



CPANI

The Commissioner
for Public Appointments
Northern Ireland

Annual Report

2008-2009



FELICITY HUSTON
Commissioner for Public Appointments for Northern Ireland

The Commissioner's Foreword

I am pleased to present this Annual Report for the year 1st April 2008 to 31st March 2009.

On a very positive note I am issuing this report from my new office in the Stormont Estate. After almost four years in Castle Buildings I now have my own offices in separate premises beside Dundonald House. To mark this and other changes I am issuing this report with my new logo. The somewhat enigmatic 'OCPANI' and its accompanying circles are replaced with the more obvious CPANI – Commissioner for Public Appointments Northern Ireland (NI) which 'does exactly what it says on the tin'.

Our email is now info@publicappointmentsni.org and our new website is www.publicappointmentsni.org.

I set out in my last report my intention to develop a new Code of Practice for Ministerial Public Appointments. My main reasons for doing this is to have in place a Code that is, *'is fit for purpose', reflective of the needs of the new political climate in Northern Ireland. A Code that will extend the reach of the selection process to reflect the diversity of people, experience and skills in Northern Ireland"*.

During the year there have been many developments in relation to my new Code. I appreciate very much the feedback from consultees in respect of the draft Code. The amount of time, effort and thought put into the exercise is very clear from the feedback received. The comments provided are thought provoking as well as challenging and in general very supportive.

I would take this opportunity to record my thanks to the Steering Group, Professor Rick Wilford and Dr Sydney Elliott from the School of Politics, International Studies and Philosophy at Queens University Belfast, Mr Bob Collins, Chief Commissioner - Equality Commission for Northern Ireland and Mrs Deirdre Kenny, Director of Corporate Services – Office of the First Minister and deputy First Minister, who, along with myself, are directing the focus

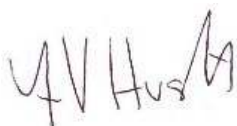
of the new Code. They have not stinted in their provision of advice and guidance. When the new Code is introduced I will be offering support to Departments in order to make the implementation of it as smooth as possible. There is still a lack of understanding, amongst senior civil servants, regarding my legislative remit and the authority of my Code.

In a recent discussion with a very senior civil servant I was reminded of the line from Pirates of the Caribbean - "*The code is more what you'd call "guidelines" than actual rules.*" This senior civil servant told me directly that my Code of Practice for Ministerial Appointments was not mandatory but merely *guidance* and therefore he did not have to comply with it. He was wrong of course, but what circumstances led him to this confused understanding of things and what should I expect of his staff running the appointment processes? Commissioners for Public Appointments and their Codes have been around for nearly 15 years but there is clearly a lot of work still to be done to clarify the responsibility of Departments to comply with my Code.

The Committee for Standards in Public Life recommended that those responsible in Departments for compliance with the Code of Practice should sign an *annual compliance statement* for submission to the Commissioner for Public Appointments confirming their Department's compliance, listing any issues of non-compliance and how they were being dealt with.

I have taken on board this recommendation and included such a statement, at Permanent Secretary level, in my new Code of Practice. I hope this new procedure will bring an end to my Pirates of the Caribbean moments with senior staff.¹

You will find more detail on the development of the Code later in this report.



Felicity Huston

¹ See appendix 1 for text of Compliance Statement

CPA NI Team



(L-R) David Best, Sharon Cox, Felicity Huston, Denise Clegg and Martina Hanna

- Martina Hanna joined CPA NI in May 2006 and works directly to the Commissioner as her Policy Advisor. Prior to this, Martina spent a number of years with the Department for Social Development (DSD) as a Development Manager in Belfast Regeneration Office South and East team before moving to the DSD, Neighbourhood Renewal Unit.
- David Best is the Commissioner's Auditor and Complaints Investigator. He was formerly a Fraud Investigating Officer in the Department of Health and Social Services and spent a number of years as a Welfare Officer before becoming Manager of the Staff Care Unit in the Social Security Agency. David joined CPA NI in June 2008 on secondment from the Department of Health, Social Services and Public Safety (DHSSPS) where he was Head of the Public Appointments Unit for three years. He will be returning to DHSSPS at the beginning of October.
- Sharon Cox is the CPA NI Office Manger and is responsible for the day to day running of the Office. She joined CPA NI in February 2009 having

previously worked in Office of the First Minister and deputy First Minister's Personnel Branch for 9 years.

- Denise Clegg provides administrative support to the Commissioner, the Policy Advisor and the Auditor. Since joining the Civil Service in June 2001 she has worked in the Office of the First Minister and deputy First Ministers' Economic Policy Unit and Reinvestment and Reform Initiative Team. Denise moved to North Belfast Community Action Unit in November 2004 and joined CPA NI in October 2006.
- From August 2008 to February 2009 Andrew Patterson was with the team as Office Manager. However on promotion he moved on to Office of the First and the deputy First Minister, Community Relations Unit.

A Line in the Sand

In March 2009 Ipsos Mori carried out some research for me on the 'Perceptions of the Ministerial Appointments Process. My predecessor had commissioned a similar project, (report published February 2005) when writing her report on the barriers to diversity in Public Appointments in NI.

Given the imminent introduction of my new Code of Practice I felt now was an appropriate time to refresh this research. It can then be the line in the sand against which future developments are measured. The original work surveyed 100 people. The work done in March 2009 surveyed 1,000. (1,000 is accepted as statistically robust for a GB survey) and therefore gives a clear view of how the population in NI regard Public Appointments.

The full report can be viewed at;

www.publicappointmentsni.org/index/publications.htm under 'Other Publications'.

The key findings are not particularly unexpected and are summarised below. However I do take some satisfaction from our recognition rate – 24% when compared with much larger organisations with dedicated communications and PR staff and budgets 10 times greater than mine.

- Knowledge of the Public Appointment process in Northern Ireland is low with only one in eight adults feeling informed about it;
- Awareness of CPANI is somewhat higher (24%). There is some indication that awareness of CPANI has increased since 2004 (2004: 17%; 2009: 24%);
- The low awareness about the process is not necessarily explained by a general disinterest in the topic of Public Appointments. 62% agree that they would like to know more about the Public Appointments process and the vast majority (83%) agree that it is important that the public are informed about how the process works in Northern Ireland;
- Those aware of CPANI and the Public Appointments process are much more likely to think that the system is fair and open and to express their general confidence in the system, demonstrating the importance of ensuring that the public is informed;
- As a general pattern, those in higher social classes and household income groups, people with higher educational attainment, people who are actively participating in political/social activities in their local communities and middle age groups tend to be better informed about and more interested in the Public Appointment process. These groups are also more likely to apply for a Public Appointment;
- Newspapers and TV are the main sources of information, mentioned by more than a third of those who feel informed about the process. One in four named the internet as a source of information, and another quarter stated they received information through the news without further specifying the medium;

- As in 2004, there is high agreement that Public Appointment processes should be regulated (83%);
- That the appointments should be based on merit (74%);
- Appointees should be remunerated (59%);
- However, only three in ten (28%) agree that they are confident in the Public Appointments system in Northern Ireland. It can be assumed that this rather low figure is mainly due to a lack of knowledge as a high share of respondents neither agree nor disagree or have no opinion about how confident they feel about the system.

Unsurprisingly individuals want to know about Public Appointments and they want an open, fair and regulated process. The more they know the more likely they are to apply for board positions. Those that know most about the process trust it most.

Commissioner for Public Appointments for Northern Ireland – Remit

When I speak to Departments and members of the public I find that they may be hoping for more from me than I legally can do. I thought therefore it would be worthwhile to set out my responsibilities and duties as taken directly from the Commissioner for Public Appointments (NI) Order 1995.

1. “The Commissioner shall in the manner he considers best calculated to promote economy, efficiency and effectiveness in the procedures for making Public Appointments, exercise his functions with the object of maintaining the principle of selection on merit in relation to Public Appointments”.
2. “The Commissioner shall prescribe and publish a code of practice on the interpretation and application by Departments on the principle of selection

- on merit for Public Appointments and shall adopt and publish from time to time such additional guidance to Departments as the Commissioner shall think fit”.
3. “The Commissioner shall carry out an audit to review the policies and practices of Departments in making Public Appointments to establish whether the code of practice referred to in paragraph 2 is being observed.
 4. “The Commissioner may require any Department to publish such summary information relating to selection for Public Appointments as he may specify in writing”.
 5. “The Commissioner may from time to time conduct an enquiry into the policies and practices pursued by a Department in relation to any Public Appointment or description of any Public Appointment”.
 6. “The Commissioner shall publish an annual report which shall include –
 - a) Information as to the application by Departments of the principle of selection on merit in relation to Public Appointments and as to the observance by Departments of the Code of Practice, and
 - b) An account of the audit of policies and practices of Departments in making Public Appointments”.

The Principle of Selection on Merit and Observance by Departments of the Code of Practice for Ministerial Public Appointments

In June 2008 I appointed an ‘in house’ auditor, David Best to work with me and Departments to ensure Departments are observing the Code of Practice and applying the principle of selection on merit.

I also have a Policy Advisor, Martina Hanna, who works closely with the Departments on issues that are specific to ongoing competitions. She considers

problems that the Departments and OA's raise and works towards solutions that ensure my Code and its principles are applied.

All of the efforts of my team, and the teams in Departments working on Public Appointments, have given me a lot of assurance that Departments are striving towards improvements in Public Appointment processes.

There are some strong examples of positive outcomes that have arisen from this collaborative work of which the following are examples:

- Departments are working more closely with each other. Communication and sharing of good practice between Departments is becoming less unusual. I encourage this where possible to avoid the tendency in Departments to 're-invent the wheel'.
- DETI - The Public Appointments Unit in this Department has worked very closely with my office regarding various matters. I am particularly grateful for their input and co-operation regarding aspects of my new Code of Practice. I am also very appreciative of the efforts of staff in this Department when it comes to sharing best practice with staff in other Departments. Some Departments do not have a full time Public Appointments team and the staff in DETI have been more than helpful in sharing how they have approached specific issues and challenges.

There are some areas that could be improved. Examples of these are:

- The use of far too many essential criteria. One unpaid advisory body demanded 13 essential criteria for board membership. Unsurprisingly the competition failed to produce a pool of appointable candidates. It is perhaps amazing that it produced any candidates at all. I know I am quoting an old saying but in these cases Departments should very much 'start with the end in mind'.
- There have been inconsistencies of marking by sift panels. My Code of Practice dictates that Departments must ensure a fair, open and transparent process. Inconsistency of marking goes against the ethos of

fairness and has highlighted the need for sound and robust marking frames and systems that should enable Departments to clearly demonstrate why a candidate has been shortlisted or otherwise.

- Departments must ensure that decisions are recorded and accurately kept. When this does not happen it leaves them in conflict with the transparency requirement of my Code of Practice, exposes the Department to criticism and open to challenge .It also hinders the provision of sound and accurate feedback to candidates. This is an issue that has been highlighted in my audits every year since I have taken on the role of Commissioner for Public Appointments and one that I am keen to deal with in my new Code.
- Probity and conflicts of interest – Despite all my efforts, and those of my predecessor, this is an area that still leaves room for improvement. Public Appointments require the highest standards of propriety, involving impartiality, integrity and objectivity, in relation to the stewardship of public funds. This means that any private, voluntary, charitable or political interest which might be material and relevant to the work of the body concerned should be declared and discussed at interview and by the panel. Departments maintain they are tackling these matters at interview, but when there is no written evidence – as required by my Code – how can I or anyone else be sure?

More detail on these and other issues can be found in the reports of audits undertaken by my office. These reports are posted on my website at www.publicappointmentsni.org/index/reports/departmental-audits.htm.

Complaints

I have a duty to investigate complaints and regard an easily accessible complaints system as a fundamental part of an open and transparent appointments process.

Members of the public with a complaint about a particular appointment - whether about the process by which it was made or the way in which they were treated - should first contact the Department concerned. If they remain dissatisfied with the Department's response, they may approach me to carry out an investigation.

This year, my Office carried out five formal investigations – a 500% increase on 07-08 and a 25% increase on 06-07. I also received a number of letters querying various aspects of the appointments process. These were general points of procedure and could not be treated as formal complaints.

All five formal complaints related to the non selection of candidates for the interview stage of competitions. Complainants generally believed that these decisions had been incorrect and that they had not been treated fairly. Three complaints were upheld. Given the detailed investigations carried out by my office when dealing with a complaint, I think it is beneficial to set out in some detail the results and recommendations.

Department of Health and Social Services (DHSSPS)

Public Health Agency

Due to the high number of candidates deemed to have met the essential criteria for a particular post, the Department shortlisted for interview by assessing the desirable criteria. A scoring system was used to award one point for each of the fourteen desirable criteria deemed satisfied and candidates who scored eleven points or more were subsequently invited for interview. One candidate was not invited for interview as he received a score of ten points. He believed however, that the Department's decision not to award him a point for the "Public Safety, including health protection" criterion was incorrect; and that he had been unfairly treated in comparison with other candidates.

Following a thorough investigation I decided to uphold the complaint. In my opinion, the complainant had demonstrated sufficient evidence to meet the particular criterion and as such it was my view that he should have been invited for interview.

Having reviewed the applications supplied by those who met the “Public Safety, including health protection” criterion and were invited for interview, it was my view that ten candidates had provided similar or less evidence than the complainant. I concluded therefore that the complainant had not been treated fairly in comparison.

In the course of this investigation a number of other issues were identified which raised my concerns that the Department’s Public Appointment processes were not producing a quality outcome. These related in particular to the practices used to assess candidates against both the essential and desirable criteria. As a result of my findings, I made a number of recommendations, one of which was that the Department should carry out an urgent review of its appointment process to ensure that it was fully compliant with my Code of Practice.

Public Health Agency – Regional Health & Social Care Board – Business Services Organisation

A second complaint against DHSSPS was not upheld. In this case, a candidate had not been shortlisted for interview for three separate bodies being established as part of a restructured health service. Again this was on the basis that she did not meet sufficient desirable criteria. She believed that only those with direct experience of working in, or for, the health service, or who had previous quango experience, were likely to meet sufficient desirable criteria to be invited for interview.

Having reviewed the application forms of all those invited to interview, I concluded that it wasn’t necessary to have such experience in order to be shortlisted. Whilst I did not uphold this specific complaint, I again raised my concerns about the practices used to assess the essential and desirable criteria and recommended an urgent review of the Department’s entire process.

I am pleased to say that the Department fully accepted my decisions and has commenced a review of its procedures in line with my recommendations. We will continue to monitor and support this review as appropriate.

Department of Enterprise, Trade and Investment (DETI)

Health and Safety Executive Northern Ireland

In this case, the complainant was deemed not to have met one of the essential criteria for the post namely; Corporate Governance/Risk Management. He believed that this decision was incorrect.

Following a thorough investigation of the process, I upheld his complaint.

The main issue arising was the lack of clarity surrounding the requirements deemed necessary to meet the criterion. The shortlisting panel had a particular interpretation which differed significantly from those outlined in the Information Pack. As such, candidates were not assessed against the published criterion. Having reviewed the complainant's application, I concluded that he had provided clear evidence that he met the requirements of the criterion as published.

In order to ensure compliance with my Code of Practice and improve the administration of Public Appointment competitions, I made five recommendations to the Department as follows:

- The Department ensures that the requirements deemed necessary to meet essential criteria remain consistent throughout all documentation.
- The Department ensures that the requirements deemed necessary to meet essential criteria are clearly defined and easily understood.
- The Department ensures that candidates are assessed against the published criteria only.
- The Department uses a scoring frame or marking matrix when assessing candidates against criteria to ensure a consistent and more objective level of measurement by panel members.

- The Department ensures that the rationale supporting all sift panel decisions is fully recorded. In this competition the scarcity of comments from the panel members left the Department poorly placed to defend or justify its decisions.

As part of our programme of review and compliance testing I intend to report on the implementation of these recommendations.

Department for Employment and Learning (DEL)

Construction Industry Training Board

Again in this case, the complainant was deemed not to have met one of the essential criteria. He believed that; (a) the panel's decision was incorrect (b) he had not been treated on an equal basis with other candidates and (c) there was a predetermined outcome to the competition.

Following my investigation, I upheld the first two parts of his complaint. I concluded that the panel's decision was incorrect given the evidence contained in his application form, the lack of information provided to identify the requirements of the particular criterion and the absence of any scoring guidance for the panel. It was also my view that one other applicant provided similar or less evidence than the complainant in relation to the disputed criterion. As this particular candidate was invited for interview, I concluded that the complainant had not been treated on an equal basis.

I did not uphold the third part of the complaint as I found no evidence that there had been a "predetermined outcome" to the process.

This investigation identified a number of issues that I asked the Department to address for the future. I am pleased to say, that as a result DEL has undertaken a complete review of its Public Appointment process and associated documentation. We continue to monitor and support this review as appropriate.

Department for Regional Development (DRD)

Northern Ireland Transport Holding Company

The complainant believed that the panel had not assessed his application fairly in respect of one criterion; and in comparison with other candidates. I did not uphold his complaint.

I found that the requirements for the disputed criterion were very clear and that the panel had used a logical scoring system which was clearly documented. There was no evidence that the complainant met the requirements of this criterion. I also found that the panel had assessed all candidates consistently and in line with the scoring system used.

Conclusions

The five formal complaints investigated this year related to decisions not to shortlist candidates for interview. As can be seen from this summary it is vital that Departments:

- Clearly identify the requirements deemed necessary for each post and maintain the same criteria throughout the process;
- Have logical scoring frameworks to assist panels when assessing candidates;
- Maintain clear records of all decisions taken.

The findings of our complaints investigation support those of our audits. Record keeping or lack of it, is a constant theme throughout our investigations of complaints.

Without good contemporaneous records of the selection procedure, the deliberations of the panel and the decisions made, Departments leave themselves open to complaints and may find they are ill-equipped to defend a legal challenge.

For full reports on the complaints investigated please click on the following link:

www.publicappointmentsni.org/index/reports/complaint-investigation.htm

Review of the Year

CPA NI Office and Resources

Office Location

On many occasions I have referred to the location of my Office deep in Castle Buildings in the Stormont Estate and how this was not conducive to independent operations.

I am delighted to report that we have now moved to new offices Annex B - beside Dundonald House and we now have our own front door. We look forward to welcoming visitors and running our training sessions etc within our new location.

The costs of moving and the new premises are estimated as follows:

- Preparing the office for occupation and bringing it up to the necessary standard for occupation- £29,925.00;
- Furnishings (including conference room) & kitchen equipment - £ 9,668.31

The rent for the new premises has been estimated at £30,000.00 per annum and is paid from OFMDFM to DARD. OFMDFM have confirmed that they are content with this expenditure. I will report the actual annual running costs in next year's report.

I appreciate all of the efforts that have gone into finding the new location and I am particularly grateful for the interest taken by the First and the Deputy First Minister in securing it.

I would also like to mention my gratitude to Denise Clegg who, more or less singlehandedly, managed the move to the new office. Her work on this was well beyond the call of duty and is much appreciated. I am also grateful to the team in OFMDFM Office Services for the assistance, help and advice provided.

Staff and Other Resources

My team of staff feature earlier in this report.

I thought however it would be appropriate to report the office running costs - for our previous location in Castle Buildings.

The overall budget for the 2008/09 year was £207,000 and was allocated as follows:

£150k – Staff salaries (including the Commissioner’s remuneration)

£57k – All other office running costs including:

- General office expenditure
- Seminars for the team of Assessors
- Cost associated with drafting the new Code of Practice
- MORI Survey.

Until our move no charge was shown in our budget for rent – notional or otherwise.

As previously reported I do not have a ‘delegated’ budget. Salaries and all other costs related to my office are provided from the OFMDFM cost centre.

Regulated and Monitored Competitions

An appointment is regulated by me if it is on a body listed in Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996, or in Part 1 of the schedule to the Commissioner for Public Appointments (Amendment) or if the legislation related to the Board/post allows it to be regulated.

In the past CPA NI also operated a ‘Monitored Kitemark’ scheme. This allowed Departments to sign up to be voluntarily regulated for individual competitions. This scheme was introduced due to the lack of public bodies formally regulated in legislation by the Commissioner in Northern Ireland when compared to the rest of the UK.

In March 2006 the then Secretary of State published the document “**Better Government for Northern Ireland – Final Decisions of the Review of Public Administration**” and announced:

“Board members must be chosen solely on the basis of the skills and expertise necessary to do the job. All appointments are to be made on merit and no one should be appointed to any position solely because they hold a particular position in another organisation. For the future, all Board members will be appointed under the guidelines laid down by the Commissioner for Public Appointments”

As a result of this statement the OFMDFM Central Appointments Unit, CAU, commenced an exercise with Departments to identify bodies they wished to see brought under CPA NI regulation.

In my 2007/08 Annual Report I announced of my intention to abolish the ‘Monitored Kitemark’ scheme as there would now be the opportunity to have appointments to all bodies regulated formally in legislation.

The amendment to my order was finally made in **December 2008**. Although I was pleased to see most public bodies come under formal regulation I was somewhat disappointed to note that a number of bodies have not been listed. Some had been removed from any oversight e.g. *Dept of Environment’s Local Government Boundary Commissioner and Assistant Local Government Boundary Commissioners*.

The same Department specifically excluded the Northern Ireland Biodiversity Group from the Order and is now running a competition to appoint new members to that Board. The Department approached my office seeking the ‘Monitored Kitemark’ status for the competition and is somewhat aggrieved that I cannot co-operate as this scheme no longer exists.

If appointments to a body are fit enough to merit regulation the body should have been placed officially on my Order. This is a point that appears to be validated by the Public Accounts Committee mentioned next in this report. Recommendation 38 clearly highlights that all Ministerial Public Appointments should be regulated properly. A full list of the bodies regulated by my office can be viewed on: www.publicappointmentsni.org/index/our-role/list-bodies.htm.

Oversight 2008/09

In 2008/09 we allocated a total of 42 CPA NI Assessors to work on a variety of competitions with NI Departments and the NIO (on behalf of OCPA GB) –listed below. We also provided advice and support to both Departments and assessors regarding a great many of these appointments.

Public Appointments Competitions 2008/09

Department	Competition
DARD	Livestock and Meat Commission for NI – Members
DARD	Agricultural Wages Board – Chair and Members
DARD	Livestock and Meat Commissioner NI - Chair
DARD	NI Fishery Harbour Authority – Members
DCAL	NI Library Authority Board – Chair
DCAL	NI Library Authority Board – Members
DCAL	NI Library Authority Board – Members (Councillors)
DCAL	Sport NI – Vice Chair
DCAL	Fisheries Conservancy Board – Member
DE	Education and Skills Authority - Chair
DEL	Labour Relations Agency - Members
DEL	South Eastern Regional College – Member
DETI	NI Tourist Board – Chair
DETI	NI Tourist Board – Members
DETI	General Consumer Council (NI) – Members
DHSSPS	NI Ambulance Service - Chair
DHSSPS	NI Ambulance Service - Member
DHSSPS	South Eastern Health & Social Care Trust - Chair
DHSSPS	3 x New HSC Bodies – One competition for 3 Chair posts
DHSSPS	HSC Body Patient and Client Council - Chair
DHSSPS	Patient Client Council – Members
DHSSPS	Regional Health and Social Care Board - Members
DHSSPS	Regional Agency for Public Health and Social Well-Being - Members
DHSSPS	Regional Services Organisation - Members
DOE	NI Local Government Officers' Superannuation Committee – Chair and Members
DSD	Charity Commission – Chief Commissioner
DSD	Charity Commission – Deputy Commissioner and 3 Commissioners

DCAL	Armagh Observatory & Planetarium - Management Committee – Members
DE	General Teaching Council for NI – Members
DEL	NI Advisor on Employment & Skills - Advisor
DEL	FE Colleges (North West, North, South & Belfast) – 4 Chair positions
DEL	FE Colleges - 4 Interim Chair positions (North West, North, South & Belfast)
DOE	Local Government Boundaries Commissioner – Commissioner
DOE	The Historic Monuments Council – Chair
DSD	Charities Advisory Committee – Members
OFMDFM	Older Peoples Advocate – Advocate Position

Northern Ireland Office/Court Service Public Appointments 2008/09

Department	Competition
DCAL/DCMS	Big Lottery Fund
NI Court Service	NI Legal Services Commission
NI Court Service	NI Judicial Appointments Commission
NIO	NI Boundary Commission
NIO	Probation Board for NI
NIO	Equality Commission

Public Accounts Committee Hearing on the Hospitality Association and the Events Company

At the request of the Public Accounts Committee, I attended and gave evidence at their hearing on 17th April 2008 regarding the Hospitality Association of Northern Ireland and the NI Events Company. The hearing focused on the financial management and the Public Appointments process of two Departments namely the Department for Employment and Learning and the Department of Culture, Arts and Leisure

My evidence was based on my observation over almost 3 years, of how Departments comply with my Code and their application of the principle of merit.

Following this hearing the Public Accounts Committee said the following:

“Holders of public office in Northern Ireland have a key role to play. Because the structure of regional administration is highly dependent on a wide range of public bodies whose Boards are filled by Ministerial appointment, it is important that the public have confidence in the appointments system. There are currently just over 2,000 Ministerial appointees in Northern Ireland. The standards for Public Appointments have been clearly stated by the ‘Office of the Commissioner for Public Appointments for Northern Ireland’. As regards ‘probity’, the guidelines state that:

“Departments must ensure the highest standards of propriety in the conduct of their public bodies in order to ensure public confidence. To achieve these high standards Departments must take care to ensure that individuals appointed to their bodies are committed to the principles and values of public service and are capable of performing their duties with integrity”.

The Committee published a number of recommendations regarding my Office and Public Appointments. I have reproduced them below along with the formal NICS response to those recommendations.

PAC Recommendation 35

The Committee recognises that it is not possible to be wholly prescriptive as to what a candidate for public office should disclose where probity may be an issue. It would be helpful, however, if the guidance notes for applicants provided a comprehensive range of examples of the types of issues that may create difficulties.

OFMDFM accepts this recommendation and will review its current guidance notes to applicants on probity issues. The Commissioner for Public Appointments has also produced guidance on conflicts of interest and an explanatory leaflet that is issued to all applicants highlighting several examples of potential real or perceived conflicts of interest.

PAC Recommendation 36

The Committee also recognises the considerable degree of reliance placed on candidates to openly declare any matters which may impinge on their suitability for public office. In the Committee's opinion, it should be made clear to all candidates that the rule is - when in doubt, disclose and record.

OFMDFM accepts this recommendation and will review the current guidance notes for applicants on probity and conflicts of interest to emphasise that when in doubt, they should disclose and record.

PAC Recommendation 37

Staff involved in administering the appointment process need to be trained for the task. The Committee endorses the Appointments Commissioner's suggestion of setting-up a central unit, to administer appointments across the public sector. Accordingly, the Committee asks DFP and OFMDFM to take this matter forward. Given the obvious shortcomings in the current arrangements, the Committee considers that this issue should be progressed as a priority.

OFMDFM notes this recommendation. A review to assess the advantages and disadvantages of setting up a central unit to handle all Public Appointments made by Northern Ireland Ministers commenced in June 2008 and is expected to report later this year. The findings of the review will be submitted to OFMDFM Ministers for consideration. If considered feasible and appropriate, implementation would require the agreement of the Executive.

PAC Recommendation 38

It is a matter of concern that a substantial number of Public Appointments are not regulated. The Committee calls on OFMDFM and DFP to take the necessary steps to bring all Public Appointments into the Commissioner's remit. It is also a concern that there is a further, as yet undefined, group of appointments which do not fall within the current definition of 'Public Appointments', where there would be a reasonable public expectation of regulation. The Committee considers that these posts should be identified in a comprehensive list and consideration be given as to the extent to which they should also be brought into the regulatory framework.

OFMDFM notes this recommendation. It is the responsibility of each individual Minister to decide which of the Public Appointments they make will be regulated by the Commissioner for Public Appointments. Following publication of the final decisions of the Review of Public Administration, Ministers have agreed to increase the number of Public Appointments regulated by the Commissioner and the Department plans to introduce a Prerogative Order – The Commissioner for Public Appointments (Amendment) Order(Northern Ireland) 2008 – to implement these changes. Third party organisations (as defined in the DFP response to the Westminster Public Account’s Committee Report on Governance issues in the Department of Enterprise, Trade and Investment’s former Local Enterprise Development Unit (Emerging Business Trust)) are not public bodies and appointments to them are not made by ministers. As such they are not regulated by the Commissioner. However, as far as possible (and with due regard for proportionality) Departments require, as a condition of funding, that third party organisations follow the principles of the Commissioner of Public Appointments Code of Practice. Draft guidance on appointments to these bodies has been circulated to Departments and the Commissioner.

PAC Recommendation 39

The Committee’s expectation is that Departments will comply with all elements of the Commissioner’s Code of Practice. In particular, Public Appointments selection panels must rigorously test all applicants on matters of probity and potential conflicts of interest. There is a need to ensure that those involved in selection are fully trained in all the skills that this important task requires.

OFMDFM accepts this recommendation and agrees that the selection panels must rigorously test all applicants on matters of probity and potential conflicts of interest. The Department will liaise with the Centre for Applied Learning to consider further the issue of training.

PAC Recommendation 40

The extremely poor performance of Departments in relation to the appointments considered in this report has raised the concern of the Committee of the standards in Public Appointments across the system. The Committee believes strongly that the post of Commissioner for Public

Appointments needs to be strengthened and made truly independent of those whom it is regulating. This is particularly important in relation to staffing, budget and the location of the Commissioner's premises. The Committee recommends that OFMDFM and DFP take this matter forward as a high priority.

OFMDFM notes this recommendation. The Department is currently considering issues around the independence of the Commissioner and in the meantime continues to liaise closely with the Commissioner in relation to issues such as staffing, budget and location of premises.

PAC Recommendation 41

The Committee would also like to see the Commissioner vested with the power to apply some form of sanction in those cases where the appointments process has not been properly applied. This should, at the very least, follow the model in Scotland and include the power to halt a competition that does not comply with the Code of Practice.

OFMDFM notes this recommendation. The powers vested in the Commissioner are determined by Ministers. The Department is currently considering the arrangements under which the Commissioner operates.

PAC Recommendation 42

The Committee recommends that the Central Appointments Unit in OFMDFM brings forward proposals in which the promotion of Public Appointment opportunities can be enhanced, in order to attract a larger and more diverse range of local applicants.

OFMDFM notes this recommendation. The Central Appointments Unit (CAU) believes that increasing the diversity and breadth of Public Appointments is most important and currently has a number of measures in place for promoting public appointment opportunities. CAU maintains a mailing list of individuals and organisations interested in Public Appointments. The mailing list is open to anyone and everyone on the mailing list receives a copy of 'All Aboard', which is published every six months and provides details of forthcoming public appointment vacancies. The CAU also produced 'Make Your Mark – A Guide to Public Appointments in Northern Ireland', the purpose of which was to raise awareness and help demystify the appointment process by explaining how it

works in practice. This publication was widely distributed to libraries, community and health centres and the voluntary sector.

The full report of the Committee can be accessed through the following link:

www.niassembly.gov.uk/public/2007mandate/reports/report36_07_08R.

From reading this Annual Report it can be seen that progress has been made on some of these recommendations:

I now have my own premises separate from the NICS. The Prerogative Order signed in December 2008 has brought a great many public bodies under my remit, although the situation regarding TPO's remains very disappointing.

Code of Practice for Ministerial Public Appointments in Northern Ireland

Last year I reported my plans to produce a new Code of Practice for Ministerial Appointments. I wanted a Code more 'fit for purpose' than the current Code. My aspiration was to have a Code:

- Reflective of the new political climate in Northern Ireland.
- Allowing Departments to take their own decisions about how a Public Appointments competition is run – as long as the principles and key guidelines are adhered to and;
- One which will encourage new thoughts and ideas and practices rather than a focus on the minutiae of instructions, or fear of litigation.

A tremendous amount of time, effort and thought has gone into the production of the various drafts. The Working and Steering groups have contributed greatly to the production of the drafts and I am exceptionally appreciative for all of their input.

I would like to thank the following members of the working group for their help and involvement in the drafting:

Philip Robinson, Eileen Mullan, Michael Ferguson, Catherine Synnott, Julie Erskine, Lynne Taylor, Delia Van der Lenden, Martina Hanna, David Best and Denise Clegg.

Although I do not have a statutory duty to consult on my work I decided to carry out a consultation on the draft code. 124 organisations were circulated along with the 11 government Departments, the NIO and all 37 CPA NI Assessors.

Responses were received across a wide variety of interests, most particularly the women's sector. Somewhat surprisingly only 5 out of the 11 NICS Departments responded, although the Head of the Civil Service provided a response as well as the aforementioned Departments.

I was very pleased with the positive responses received and have used them to craft the final version of the draft.

There are some points which have led to consultation with the First and the deputy First Minister's. Indeed the input of the First and deputy First Ministers and in particular their team of advisors has been most welcome.

I am confident that I will have a new Code ready for implementation in by January 2010 and will report on this in my next Annual Report.

CPA NI Assessor Training

I decided this year to run a number of informal lunchtime seminars for the team of Assessors. Formal training sessions were inappropriate when the term of the current team expires at the end of September 2009. As I will be introducing the new Code of Practice shortly, it made more sense to run seminars and concentrate the resources for formal training with the new team.

The seminars took place in May and November 2008 and in February 2009.

I personally delivered the May seminar whilst David Thomson the Treasury Officer of Accounts, in the Department of Finance and Personnel, very kindly agreed to talk at the November 2008 seminar. David Nicholl, the Head of CIPFA Northern Ireland, talked at the February 2009 seminar and his discussion focused on good governance and good practice. David has been involved in reviewing the relationship between Dept of Culture Arts and Leisure and its Arms

Length Bodies. I appreciate the time and effort put in by both speakers and can, on behalf of the Assessors, vouch for how worthwhile they found each seminar.

The Commissioner in England introduced an accreditation scheme for Public Appointments assessors. Some Public Appointments in Northern Ireland fall within the English Commissioner's remit. Examples of these would be The Big Lottery and NIO competitions. Any Assessors in Northern Ireland who wished to continue working for GB on NIO or similar competitions needed to pass this accreditation test. So far 12 have successfully passed and I congratulate them.

I had planned by now to have commenced an open public competition to recruit new CPANI Assessors. There is however, still some debate on the role of the Assessor. As soon as this is clarified the competition will commence.

If anyone is interested in receiving details of this competition please email your contact details to info@publicappointmentsni.org and my team will keep you posted regarding developments.

Full details of all the current team of CPA NI Assessors can be found on our website at: www.publicappointmentsni.org/index/our-role/ocpa-ni-assessors.

Third Party Organisations (TPO's)

Regular readers of my Annual Reports will be familiar with these creatures.

For those who are not the background is:

A commitment was given to the Westminster PAC by DFP in 2006 regarding the oversight of appointment processes to Third Party Organisations (TPO's).

The difference between appointments to TPO's and to public bodies, for which I am responsible, is that those under my remit are appointments made by Ministers. The appointments to TPO's are made by civil servants.

Last year I reported how progress on the matter of drawing up a final list TPO's had been slow but eventually a final list was produced. A list of 18 was provided to me by DFP.

I now find that the final list has been reduced to **four** organisations only.

Whilst I am aware that the original commitment was made under direct rule to the Westminster PAC, the body investigated at the time was the Emerging Business Trust sponsored by the DETI.

I should point out that the DETI as a Department have lived up to the commitment as three of the remaining four listed bodies fall within their remit.

Given the interest in Public Appointments of all shapes and sizes, and the recommendations emerging from the Northern Ireland PAC report on the Hospitality Association, I am very disappointed that the original commitment has been 'more honoured in the breach than the observance'

I have written to the Chair of the Public Accounts Committee and to the Comptroller and Auditor General expressing my concern over this issue.

Politics Student Intern from Queens University Belfast

It was a pleasure this year to collaborate with Queens University, Belfast in the hosting an intern, Katherine McCloskey for 12 weeks. Katherine was a final year politics undergraduate and during her internship she:

- Completed a research assignment comparing the regulation of Public Appointments in the UK and further afield. A dissertation for which she was highly commended.
- Attended meetings with myself and members of my team,
- Participated and contributed to ongoing office projects, including the new Code of Practice.

We were delighted to hear that Katherine had graduated with a 2:1 and is continuing her studies with an MSC course. We wish her all the best for the future. I look forward to continuing the relationship with Queens University in the new academic year.

A copy of the assignment completed by Katherine can be found on the CPA NI website on www.publicappointmentsni.org/index/publications.

Liaison with the Commissioners of England and Scotland

I met my colleagues, Janet Gaymer, the Public Appointments Commissioner for England and Wales, and Karen Carlton, The Public Appointments Commissioner for Scotland, in June and November 2008. The November meeting was held in Northern Ireland.

The ongoing liaison is very beneficial as my colleagues have oversight of appointment processes that can be compared to Northern Ireland. Like here in Northern Ireland they face many challenges. At these meetings, amongst other things, we have discussed:

- The Codes Practice, changes to the Codes and the potential impact of proposed changes on policy;
- The role of the team of independent Assessors in the Public Appointments process;
- Rebranding issues;
- Legal precedents & legal advice. Most of these discussions have centered round the court cases here in Northern Ireland. There does not seem to be the same appetite for litigation in the rest of the UK.

“Get on Board” – Preparing People for Public Life



I have mentioned this course previously and I am delighted to report that it seems to be going from strength to strength.

The creation of Get On Board was a product of the Diversity in Public Appointments report of 2005. The focus was to increase participation from under-represented groups in public appointments.

Get on Board is a ten week programme developed and delivered by Belfast Metropolitan College which covers issues such as governance, roles and

responsibilities, decision making processes, effective board meetings and managing public money.

Now entering its 4th year, the successes to date have been outstanding with **208** people having completed the training. From that **thirty seven** people have gone on to secure appointments on a variety of public and voluntary sector boards, such as

- Charity Commission for Northern Ireland
- Civil Service Commissioner for Northern Ireland
- Health and Social Care Board
- The Consumer Council
- Council for Nature Conservation and the Countryside
- Fermanagh District Policing Partnership

To date, of the 208 people who have completed the programme, **70%** were women, **20%** were under the age of 40 and **69%** were from outside Belfast. In terms of the 37 people who have secured a position on a board, **72%** were women.

During the 2008/2009 academic period, Get On Board was delivered in Enniskillen, Derry City and Belfast, with the Enniskillen programme being delivered specifically for the Northern Ireland Rural Women's Network. Plans are currently underway to roll Get On Board throughout all six Regional Colleges.

The Department of Finance & Personnel, Department of Culture Arts & Leisure and the Department of Enterprise Trade & Investment, have made a valuable contribution to a number of sessions which alongside observation at a board meeting give participants a real insight into the role of a non executive director. I am grateful to organisations providing these invaluable opportunities and I am sure the course tutor, Eileen Mullan, will welcome offers from those not engaged to date.

If you are interested in participating in this course details can be found on the Institute website at the following address:

[Access further information on 'Get on Board' course](#)

Communication

CPA NI/Departmental Representative Seminar

In December 2008 we organised seminar to update Departmental contacts on:-

- New CPA NI office procedures
- CPA NI Audit programme
- The arrangements for managing Third Party Organisation competitions
- The new draft Code of Practice

17 staff across the 11 Departments took part in the seminar and the feedback proved very useful. Once my new Code of Practice is implemented I will run another such event. This will give Departments an opportunity to discuss the new Code directly and to raise any aspects they feel the need for clarity on.

Events Attended

During the year I was invited to attend and to speak at different events. Some of these events included:

- Her Majesty's Garden Party at Buckingham Palace – a personal highlight for me (and my husband). No speech required!²
- Chairpersons' Forum & Commissioner for Public Appointments Reception May 2008
- Derry City Council Annual Community Relations Conference January 2009

At the Derry City Council conference my Policy Advisor hosted two workshops. The workshops were entitled 'Women in Public Life – What they contribute and what are the barriers'. My policy advisor documented the outcomes from the workshops and these were returned to the Council's Women's Officer, Joanna Boyd. I was very impressed with both the level of participation in the conference and the contributions made during the workshop sessions.

² This trip was paid for entirely from the Commissioner's personal funds. No public money was used.

What Lies Ahead

We prepare an annual work programme and review and revise it regularly

www.publicappointmentsni.org/cpa_ni_business_plan_2009-2010_pdf_88kb_.pdf

Regulation of Ministerial Appointments

To regulate all Ministerial Appointments falling within the Commissioner's remit in line with the Commissioner for Public Appointments (NI) Order 1995:

"The Commissioner shall, in the manner he considers best calculated to promote economy, efficiency and effectiveness in the procedures for making Public Appointments, exercise his functions with the object of maintaining the principle of selection on merit in relation to Public Appointments."

CPA NI Annual Report

1. To produce in draft the narrative section of the Commissioners 14th Annual Report for issue by the end of November 2009.
2. To produce the 07/08 audit and complaint section of the report by 30th November 2009.
3. Impact of the new approach to the Audit Report to be analysed by end of March 2010.

Audit 2008/09

1. In line with the Commissioner for Public Appointments (NI) Order 1995 *"the Commissioner shall carry out an audit to review the policies and practices of Departments in making Public Appointments to establish whether the code of practice is being observed"*
2. To ensure that the annual audit of appointments processes is carried out effectively and in line with the Commissioner's new audit policy.
3. To ensure that Performance Assessments are included in the audit for those Departments implementing re-appointments.
4. Audit Summary for 2006/07 to be published on the CPA NI website by April 09.
5. Evaluation of the new audit system by March 2010.
6. Revisit the 07/08 audit recommendations by November 2009.

Departmental Advice

1. Provide appropriate and timely advice to ad hoc queries, liaising with Commissioner as necessary.
2. Maintain the system for the management of Departmental Queries.
3. New Code of Practice – Recommend adequate training is provided at a Departmental level – September 09.

Complaints

1. To ensure that complaints about appointments processes are investigated according to the procedure set out in the Code of Practice.

New CPA NI Code of Practice

1. To manage and coordinate the responses to the consultation exercise – June 2009.
2. Implement the new Code of Practice with Ministers and the NICS – January 2010.
3. Specific policy to be developed in the new Code of Practice regarding the management of nominated positions – Ongoing.
4. Arrange appropriate training for the team of Assessor's.

CPA NI Office

1. To manage the move to the new accommodation.

Third Party Organisations

1. To ensure that the list supplied by DFP is the complete and final list.

CPA NI Assessors

1. To define the role of the Assessors in line with legal advice and consultation with OFMDFM.
2. To administer the allocation of CPA NI Assessors to Departments in a timely manner.
3. To ensure that the team of Assessor's are kept informed of developments in the appointments field.
4. To provide training sessions and lunchtime seminars.
5. Ensure that the Assessors complete a 'Conflicts of Interest Update' form.

CPA NI Website

1. To oversee a revamp of the CPA NI Website.
2. To ensure that the website is maintained efficiently and updated monthly.
3. Staff to have effective training to enable the website to be managed by CPA NI.
4. CPA NI Blog – To be used as a regular method of communication with the team of Assessors.

Preparing People for Public Service

1. Continue to support the Get on Board Course.

Liaison with the Commissioners in England and Scotland

1. Provide input and support to the joint Commissioners meetings.

Liaison with Ministers, the Northern Ireland Assembly, the Northern Ireland Civil Service and other key Stakeholders

1. **Ministers**– to maintain strong working links with the Ministers and their advisors and to ensure updates regarding key CPA NI issues are related to the Ministers and their advisors as appropriate.
2. **NIA** – As above, where appropriate.
3. **NICS** – to maintain strong working relationships with the senior civil service and our Departmental contacts.
4. **Stakeholders** – to develop and maintain relationships with Key Stakeholders and engage as appropriate in relation to CPA NI matters.

Appendix 1 Compliance Statement

STATEMENT OF COMPLIANCE WITH THE COMMISSIONER FOR PUBLIC APPOINTMENTS FOR NORTHERN IRELAND CODE OF PRACTICE FOR MINISTERIAL APPOINTMENTS TO PUBLIC BODIES

I certify that all Public Appointment processes within the remit of the Commissioner for Public Appointments for Northern Ireland conducted during the period 1 April [] to 31 March [] by [insert name of Department or other relevant organisation] have been carried out in accordance with the Commissioner's Code of Practice. * save as set out below

I am aware of the following issues of non-compliance with the Commissioner's Code during the relevant period and have taken or plan to take the actions indicated below, in order to rectify or, if not rectifiable, deal with the issues concerned.

INSTANCES OF NON-COMPLIANCE

ACTION TAKEN OR PLANNED TO DEAL WITH NON-COMPLIANCE

Signed [Permanent Secretary/Other Appropriate Officer]

Date

*Delete as appropriate

Appendix 2 Abbreviations used in this report

The following abbreviations are used in this Report:

DARD	Department of Agriculture & Rural Development
DCAL	Department of Culture, Arts & Leisure
DE	Department of Education
DEL	Department of Employment & Learning
DETI	Department of Enterprise, Trade & Investment
DFP	Department of Finance and Personnel
DHSSPS	Department of Health, Social Services & Public Safety
DOE	Department of the Environment
DRD	Department for Regional Development
DSD	Department for Social Development
OFMDFM	Office of the First Minister and Deputy First Minister
NIAO	The Northern Ireland Audit Office
NICS	The Northern Ireland Civil Service
NIO	The Northern Ireland Office
TPO	Third Party Organisation