

Mark Isherwood MS

Chair of the Public Accounts and Public Administration Committee

2 February 2023

Dear Mark,

### **Inquiry into public appointments**

Thank you for inviting us to share views on the above inquiry. We thank PAPAC for taking forward this work at an apposite time to review arrangements for public appointments and pre-appointment hearings.

This Senedd term, the Equality and Social Justice Committee has conducted pre-appointment scrutiny of the preferred candidates for two roles: the National Adviser on Violence Against Women, and the Future Generations Commissioner. We were grateful to the preferred candidates in both cases, and want to emphasise that our views relate to principles and process in general terms, not a comment on the individuals involved.

## **Current process**

### **Changes to the guidance**

While pre-appointment scrutiny is a relatively recent addition to the business of the Senedd, several Committees have conducted hearings. Some Members of our Committee have also been involved in pre-appointments in other committees and our views are shaped by those experiences too.

We believe that the ~~arrangement agreed between the First Minister and the Llywydd~~ in the Fifth Senedd of 2016-2020 should be reviewed. To improve transparency and accountability, the agreement should be amended to more clearly articulate the role and purpose of hearings and pre-appointment scrutiny. Existing arrangements could be strengthened to foster a greater sense of shared ownership of the pre-appointment process. It is noteworthy that equivalent guidance at the Westminster level emphasises early engagement with Select Committees in ways that are absent in the Wales-specific agreement. They include dialogue with Chairs regarding the proposed timetable and approach prior to the commencement of a recruitment exercise:

*The Department should consult the Chair of the select committee about the proposed selection process before a recruitment exercise begins. This includes sharing the job*

*description and person specification, a proposed outline of the timetable for the campaign and any relevant information about the proposed advertising strategy.*<sup>1</sup>

To improve consistency, greater standardisation of the information provided by the Welsh Government to Senedd Committees as part of the process would be beneficial. We acknowledge that a degree of variation and flexibility is necessary and desirable, but we consider that several elements such as the information provided in the background briefing, and how candidate submissions such as personal statements will be considered by Committees, should be more consistent. This should include a standardised approach to publication of these documents.

Consideration should be given to implementation of Recommendation 1 of the Children, Young People and Education Committee that “a representative of the recruitment panel” brief Committees before hearings “to give an overview of the recruitment process, discuss the field of applicants and respond to any questions”.<sup>2</sup> While accepted in principle by the Welsh Government, in our experience this is not yet established practice. In order to further strengthen the impartiality and transparency of the process, and given the party affiliation declared by some candidates which are then chosen by Ministers, we believe that the Advisory Assessment Panel (responsible for appointing) should always consider recommending a preferred candidate to Welsh Ministers in instances where more than one candidate is deemed appointable.

The question of whether to hold a pre-appointment hearing is ultimately down to the discretion of the individual Committee. However, expectations of both candidates and the public are set at least in part by the list of appointments included in the guidance. It would be beneficial therefore to emphasise the discretionary nature of pre-appointment hearings in the guidance itself. Alongside earlier engagement with Senedd Committees, ideally before recruitment exercises are formally commenced, this should help manage public expectations and provide greater clarity and certainty to potential candidates.

### **Preparation of candidates**

How potential candidates are supported as part of the process, and the information provided to applicants both at the outset and each key stage, should be explored in more detail. In particular we need a better understanding of any potential deterrent effect of pre-appointment scrutiny, and the impact it might have on underrepresented groups and in attracting the best possible field of candidates. Potential deterrent effects could be counteracted by better, more timely advice to candidates regarding the possibility of pre-appointment scrutiny and proactive offering of reasonable adjustments in cases where candidates may have specific needs.

### **Unconscious bias**

The potentially detrimental impact that unconscious bias can have on recruitment processes is well documented and we would like to see more progress being made in efforts to reduce this in the context of public appointments. This should include designing recruitment schemes which minimise the risk and provide training to staff involved in any aspect of the process. There must also be greater engagement of hard to reach groups as part of the communications and promotion work undertaken for significant public appointments. Ultimately, the public sector should lead the way and potential candidates need to see recruiting panels reflect

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<sup>1</sup> Cabinet Office, ‘[Cabinet Office Guidance: pre-appointment scrutiny by House of Commons select committees.](#)’

<sup>2</sup> Welsh Parliament, Children, Young People and Education Committee, ‘[Pre-appointment hearing report - The preferred candidate for the post of Children’s Commissioner for Wales.](#)’ - 04 January 2022

their own communities and experiences – this should mean ensuring that the composition and backgrounds of recruiting panels better reflect the diversity of Wales today, and the Wales of tomorrow.

### **Announcements and Government responses**

Publication of Committee papers relevant to a pre-appointment hearing can generate speculation about the merits of preferred candidates, without individuals who have yet to be appointed being able to respond. What role the Government should play, if any, needs to be looked at. We question whether current arrangements are working well or give sufficient weight to the need for fairness to preferred candidates. Further work is needed in this area; we believe that consideration could be given to formally announcing the name of the preferred candidate prior to the pre-appointment hearing with a further announcement when a final decision on appointment is made.

Similarly, arrangements for Welsh Government responses to pre-appointment reports need to be set out more clearly in guidance as the practice currently varies without a clear rationale.

## **Public appointments more broadly**

There are a spectrum of views regarding the public appointments process, and it is our view that your inquiry has the potential to make an important contribution to the evidence base for any future changes. We do not offer definitive views or recommendations, but we would like to make some observations.

Both pre-appointment hearings held by this Committee involved roles created by Acts of the Senedd and yet both appointments were at least partly reliant upon arrangements which pre-date devolution and were shaped by Ministers in Westminster. 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 reforms – covers England and Wales.<sup>3</sup> Scotland and Northern Ireland have established their own Commissioners to discharge these functions. This appears to be an anomaly which merits further consideration as part of your inquiry and we would expect the Welsh Government to either defend this position or agree to wider reforms which address this.

### **Different categories of appointments**

The list of public appointments meriting pre-appointment scrutiny cover different roles and functions; the extent to which alternative approaches to different categories of public appointments have been systematically explored in a devolved context appears limited to date. In particular the role of the Commissioners are distinct from that of Chairs of public bodies in that they also scrutinise Welsh Ministers and hold them to account for their decisions. We note that arrangements for appointing the Public Services Ombudsman for Wales as outlined in the 2019 Act potentially offers an alternative model whereby the appointment is made by the Senedd itself rather than Welsh Ministers. We would welcome a broader debate regarding these issues with a view to enhancing the independence and legitimacy of these roles.

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<sup>3</sup> House of Commons, Public Administration and Constitutional Affairs Committee, ‘[Pre-Appointment Hearings: Promoting Best Practice](#).’ - Tenth Report of Session 2017–19

We hope our reflections are useful to your Committee as it conducts its inquiry and we look forward to the outcome of your deliberations.

Yours sincerely,

A handwritten signature in black ink on a light yellow background. The signature reads "Jenny Rathbone" in a cursive, flowing script.

**Jenny Rathbone MS**

Chair of the Equality and Social Justice Committee  
Welsh Parliament

