

Public Service (Integrity and Ethics) Bill [HL]

[AS INTRODUCED]

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[AS INTRODUCED]

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TO

Make provision about mechanisms for promoting and protecting standards of integrity and ethics in the public service; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

INTRODUCTORY

1 Overview

In this Act—

- (a) Part 2 deals with the following in relation to ministerial standards—
 - (i) Independent Adviser on Ministers’ Interests, and
 - (ii) Ministerial Code;
- (b) Part 3 deals with the following in relation to public appointments—
 - (i) Public Appointments Commissioner, and
 - (ii) Governance Code on Public Appointments;
- (c) Part 4 deals with the following in relation to business appointments—
 - (i) Committee on Business Appointments, and
 - (ii) Business Appointment Rules;
- (d) Part 5 contains general provisions.

PART 2

MINISTERIAL STANDARDS

Independent Adviser on Ministers’ Interests

2 Appointment of the Independent Adviser

- (1) There is to be an Independent Adviser on Ministers’ Interests (“the Independent Adviser”).

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- (2) Her Majesty may by Order in Council appoint a person as the Independent Adviser on the recommendation of the Prime Minister.
- (3) The Prime Minister must make a recommendation following a selection process as set out in subsections (4) to (6).
- (4) A person’s selection as Independent Adviser must be on merit on the basis of fair and open competition in accordance with the Governance Code on Public Appointments. 5
- (5) A person’s selection as Independent Adviser must be in accordance with the process for significant appointments as set out in the Governance Code on Public Appointments, with a majority of independent members on the assessment panel and a senior independent panel member. 10
- (6) Where an appropriate committee of the House of Commons as defined in its Standing Orders has undertaken a pre-appointment hearing, the Prime Minister must have regard to any report issued by that committee in relation to the pre-appointment hearing. 15
- (7) A person appointed as Independent Adviser holds office—
- (a) for a single non-renewable term of five years from the date of appointment, and
 - (b) in accordance with terms and conditions (including as to remuneration and pension) specified in the instrument of appointment. 20

3 Resignation or removal of the Independent Adviser

- (1) The Independent Adviser may resign from office by giving written notice to the Prime Minister.
- (2) The Independent Adviser may be removed from office by Her Majesty in pursuance of an Address from the House of Commons, pursuant to a report of the appropriate committee of the House of Commons as defined in its Standing Orders presented to the House of Commons stating that the committee is satisfied that one or more of the following grounds is made out in the case— 25
- (a) the Independent Adviser has failed to discharge the functions of their office for a continuous period of at least three months; 30
 - (b) the Independent Adviser has failed to comply with the terms of their appointment;
 - (c) the Independent Adviser has been convicted of a criminal offence;
 - (d) the Independent Adviser is otherwise unfit to hold their office or unable to carry out its functions. 35

4 Investigations of the Independent Adviser

- (1) The Independent Adviser must investigate any allegation of a breach of the Ministerial Code referred to the Independent Adviser by the Prime Minister.

- (2) The Independent Adviser may investigate any matter relating to an alleged or possible breach of the Ministerial Code that the Independent Adviser thinks should be investigated.
- (3) Following an investigation the Independent Adviser must produce a report, including— 5
 - (a) any findings of fact that the Independent Adviser has made,
 - (b) any determination of breaches of the Ministerial Code, and
 - (c) any recommendations that the Independent Adviser thinks appropriate.
- (4) As soon as possible after producing a report, the Independent Adviser must send it to the Prime Minister. 10
- (5) Within the period of eight weeks beginning with the day on which a report has been sent to the Prime Minister, the Independent Adviser must— 15
 - (a) publish it on the Independent Adviser’s website, and
 - (b) send it to the Speaker of the House of Commons, who must make the report available in the library of the House of Commons.

5 List of Ministers’ Interests

- (1) The Independent Adviser must advise on and oversee the production of a List of Ministers’ Interests.
- (2) The List of Ministers’ Interests must include all interests that are held by Ministers or their close family members, which are additional to those already disclosed in the Parliamentary Registers of Interests, and which are, or might reasonably be perceived to be, directly relevant to Ministers’ ministerial responsibilities. 20
- (3) The Independent Adviser must ensure that the List of Ministers’ Interests is kept up to date and published online. 25

6 General powers of the Independent Adviser

The Independent Adviser may do anything calculated to facilitate, or incidental or conducive to, the carrying out of any of their functions.

7 Additional functions of the Independent Adviser

- (1) The Prime Minister may agree with the Independent Adviser that the Independent Adviser is to carry out functions in relation to ministerial standards in addition to those under the other provisions of this Part. 30
- (2) The Independent Adviser is to carry out those additional functions accordingly.

8 Financial provision for the Independent Adviser

The Minister for the Cabinet Office must pay to the Independent Adviser the sums determined by the Minister as appropriate for, or in connection with, the carrying out of the Independent Adviser’s functions. 35

9 Arrangements for assistance to the Independent Adviser

- (1) The Independent Adviser may make arrangements with other persons for the provision of assistance to the Independent Adviser.
- (2) In particular, arrangements may be made with the Minister for the Civil Service for civil servants to provide assistance.

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10 Status of the Independent Adviser

The Independent Adviser is not to be regarded –

- (a) as the servant or agent of the Crown, or
- (b) as enjoying any status, immunity or privilege of the Crown.

11 Reports of the Independent Adviser

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- (1) The Independent Adviser must, as soon as practicable after the end of each financial year, prepare a report about the carrying out of their functions during the year.
- (2) As soon as practicable after preparing a report under subsection (1), the Independent Adviser must give a copy of the report to the Prime Minister.
- (3) The Independent Adviser must then publish the report on their website.
- (4) The Prime Minister must lay a copy of the report before Parliament.

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*Ministerial Code***12 Ministerial Code**

- (1) The Prime Minister must publish a code of conduct of ethical standards for Ministers (“the Ministerial Code”).
- (2) The Ministerial Code must, when viewed as a whole, be consistent with the following principles –
 - (a) selflessness;
 - (b) integrity;
 - (c) objectivity;
 - (d) accountability;
 - (e) openness;
 - (f) honesty;
 - (g) leadership.
- (3) The Ministerial Code must include a range of graduated sanctions that may be imposed by the Prime Minister as a consequence of breaching the Ministerial Code.
- (4) The Prime Minister must keep the Ministerial Code under review and revise it from time to time.

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- (5) In preparing or revising the Ministerial Code, the Prime Minister must consult the Independent Adviser on Ministers’ Interests.
- (6) The Prime Minister must lay the Ministerial Code, and any revisions of the Ministerial Code, before Parliament.

PART 3

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PUBLIC APPOINTMENTS

Public Appointments Commissioner

13 Public Appointments Commissioner

- (1) There is to be a Public Appointments Commissioner (“the Commissioner”).
- (2) Her Majesty may by Order in Council appoint a person as the Commissioner on the recommendation of the Minister for the Cabinet Office. 10
- (3) The Minister for the Cabinet Office must make a recommendation following a selection process as set out in subsections (4) to (6).
- (4) A person’s selection as Commissioner must be on merit on the basis of fair and open competition in accordance with the Governance Code on Public Appointments. 15
- (5) A person’s selection as Commissioner must be in accordance with the process for significant appointments as set out in the Governance Code on Public Appointments, with a majority of independent members on the assessment panel and a senior independent panel member. 20
- (6) Where an appropriate committee of the House of Commons as defined in its Standing Orders has undertaken a pre-appointment hearing, the Minister for the Cabinet Office must have regard to any report issued by that committee in relation to the pre-appointment hearing.
- (7) A person appointed as Commissioner holds office— 25
 - (a) for a single non-renewable term of five years from the date of appointment; and
 - (b) in accordance with terms and conditions (including as to remuneration and pension) specified in the instrument of appointment by the Minister for the Cabinet Office. 30

14 Resignation or removal from office of the Commissioner

- (1) The Commissioner may resign from office by giving written notice to the Minister for the Cabinet Office.
- (2) The Commissioner may be removed from office by Her Majesty in pursuance of an Address from the House of Commons, pursuant to a report of the appropriate committee of the House of Commons as defined in its Standing 35

Orders presented to the House of Commons stating that they are satisfied that one or more of the following grounds is made out—

- (a) the Commissioner has failed to discharge the functions of their office for a continuous period of at least three months;
- (b) the Commissioner has failed to comply with the terms of their appointment; 5
- (c) the Commissioner has been convicted of a criminal offence;
- (d) the Commissioner is otherwise unfit to hold their office or unable to carry out its functions.

15 Functions of the Commissioner 10

- (1) The Commissioner must exercise his or her functions under this Act with the object of ensuring that appointing authorities act in accordance with the Governance Code, including the principles of public appointments.
- (2) The Commissioner must, in the manner the Commissioner thinks fit, carry out an audit of the procedures and practices followed by appointing authorities in making public appointments, including the interpretation and application by them of the Governance Code, including the principles of public appointments. 15
- (3) The Commissioner may conduct an investigation into any aspect of public appointments with the object of improving their quality. 20
- (4) The Commissioner may conduct an inquiry into the procedures and practices followed by an appointing authority in relation to any public appointment whether in response to a complaint or otherwise.
- (5) The Commissioner may require appointing authorities to publish specified summary information relating to public appointments. 25
- (6) For the purposes of this section, appointing authorities must provide the Commissioner with any information the Commissioner reasonably requires.
- (7) The Commissioner must report the result of an audit, investigation or inquiry to the Minister for the Cabinet Office.

16 Additional functions of the Commissioner 30

- (1) The Minister for the Cabinet Office may agree that the Commissioner is to carry out functions in relation to public appointments in addition to those under the other provisions of this Part.
- (2) The Commissioner is to carry out those additional functions accordingly.

17 General powers of the Commissioner 35

The Commissioner may do anything calculated to facilitate, or incidental or conducive to, the carrying out of any of their functions.

18 Financial provision for the Commissioner

The Minister for the Cabinet Office must pay to the Commissioner the sums determined by the Minister as appropriate for, or in connection with, the carrying out of the Commissioner’s functions.

19 Arrangements for assistance to the Commissioner

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- (1) The Commissioner may make arrangements with other persons for the provision of assistance to the Commissioner.
- (2) In particular, arrangements may be made with the Minister for the Civil Service for civil servants to provide assistance.

20 Status of the Commissioner

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The Commissioner is not to be regarded –

- (a) as the servant or agent of the Crown, or
- (b) as enjoying any status, immunity or privilege of the Crown.

21 Reports of the Commissioner

- (1) The Commissioner must, as soon as practicable after the end of each financial year, prepare a report about the carrying out of their functions during the year. 15
- (2) As soon as practicable after preparing a report under subsection (1), the Commissioner must give a copy of the report to the Minister for the Cabinet Office. 20
- (3) The Commissioner must then publish the report on their website.
- (4) The Minister for the Cabinet Office must lay a copy of the report before Parliament.

Governance Code on Public Appointments

22 Governance Code on Public Appointments

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- (1) The Minister for the Cabinet Office must publish the Governance Code on Public Appointments (“the Governance Code”), which must set out the Principles of Public Appointments and the process for public appointments made to bodies listed in the most recent Public Appointments Order in Council. 30
- (2) The Minister for the Cabinet Office must keep the Governance Code under review and revise it from time to time.
- (3) In preparing or revising the Governance Code, the Minister for the Cabinet Office must consult the Commissioner.

- (4) The Minister for the Cabinet Office must lay any Governance Code before Parliament.

PART 4

BUSINESS APPOINTMENTS

Committee on Business Appointments

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23 Committee on Business Appointments

- (1) There is to be a Committee on Business Appointments (“the Committee”).
- (2) The Committee is to consist of nine members, comprising—
- (a) six independent members appointed under section 27, and
 - (b) three members nominated by registered political parties under section 28. 10
- (3) One independent member is to be the Chair appointed under section 27.
- (4) Each member of the Committee holds office—
- (a) for a single non-renewable term of up to five years from the date of appointment, and 15
 - (b) in accordance with terms and conditions (including as to remuneration and pension) specified in the instrument of appointment by the Minister for the Cabinet Office.

24 Status of the Committee

- The Committee (including its members and employees) is not to be regarded— 20
- (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown.

25 Procedure and proceedings

- (1) The Committee may regulate its own procedure, including quorum.
- (2) The validity of proceedings of the Committee is not affected by— 25
- (a) a vacancy among the members, or
 - (b) a defect in the appointment of a member.

26 Staff of the Committee

The Committee may employ staff.

27 Independent members of the Committee and Chair

30

- (1) Her Majesty may by Order in Council appoint persons as independent members of the Committee under this section on the recommendation of the Minister for the Cabinet Office.

- (2) The Minister for the Cabinet Office must make a recommendation following a selection process as set out in subsections (3) to (5).
- (3) A person’s selection as one of the independent members under this section must be on merit on the basis of fair and open competition in accordance with the Governance Code on Public Appointments. 5
- (4) A person’s selection as Chair of the Committee must be in accordance with the process for significant appointments as set out in the Governance Code on Public Appointments, with a majority of independent members on the assessment panel and a senior independent panel member.
- (5) Where an appropriate committee of the House of Commons as defined in its Standing Orders has undertaken a pre-appointment hearing in relation to the Chair of the Committee, the Minister for the Cabinet Office must have regard to any report issued by that committee in relation to the pre-appointment hearing. 10
- (6) A person appointed as one of the nine members of the Committee holds office – 15
 - (a) for a single non-renewable term of up to five years from the date of appointment, and
 - (b) in accordance with terms and conditions (including as to remuneration and pension) specified in the instrument of appointment by the Minister for the Cabinet Office. 20

28 Three members of the Committee to be nominated by parties

- (1) Her Majesty may by Order in Council appoint persons as nominated members of the Committee who have been nominated in accordance with this section.
- (2) The registered leader of one of the three largest qualifying parties at the time of nomination may nominate a person to be appointed as a nominated member of the Committee under this section. 25
- (3) “Qualifying party” means a registered party with two or more Members of the House of Commons at the time of the person’s appointment.
- (4) No appointment may be made that would result in two or more nominated members being persons nominated by the leader of the same party, and nothing in this section has effect so as to require that result. 30
- (5) A nominated member may not be appointed as Chair of the Committee.
- (6) For the purposes of this section, the relative size of any two or more registered parties is determined according to the number of Members of the House of Commons belonging to each party at the time in question (or, in the case of two parties with the same number of Members, according to the total number of votes cast for persons standing for election in the name of each of those parties at the most recent parliamentary general election). 35
- (7) A reference in this section to a Member of the House of Commons does not include any Member of that House who at the time in question – 40

- (a) has not made and subscribed the oath required by the Parliamentary Oaths Act 1866 (or the corresponding affirmation), or
- (b) is disqualified from sitting and voting in that House.

29 Resignation or removal of a member of the Committee

- (1) A member of the Committee may resign from office by giving written notice to the Minister for the Cabinet Office. 5
- (2) A member of the Committee may be removed from office by Her Majesty in pursuance of an Address from the House of Commons, pursuant to a report of the appropriate Committee of the House of Commons as defined in its Standing Orders presented to the House of Commons stating that they are satisfied that one or more of the following grounds is made out— 10
 - (a) the member has failed to discharge the functions of their office for a continuous period of at least 3 months;
 - (b) the member has failed to comply with the terms of their appointment;
 - (c) the member has been convicted of a criminal offence; 15
 - (d) the member is otherwise unfit to hold their office or unable to carry out its functions.

30 Functions of the Committee

- (1) The Committee must issue written decisions on applications under the Business Appointment Rules relating to intended appointment or employment after leaving public office for Ministers, permanent secretaries and civil servants at grade SCS3 and above and equivalents, including special advisers of equivalent standing. 20
- (2) The Committee may investigate potential breaches of the Business Appointment Rules. 25
- (3) The Committee must report the result of an investigation to the Minister for the Cabinet Office.
- (4) The Committee must provide guidance on the Business Appointment Rules to any potential applicants for a ruling by the Committee.

31 Additional functions of the Committee 30

- (1) The Minister for the Cabinet Office may agree that the Committee is to carry out functions in relation to business appointments in addition to those given to it under the other provisions of this Part.
- (2) The Committee is to carry out those additional functions accordingly.

32 General powers of the Committee 35

The Committee may do anything calculated to facilitate, or incidental or conducive to, the carrying out of any of its functions.

33 Delegation

- (1) The Committee may delegate functions to—
 - (a) any of its members, or
 - (b) any of its employees.

34 Financial provision for the Committee

5

The Minister for the Cabinet Office must pay to the Committee the sums determined by the Minister as appropriate for, or in connection with, the carrying out of the Committee's functions.

35 Arrangements for assistance for the Committee

- (1) The Committee may make arrangements with other persons for the provision of assistance to the Committee. 10
- (2) In particular, arrangements may be made with the Minister for the Civil Service for civil servants to provide assistance.

36 Reports of the Committee

- (1) The Committee must, as soon as practicable after the end of each financial year, prepare a report about the carrying out of its functions during the year. 15
- (2) As soon as practicable after preparing a report under subsection (1), the Committee must give a copy of the report to the Minister for the Cabinet Office.
- (3) The Committee must then publish the report on its website. 20
- (4) The Minister for the Cabinet Office must lay a copy of the report before Parliament.

Business Appointment Rules

37 Business Appointment Rules

- (1) The Minister for the Cabinet Office must publish the Business Appointment Rules that apply to Ministers, civil servants and special advisers who intend to take up an appointment or employment after leaving public office. 25
- (2) The Business Appointment Rules must be based on the need to manage and regulate any potential conflicts of interest of Ministers, special advisers and civil servants moving into the private sector. 30
- (3) The Minister for the Cabinet Office must keep the Business Appointment Rules under review and revise them from time to time.
- (4) In preparing or revising the Business Appointment Rules, the Minister for the Cabinet Office must consult the Committee.

- (5) The Minister for the Cabinet Office must lay any Business Appointment Rules before Parliament.

PART 5

FINAL PROVISIONS

38	Interpretation	5
	In this Act—	
	“independent member of an assessment panel” means an individual who is independent of the department and body concerned with the appointment;	
	“senior independent panel member” means an individual who is familiar with senior recruitment, the Principles of Public Appointments and the Governance Code on Public Appointments, who is independent of the department and body concerned with the appointment, and who has not been politically active within the five years before competition for the post opens;	10
	and for this purpose “politically active” means being employed by a political party, holding significant office in a political party, standing as a candidate for a political party in an election, speaking publicly on behalf of a political party or making significant donations or loans to a political party. Significant loans and donations are those of a size which are reported to the Electoral Commission, in line with a central political party’s reporting threshold.	15
		20
39	Commencement	
	(1) Sections 40 and 41 and this section come into force on the day on which this Act is passed.	25
	(2) The remaining provisions of this Act come into force at the end of the period of three months beginning with the day on which it is passed.	
40	Extent	
	This Act extends to England and Wales.	
41	Short title	30
	This Act may be cited as the Public Service (Integrity and Ethics) Act 2022.	

Public Service (Integrity and Ethics) Bill [HL]

[AS INTRODUCED]

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TO

Make provision about mechanisms for promoting and protecting standards of integrity and ethics in the public service; and for connected purposes.

Lord Anderson of Ipswich

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