



The Commissioner  
for Public Appointments  
Northern Ireland

Complaint investigation and report on a public appointment process for the  
Northern Ireland Fire and Rescue Service

Department of Health

August 2018

## **Glossary of Terms**

- Code of Practice for Ministerial Public Appointments in Northern Ireland - the Code
- Department of Health - the Department
- Northern Ireland Fire and Rescue Service - the NIFRS

## **Introduction**

1. In October 2017 the complainant applied for a non-executive lay member post on the Board of the Northern Ireland Fire and Rescue Service (the NIFRS). The recruitment process was administered by the Department of Health (the Department).
2. The complainant having made her application and having been interviewed by the selection panel was found suitable for appointment to the NIFRS Board. Her name was accordingly included on the list of applicants suitable for appointment and submitted to the Permanent Secretary for consideration. The complainant was not selected for appointment.
3. The complainant submitted a complaint to me as Commissioner on 30 April 2018. I agreed to investigate the matter under paragraph 5.10 of the Code, which states, *“The Commissioner may decide to investigate a complaint which has come to her directly”*.

## **Nature of Complaint**

4. The complaint submitted to me is summarised in seven elements below.
  - I. Initially the essential criteria listed in the information pack did not match those in the application form. This was subsequently rectified but there was no update on the website to inform potential applicants.
  - II. In the application form the descriptor for the strategic thinking criterion was not accurate. This was rectified at interview however no notice of this was given to applicants.
  - III. The complainant’s request for feedback on the Permanent Secretary’s decision was initially denied.
  - IV. The Permanent Secretary made his decision based on criteria other than that published in the information pack, or assessed by the selection panel at the sift and interview stages.
  - V. The complainant’s legal background was not included in her applicant summary presented to the Permanent Secretary.
  - VI. In relation to the stakeholder engagement criterion the selection panel did not ask the complainant any supplementary questions at interview. Given that the complainant scored only the basic pass mark for this criterion, supplementary

questions would be expected to enhance the complainant's response to the initial question.

- VII. One selection panel member lowered the score awarded to the complainant for one criterion with no explanation recorded.

## **Summary of Findings and Observations**

5. At this stage I draw attention to my role as Commissioner for Public Appointments for Northern Ireland which is to regulate, monitor, report and advise on the way in which appointments are made to the Boards of public bodies in Northern Ireland. I may also investigate complaints by an applicant dissatisfied with an appointment process. Decision-making on whether there has been unlawful discrimination in this or any other public appointments process lies outside my jurisdiction. My findings in this report do not, therefore, constitute a decision on whether there has or has not been unlawful discrimination at any stage throughout the process under scrutiny.
6. The Department did not provide adequate guidance on how each criterion could be addressed including examples of the types of evidence an applicant could provide to meet the criteria.
7. The Department initially informed the complainant that feedback was not available on the Permanent Secretary's appointment decision. This suggests that the culture in the Department's public appointments unit is not as open and transparent as it should be.
8. In this public appointment process a number of the reasons recorded by the Permanent Secretary for selecting the appointees were different and unrelated to the published criteria for the appointments. I find that the Permanent Secretary introduced new criteria unrelated to the published criteria in order to make his selection for appointment. When the Permanent Secretary adopted this approach the Department's public appointments unit failed to advise him of the potential adverse consequences. These actions are a clear breach of the Code (and constituted a failure to follow the Department's guidance). I uphold this element of the complaint.
9. I further find that there was no proper rationale or correct justification for the basis on which the Permanent Secretary selected the successful applicants in preference to the

complainant. Consequently the complainant cannot be assured that there were rational and justifiable grounds for her non-appointment.

10. There is a great onus on the Department and the appointing Permanent Secretary to ensure that these appointments are made fully in accordance with the Code in the most transparent and justifiable manner. This is particularly so in the current political circumstances. There were substantive breaches of the Code in this appointment process accompanied by a lack of proper rationale and justifiable grounds for the appointments. This leaves the way open for the fair minded and informed observer to form a perception that some form of bias may have motivated the decision making. The outcome of this appointment process, therefore, created a situation wherein perceptions of unfairness, bias or discrimination could arise. These perceptions are exacerbated when there is existing significant underrepresentation of any section 75 groups on the public board being recruited to.
11. The purpose of the Code is to instil public confidence in the transparency and fairness of our public appointments system. These breaches and failures adversely affected the complainant. Breaches of the Code in such circumstances have the potential to undermine public confidence in both these particular appointments and the public appointments system more generally.
12. Despite the fact that a skills audit was undertaken at the outset of the process the panel recorded additional candidate attributes as potentially beneficial to the NIFRS Board. Some of these attributes were subsequently used as the basis for appointment. This suggests that a more detailed skills audit could have been carried out at the beginning of the recruitment process. A skills audit exercise can be rendered inadequate, however, if a Department has an overly formulaic approach to criteria setting. I recommend that the Department reassess its approach to the skills audit exercise and criteria setting with a view to ensuring they take full account of the skills and experience required for the Board appointments.
13. The decision by the panel members to highlight legal skills in one applicant summary, and not relate this directly to how that applicant had performed against the published criteria, was mistaken. In addition, having decided at some stage in the process that legal skills were important the panel were then inconsistent because they did not draw out these skills during the course of interviewing the complainant who also had legal qualifications.

14. Where a selection panel member changes an individual score they have awarded, the circumstances around this must be recorded with an adequate explanation for the change included in the record

## **The Appointment Process**

15. Under the Northern Ireland Fire and Rescue Services (Northern Ireland) Order 2006 the NIFRS Board shall consist of a Chairman and ten other members appointed by the Department.
16. In January 2017 the then Minister of the Department approved the initiation of a recruitment competition to fill four vacant posts on the Board of the NIFRS (one district councillor member, two lay member and one trade union member), the Minister requested that those applicants found suitable for appointment be presented to her in an unranked list at the end of the process.
17. In March 2017 the office of the Minister of Health was suspended.
18. The Department proceeded with the appointment process and in September 2017 formed a selection panel comprising a Department of Health official, a representative of the NIFRS and an Independent Assessor provided by CPANI. The vacancies were advertised in October 2017.
19. All applications were assessed against the following four essential criteria.
  - I. Strategic Thinking – Drawing on either your working life or personal life provide specific examples that demonstrated an understanding of collective decisions making and good governance practice within an organization within the voluntary, public or private sector. Provide clear evidence of a scrutiny and oversight role of business objectives to achieve successful outcomes.
  - II. Corporate Governance and Accountability - Drawing on either your working life or personal life provide an example that demonstrates a commitment to or understanding of corporate governance and accountability. Provide a clear example to demonstrate your knowledge and understanding of the elements within good corporate governance practice including confidentiality and how you have been

involved in ensuring this within an organization in the voluntary, public or private sector.

III. Stakeholder Engagement - Drawing on either your working life or personal life provide specific examples of how you have established effective relationships inside and outside organisations or in partnership within different organisations.

IV. Self-Awareness and Personal Contribution - Drawing on either your working life or personal life provide an example of how you have managed conflict to reach consensus and ensured that your view has been heard. Demonstrate by way of example how you have used right judgment and impartiality to maintain your position on an issue which has divided opinion.

20. The original person specification included business sense as one of the essential criteria. Early on in the process this criterion was substituted with strategic thinking. Applicants were subsequently assessed using strategic thinking as a criterion for appointment. However, when the list of applicants suitable for appointment was presented to the Permanent Secretary as an annex to a submission, the business sense criterion was incorrectly included in the body of the submission. This error had no apparent effect on the outcome.

21. The selection panel conducted an initial sift of all applications against the essential criteria for appointment, those applicants who met the required standard were invited for interview.

22. Thirteen applicants were presented to the DoH Permanent Secretary, in a submission from the public appointments unit dated 21 February 2018, as suitable for appointment to the non-executive lay member positions. The Permanent Secretary selected two of these for appointment as a lay member of the NIFRS Board and recorded reasons for the decision. From the same submission an individual was selected from a group of three local council nominees for appointment to the Board (also with recorded reasons). One applicant was found to be suitable as the Trade Union representative and was selected for appointment.

23. The complainant was informed that the Permanent Secretary had made the appointments, that she had not been selected and that her name would be placed on a reserve list. The complainant requested feedback on the Permanent Secretary's decision; the Department's response stated that *'...there is no opportunity to receive feedback on the Permanent*

*Secretary's decision'* and provided the complainant with the selection panel's documentation from her interview which included her scores.

24. When this response was queried by the complainant and on receipt of advice from CPANI the Department provided feedback to the complainant on the Permanent Secretary's reasons for his decision. The Department also informed the complainant that the Permanent Secretary had *'sought a list which was unranked'* from which to make the appointments. The feedback advised that the decision to appoint Lay Members *'focused on those candidates with a wide range of experience; previous Non-Executive roles; corporate governance experience and a legal background which could be an asset to the NIFRS Board'*.
25. Upon receipt of this feedback the complainant queried with the Department why her own legal background had not been cited in her applicant summary when this, it appeared to her, may have been a determining factor in the Permanent Secretary's decision not to appoint her. The Department provided the following response to the complainant's query.  
  
*'In its response the Department advised the complainant that '...whilst you did refer to your professional background in your interview you did not enhance your role or add value through the use of your professional background in the examples you provided to the selection panel. It is for this reason that your legal background was not included within your candidate summary.'*

### **Scope of the Investigation**

26. The investigation involved a detailed review of the following documentation.
  - The information pack for the competition.
  - The appointment plan for the competition.
  - All documentation relating to the assessment of each applicant who passed the interview stage.
  - All communication with the complainant.
  - The submission requesting the initiation of the competition and the Minister's response.
  - The submission to the Permanent Secretary presenting the applicant summaries of those applicants found suitable for appointment.

- The record of the Permanent Secretary's decision.

27. As part of the investigation a list of questions was put to the Department of Health Permanent Secretary, the Head of the public appointments unit and each member of the selection panel. The responses to these questions were considered by the Commissioner in determining the investigation findings.

EACH ELEMENT OF THE COMPLAINT IS DEALT WITH BELOW.

### **Element I**

Initially the essential criteria listed in the information pack did not match those in the application form. This was subsequently rectified but there was no update on the website to inform potential applicants.

28. At the launch of the competition the wording used in the application form, available from the DoH website, for the strategic thinking criterion was incorrect. The correct wording was used elsewhere in the information pack. When the Department became aware of this the problem was rectified by which time ten applications had been submitted using the incorrect application form. All affected applicants were informed of the error and offered additional time to resubmit their application form. I find that this was an administrative error and I am content that no applicant was substantially adversely affected by this.

29. I would, however, recommend that should a similar situation arise in the future that a notice is placed on the relevant webpage to highlight this to all potential applicants. Prior to submitting an application, the only contact many applicants will have with a Department will be through the website and details of any such administrative errors which might affect applicants must therefore be communicated through the website.

### **Element II**

In the application form the descriptor for the strategic thinking criterion was not accurate. This was rectified at interview however no notice of this was given to applicants.

30. The full wording of the strategic thinking criterion as set out in the information pack is below.

*'Demonstrate an understanding of collective decision making and good governance practice within an organisation within the voluntary, public or private sector. Provide clear evidence of a scrutiny and oversight role of business objectives to achieve successful outcomes.'*

31. At interview applicants were asked the following question for the strategic thinking criterion:

*'Please outline for the panel your personal contribution to developing a business plan. Please include how you personally ensured the effective management of resources, target setting and risk management so that successful outcomes were achieved.'*

32. The wording of this criterion was overly general and provided inadequate explanation as to what was being sought from the applicants. This may account for why the complainant took the view that the criterion wording in the information pack was inaccurate when compared with the related question at interview.

33. As previously highlighted in a CPANI audit investigation of a DoH competition the criteria used by the Department would have benefitted from guidance on how each could be addressed, including examples of the types of evidence an applicant could provide to meet the criteria.

34. In the previous audit report I recommended that *'The Department must provide a clear explanation for each criterion, avoiding jargon and in clear language link the explanation to work, skills and experience both inside and outside the public sector (including the voluntary sector)'*.

35. The Department has not taken the recommendation on board. My recommendations are made to assist the Department and improve the process for the benefit of applicants. Failure by the Department to adopt this particular one has contributed to an unsatisfactory experience for the complainant in this appointment process.

36. I also recommend that the Department reviews its use and explanation of the strategic thinking and corporate governance criteria. The corporate governance and accountability criterion was as follows:

*'Demonstrate by means of an example a commitment to or understanding of corporate governance and accountability. Provide a clear example to demonstrate your knowledge*

*and understanding of the elements within good corporate governance practice including confidentiality and how you have been involved in ensuring this within an organisation in the voluntary public or private sector.'*

37. There appears to be too much overlap between the two criteria. The overlap and lack of explanation means that it is the responsibility of applicants to make a judgement as to what they consider each criterion refers to. This makes the exercise unclear for applicants. I uphold element II of the complaint.

### **Element III**

The complainant's request for feedback on the Permanent Secretary's decision was initially denied.

38. Having requested feedback on the Permanent Secretary's decision the complainant was informed by officials in the Department's public appointments unit that such feedback was not available. It is disappointing that officials were unaware of the requirement, as set out in the Code, to provide meaningful feedback on the Minister's (in this case the Permanent Secretary's) decision. The Department's initial negative response also suggests that the culture in the public appointment's unit is not as open and transparent as it should be. Following advice from my office the initial misunderstanding on the part of the Department was rectified and the complainant was subsequently provided with feedback on the Permanent Secretary's decision. I uphold element III of the complaint.

### **Element IV**

The Permanent Secretary made his decision based on criteria other than that published in the information pack, or assessed by the selection panel at the sift and interview stages.

#### The appointment decisions and related documentation

39. In January 2017 the then Minister of Health requested an unranked list of applicants found suitable for appointment. Following the decision by the then Minister to have names presented in an unranked list, the Permanent Secretary proceeded with this approach.
40. The Department provided the Permanent Secretary with an applicant summary for each applicant in an alphabetical list as an annex to the departmental submission of 21st

February 2018. In addition in the main body of the submission the scores were provided against the alphabetically listed names. The applicant scores are not provided to Ministers who have requested an unranked list and as such their provision in this submission to the Permanent Secretary is a significant departure from established procedure. The Department has stated that it considers the information provided to the Permanent Secretary to be an unranked list. I do not accept the Department's contention that a list of applicants with their respective total scores against their names is an unranked list merely because applicants' names are not listed in order of their scores. There were only thirteen applicants on this list and the reader could readily see how they performed relative to each other. In this appointment process the Permanent Secretary was presented with what amounted to a ranked list but he proceeded to appoint without following the selection panel scoring, in other words, as if he had been presented with an unranked list.

41. The Permanent Secretary was also provided with the departmental guidance on the use of ranked and unranked lists in a public appointment recruitment process. The aim of the guidance is to help Ministers make evidence based appointment decisions which do not take account of new criteria. The guidance emphasises that:

*'It is important that the Minister makes his or her decision only on the basis of the criteria agreed and advertised for the competition. It is inappropriate to introduce additional criteria at this stage in the process and to do so could lead to successful challenge.'*

42. The departmental submission recommended that the Permanent Secretary make appointments, taking into account this guidance.

#### The reasons for appointment used by Permanent Secretary

43. The Permanent Secretary selected two applicants for appointment as lay members (and additionally one for the local councillor position and one for the Trade Union representative position). One of the two lay member applicants was appointed on the basis of their '*wide range of experience and previous NED roles*'. The recorded reason for appointing the other applicant was '*corporate governance experience and legal background could be an asset to NIFRS Board*'.
44. Some of these reasons recorded by the Permanent Secretary for selecting the appointees were different and unrelated to the published criteria for the appointments. This action by

the Permanent Secretary is a clear breach of the Code and constitutes a failure to follow the departmental guidance. And as the guidance warns such action leaves the way open for *'successful challenge'*.

45. The Permanent Secretary made the appointment decision based on the information provided by the selection panel to him in the applicant summaries (with the exception of previous NED roles - see paragraph 48 below). The applicant summaries included a paragraph detailing the applicants' background and how they had performed at interview, and also a comment on 'what skills and knowledge will the individual bring to the role', all of which was lifted almost verbatim from the selection panel's notes. The summaries contained information (also from the selection panel's notes) which was extraneous to the published criteria about some applicants' skills and experience. In addition, the applicant summaries contained a brief pen picture, a line covering conflicts of interest and time commitment and details of other public appointments held.
46. I make a number of observations below about the reasons upon which the Permanent Secretary based his decision to appoint the two successful lay candidates.

One successful candidate appointed on the basis of a 'wide range of experience and previous NED roles'

47. There was no evidence presented to suggest that the Permanent Secretary in making his decision evaluated the breadth of the successful applicant's experience against any other applicant including that of the complainant. Even if one assumes that the wide experience of the successful applicant was related to the agreed criteria - and this is not at all clear - the term was too vague to be used as a selection criterion.
48. The criterion of 'previous NED roles' as a second basis for selection of this applicant was not only unrelated to the published criteria there was in fact no evidence presented in the applicant summary relating to the successful applicant's previous non-executive director roles. This information was not sought from applicants. In responding to a request for information the Permanent Secretary informed this investigation that he knew the successful candidate professionally although not particularly well. This professional familiarity may explain the introduction by the Permanent Secretary of this new information not provided in the applicant summary. In citing the successful applicant's previous non-

executive director roles as the basis for selection the Permanent Secretary introduced a wholly new selection criterion for which there was neither justification nor evidence. Applicants were unaware of it and the skills audit which had been carried out at the outset of the process made no reference to the need for previous non-executive director experience. Indeed the emphasis on previous non-executive Board experience runs counter to the Department's avowed policy of increasing diversity and bringing in new people to serve on our public boards.

One successful candidate selected on the basis that their 'corporate governance experience and legal background could be an asset to NIFRS Board'

49. The reference to the successful applicant's legal background as a basis for their selection was unrelated to the published criteria. The skills audit which had been carried out at the outset of the process made no reference to the need for legal skills on the NIFRS board. In citing this reason as the basis for his selection decision the Permanent Secretary was introducing a wholly new selection criterion of which the applicants were unaware. The complainant is a qualified solicitor. She asserts, reasonably in my view, that she did not emphasise her legal background at interview because legal skills and experience were not the criteria being interviewed on. (This assertion is dealt with more fully in paragraphs 62 and 63 below).
50. In terms of corporate governance the selection panel's comments indicate that the complainant had demonstrated an acceptable level of performance across all the criteria which included corporate governance. The successful applicant had performed more strongly than the complainant on this criterion. But it is also the case that there were other applicants who were not appointed who had performed more strongly on corporate governance, than the successful applicant. It is, therefore, not at all clear why the Permanent Secretary singled out corporate governance as the basis for appointing the successful applicant. It follows that it is not clear that the Permanent Secretary appointed the successful applicant because they performed more strongly on the corporate governance criterion than did the complainant. Despite it having the merit of being one of the published criteria, the manner in which the corporate governance evidence was used by the Permanent Secretary leaves a question mark over the rationale and justification for the appointment of the successful applicant over the complainant.

### Legitimate Expectations

51. I will now look at the complainant's expectation that the final selection decision would be based solely on the published criteria. Applicants were advised throughout the information pack that the assessment process would relate only to the criteria included in the person specification and that the evidence they provide throughout the appointment process must relate only to these criteria.

- Paragraph 18 states that *'The person specification addresses the qualities, experience, background and competencies sought'*.
- Paragraph 23 states that *'All applicants must demonstrate clearly and provide the accompanying evidence to support their application that they have the necessary skills, knowledge, experience and qualities required. They will need to show, both on the application form and at interview, how they meet the criteria'*.
- Paragraph 44 states that *'Competence based interviewing tests candidates against the specific selection criteria for a particular appointment'*.
- Paragraph 45 states that *'The interview is a crucial part of the appointment process and thorough preparation is essential. You can prepare by: reading and thoroughly understanding the selection criteria'*.
- Paragraph 52 states that *'At interview, all candidates must satisfy the panel that they adequately meet all of the relevant criteria'*.

52. Applicants would, therefore, correctly expect that any appointment decision would be based solely on the published criteria, and that as the assessment process had focused solely on these criteria that the information provided to the Permanent Secretary would also be based on the evidence they had provided against these criteria.

### Flawed Applicant Summaries

53. There is no doubt that the applicant summaries provided to the Permanent Secretary were flawed in a number of ways. They did not consistently, accurately and fairly portray how each applicant had performed against the published criteria. For some applicants one or more of the criteria were not referred to in the applicant summary. In this competition all criteria were weighted equally and the omission of certain criteria for some applicants could potentially have had a detrimental effect on the final consideration for appointment. It

should be noted that in the case of the complainant the applicant summary included reference to all four criteria.

54. In the complainant's case the applicant summary did not include any details on 'What skills and knowledge will the individual bring to the role' aside from a basic comment on how the complainant had performed against the criteria at interview. For all other applicants the selection panel had provided a comment with additional information to portray the skills and experiences each applicant would bring to the role. The Code requires that Departments must ensure equality of opportunity and equal treatment of all applicants at every stage of the appointment process. It appears that this has not been the case for the complainant.
55. In the case of some applicants (but not the complainant) the panel had added information to the applicant summaries that was extraneous and unrelated to the published criteria. The panel were aware, or ought to have been aware, that this extraneous information could not be used for selection purposes. In this case its addition served to confuse the assessment process because the extraneous information formed the basis for the Permanent Secretary's decision making.

#### Ultimate responsibility for decision making

56. The Permanent Secretary used to a large extent the extraneous information set out in the applicant summaries as the basis for his appointment of the two lay members. The Code, case law, and the departmental guidance provided to him, however, are clear and the practice well established that appointment decisions should be made only on the basis of the published criteria. It is more than unfortunate that the department's public appointments unit failed at the time to advise the Permanent Secretary of the potential adverse consequences of the approach he was proposing to adopt. Similarly the applicant summaries did not serve the Permanent Secretary well. Ultimately, however, it was his responsibility to ensure his decision making was lawful and compliant with the Code (and the departmental guidance).
57. I find that the Permanent Secretary introduced new selection criteria into the appointments process and in doing so materially breached the Code. I therefore uphold element IV of the complaint.

58. I further find that there was no proper rationale or correct justification for the basis on which the Permanent Secretary selected the successful applicants in preference to the complainant. Consequently the complainant cannot be assured that there were rational and justifiable grounds for her non-appointment.
59. There is a great onus on the Department and the appointing Permanent Secretary to ensure that these appointments are made fully in accordance with the Code in the most transparent and justifiable manner. This is particularly so in the current political circumstances. There were substantive breaches of the Code in this appointment process accompanied by a lack of proper rationale and justifiable grounds for the appointments. This leaves the way open for the fair minded and informed observer to form a perception that some form of bias may have motivated the decision making. The outcome of this appointment process, therefore, created a situation wherein perceptions of unfairness, bias or discrimination could arise. These perceptions are exacerbated when there is existing under-representation of any section 75 groups on the public board being recruited to (the Chair of the NIFRS had quite properly drawn to the attention of the Permanent Secretary at the outset that women and Catholics were significantly under-represented on the Board of NIFRS).
60. The purpose of the Code is to instil public confidence in the transparency and fairness of our public appointments system. These breaches and failures adversely affected the complainant. Breaches of the Code in such circumstances have the potential to undermine public confidence in both these particular appointments and the public appointments system more generally.

#### Skills audit

61. Despite the fact that a skills audit was undertaken at the outset of the process the panel recorded additional candidate attributes as potentially beneficial to the NIFRS Board. Some of these attributes were subsequently used as the basis for appointment. This suggests that a more detailed skills audit could have been carried out at the beginning of the recruitment process. A skills audit exercise can be rendered inadequate, however, if a Department has an overly formulaic approach to criteria setting. I recommend that the Department reassesses its approach to the skills audit exercise and criteria setting with a view to

ensuring they take full account of the skills and experience required for the Board appointments.

## **Element V**

The complainant's legal background was not included in her applicant summary presented to the Permanent Secretary.

62. The complainant asserts that as legal background became a determining factor in the Permanent Secretary's decision, her own legal background should have been included in the applicant summary presented to the Permanent Secretary. It is clear from the documentation that the complainant referred to her background as a solicitor in the application form and at interview against one of the criteria. It is also evident, however, that a legal background was not the main focus of the examples provided by the complainant. In comparison, the examples provided in the application form and at interview against the published criteria by the successful applicant related almost exclusively to a legal background. This is not a criticism of the complainant who, as I have set out at paragraph 48 above, would not have expected that having a legal background would become a determining factor in the eventual appointment decision.
63. The decision by the panel members to highlight legal skills in one applicant summary, and not relate this directly to how that applicant had performed against the published criteria, was mistaken. In addition, having decided at some stage in the process that legal skills were important the panel were then inconsistent because they did not draw out these skills during the course of interviewing the complainant who also had legal qualifications. I uphold element V of the complaint.

## **Element VI**

In relation to the stakeholder engagement criterion the selection panel did not ask the complainant any supplementary questions at interview. Given that the complainant scored only the basic pass mark for this criterion, supplementary questions would be expected to enhance the complainant's response to the initial question.

64. Applicants were advised that the interview would last 30 minutes, the complainant's interview lasted 26 minutes (time is taken from the selection panel summary sheet for the

complainant). The complainant states that despite the running under of the interview no supplementary questions were asked during questioning on the stakeholder engagement criterion.

65. When recording the agreed consensus score for the criteria for each applicant the selection panel did not record any summary evidence for the scores awarded aside from the descriptor included in the marking framework for that score. This approach provided inadequate evidence to explain the score awarded to each individual applicant against each criterion. More specific evidence explaining a score would help an applicant understand the reasons for the score awarded. In this case it could have alleviated the complainant's concern that she had not been afforded the full opportunity to adequately address the criteria at interview.
66. Given the lack of recorded evidence the complainant cannot be assured that she was given the full opportunity to address the criterion. I find that the candidate evidence recorded by the selection panel was inadequate for purpose. To this extent I uphold element VI of the complaint.

## **Element VII**

One selection panel member lowered the score awarded to the complainant for one criterion with no explanation recorded.

67. It is evident that the score for one criterion was lowered by one selection panel member on the panel member's interview assessment booklet. The change has been initialled by the selection panel member. It is unclear at what stage this amendment was made.
68. Best practice is that each selection panel member individually award a score against each criterion. An agreed consensus score is then awarded following discussion, the panel should keep a record of these discussions and the reasons for the agreed consensus score. Where a selection panel member changes an individual score they have awarded, the circumstances around this must be recorded with an adequate explanation for the change included in the record.
69. In this appointment process there are several instances of a selection panel member changing the score with no explanation recorded. Feedback for an applicant is a major

aspect of the Code and the practice of changing scores without explanation can undermine an applicant's confidence in the feedback provided and in the overall process. I uphold element VII of the complaint.