

Guidance re Paragraphs 2.6 and 3.38 of the Code of Practice for Ministerial Appointments for Northern Ireland

This guidance will assist Departments in meeting the requirements set out in the Commissioner's Code of Practice at paragraphs 2.6 and 3.38.

It is not exhaustive and when handling issues of independence, integrity etc those involved in the process should bear in mind the principle of proportionality as well as those of openness and transparency.

It may be helpful to understand the context in which such guidance is issued. CPANI carry out audits and investigations of appointment processes across all 12 government departments. . We also investigate complaints. We come across non-compliance with the Code and bad practice on a regular basis e.g.

- A panel Chair failed to disclose to other panel members a recent quasi-business relationship with an applicant selected for interview. That applicant was subsequently appointed to the public body.
- A panel member knew an applicant in various capacities. Although the panel member disclosed this, the nature and extent of the relationship was not explored by the Chair or department. The applicant failed to be shortlisted for interview.
- Names of potential 'independent panel members' are supplied to departments by OFMDFM Central Appointments Unit, but departments fail to test the individual's genuine independence or keep records of such tests. (See para 1.6 CoP.)

As a result of our investigations etc changes are made to the Code or guidance is issued.

Demonstrable Independent Participation throughout the Assessment Process

To ensure compliance with the above departments must ensure that any so called 'independent panel member':

- Has no recent employment, advisory, contractual arrangement (either directly or by way of company association) or other operational history with the department whose Minister is responsible for making the appointment.
- Has no recent connection with any of the public bodies sponsored by the department.
- Has been able to play a full and active part in the assessment of applicants, free from dependence on or unnecessary control by the department running the public appointment competition.

The department must also have the evidence to prove that all necessary risks to such independence have been assessed and dealt with appropriately.

Selection Panel Members - Circumstances where recusal may be required.

Section 3.38 of the Code of Practice tasks the selection panel to ensure that integrity and issues of conflict of interest have been both explained to and explored fully and robustly with any applicant.

It is therefore essential that the same standards are met by selection panel members.

Departments will ensure that all panel members declare any conflicts of interest that may be relevant to their participation as panel members. This is particularly pertinent where panel members know applicants. In such cases the panel member will disclose the nature of the relationship or knowledge of the applicant. Where such a relationship or knowledge is judged significant enough to have an impact on the outcome of the process or the public perception of the outcome, the panel member will recuse himself or herself as necessary.

The Chair of the panel has responsibility for dealing with these matters and will ensure that all such issues are dealt with in an open and proportionate manner to protect the integrity of the process. If the potential conflict of interest relates to the Chair the matter should be dealt with by the panel as a whole. No panel member is to be kept in the dark about such issues, unless the matter is genuinely of such a personal nature that it would cause grave embarrassment if shared.

Applicants may also request the recusal of panel members if the circumstances merit it. Such a request will be discussed, and decided upon in an open, proportionate and timely manner by the whole selection panel.

Ends
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