



**The Commissioner for
Public Appointments**

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Pat Young
Chair, British Broadcasting Challenge

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By email: britishbroadcastingchallenge@gmail.com

Dear Pat,

Thanks for your letter of 24 November 2021 raising concerns on behalf of the British Broadcasting Challenge. I understand the strength of feeling on this issue and share your views on the importance of this public body. My role as Commissioner for Public Appointments is to provide assurances that departments and ministers follow the Government's Governance Code on Public Appointments (the Governance Code), and to provide my view on when those standards are not met.

I agree with you that the first Ofcom competition was marred by pre-briefing in the media about particular candidates. Pre-briefing in this way is against the spirit of the Code and can discourage others from applying, suggesting the process will not be a competitive one. This is a view shared by others in Whitehall and Parliament, and I am glad to see that the practice has not been repeated for the current Ofcom competition.

On the matter of the last competition not resulting in an appointment, not all public appointments competitions are successful, and re-running a competition because ministers choose not to make an appointment is not in itself unusual, either. Section 3.2 of the government's Governance Code makes clear that the interview panels are advisory and ministers may therefore reject their advice about the merits of the candidates.

Ministers do not have to give reasons if they do not wish to choose any candidate deemed appointable by a Panel. They then have two options - to appoint a candidate not assessed as appointable by the panel, or to re-run a competition with a new panel. Though I appreciate the delays can be disruptive for those concerned, re-running a competition as the department has done here is entirely in keeping with the government's Governance Code. No minister has yet chosen to appoint a candidate deemed not appointable by any Panel.

I note you have concerns that the criteria for the role were changed when it was readvertised, and that previously not appointable candidates were able to re-apply. It is not unreasonable that ministers may want to reframe public appointments roles following competitions that have not resulted in appointments. The government's Governance Code lays out how ministers must determine the requirements for the role and these criteria must be made public and guide the panelists' assessment for appointable candidates. It would be



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difficult for a process to be considered truly open if particular people were barred from applying.

As Commissioner, the government must consult me on their choice of Senior Independent Panel Member (SIPM) for Significant Competitions, such as the Chair of Ofcom. The government's Governance Code lays out the criteria these SIPM must meet. I considered many issues in this case and I was content with the appointment of Michael Prescott as SIPM for the Ofcom panel. I do not believe that Mr Prescott's current employment with a lobbying firm meets the definition of "political activity" as defined by the government's Governance Code.

I disagree with you on the characterisation of the process thus far 'as anything but transparent'. The Government has reopened the competition, published the selection criteria and allowed anyone to apply. The Panel has been named after consultation with me on the SIPM, in line with government's Governance Code.

I recognise that there is growing attention on the general standard of propriety and ethics in public life. I agree with you that the principle of appointment on merit is not negotiable. I note you ask that as Commissioner, I "ensure that the process for appointing the new chair of Ofcom adheres closely to the spirit as well as the letter of the Governance Code."

I agree of course, but the Panel needs to get on and do the job ahead of them - assess candidates against the criteria and judge who is appointable. It would not be appropriate for me to assume they will fail at that job before they have had a chance. I will hold DCMS to its commitment, as with all departments who run public appointments competitions, to run a fair, open and truly competitive recruitment process in line with the government's Governance Code.

My predecessor's views on the last competition, as relayed to the DCMS Select Committee, [were published here](#). I will take the necessary steps in due course to assure this competition has been conducted in a similar fashion, which may include examining the report from the Advisory Assessment Panel and taking a view from the Senior Independent Panel Member.

I would like to thank you again for your letter and the important issues raised.

With best wishes,

William Shawcross
Commissioner for Public Appointments