



Officers of Parliament: recent developments

Standard Note: SN/PC/04720

Last updated: 29 August 2013

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This Standard Note updates Research Paper 03/77 *Officers of Parliament: A Comparative Perspective*, in respect of developments at the UK level. Since the Research Paper was first published in October 2003, there has been growing interest in more parliamentary involvement in new bodies with some kind of constitutional role, such as the Judicial Appointments Committee or the Civil Service Commissioners. The advent of pre-appointment hearings by select committees introduced by the then Prime Minister Gordon Brown as part of the *Governance of Britain* agenda in 2008 also added to the pressure for parliamentary accountability felt by such bodies. Finally, the Coalition Government formed in 2010 continued to create new bodies with a special relationship with Parliament, such as the Office for Budget Responsibility and the proposed Registrar of Consultant Lobbyists.

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1 Introduction

The term Officer of Parliament or Officer of the House appears very rarely in statute and has never been subject to judicial interpretation. Its usage is largely confined within the Palace of Westminster. Successive editions of the authoritative guide to parliamentary procedure and practice, Erskine May, give the fullest description of the applicability of the term, but do not offer a definition.¹ Four categories can be discerned:

- Elected officers: the Speaker and three deputy Speakers
- Crown appointed officers, the Clerk, Clerk Assistant, Serjeant at Arms, Clerk of the Crown in Chancery²
- Senior staff appointed by the Speaker, or House of Commons Commission, including Speaker's Counsel and Parliamentary Commissioner for Standards
- 'Statutory' officers – the Comptroller and Auditor General, and the Parliamentary Commissioner for Administration

The offices of Speaker, Clerk of the House and Serjeant have existed since at least the fourteenth century and their slow development into separate modern offices is detailed in a study by a former senior official in the House.³ The Speakers' salary (although not that part attributable to his position as a Member) is a direct charge on the Consolidated Fund, following the *House of Commons (Speaker) Act 1832*. This follows the precedent of the independence of the judiciary under the *Act of Settlement 1701*. The independence of the Speaker's office was adapted as a model for constitutional officers, such as the Comptroller and Auditor General, as described below. For a fuller description, please see Research Paper 03/77.

2 Extension of the term to statutory watchdogs

The concept of Officers of the House was developed in the twentieth century, well beyond its earlier usage, to apply to new types of constitutional watchdogs. The term has come to denote a special relationship of accountability to Parliament and such designation implies independence of the executive. Formal mechanisms, such as restrictions on dismissal of Officers and direct appointment of staff as non civil servants assist in upholding this independence. A similar development has occurred in a number of other Westminster style Parliaments, which have adopted the term from Westminster. This is discussed in Part II of Research Paper 03/77.

Within the UK Parliament the term has been applied in this way to three Officers as follows:

- Comptroller and Auditor General
- Parliamentary Commissioner for Administration (Ombudsman)
- Parliamentary Commissioner for Standards

Auditors and Ombudsmen relate to the historic functions of Parliament -authorising expenditure and redressing grievances. The positioning of commissioners for standards is less clear, as their categorisation as Officers has been more related to the traditional concept of an Officer as a senior staff member or servant of Parliament.

¹ *Parliamentary Practice* (24th edition) 2011 Chapter 4

² The latter is an Officer in both Houses

³ Philip Marsden *The Officers of the House of Commons 1363-1965* 1966

2.1 The Comptroller and Auditor General

The new definition can be traced from the development of the role of the Comptroller and Auditor General. Although the C&AG was described as an officer in nineteenth century texts, this was not officially recognised until the *National Audit Act 1983*, which established the office as an Officer of the House of Commons, to be appointed by the Crown, but in consultation with the Chairman of the Public Accounts Committee (PAC). The C&AG holds office during good behaviour and can only be dismissed following resolutions of both Houses.⁴

This legislation also created an independent National Audit Office, with staff employed directly by the C&AG and gave the C&AG complete discretion over discharge of functions. However, in determining to carry out an audit examination, he must take into account any proposals made by the PAC. Finally it created a statutory Public Accounts Commission to oversee the budget of the NAO and appoint its auditor. It consists of the Chairman of the PAC, the Leader of the House (a Cabinet Minister) and seven other MPs, none of whom can be ministers.

Recently, the corporate governance of the NAO has been strengthened in the *Budget Responsibility and National Audit Act 2011* by creating a governing board for the NAO and a fixed term appointment for the office of C&AG. This followed a review by John Tiner in 2008, after it was acknowledged by the Public Accounts Commission that there was insufficient oversight over the expenses of the C&AG. An additional concern was that there was no term limit for the office holder, and the most recent C&AG had held office for over 20 years. Further detail is available in [Library Research Paper 11/15 Budget Responsibility and National Audit Bill](#), part 3.

2.2 The Parliamentary Ombudsman

The post of Parliamentary Commissioner for Administration (Parliamentary Ombudsman) was created in 1967 and partially modelled on the C&AG. This link was explicitly stated in the parliamentary debates on the *Parliamentary Commissioner for Administration Act 1967*. The Ombudsman was to be appointed by the Crown on letters patent and could only be dismissed by an address of both Houses. The dismissal arrangements mirrored those for the C&AG. The new postholder was not to be subject to directions from Parliament on how to undertake his investigations. But the model then predated the 1983 legislation clarified the independent status of the C&AG.

Although the Ombudsman's personal salary was met from the Consolidated Fund and he was given statutory powers to have access to information, to require the attendance of witnesses and absolute privilege to protect his reports, his budget came from the departmental vote (therefore decided by the Treasury) and his staff remained civil servants.

This mirrored arrangements for the C&AG in the 1960s. The first Ombudsman was Sir Edmond Compton who was a former C&AG and was selected some months earlier as a distinguished public servant who would establish the reputation of the new position. A specific select committee of the House, the Parliamentary Commissioner for Administration Committee, took on the role of monitoring the Ombudsman. The 1967 legislation enables the

⁴ The term 'good behaviour' is used as a shorthand for undertaking the duties of the office. See the *Exchequer and Audits Department Act 1866*

Ombudsman to publish special reports to Parliament in cases where an injustice has not been, or will not be, remedied; there have been four since 1967.⁵

The select committee made major proposals in 1993, recommending that its chairman and the Leader of the Opposition have a statutory role in the appointment of the Ombudsman. It also proposed that the funds for the office should be voted directly by Parliament on estimates prepared by a Public Appointments Commission, clearly modelled on the Public Accounts Commission, that is a separate body to take responsibility for setting the budget of the office.⁶ These proposals would have enabled the Ombudsman to 'catch up' with the institutional advances made by the C&AG in 1983.

The then Government agreed to amending legislation making the Ombudsman's staff public servants and an equivalent to the Public Accounts Commission to supervise a budget voted directly by the House of Commons.⁷ But a suitable legislative slot did not appear, despite a review of ombudsman services by the Cabinet Office in April 2000.⁸ This recommended a new Commission to cover the remits of the parliamentary ombudsman, the health service commissioner and the local government ombudsman.

A regulatory reform order has been put into effect to enable the ombudsman to work more flexibly and in partnership with the local government ombudsmen, but this has not affected the governance arrangements for the office.⁹ The Act now specifies a seven year term for the post.¹⁰ In practice, an open competition is held for the post, and an interview panel makes the final selection. The chair of the Public Administration Select Committee participates in the process and the panel has an external assessor from the Public Appointment Commissioner's office to ensure that the appointment is made fairly according to the Commissioner's Code of Practice. Dame Julie Mellor was appointed following this process in July 2011.¹¹

2.3 The non-statutory Parliamentary Commissioner for Standards

The office of Parliamentary Commissioner for Standards was created following the first report of the (Nolan) Committee on Standards in Public Life in 1995. This recommended an officer to oversee parliamentary standards, drawing analogies with the role of the C&AG and the Parliamentary Ombudsman. But these analogies were not exact, since the new post was to be non-statutory. The details of the new post and its relationship with the new Standards and Privileges Committee were left for a specially constituted select committee to consider in detail. Their proposals were endorsed in a general debate in the House. The first PCS, Sir Gordon Downey, was appointed by the House of Commons Commission, as the body responsible for employing staff of the House. His status as a former C&AG assisted the establishment of this new post as a prestigious office. The office however remains distinct from the statutory posts of C&AG and Parliamentary Ombudsman.

⁵ These are laid under section 10(3) of the *Parliamentary Commissioner Act 1967*.

⁶ PCA Select Committee First Report HC 1993-94. See also R. Gregory, P. Giddings and V. Moore 'Auditing the Auditors: The select committee review of the powers, work and jurisdiction of the ombudsman 1993' *Public Law* Summer 1994

⁷ Government reply to the First Report from the Select Committee on the Parliamentary Commissioner for Administration HC 619 session 1993-94

⁸ Review of the Public Sector Ombudsmen in England

⁹ *Regulatory Reform (Collaboration etc between Ombudsmen) Order 2007*

¹⁰ Subsections 2A and 2b of the *Parliamentary Commissioner Act 1967*, as inserted by SI 2006/1031

¹¹ "[Preferred candidate selected for post of Parliamentary and Health Service Ombudsman](#)" 1 July 2011 UK Parliament website

The eighth report from the (Wicks) Committee on Standards in Public Life commented on the ambiguous nature of the office in terms of its operational independence.¹² It recommended a longer fixed term non-renewable term of office for the Commissioner. These recommendations were considered by the Committee on Standards and Privileges and the House of Commons Commission. Their responses to Wicks, while promising greater transparency and clarity about the relationship between PCS and Committee, indicated some differences of opinion.¹³ Parliamentary authorities argued that statute would be necessary to ensure the model of an independent office-holder in the manner described by Wicks.

The House accepted significant changes to the appointment and dismissal process for the PCS in amendments to Standing Order 150 on 26 June 2003, when debating the Wicks report. The main changes were:

- All future appointments of Commissioners would be for a term of five years, non-renewable and
- The term of the current Commissioner would be extended for a five year period until June 2008
- The Commissioner may only be dismissed following a motion before the House, where the Committee of Standards and Privileges has reported (with reasons) that he cannot carry out his functions or is unfit for the office
- The Standards and Privileges Committee would no longer have a government majority, but would consist of five government and five opposition members, chaired by an Opposition spokesman (selection will remain with the whips)
- No Parliamentary Private Secretary would be appointed to the Committee
- The Commissioner would publish an annual report giving details of the budget for the office.¹⁴

A new appointment, that of Sir John Lyon, was made in 2007. Details of the appointment process were set out in a report from the House of Commons Commission.¹⁵ Following boards including the current chairman of the Standards and Privileges Committee, Sir George Young, and an external member, Sheila Drew, the Commission appointed John Lyon, CB, currently Director General in the Ministry of Justice, responsible for relations with the judiciary. Mr Lyon took up the appointment initially on the basis of a four-day week at a salary of £108,000 pa.

John Lyon's appointment ended on 31 December 2012 and the House of Commons subsequently appointed Kathryn Hudson, a former Deputy Parliamentary and Health Service Ombudsman. According to a report from the Commission, she was appointed following a rigorous recruitment process using standards equivalent to those for the appointment of the Commissioner for Public Appointments. Short-listed candidates were interviewed by a Board that included the Rt Hon Sir Malcolm Rifkind MP, Rt Hon Kevin Barron MP (Chair of the Committee on Standards and Privileges) and an independent advisor as well as senior officials from the House of Commons Service. The leading candidates from that Board were then interviewed by the House of Commons

¹² *Eighth Report Standards of Conduct in the House of Commons* Cm 5663 November 2002

¹³ House of Commons Commission report HC 422 Session 2002-3, Standards and Privileges Select Committee report HC 403 Session 2002-3

¹⁴ The position of PPSs on the Committee is dealt with more fully later in Chapter 4. There were other changes to Standing Order 149 relating to the investigation process, covered in Chapter 5

¹⁵ The House of Commons Commission *Parliamentary Commissioner for Standards: Candidates for Nomination* October 2007 HC 1096

Commission.¹⁶ The House approved the nomination for a single term of five years in a formal resolution on 12 September 2012.

3 Characteristics of an Officer - The Electoral Commission

Electoral commissioners perform the central role of overseeing the election of a parliament's own members. The UK Electoral Commissioners can be seen as possessing the essential characteristics of an Officer. They are appointed by royal warrant, following a resolution of the Commons, and the Commission is overseen by a Speaker's Committee, broadly modelled on the Public Accounts Commission. The Speaker's Committee consists of the Speaker, the Lord Chancellor, the Minister for Local Government, the Chair of the Justice Select Committee and five backbenchers. The Committee supervises the budget of the Commission, but does not otherwise play a role in examining its policy objectives.

The Commission's staff are not civil servants but enjoy similar employment benefits. The Commission is funded from the parliamentary vote, in the same way as the National Audit Office. The salaries of the Commissioners are met from the consolidated fund standing services, in the same way as the C&AG, and the Chief Electoral Officer for Northern Ireland.¹⁷ However, the Commissioners are not officially recognised as such, in contrast to the position in Canada.

The Committee on Standards in Public Life undertook a review of the Electoral Commission in 2006 and published its review in January 2007. The CSPL examined whether the Electoral Commission was sufficiently independent from Government and how well its accountability to Parliament was working as well undertaking a wide ranging review on the policy responsibilities of the Commission. It found that the Commission had been overly passive in its regulatory functions and had lacked courage in alerting Government to risks to the integrity of the electoral process and party funding regulation.

The *Political Parties and Elections Act 2009* required the appointment of four Commissioners with party political experience, with three being nominated by the leader of the three largest registered parties in the House of Commons. The number of Commissioners overall increased to 10. Further detail is available in Research Paper 08/74 *The Political Parties and Elections Bill 2007-08*. The process of approving a choice of a political Commissioner is set out in the relevant Speaker's Committee report.¹⁸ The Committee recommended that the now standard term of four years be applied to these appointments, with the exception of the nominated Commissioner representing the smaller parties, who should be appointed for a term of two years. This shorter period of appointment would provide an opportunity for rotation between the parties.

4 Independent Parliamentary Standards Authority.¹⁹

IPSA was established following the *Parliamentary Standards Act 2009*. Much of its governance is similar to that for the Electoral Commission. There is a Speaker's Committee for IPSA which considers the candidates proposed by the Speaker, following fair and open competition, for the posts of Chair and members of the IPSA and approves IPSA's annual

¹⁶ The House of Commons Commission [Parliamentary Commissioner for Standards: Candidates for Nomination](#) HC 539 2012

¹⁷ *Electoral Law Act 1962 (Northern Ireland)* as amended in 1973

¹⁸ See the Speaker's Committee on the Electoral Commission Fourth Report [Appointment of a Nominated Commissioner](#) December 2011

¹⁹ <http://www.publications.parliament.uk/pa/cm201011/cmsselect/cmspeak/320/32007.htm>

estimate of resources. The Committee has three lay members, following concerns expressed by the Committee on Standards in Public Life in its enquiry into allowances for MPs.²⁰ The first lay member were Dame Janet Gaymer, Elizabeth McMeikan and Sir Anthony Holland, who were appointed following a vote by the House of Commons on 26 January 2011.²¹ Lay members must be appointed to the Committee in accordance with Schedule 3 of the *Parliamentary Standards Act 2009*, as amended by the *Constitutional Reform and Governance Act 2010*. The Speaker's Committee also has the responsibility of approving the Estimate for IPSA. IPSA is funded separately from departmental votes. It employs its own staff who are not civil servants and is required to report annually to Parliament. Further detail is available in [Standard Note 5783](#) *The Independent Parliamentary Standards Authority: implementing the Members' expenses scheme*.

5 Information Commissioner

Some characteristics of parliamentary officers apply to the Information Commissioner. This post was established by the *Freedom of Information Act 2000*, but its predecessor was the Data Protection Registrar, created under the *Data Protection Act 1984*. It took on new responsibilities with the *Freedom of Information Act 2000*, where it adopted the duties of guidance and enforcement of the legislation. The salary of the Information Commissioner himself is funded from the standing services of the consolidated fund and he is appointed by letters patent. A resolution of both Houses is also required under Schedule 5 of the 1998 Act to remove the Commissioner from office. No grounds are specified for removal. Originally under the *Data Protection Act 1984* there had to be a parliamentary resolution every time the salary was increased – this was changed with the *Data Protection Act 1998*.²²

There were a number of calls for the Information Commissioner to become an Officer, with independent budget and reporting arrangements. The Justice Select Committee (formerly the Constitutional Affairs Select Committee) questioned whether it was appropriate for the Ministry of Justice to set the budget of an independent regulator, contrasting the UK Commissioner with the Scottish Information Commissioner, which does have a budget set by Parliament.²³

The [Protection of Freedoms Act 2012](#) section 105 partially answered these concerns. An address would be sought only if a minister is satisfied that one of a new list of grounds is satisfied. These grounds include failure to discharge functions or bankruptcy or conviction for a criminal offence. Other changes require the Commissioner to be appointed on merit and on the basis of fair and open competition. The Commissioner would only be able to be appointed for a single fixed term of seven years and would no longer be required to resign when reaching 65. Finally, the requirement for the Commissioner to obtain the permission of the Secretary of State to employ staff and to set fees and charges was removed. In addition, the Justice Secretary announced in February 2011 that he would accept the conclusion of a

²⁰ Committee on Standards in Public Life [MPs expenses and allowances](#) November 2009

²¹ HC Deb 26 January 2011. See <http://www.parliament.uk/business/committees/committees-a-z/other-committees/speakers-committee-for-the-independent-parliamentary-standards-authority/news/appointment-of-lay-members/>

²² The question of classification of a range of other constitutional bodies is explored in *Officers of Parliament- Transforming the Role* Constitution Unit 2003

²³ *Constitutional Affairs Select Committee Seventh Report 2005-6 Freedom of Information: One Year On* HC 991 <http://www.publications.parliament.uk/pa/cm200506/cmselect/cmconst/991/99108.htm#a11>

Justice Select Committee pre-appointment hearing, effectively offering the committee a veto over the appointment of the next Commissioner.²⁴ This is a non-statutory commitment.

The Justice Select Committee continues to pursue the issue of establishing an office directly funded via Parliament.²⁵ The Government response to report did not accept this point, but acknowledged that funding of the Office would be subject to reorganisation:

Whilst there are currently no plans for the Information Commissioner to be a Parliamentary body or to be funded by Parliament, the work we are taking forward on the ICO's long-term funding and operating model will consider the range of recommendations that have been made by your Committee and others, including Lord Justice Leveson in relation to the future powers, governance and accountability arrangements of the ICO. I look forward to updating the Committee in due course.²⁶

6 Core Characteristics of a statutory Officer of Parliament

Drawing mainly on the institutional design of the C&AG, which, it can be argued, sets the standard for other constitutional watchdogs in terms of accountability and independence, the essential characteristics can be described as:

- parliamentary involvement in appointment and dismissal
- a statutory committee which is responsible for budget approval and oversight
- a specific select committee to which the Officer is bound to report
- staffing independent of the civil service.

However, a uniform model has not yet developed.

58. Even in Westminster, there is no single template for the bodies which are responsible to the House rather than the Government. The NAO is funded by a parliamentary vote, set and laid by the Public Accounts Commission, a statutory body, so that its budget is protected from government interference. By contrast, the Ombudsman negotiates grant in aid from the Treasury. The Electoral Commission is the responsibility of the statutory Speaker's Committee, which sets its overall budget, on a similar model to the PAC. Reporting lines also differ. The Ombudsman reports to the House as a whole, and it is only through Standing Orders that there is any special role for this Committee. The CSPL has called for the development of more structured occasions for the Electoral Commission to explain its work to the House, and more resources for the Speaker's Committee in order for it to carry out its overview role more effectively.²⁷

The model developed in the UK has been adapted for use in a number of different states whose Parliaments follow what is characterised as the Westminster system. In particular, the new devolved institutions have developed their own Commissioner models with characteristics similar to those of Officers. The Scottish system has recently been reviewed by the Finance Committee at Holyrood, which offers a detailed description of the tension

²⁴ HC Deb 16 February 2011 c87-88WS

²⁵ Justice Select Ninth Report 2012-13, *The functions, powers and resources of the Information Commissioner* (HC 962).

²⁶ [Justice Select Committee First Special Report HC 260 2012-13](#)

²⁷ PASC *Ethics and Standards: The Regulation of Conduct in Public Life* HC 121 2006-7 Fourth Report of 2006-07

between accountability and independence in respect of the five Commissioners then in existence.²⁸

The history of their development of this concept can offer some useful design features for innovation in the UK Parliament. But the application of officer status to a wide range of constitutional watchdogs raises issues about the appropriate boundaries for the use of the Officer model. There are growing numbers of independent watchdogs with powers of persuasion and publicity to alter actions of the executive and other public bodies in areas which can be characterised as constitutional. This includes human rights, electoral matters, the redress of grievances and the voting of supply. Some watchdogs also have judicial powers or powers to enforce decisions.

But there are likely to be finite limits as to the number of Officers with which parliaments can be expected to sustain a real relationship of accountability. Some Canadian provinces for example, have made Children's Commissioners an Officer of Parliament.²⁹ The Children and Young Persons' Commissioner in Scotland is appointed by the Scottish Parliamentary Corporate Body and is required to report to that Parliament, rather than to the executive.³⁰ The Children's Commissioner for Wales established in the *Care Standards Act 2000* and the *Children's Commissioner for Wales Act 2001* was appointed by an all party committee of the Assembly and has duties to report to the Assembly on his work.³¹ There was no suggestion that the new Children's Commissioner for England should become an Officer of the Commons. Instead, the office was constituted as a NDPB. During the passage of the *Children's Act 2004*, which established the post, some comparisons were made with the comparative independence of the Commissioners in Scotland and Wales. The Children's Commissioners in the UK (including Northern Ireland) have subsequently established the British and Irish Network of Ombudsmen and Children's Commissioners. Recent proposals for the creation of a number of constitutional bodies bring these issues to the fore.

7 Current UK debate on models for constitutional bodies

During the 2000s, the debate has intensified in relation to the appropriate accountability and independence arrangements for a series of regulators.³² In particular, the Public Administration Select Committee (PASC) published a report in 2007 recommending a new framework for ethical regulators sponsored by the Cabinet Office. These are:

- Committee on Standards in Public Life
- Civil Service Commissioners
- Commissioner for Public Appointments
- Business Appointments Committee
- House of Lords Appointments Commission

PASC concluded:

64. It is unsatisfactory for the ethical regulators created to regulate government to be appointed by government, and funded by government. On the other hand, we have no

²⁸ *Seventh Report, 2006 Inquiry into Accountability and Governance* at <http://www.scottish.parliament.uk/business/committees/finance/reports-06/fir06-07-Vol01-00.htm>

²⁹ See below, Part II

³⁰ For further detail see *Officers of Parliament: Transforming the Role* Constitution Unit 2003

³¹ See National Assembly for Wales Members' Research Service Research Paper 01/005 *Children's Commissioner for Wales* March 2001

³² Research Paper 03/77

desire to establish endless committees of the great and the good, lacking any link to the democratic process. Consequently, we believe that the bodies whose core business is the ethical regulation of government should be established by statute, and report to Parliament rather than government.

We consider that the arrangements for funding and scrutiny of the Comptroller and Auditor General and the National Audit Office provide a model for those regulators who are accountable to the House. This means that:

Funding and operational challenge should be provided by a body independent of government, yet with government representation, like the Public Accounts Commission. Separate committees should engage with reports. This would protect both accountability and independence;

Appointment should be by Resolution of the House, and the names proposed should be agreed by consultation among the parties. Appointments processes could still follow OCPA principles;

Staffing: the Officers should appoint their own staff, who would not be civil servants (although secondments from the civil service would be possible and often desirable).³³

Having reviewed the arrangements for the accountability of the Commissioners in Scotland, and the current arrangements for Cabinet Office sponsored bodies, the Committee concluded:

To sum up, we propose a direction of travel for the ethical regulators which would lead to a collegiate structure. We consider that Parliament itself is best placed to undertake the scrutiny of such a college, and that a new arm's length body—a Public Standards Commission—be created by statute to undertake the sponsoring role of appointing, funding, staffing and auditing the college. The creation of such a Commission would entail bringing the ethical regulators themselves onto a statutory footing. (Recommendation 13, Paragraph 111)

Since the PASC report was published in April 2007, a new Cabinet Office sponsored body, the Independent Adviser on Ministerial Interests, has been created.³⁴ PASC have issued a further report describing the Adviser as insufficiently independent, discussed below.³⁵

The Government response to the PASC report published in November 2007 was fairly non-committal, noting:

The Government will give further consideration to the issues raised in these recommendations as part of its work to take forward the commitment in the Constitutional Reform Green Paper for legislation for the Civil Service.³⁶

However, the response was more positive in relation to fixed term non-renewable appointments, discussed below.

Further details are set out below in respect of each of these Cabinet Office sponsored bodies.

³³ PASC *Ethics and Standards: The Regulation of Conduct in Public Life* HC 121 2006-7 Fourth Report of 2006-07

³⁴ For further information, see Library Standard Note 3750 [The Ministerial Code](#)

³⁵ HC 381 2007-08 May 2008

³⁶ PASC First Special Report HC 88 2007-8

<http://www.publications.parliament.uk/pa/cm200708/cmselect/cmpubadm/88/8802.htm>

7.1 Civil Service Commissioners

The white paper *The Governance of Britain-Constitutional Renewal* of March 2008 proposed to make the Civil Service Commission statutory, fulfilling a long standing Labour Party pledge but made no reference to the status of the other Cabinet Office watchdogs. These proposals were enacted in the *Constitutional Reform and Governance Act 2010*, proving to be uncontroversial during the passage through Parliament. *The* executives in Scotland and Wales, as well as the leaders of the two major opposition parties at Westminster, are consulted before appointment of the First Commissioner and there is a single fixed term of five years for both the First Commissioner and the other Commissioners.³⁷ Statutory reasons for dismissal (absence, convictions, unfitness) are set out, and removal will take place without resolutions of both Houses. The Commission will employ its own non civil service staff. The model followed is that of a NDPB. The Commission is to report to the Minister for the Civil Service and the devolved executives. Its budget will be set by the Minister. Its report is laid before Parliament, but no further parliamentary scrutiny or involvement was envisaged. Similarly, the codes for civil servants and special advisers are to be laid before Parliament, without any input from either House. This provoked some comment from PASC members questioning the First Civil Service Commissioner.³⁸

The PASC civil service bill which the Committee published in 2003-4 in order to prompt Government action, envisaged a full Officer of Parliament model for the Commissioners, with independent budget and appointments by resolution of each House.³⁹ The Cabinet Office also published its own draft bill in 2004, but this made the Commissioners an NDPB, as in the 2008 version.

7.2 Public Appointments Commissioner

PASC recommended in its report on patronage in 2003 that the Office of the Public Appointments Commissioner (OCPA) should become an Officer of Parliament. It commented as follows:⁴⁰

98. The Cabinet Office currently funds OCPA and houses the Office. The London staff of eight officials is drawn from officials from the Lord Chancellor's Department, the Cabinet Office and other departments on secondment.[52] We regard this as an unsatisfactory state of affairs that has potential practical consequences. The simple fact that the Commissioner and her Office are funded and serviced from Whitehall creates the impression that she works for and reports to ministers.

The Committee also recommended that a new Public Appointments Commission (with responsibility for making appointments to public bodies) be established and drew on the precedent of the Electoral Commission for institutional design, as displaying sufficient parliamentary involvement and accountability. The Government response to PASC did not accept the need for such a Commission, nor for more formal independence for the Commissioner, although the Cabinet Office did agree that Opposition Leaders should be consulted on the appointment of the Commissioner, in line with arrangements for the First Civil Service Commissioner.⁴¹

³⁷ The Governance of Britain Draft Constitutional Renewal Bill Cm 7342 March 2008

³⁸ See uncorrected evidence from Janet Paraskeva, First Civil Service Commissioner to PASC 24 April 2008

³⁹ PASC First Report 2003-04 A draft civil service bill- completing the reform December 2003

⁴⁰ PASC *Government by Appointment: Opening Up the Patronage State* HC 165 Fourth Report of 2002-3, para. 99.

⁴¹ Cm 6056 December 2003 at <http://www.archive2.official-documents.co.uk/document/cm60/6056/6056.pdf>

After the general election of 2010, a single person, Sir David Normington, was appointed to both the office of the Public Appointments Commissioner and the First Civil Service Commissioner, as both posts fell vacant in December 2010. Francis Maude, Cabinet Office Minister, had proposed this in July 2010. PASC held a pre-appointment hearing in November 2010, which approved the appointment but expressed concern about the lack of consultation surrounding the proposal to combine these two roles in one person.⁴²

7.3 House of Lords Appointments Commission

Interest in the structure of the non-statutory House of Lords Appointments Commission has also been evident. The Appointments Commission was established in May 2000 as a Non Departmental Public Body (NDPB) with seven members: three representatives from the main political parties and four independent figures, one of whom (Lord Stevenson) chairs the Commission. The posts are part time and receive a small remuneration. Members of the current House of Lords are eligible for appointment.⁴³ A full guide is given in Library Standard Note 2855 *The House of Lords Appointments Commission*.

The secretariat for the Commission is provided by the Cabinet Office, which also services other bodies such as the Office of the Commissioner for Public Appointments.

The (Wakeham) Royal Commission proposed in 2000 a statutory Appointments Commission with an institutional model guaranteeing independence, in a similar way to the Electoral Commission under the *Political Parties, Elections and Referendums Act 2000*.⁴⁴ It saw the process of legislation as an important aspect of the establishment of the new body, provoking proper parliamentary scrutiny and providing entrenchment against change.

The Government consultation paper issued by the Department for Constitutional Affairs in September 2003 accepted that the Electoral Commission model was broadly appropriate.⁴⁵ One major difference with the Electoral Commission model was the decision, in line with Wakeham, to make some appointments to the Commission on a party political basis, to allow the individuals to fulfil a representative function. Wakeham had recommended a ten year maximum term for a Commissioner and that MPs should not be eligible for appointment. Further consultations have followed, detailed in Library Research Paper 07/83 *House of Lords: Developments since January 2004*.

In February 2007 a further white paper on House of Lords reform was published. This also made the case for a statutory Appointments Commission.⁴⁶ The 2007 paper noted that the current non-statutory appointments commission was “a temporary measure to assist with the transitional phase in reforming the House of Lords”. Its proposals broadly follow those of the Wakeham Commission. It envisaged the Statutory Appointments Commission having “power over both non-party and party-political appointments”. Therefore its powers would need to be laid down in statute. The Commission would be “independent of Government and should be accountable to Parliament, rather than Ministers”. It proposed it should have nine members, three to represent the political parties and six members independent of Government and the political parties.⁴⁷

⁴² [PASC First Report](#) Pre-appointment hearing for the dual post of First Civil Service Commissioner and Public Appointment Commissioner HC 601 2010-11

⁴³ HL Deb 8 February 2000 vol 309 WA78

⁴⁴ Cm 4534 *A House for the Future* January 2000

⁴⁵ *Constitutional Reform: Next Steps for the House of Lords* September 2003 CP 14/03

⁴⁶ HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, para 8.1

⁴⁷ HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, paras 8.11-8.16

The Public Administration Select Committee recommended in its December 2007 report *Propriety and Peerages* that the Commission members should not be appointed and supported by Government, but by Parliament, to which they should be entirely accountable.⁴⁸

The Coalition Government promised full House of Lords reform as part of its Programme for Government in May 2010. Part of the proposals was a statutory Commission. The [Joint Committee on the draft House of Lords Reform Bill](#), which preceded the Government bill of 2012-13, supported among other proposals a statutory House of Lords Appointments.

The resulting *House of Lords Reform Bill 2012-13* received a second reading, but the Government made a decision not to proceed, given the extent of Conservative opposition. Library Research Paper 12/37 [House of Lords Reform Bill 2012-13](#) and Standard Note 6405 [House of Lords Bill: decision not to proceed](#) give background.

The Bill set out in clause 16 and Schedule 4 a statutory Appointments Commission, with oversight from a new Speakers' Committee on the House of Lords Appointments Committee. There would have been seven members of the Commission, including a Chair, appointed on merit for a single ten year term. MPs and Ministers would not be eligible for appointment. In contrast to the current non-statutory Commission, there were no places reserved for representatives of political parties. These proposals represented a re-jigging of the draft bill which had contained a Joint Committee on the House of Lords Appointments Commission.

The Speakers' Committee was to be composed of the Speakers of both Houses, a Minister with constitutional responsibilities, four members from the Commons and Lords respectively, and the chairs of the relevant constitutional committees. The Speakers' Committee would have determined the chair. Lords Members could be elected, appointed or transitional members. The model appeared to be the Speaker's Committee on the Electoral Commission.

7.4 Independent adviser on Ministers' interests

On 23 March 2006 the then Prime Minister, Tony Blair, announced that he had appointed Sir John Bourn, the Comptroller & Auditor General, to advise ministers on their interests.⁴⁹ This followed intense pressure from media and politicians about loans given to political parties undeclared to the Electoral Commission. This appointment was welcomed by the Committee on Standards in Public Life (CSPL) as a belated response to their recommendations of 2003, but raised questions about the independence of the Adviser.⁵⁰ A subsequent PASC report *The Ministerial Code: the case for independent investigation*, published in July 2006 recommended as follows:

25. Whatever the final form for such an investigatory machinery it should:

- be manifestly independent of the Executive;
- not involve the creation of yet a further regulatory office and, ideally, should be undertaken by an official connected to the House;
- concern itself only with establishing the facts of the case;
- make its findings available to Parliament and the public;
- reserve to the Prime Minister the right to judge whether the facts amount to a breach of the Ministerial Code and what the consequences should be;

⁴⁸ *Ibid*, para 174

⁴⁹ HC Deb 23 March 2006 c34WS

⁵⁰ "Appointment of Sir John Bourn as Adviser on Ministerial Interests" 23 March 2006 *Committee on Standards in Public Life*

- avoid the proliferation of frivolous or vexatious complaints.⁵¹

In May 2006 the terms of reference for Sir John were deposited in the Library.⁵² The terms of reference envisaged that not only would Sir John act as a confidential adviser to Ministers, but he would be available to the Prime Minister ‘to establish the facts in certain cases concerning the Ministerial Code and to provide private advice to him’. It would be the decision of the Prime Minister as to whether to publish Sir John’s findings in such a case. Sir John did not conduct any investigations during his appointment, which terminated with the resignation of Tony Blair.⁵³

The new Prime Minister, Gordon Brown, announced on 3 July 2007 that he had asked Sir Phillip Mawer to act as Ministerial Adviser. This was in the context of the publication of the green paper *The Governance of Britain* on the same day, which promised an annual report and list of ministers’ interests, to be published by the Adviser and laid before Parliament.

121. The Ministerial Code outlines the behaviour that is expected of Ministers. Until now, it has developed over decades as an amalgam of good practice, but it has become outdated and unwieldy. The Prime Minister has therefore tightened the Code. There are a number of key changes to it:

- a new Independent Adviser will be appointed to advise on Ministers’ interests. He or she will be able, at the Prime Minister’s request, to investigate alleged breaches of the Ministerial Code;
- the Independent Adviser on Ministers’ Interests will publish an Annual Report and List of Ministers’ Interests. Subsequent lists will be published with the Independent Adviser’s Annual Report;
- the Annual Report will be laid before Parliament to ensure proper scrutiny of ministerial conduct;
- Ministers wishing to take up an outside appointment on leaving office will be required to seek the advice of the Advisory Committee on Business Appointment Rules. Former Ministers will be expected to follow the advice of the Committee. This has, until now, been voluntary.⁵⁴

Sir Philip issued two reports in this capacity.⁵⁵

The May 2008 PASC report Investigating the conduct of ministers concluded:

Constitutional watchdogs such as this new investigator need to be demonstrably independent of those they regulate—in this case, ministers, including the Prime Minister. The post of Independent Adviser meets none of the criteria we associate with independence. The holder of the post, Sir Philip Mawer, has been appointed by the Prime Minister on a non-specific term of office which can be terminated by the Prime Minister at any time and on any grounds. He has no staff of his own, no office and no budget, but relies on the Cabinet Office for all these things. There has been no open advertisement process and no parliamentary involvement in the appointment. Until

⁵¹ HC 1457 session 2005-06

⁵² Dep Paper 06/965 17 May 2006

⁵³ “Brown praises under fire Prescott” 28 April 2006 *BBC News*

⁵⁴ *The Governance of Britain* Cm 7170 Ministry of Justice, para 121

⁵⁵ [Independent Adviser on Ministerial Interests 2010-2011 Annual Report](#)

these defects are remedied, we have difficulty accepting the suggestion that the new investigator can meaningfully be considered to be independent.⁵⁶

Subsequently, the former senior civil servant, Sir Alex Allan, was appointed as the Independent Adviser. PASC produced a report in March 2012 entitled [The Prime Minister's adviser on Ministers' interests: independent or not?](#). This argued that the appointments process should have been open and transparent and that Sir Alex had not demonstrated sufficiently independent background to be suitable for the post. It also argued for the Adviser to be able to make investigations on his own initiative.

The chair of PASC, Bernard Jenkin, subsequently tabled a motion in backbench business time on 17 July 2012 stating that "If the adviser is to be independent in any meaningful sense, he must have the power to initiate an investigation into prima facie breaches of the Ministerial Code."⁵⁷ Further background is given in Standard Note 3750 *The Ministerial Code*.

8 New constitutional watchdogs

In addition, a number of other new statutory regulatory bodies have come into existence, which could be described as constitutional watchdogs, although other functions are executive. During the parliamentary debates establishing them, issues of parliamentary accountability and independence were aired.

8.1 Human Rights and Equalities Commission

The Equality and Human Rights Commission came into being on 1 October 2007, following the *Equalities Act 2006*, which merged the Commission for Racial Equality, the Disability Rights Commission and the Equal Opportunities Board. The Joint Committee on Human Rights drew attention to the inadequacies of the NDPB model for constitutional watchdogs in its report on the case for a Human Rights Commission in 2003. It argued strongly that Parliament should be directly involved in the setting of the commission's budget, as a guarantee of independence. It concluded that the model of accountability adopted for the existing anti-discrimination commissions was not entirely satisfactory from the point of view of independence or accountability, preferring that of the NAO.⁵⁸

A full discussion of appropriate models took place on 6 July 2005 when the Liberal Democrats proposed an amendment at Lords committee stage to create an Appointments and Oversight Committee to sponsor the Commission. There were some pertinent comments to the effect that simply interposing another body would not necessarily increase independence or accountability- the dilemma posed by the Officer model. The Government argued successfully that the NDPB model was well understood and more appropriate, despite personal testimony from Lord Ouseley, former chair of the CRE, of inappropriate Government interference in appointments.⁵⁹ Subsequently the *Equality Act 2010* made modifications to the governance. A new set of commissioners was appointed by the Minister for Women and Equalities, Maria Miller on 14 January 2013.⁶⁰ The current governance framework for the Commission explains that Commission staff are not civil servants and that

⁵⁶ HC 381 2007-08 May 2008, Summary

⁵⁷ [HC Deb 17 July 2012 c798-856](#)

⁵⁸ *The Case for a Human Rights Commission* HL Paper 67/HC 489 Sixth Report of Session 2002-3.

⁵⁹ HL Deb 6 July 2005 c633-655

⁶⁰ <http://www.equalityhumanrights.com/about-us/the-commissioners/>

funding is agreed with the relevant Secretary of State who is statutorily required to provide funding to meet the statutory obligations of the Commission⁶¹

8.2 Judicial Appointments Commission

The Judicial Appointments Commission took on a statutory form in the *Constitutional Reform Act 2005*. The passage of the legislation led to renewed debate over its institutional status and the procedure for making appointments to the new body. The Commission was launched in April 2006 and initially attracted criticism for its timidity in appointments, given its remit to improve the diversity of the judiciary. The model chosen was again the NDPB one, with appointments made by the Lord Chancellor (at the Ministry of Justice). The purpose of the Commission is to take responsibility for selecting candidates for judicial office out of the hands of the Lord Chancellor and to make the appointments process clearer and more accountable.

A series of reform proposals concentrated on the remit of the Commission rather than its governance, but in its response to the consultation on *The Governance of Britain* the Commission argued that an officer of parliament structure might then be more appropriate, citing the Electoral Commission as a model. A white paper, published in March 2008, however proposed to press ahead with removing the role of the Lord Chancellor in appointments below High Court level and the removal of the formal Prime Ministerial role in appointments of the most senior judges (the Law Lords, Lord Chief Justice, Heads of Division, and Court of Appeal judges).⁶² This hybrid model would continue as a NDPB, with the justification the need to use an established model for accountability. However no legislation ensued and the new Justice Secretary, Kenneth Clarke, has indicated that he does not intend to take immediate action in this area, following a review of the judicial appointments process undertaken in the summer of 2010.⁶³

8.3 Statistics Board (UK Statistics Authority)

The Statistics Board was established in April 2008 through the *Statistics and Registration Services Act 2007* to promote and safeguard the production and publication of official statistics. It has taken the operating name of the UK Statistics Authority. The Office of National Statistics was merged into the new body which operates as a non-ministerial department. The governing body of the Statistics Board is composed of a majority of non-executive members appointed by Ministers following consultation with the Chair of the new Board. The governing body of the Board also includes three executive members, of which one will be the National Statistician as the chief executive of the Statistics Board. The National Statistician and the Chair of the Statistics Board are Crown appointments. However, the Chairman, Michael Scholar, was the first to be subjected to the new confirmation hearings introduced by the incoming Prime Minister, Gordon Brown, and was pressed by MPs on the Treasury Select Committee on his independence, given his background as a senior civil servant with a son working directly for Brown.⁶⁴ There followed a formal vote in the House, as agreed during the passage of the Bill (but not prescribed in the legislation).

⁶¹ http://www.equalityhumanrights.com/uploaded_files/aboutus/the_governance_framework_-_july_2013_revision.pdf

⁶² *The Governance of Britain: Constitutional Renewal* Cm 7342 Ministry of Justice March 2008

⁶³ Justice Select Committee [Appointment of the Chair of the Judicial Appointments Commission](#) HC 770 2010-11 Appendix B

⁶⁴ Treasury Committee The appointment of the Chair of the Statistics Board, Ninth Report of Session 2006-07, HC 934 <http://www.publications.parliament.uk/pa/cm200607/cmselect/cmtreasy/934/934.pdf>

The passage of the Bill offered another opportunity to examine the Officer model. The official Opposition proposed a parliamentary commission for official statistics, similar to the role of the Public Accounts Commission. It was recalled that the Shadow Home Secretary, Jack Straw, put forward a similar proposal during a speech in 1995 to the Royal Statistical Society. The Opposition amendments proposed in Public Bill Committee would have provided for representation from both Houses of Parliament in the oversight committee rather than exclusively the House of Commons in the case of oversight of the NAO. The commission would also be responsible for appointing the National Statistician. The Government position was that the production of official statistics was an Executive function and it was appropriate to locate the Board within Government rather than Parliament.⁶⁵ As the Bill progressed, attention moved to removing the residual functions of ONS from the scope of the Treasury and locating them within the Cabinet Office, who would be responsible for making the Board appointments, in consultation with the devolved administrations.

8.4 Office for Budget Responsibility

This new post was established by the *Budget Responsibility and National Audit Act 2011*. The Office is independent of the Treasury. The aim of the OBR is to make the Government's forecasts for the economy and public finances independent. It is unusual in that there is a statutory veto given to a select committee on the appointment of the chair.

Statutory provision for the Treasury Committee's involvement in the appointment of members of the OBR was made in Schedule 1 of the *Budget Responsibility and National Audit Act 2011*, which states that:

- (1) The Office is to consist of—
 - (a) a member to chair it, appointed by the Chancellor of the Exchequer with the consent of the Treasury Committee of the House of Commons,
 - (b) 2 other members appointed by the Chancellor of the Exchequer after consultation with the member appointed under paragraph (a) and with the consent of that Committee, and
 - (c) not fewer than 2 members nominated by the Office and appointed by the Chancellor of the Exchequer.

The Treasury Select Committee has also recommended that the Chair of the Committee, along with an Opposition Party member of the Committee, should be non-voting members of the interview panel for future holders of the post.⁶⁶ Under the Act, Members of the OBR may resign by giving written notice to the Chancellor. The Chancellor may terminate an appointment under a number of circumstances specified in this paragraph, including missing meetings, bankruptcy and misconduct. The appointments of the expert members may not be terminated without the agreement of the Treasury Committee. Staff are civil servants and Treasury funds the OBR from money provided by Parliament through a grant in aid.

8.5 The Registrar of Consultant Lobbyists

The *Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill 2013-14* introduces a new office of registrar of consultant lobbyists. The Registrar's

⁶⁵ Statistics and Registration Service Bill Public Bill Committee, 16 January 2007. See House of Commons Library Research Papers 06/66 and 07/25 for a full description of the debates on the *Statistics and Registration Service Bill 06/07*

⁶⁶ Treasury Select Committee, *Office of Budget Responsibility*, 21 September 2010, HC 385 2010-11

governance is set out in Schedule 2 to the Bill. It provides for the Registrar to be appointed by a Minister (rather than Parliament) on a four year term.

According to the *Explanatory Notes*, the appointment will be made “after a process of fair and open competition,” although this is not reflected on the face of the Bill.⁶⁷ There can be up to two re-appointments, for a maximum of three years each. Former Ministers, Permanent Secretaries and consultant lobbyists are ineligible if they held these offices within five years of appointment as Registrar. The Minister may dismiss the Registrar without parliamentary involvement, but only for specified reasons, such as unfitness to perform the office. The Registrar would not be a civil servant, but the office holder may make arrangements for staffing and office facilities from the civil service, and obtain funding from the minister. The bill is due to be debated on second reading on 3 September 2013.

9 Pre-appointment confirmation hearings

A number of appointments to constitutional posts are subject to pre-appointment confirmation hearings. Gordon Brown came to office determined to move forward on constitutional reform. His green paper of July 2007 included proposals for pre-appointment hearings by select committee without a right of veto for a series of posts to be defined in consultation with the Liaison Committee, which consists of the chairs of select committees. The proposals received a positive response from Parliament and the media, but in subsequent dialogue, the Liaison Committee asserted its right to ownership of the list of appointees to be subject to the hearings. These included the C&AG and Ombudsman, where there are already established procedures for appointment. The question of marrying the proposals was not addressed in either the green paper or the subsequent white paper of March 2008. But the chairman of the Public Accounts Committee was quick to complain that the C&AG should not be subject to a pre-appointment hearing with the PAC, although he would have no objection to a hearing with a C&AG designate at a later stage.

The list of posts subject to the hearings has a broad basis. They include chairs such as OFSTED, Audit Commission, BBC Trust, but also the Three Service Chiefs, the Rural Advocate, the Chief Executive of Natural England, and the agencies of the Department for Work and Pensions. Many of these are posts where select committees have demanded the right to hearings in previous Parliaments. In a report in January 2008 on confirmation hearings, PASC had argued that it would expect hearings to apply to major auditors, ombudsman regulator, and inspectors, as well as those responsible for the appointments system itself.⁶⁸ Included in the list put forward by the Cabinet Office were the

- Commissioner for Public Appointments,
- Chair of the Committee on Standards in Public Life,
- Information Commissioner and
- First Civil Service Commissioner

In addition, the Liaison Committee included the following, among other posts not considered in this Paper:

- the Children’s Commissioner,
- the Chair of the Standards Board,

⁶⁷ Explanatory Notes, para 31

⁶⁸ Public Administration Select Committee Pre Appointment hearings by select committees HC 152 16 January 2008

- Chair of the Commission on Equality and Human Rights
- Chair of the House of Lords Appointments Committee
- Independent Adviser on Ministerial Interests

Further information on the hearings is available from Standard Note 4387 *Parliamentary Involvement in Public Appointments*. The Coalition Agreement, published on 20 May 2010, stated that, along with cutting the number and cost of quangos, the Government planned to increase scrutiny of public bodies. This would include giving Select Committees the right to hold 'confirmation hearings' for major public appointments including heads of non-government public bodies. In one or two cases select committees to have been given a veto over appointment, which is a step change in terms of powers for the committee. The Treasury Select Committee, for example, agreed the chair of the new Office for Budget Responsibility under Schedule 1 of the *Budget Responsibility and National Audit Bill [HL] 2010-11*.

10 Length of appointment

There has been a discernible trend towards fixed term non renewable appointments recently, beginning with the recommendation by the Committee on Standards in Public Life in 2002 that the Parliamentary Commissioner for Standards be appointed on the basis of a five year non renewable term.⁶⁹ This recommendation was accepted and put into effect in 2003.

In their 2007 report *Ethics and Standards*, PASC recommended a single non-renewable term as follows:

81. But the greatest threat to independence here is in relation to reappointment, which can risk becoming, or be perceived as being, a factor influencing a watchdog's decisions and actions. During the course of this inquiry there has been controversy over the failure to offer the current Chairman of the CSPL a further term. **The most effective safeguard against concerns that regulators' independence may be influenced by a desire for reappointment is to provide for a reasonably lengthy single non-renewable term. In our view this term should not be more than seven years (nor less than five years).** This term has recently been established for the Parliamentary Commissioner for Administration;^[68] and a similar single non-renewable term should apply to other constitutional and ethical watchdogs. When a body is composed of several members, it would clearly be sensible to ensure that appointments are staggered, so that continuity is maintained.⁷⁰

The Ombudsman's term was changed by the *Employment Equality (Age) Regulations 2006*, S.I. 1031. The then Government response accepted this recommendation:

The Government accepts this recommendation. Future appointments of the First Civil Service Commissioner, the Commissioner for Public Appointments, and the Chairs of the Advisory Committee on Business Appointments, the Committee on Standards in Public Life and the House of Lords Appointments Commission will be made for a single non-renewable term. The Government is currently recruiting a new Chair and members for the Committee on Standards in Public Life and has advertised on the basis that the Chair will be appointed for a single, non-renewable term of five years. It has also converted the appointment terms of the First Civil Service Commissioner and the Commissioner for Public Appointments to non-renewable terms of five years.

⁶⁹ Cm 5663 November 2002 http://www.public-standards.gov.uk/publications/8th_report.aspx

⁷⁰ HC 121 2006-07

<http://www.publications.parliament.uk/pa/cm200607/cmselect/cmpubadm/121/12108.htm#a11>

The Government believes that this approach will further strengthen the independence and integrity of the independent office holders. Consideration is also being given to the suitability of these appointments for pre-appointment scrutiny by Parliament, and the Government will discuss this further with the Liaison Committee and the Commissioner for Public Appointments.⁷¹

However, the Chair of the Electoral Commission was appointed in March 2009 for a 4 year term. This appointment was renewed in 2012.⁷² The Chair and Members of IPSA are appointed on a five year basis which can be renewed once. The CSPL report in November 2009 recommended that the term be a single one only.⁷³

⁷¹ HC 88 2007-08 7 November 2007

⁷² Speaker's Committee on the Electoral Commission [Reappointment of the Chairman of the Electoral Commission](#) HC 611 2012-13

⁷³ Committee on Standards in Public Life [MPs expenses and allowances](#) November 2009