

Department for Regional Development Northern Ireland Water

Background

The Commissioner for Public Appointments (Northern Ireland) Order 1995 empowers the Commissioner to “audit appointment policies and practices pursued by appointing authorities, to establish whether the Code of Practice is being observed by the appointing authority”. The Commissioner launched a new Code in February 2010.

The Department for Regional Development (DRD) was selected as one of this year’s audits because of the results of a previous review into the process to appoint interim NEDs to the Board. That review determined that record keeping was so poor that an overall judgment on the actual process could not be made.

The objective of this exercise was to evaluate whether the Ministerial appointment of Chair to Northern Ireland Water complied with the Code. The Commissioner wrote to the Permanent Secretary on 28th March 2011 informing him of her decision to carry out this audit and asking for all documentation relating to this competition. The records were received on 13 April 2011.

We would like to thank the staff from the Sponsor Branch for their assistance with the overall co-ordination of the audit.

What we did

The CPA NI Compliance Manager examined all the records forwarded by DRD. The review was carried out in the context of the previous interim process and the assurances made by the Department that the same problems would not arise again. The systems used by the Department were tested to ensure they followed the requirements of the Code.

What the Department did

The Department consulted with the Minister early in the planning stage of the appointment process. The first submission dated 1st October 2010 sought agreement to the hiring of recruitment consultants to be employed to identify suitable candidates; agreement to secure an independent assessor; agreement to stagger the appointment process for Chair and members and to employ an additional panel member from the wider utility sector.

The Minister approved all aspects of the submission on 1st October 2010.

The second submission dated 22nd November 2010 covered role and person specification; suggestion of names; essential criteria; confirmed that the Minister was content with the panel to put forward an unranked list of candidates and sought agreement to a firm timetable proposed by the Department.

The Minister approved all aspects of the second submission on 23rd November 2010.

Panel

Discussions took place amongst officials to find an additional panel member from the wider utility sector. Initially a panel member was identified, however, due to a conflict of interest this member had to withdraw from the competition. A second panel member Ronnie Mercer, Chair of Scottish Water was identified as a replacement. The panel consisted of the Permanent Secretary, Malcolm McKibbin, Senior Finance Director, Lian Patterson, Anthony McDowell Independent Assessor and Ronnie Mercer wider utility sector. All panel members were involved in all aspects of the appointment process.

Given the comments of the PAC etc on the DRD Shareholder Unit etc and its involvement with the NIW Board, it would perhaps, have been better if Ms Patterson had not been a member of this selection panel.

Role and Specification

Candidates were required to meet six essential criteria including board experience, governance, control and accountability, interpersonal and communication skills. No academic qualifications were required for the post.

Publicity

Posts were advertised in the Belfast Telegraph, Irish News, News Letter and Foinse. One copy of the advertisement was included in the documentation sent to our office, however copies for the remaining papers were not supplied. To try to increase diversity the Department issued letters/ads to Section 75 groups i.e. local councils, women's groups etc. Executive search/recruitment consultants were employed to attract as wide and diverse a field as possible. However, these actions failed to produce any female candidates for the post.

Information Packs

The Information Pack contained most of the key information as outlined in the Code. However, under 3.21 of the Code "information on the process and how long it will take including dates for interview" must be included in the information pack. The dates for interview were omitted from the Information Pack. This omission makes it hard for potential candidates to plan. It is difficult to believe that by the time of issue of the packs the Department did not have the dates for interview fixed.

Application Form

The Code under paragraph 3.22, allows Departments to design their own application forms. Forms must be simple, straightforward and ask what is only truly required. The form in Section 5 asked candidates to give details of two referees who knew them in a professional capacity. In the Guidance Notes it states

that references will only be taken up after interview and only for candidates who are suitable for appointment. The first reference sought information with regards to integrity and the other for information in relation to the candidate's "professional capacity".

Letters were sent to all referees on 23rd February 2011 asking for the individual's suitability for appointment and "professional capacity". Responses had to be made before 4th March 2011. Interviews had **not** taken place at this stage. It is unclear as to the true purpose and value of asking for these references.

Monitoring Forms

So called monitoring forms are not required by the Commissioner. If the Department insists on using them they must be separated from the application form and not supplied to the selection panel. This is laid out in paragraph 3.23 of my Code.

In this case the monitoring forms issued by the Department requested the applicant's name and date of birth. The date of birth was not asked for on the application form.

These forms were subsequently supplied to my Office attached to the relevant application form. I was, therefore, able to identify not only the community background and ethnic origins, but also if applicants had a disability.

The Department explained that copies provided to the Commissioners Office were taken from the original master application which the Branch retains in tact.

Closing Date

Completed forms for the Chair competition had to arrive before 5pm on 14th January 2011. All Chair applicants received notification that their application had been received within the timescale. All application forms had been date stamped by the Department. There were no late applications.

Selection

Eleven applicants applied for Chair. The selection panel carried out an anonymised short-listing exercise. At the short-listing meeting the panel agreed that all criteria carried equal weight. Panel decisions were recorded on an overall grid. This document recorded if applicants met the criteria to allow them to proceed further in the competition.

The outcome of this exercise was that eight (of the eleven) applicants were called to interview.

Interviews

Interviews took place on 9th and 10th March 2011. All panel members received the appropriate training in line with the Code of Practice.

Detailed information packs for interviews were distributed to all panel members. Interview notes were produced for each candidate. All candidates were asked to identify any real or perceived conflicts of interest and tested on issues of probity. Candidates were questioned regarding availability and other work commitments.

Final panel recommendation forms were completed and signed by panel members. All individual forms had documentary evidence of conflict of interest and probity being tested. Despite this evidence of conflict of interest and probity, questioning responses were missing from one candidate's overall recommendation form.

After the interviews the panel met to discuss initial markings. A clear, concise and meticulous record was kept of all assessment procedures and outcomes.

The Department are to be commended for this approach to retaining interview notes.

Ministerial Submission

Five candidates were found suitable for appointment at interview. All five demonstrated that they met the required six essential criteria.

In accordance with his request, the Minister was presented with an unranked list of appointable applicants, together with supporting information highlighting skills and experience that each candidate would bring to the role of Chair on 18th March 2011.

The Department provided the Minister with a very comprehensive candidate information overview, which would have assisted the Minister in his final decision.

Feedback

The Department received one request for feedback.

Announcing the Appointment

The Minister chose a Chair and a press release issued in accordance with the CPA NI Code of Practice. CPA NI received a copy of the press release.

Overall conclusions

This was the first competition run by DRD under the new Code of Practice and the evidence provided demonstrates that the Department, in most instances, complied with the Code. However, I am concerned about how the Department is handling monitoring forms. Applicants may be as surprised as I was to learn that they are kept "in tact" with original application forms. The Equality Commissions Monitoring Guidance states that monitoring forms should be kept separate from application forms.

Summary of Recommendations

Diversity – it appears there is a problem in attracting women to apply for the Board of NIW – although there are women throughout the utility industry, particularly in Great Britain. No women were interviewed for the interim Board of NIW and none applied for this post. DRD needs to look at the measures it is taking to increase diversity, and evaluate if its approach is achieving anything.

DRD must ensure that monitoring forms are not attached or kept with application forms at any stage of the competition or later. The Department should contact the Information Commissioner's Office and The Equality Commission for advice on handling this information.

DRD must keep copies of all advertisements placed in all newspapers.

DRD must ensure that the Information Pack complies with the Code and clearly states the proposed dates for interview.

DRD should revisit its policy of asking for referees and determine what use references have in the process.

DRD must ensure that Guidance Notes are not misleading e.g. asking for references before interviews commence when this was contrary to what was stipulated in the guidance.

Commissioner for Public Appointments

JUNE 2011