded the Commission that it would have to be careful in its choice of search consultants; some firms had a very narrow focus. Lord Stevenson thought the standard was improving but agreed the Commission had to avoid being portrayed as a creature of those consultants. He also recalled that in the

past everyone would have known the likely nominees but the Commission might find itself in a position of recommending people who were not known widely. He thought that the Commission might need to talk to the shortlisted nominees, to determine that they could perform well.

The nomination process

20. Jim Barron explained that he had given some initial thought to the nomination process. The Government had said the Appointments Commission would:

- operate an open and transparent nomination system, effectively inviting public nominations and encouraging suitable bodies to make nominations;
- make public the qualities being sought and the type of information needed to support a nomination;
- cast its net wider than the present system; and
- seek the advice of the Commissioner for Public Appointments about best practice for attracting and assessing potential nominees.

21. The key aspect was inviting public nominations. This took the Advisory Committee into unknown territory. It was impossible to decide how many nominations there might be but the Commission needed to develop systems that could cope. There was a tendency for people outside the Commission to concentrate on the Commission's output rather than recognising the process which needed to be set up to produce the four/five names. At first blush it seemed likely that the Advisory Commission could meet six of the seven principles set out by the Commissioner for Public Appointments (the one on Ministerial responsibility for appointments was not relevant). Jim would produce a note on the Commissioner's principles and how the Commission might meet them for the next meeting.

22. The common features for any open nominations system appeared to be:

- an advertisement, in a range of media;
- a staged process - it made little sense to ask every nominee to submit a large quantity of information if there were little chance that he or she would make the longlist. Depending on the information the Commission decided it needed, it should be possible to devise a staged approach under which comprehensive information would be obtained only from or on those who passed an initial threshold;
- set criteria for the long and shortlists;
- an "interview" ;
- a system for carrying forward "near misses" and

- an open and transparent procedure, both to nominees and members of the public.

23. There were several models for handling the process.

Model A

24. Under this model, each round would be treated as a separate "selection" process and advertised as such. The aim might be to reduce the field to a longlist of, say, 70 names, by each Commissioner, with the help of the Secretariat, taking a seventh of the initial field and reducing it against the agreed criteria. Further information on the 70 nominees could then be sought, including, for example, further supporters' statements. A shortlist of 20/25 names would be drawn up and "interviewed" by some members of the Commission. The final recommendations would be endorsed by the Commission as a whole.

Model B

25. Under this model, the Commission would invite nominations at anytime and publish "refresher" advertisements whenever they were needed. The Secretariat would take a look at nominations as they were received and, against the criteria and with the approval of the Commission, would turn down the majority who were unlikely to make the longlist. At the appropriate time in the appointment cycle, the Commission would use the procedures in Model A to draw up the longlist and handle the rest of the "selection" process. Such a system would make it easier to carry over "near misses".

Model C

26. This model would be used if the Commission was invited to submit a larger number of recommendations than normal in the first round. The procedures would be the ones set out for Model A except that the time-scales were likely to be longer and the call on the Commissioners' time greater because more people were likely to put themselves forward and the Commission would have to consider proportionally more names at each stage in the process. If the nominations process was launched in September, the Commission might not be in a position to make its first recommendations until February/March 2001.

27. In terms of support, it was vitally important that the Commission established a Website. This would have two main purposes. The first was to carry general information about the Commission and its task. The second was to help with each nomination process by providing the "job description" and information pack on-line. These could be down loaded by potential nominees, thus reducing the administrative task facing the Secretariat. It would also be possible to provide the nomination form on-line so that nominees, if they wished, could complete and return it electronically.

28. The Commission would need to decide whether or not it wished to use search consultants and if so, how. Consultants could be used in a number of ways. They could run the recruitment competition, for example, respond to enquiries, issue information packs, receive application forms and take a first pass at producing the

longlist. They could also search out candidates and carry out preliminary interviews. Often they carried out both roles. If the Commission were invited to recommend a larger list in the first appointments round, the Secretariat might not be able to handle the administrative task in the early stages of the nomination process on its own: the Commission might have to employ a consultancy firm or a call centre to help.

29. In a brief discussion, it was agreed that the prospect seemed daunting. When the procedures were drawn up it would be important to have in mind the dignity of the House so that the impression was not given that the Appointments Commission was recruiting for just another Government job. The Commission would need to operate informally and with discretion and complete confidentiality. Although the process itself would be transparent, the Commission should never comment publicly on a particular nomination. If an individual wished to state publicly that they had been nominated, it was a matter for them. The Commission's line should be neither to confirm nor to deny that a nomination had been made. The Commission's Autumn statement should include its policy on commenting on names. There were different views on the holding of "interviews". On the one hand, it would send a signal that an individual was being considered seriously at a time that the Commission might want to operate cautiously. On the other, the Commission needed to re-assure itself about the individuals it was recommending. The meeting could take the form of a "conversation" to establish whether both parties mutually agreed a peerage was the way forward.

Honours scrutiny

30. As time was running short, Lord Stevenson briefly introduced the issue. It was clear there was a need to think through the Commission's role starting with a blank sheet of paper. The Commission would wish to have access to the same information sources as the Political Honours Scrutiny Committee but there was a question as to whether or not those sources would make their information available to an independent body. There was also the need to comply with legislation, for example, the Human Rights Act. The Secretariat would produce a paper for the next meeting. Lord Hurd said the Commission would also have to consider how it dealt with the political parties; under the existing system the Cabinet Office had acted as the conduit.

The next meeting

31. The next meeting would be held towards the end of June. The aim would be to get close to a description of the type of peer for whom the Commission was looking, the "selection" criteria and how the Commission might set about seeking a balance. The Cabinet Office would provide further background to supplement James Connal's research, for example, by showing what proportion of the population fell into the categories he used. The Wakeham report would be a useful source of information.

8 June 2000