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Chair, Public Accounts and Public Administration
Committee
Address Line 2
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Dyddiad | Date: 26 January 2023

Pwnc | Subject: Public Accounts and Public Administration Committee Inquiry into Public
Appointments

Dear Mark,

Thank you for your letter dated 7 December 2022 seeking committees' views on public appointments.

It was a timely letter, as we considered it at the same meeting in which we conducted two recent pre-appointment hearings. Since 2021, we have undertaken three pre-appointment hearings for the Children's Commissioner for Wales; Chair, Commission for Tertiary Education and Research; and Deputy Chair, Commission for Tertiary Education and Research.

Our observations are informed by our experiences in relation to these hearings. Although some of our Members sit on other committees that have undertaken pre-appointment hearings, and clearly their views are informed by the totality of their experiences.

We would firstly draw your attention to our reports on each of the pre-appointment hearings. While the report on the Children's Commissioner also reflected on elements of the process, we did not comment on the process for the Commission for Tertiary Education and Research roles which we decided could more appropriately inform your inquiry.

- [Children's Commissioner for Wales report](#); and [Welsh Government response](#);
- [Chair, Commission for Tertiary Education and Research](#); and

- Deputy Chair, Commission for Tertiary Education and Research.

Before looking at some issues specific to those pre-appointment hearings, we would highlight the limitations of a Committee's role in the public appointment process. It can be helpful for us to set out markers for future scrutiny (which we did with the Children's Commissioner) but in terms of the process itself, it can place a Committee in a tricky position as we are being asked to make judgements about suitability when we do not know how the preferred candidate performed against the wider pool of candidates. Clearly the Committee's role is to provide an element of public accountability, but it happens so late in the process, and with very tight timeframes which further constrains the Committee. It is unclear to us why a report must be published within 48 hours of a hearing (although we acknowledge that this deadline can be negotiated). We feel that the presumption of a 48 hour turnaround time for the report should be relaxed in order to provide more time if a Committee feels that there is a potential issue with an appointment.

Children's Commissioner for Wales

We would draw to your attention in particular our two recommendations relating to process in the Children's Commissioner report.

Recommendation 1

"The Welsh Government should involve Senedd committees more meaningfully in the recruitment process associated with ministerial appointments. This will require the government to engage with the relevant Committee at the start of the recruitment process. Depending on the post and the views of the relevant Committee, this could include:

- *Providing Committee members with the application forms, CVs, etc. of any shortlisted candidates.*
- *A representative of the recruitment panel briefing the Committee before the pre-appointment hearing to give an overview of the recruitment process, discuss the field of applicants and respond to any questions from Committee members.*
- *Involving the Committee more formally in the recruitment (e.g. by Committee representatives being observer-members of the recruitment panel)."*

The Welsh Government "accepted in principle" this recommendation. They noted that a joint review of the public appointments process was due to take place in April 2022 with both Welsh Government and Senedd Commission involvement. We are not aware of the outcomes of this review, and note this may be an issue worth pursuing as part of your inquiry. They also agreed that for future appointments, they would "consider updating the guidance to include confidential briefings to the

chair of the relevant committee at important points in the recruitment timetable." We did not receive any such briefings in relation to the Commission roles.

Recommendation 2

"The Welsh Government should transfer responsibility for the appointment to the position of Children's Commissioner for Wales to the Senedd."

In making this recommendation, we highlighted it had also been raised repeatedly by our predecessor Committee. In their report on Children's rights in Wales they recommended that responsibility for the appointment, accountability and funding of the Children's Commissioner should be transferred to the Senedd. The Welsh Government rejected this at the time.

The Government also rejected our recommendation, saying they did not believe the independence of the Commissioner or the wider office was undermined by the Welsh Government's role and that transferring of the responsibility would not "produce any significant difference in the recruitment process followed."

It is still our strong view that responsibility for recruitment and appointment of the Children's Commissioner should sit with the Senedd. We would suggest that this is an area where your Committee may like to give further consideration to, across the breadth of all the Commissioner roles in Wales.

Chair and Deputy Chair, Commission for Tertiary Education and Research

We note the slight difference in the nature and responsibilities of these non-executive roles in comparison to the nature of a Commissioner role. However, such non-executive roles are still incredibly important and influential in delivering key public services across Wales. These two posts which will provide strategic direction for a body that will have one of the highest allocated budgets for an arms length body in Wales, are particularly important in terms of the post 16 education sector.

The issues we reflected on during our discussions around these two posts included the political backgrounds of the candidates. This had also come up during the Children's Commissioner's pre-appointment process. The background paperwork received each time we held a pre-appointment process provides information on any candidate who has declared a political background. This information is anonymised and does not provide any detail. This means it can be unclear to what extent a candidate has been involved in a political party, or which political party they have been involved with. We believe there should be more contextual information. There can be a big difference between someone being a member of a political party but possibly not being very active compared to someone who may be very active, or may even have stood for the political party in local, regional or national elections.

We are also aware that this issue has come up during other committees' pre-appointment hearings. It is not that we think a political background precludes someone from being appointable, but that more information about the nature of that background may provide reassurances to a committee that their political background has not had an beneficial or negative impact on the appointment process. This would also provide reassurances to those applying for a post. We note that following our pre-appointment hearing the Ministerial statement confirming the appointments set out additional on the extent of the candidate's political activity, detailing the political party and a broad sense of their engagement noting that they had "canvassed for the party within the last 5 years."

Wider issues of unconscious bias may impact on the recruitment process. The sense that a candidate is "like us" can be a powerful motivating factor, and may happen unconsciously. It is important that public appointments are opened up to as wide a candidate pool as possible, and that more is done to ensure that we move beyond the "usual candidates".

In relation to these specific posts, we also had some concerns that the recruitment panel itself did not fully reflect the breadth and diversity of the sector that the Commission will have responsibility for.

We note that there is no role for Senedd committees to input into the process followed to identify posts where we may wish to hold pre-appointment hearings. This is also an issue we raised as part of the Children's Commissioner's pre-appointment hearing.

We think this is an important issue which fully deserves further scrutiny by a Senedd committee. We look forward to your findings.

Yours sincerely,



Jayne Bryant MS

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.