



The Commissioner
for Public Appointments
Northern Ireland

“Guardian of the Public Appointment Process”

Audit Report 2020/2021

Appointment of a Chair to the Board of the Londonderry Port and Harbour

Commission

The Department for Infrastructure

March 2021

Introduction

1. A public appointment competition to appoint a Chair to the Londonderry Port and Harbour Commissioners was selected for audit as part of the 2020/21 audit programme of the Commissioner for Public Appointments for Northern Ireland (CPANI). This competition was administered by the Department for Infrastructure (the Department).
2. The audit was conducted under the Commissioner for Public Appointments (Northern Ireland) Order 1995 (as amended) and was designed to assess compliance with the 'Code of Practice for Ministerial Public Appointments in Northern Ireland' (the Public Appointments Code), version issued December 2016.
3. The Commissioner is required, by law, to prescribe and publish the Public Appointments Code to regulate the process by which public appointments are made. The Public Appointments Code sets out principles and practices which the Commissioner requires government departments to adopt.

Role of Commissioner

4. The role of the Commissioner is to regulate, monitor, report and advise on the way in which government departments make appointments to the Boards of public bodies in Northern Ireland. The Commissioner's duty is to ensure that public appointments are made in ways that are open, transparent and merit-based.

Diversity in public appointments

5. The Commissioner is concerned about the low level of diversity that currently characterises many of our public Boards. Poor diversity undermines a Board's effectiveness. In particular very few women hold Chair positions and to a lesser extent they are under-represented at member level. People with disabilities are also under-represented and the age profile of membership of public Boards is too restricted. The Commissioner is committed to working to improve this situation.
6. Northern Ireland government departments have the responsibility of ensuring that the principles and practices contained in the Public Appointments Code are upheld

throughout every public appointment competition. They are also tasked with improving the low levels of diversity on our public Boards.

Approach

7. This audit report is the result of an examination of the appointment process, instances of less than best practice and examples of good practice were identified.
 - For identified instances of ‘less than best-practice’, CPANI has produced a recommendation which departments must address.
 - Recommendations are summarised in the report and will be followed up by CPANI in future competitions for evidence of implementation by departments.
 - Where instances of good practice are highlighted, it is hoped by CPANI that all Departments will study these for use in their own competitions.

Acknowledgements

8. The Commissioner would like to thank the officials from the Department for their assistance and co-operation throughout this audit.

Making public appointments in the absence of an Executive in Northern Ireland

9. This appointment was made in the absence of an Executive in Northern Ireland meaning that Northern Ireland departments were without Executive Ministers to make new public appointments. On 01 November 2018 the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018 was enacted. The Act enabled departments to exercise certain departmental functions in the absence of Northern Ireland Executive Ministers to include the making of public appointments. In this case the Act enabled the Permanent Secretary of the Department to make appointments to the Londonderry Port and Harbour Commissioners during the period while there was no Executive.
10. In the absence of Northern Ireland Executive Ministers the obligation on the Department to comply with the Public Appointments Code at all stages of an appointment process remained unaltered.
11. The Executive has since returned in January 2020.

Summary

12. This public appointments competition was well-run and was in compliance with the Public Appointments Code. A number of recommendations have been made as a result of the audit and discussions have been held with Departmental officials on these. The key finding is that a public body, such as Londonderry Port and Harbour Authority, which traditionally finds it hard to attract a diverse range of interested candidates to apply for its board posts, should collaborate with its sponsor Department to implement an effective outreach strategy. Given the strong business and equality arguments supporting diversity in governing bodies, public boards should respond to this as an important governance issue.
13. Since the completion of this selection process CPANI is aware that the Department has updated its procedures to address some of the instances of less than best practice identified in this report. The remaining recommendations will be followed up by CPANI in subsequent audits for evidence of implementation by the Department.

List of recommendations

14. The skills audit is an essential first step in an appointment round. A skills audit and the consequent selection criteria should be refreshed following any significant delay in commencing a competition.
15. The Department must ensure they it has in place a predetermined mechanism for shortlisting which is accurately explained in the information pack.
16. The long term difficulty in attracting women to apply for these governing roles in what may be seen as non-traditional areas of work, means the Department and the public body need to work together to develop a concerted and more effective outreach strategy. CPANI recommends that for all Boards, such as the Londonderry Port and Harbour Commissioners for which it has been historically difficult to attract applicants from under-represented groups, the relevant department and the public body concerned should plan and implement a sustained campaign to promote awareness of the Board and its work. Such a campaign should be designed to encourage interest in serving on the Board.

17. Paragraph 5.3 of the Public Appointments Code requires that a complete audit trail is readily available and this necessitates that a record is kept of how a consensus panel score was reached by the selection panel.
18. The Department must ensure that applicants are made aware of how to request further feedback.

Background

19. The Londonderry Port and Harbour Commissioners was set up as a body corporate under the Londonderry Harbour Order (Northern Ireland) 2002 to preserve, improve and manage the Port of Londonderry.
20. Since March 2014 the policy for public Boards sponsored by the Department has been that there is no provision for a second term on the Board without open competition. A sitting Chair or member may, however, re-apply in open competition and may be considered, subject to evidence of an appropriate standard of performance having been achieved during the initial period in office and evidence of continued adherence to the seven principles of public life.
21. As the first term of the Chair was due to finish in February 2018 planning for a public appointment process for the Chair post began in June 2017. The Chair's first term was extended until December 2018. The selection process was halted in August 2018 due to legal uncertainties around the competence of Government Departments to make decisions during periods when no Minister was in place. The Department subsequently further extended the first term of the Chair until 31st December 2019.
22. At the outset of the process in 2017 the Board consisted of the Chair and seven members. The diversity profile at this stage was three women and five men (38% women representation).
23. CPANI issued a letter to the Department which highlighted the imbalance between men and women members on the Board and advised the Department that action to address under-representation and promote diversity must be reflected in the appointment plan and throughout the appointment process.
24. The competition resumed in June 2019.

Stage 1 – Initial planning of the appointment process

Skills audit

25. The skills audit is an essential first step in any public appointment selection process. It should be a thoughtful, consultative and documented exercise and should be the sole basis upon which selection criteria are based. The selection criteria for this appointment were agreed following internal discussions between departmental officials around the nature and level of skills and experience required from a Chair. These discussions took place before the competition was halted. The internal discussions were not documented, the officials involved acknowledged at the time that the lack of a recorded skills audit was not good practice and provided an assurance that in future such discussions would be fully documented.
26. The criteria were not reviewed following the resumption of the competition. A ten month delay at the planning stage of a competition is not a common occurrence however CPANI would recommend that following any long term delay that the criteria are reviewed to ensure they remain relevant.
27. **Recommendation:** The skills audit is an essential first step in an appointment round. A skills audit and the consequent selection criteria should be refreshed following any significant delay in commencing a competition.
28. The Department did not seek the views of the Chair given that she was eligible to reapply for reappointment through this competition. CPANI agree that it was not appropriate to consult with the Chair in this instance.
29. CPANI has since consulted with all Government Departments including the Department for Infrastructure ahead of producing guidance on carrying out skills audits.

The selection panel

30. CPANI allocated an independent assessor who was involved in all relevant stages of the selection process.
31. The selection panel consisted of two senior officials from the Department one of whom chaired the panel, and the independent assessor allocated by CPANI. All selection panel

members were involved in all relevant aspects of the selection process prior to the final appointment decision.

32. The Department ensured that all selection panel members were fully trained in line with the Public Appointments Code.

Person Specification and Role Profile

33. The Department developed the person specification and role profile. The responsibilities set out in the role profile were comprehensive and related to the selection criteria set out in the person specification and all information required by the Public Appointments Code was included. The language and wording used throughout was simple and easy to understand.
34. As one would expect for a high profile post the criteria included in the person specification were of a high level. Nevertheless, the criteria did not contain any unnecessary or unjustifiable conditions or standards and were accessible to potential applicants with non-traditional career paths.

The selection criteria

35. All candidates were required to meet the following essential criteria.
 - Relevant Experience
 - Financial Management
 - Governance & Performance Management
 - Leading and Working in Partnership
 - Developing and Delivering Strategy.

Submission to the Permanent Secretary

36. The Chair of the selection panel put forward a submission to the DfI Permanent Secretary asking her to approve the initiation of the public appointment selection process. The Department had sought and received agreement from CPANI for an exception to the Public Appointments Code to allow the Permanent Secretary to do so.

The Permanent Secretary took the decision to launch the selection process in line with the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018. The Permanent Secretary approved the appointment plan, person specification and role profile.

37. No decision was taken at this stage as to how, following interviews, the list of appointable candidates would be presented, that is in a merit-ordered (ranked) or an alphabetical (unranked) list.

Appointment Plan

38. The appointment plan contained all items required by the Public Appointments Code.
39. The section of the appointment plan on diversity was good and demonstrated the high level of consideration given to addressing under-representation on the Board across all aspects of the appointment process. It included the commitment to simplify the competition documentation to make it more 'user friendly'; additional expenses associated with childcare, dependents or having a disability would also be paid for those attending interview and would follow through for the appointee. CPANI commend the Department for the effort made in addressing diversity in the planning of this selection process.
40. It was clear in the appointment plan that the Department acknowledged the importance of a strong outreach programme to broaden the pool of potential applicants. In a previous audit of a DfI public appointment process CPANI recommended the Department and the public board should develop its outreach programme targeting groups currently under-represented on the Board, and that they should take steps to implement the measures agreed in the NI executive on increasing diversity in public appointment. The appointment plan section on outreach demonstrated the commitment from the Department to implement this recommendation. Extensive work had been undertaken to improve the outreach for this competition.
41. There was, however, no reference to outreach work undertaken by the Londonderry Port and Harbour Commissioners to promote awareness of the Body or its work. The work undertaken by the Department on its own was not successful in attracting a

diverse field. The Department and the Board of the Londonderry Port and Harbour Commissioners must work together to address this weakness more effectively.

42. The previous audit also recommended that the Department must strengthen its procedure for keeping applicants informed of the progress and outcome of their application. Again this recommendation was properly implemented at the appointment plan stage and throughout the selection process. CPANI commend the Department for this.
43. All procedures set out in the appointment plan were efficient and uncomplicated.

Stage 2 – Preparation

Information Pack and application form

45. The information pack contained all the key components required by the Public Appointments Code. The information pack was set out in a meaningful and coherent manner.
46. The information pack listed the different scenarios for the final appointment decision depending on whether or not a Minister was in place. Applicants were advised that either the Permanent Secretary or an incoming Minister would take the decision on how the list of candidates suitable for appointment would be presented i.e. an alphabetical or merit-ordered list.
47. Examples were provided for each criterion of the types of evidence the selection panel would be looking for. The wording used here was clear and easy to understand; CPANI considers these examples to be relevant to all potential applicants including those with a background in a non-traditional area.
48. The Department ran the Guaranteed Interview Scheme for this competition meaning that any applicant with a disability who met the five essential criteria would not be subject to any further shortlisting should this have taken place.
49. The application form was clear, straightforward and asked only that which was truly required.
50. When completing the application form applicants were limited to 400 words per criterion, any information over and above this limit was redacted by departmental officials.
51. The information pack contained guidance for candidates on criteria based selection and advice on the completion of the application form.
52. The information pack stated that if the Department received a high number of applications which meet the satisfactory level for all five criteria at sift stage, the selection panel reserved the right to apply a further scoring system to shortlist. This would be based on the quality of the evidence provided and the top scoring applicants

then being called to interview. The Department should be clearer about what format any additional scoring system would take. This should be agreed and in place before the launch of the competition.

53. **Recommendation:** the Department must ensure they it has in place a predetermined mechanism for shortlisting which is accurately explained in the information pack.

Stage 3 – Encouraging applications

54. The competition launched on 20 August 2019. The vacancies were advertised widely in the press and on social media. Extensive work had gone into expanding the distribution lists held by the PAU for public appointments. The Department circulated an information flyer to the membership of a wide range of organisations, including those representative of traditionally under-represented groups. Outreach took place ahead of the launch of the competition with details of the upcoming vacancy, on the launch date and reminders were issued ahead of the closing date. This outreach also included an article written by a board member of another of the Department’s public bodies detailed her experiences and encouraging potential applicants. The outreach was targeted taking into account the nature of the post and current membership profile of the Board.
55. The work undertaken to try to attract a diverse pool of applicants in particular to attract more women is to be commended but unfortunately on its own was not sufficient to attract a diverse field or sufficient number of women applicants. This work at the beginning of a competition round should be complemented by outreach work by the public body board during the year.

Stage 4 – Selection

Processing applications

56. The closing date for applications was 13 September 2019. Eighteen applications were received comprising of four women candidates and fourteen men candidates (22% women / 78% men). The limited number of women applicants is disappointing.

57. **Recommendation:** The long term difficulty in attracting women to apply for these governing roles in what may be seen as non-traditional areas of work, means the Department and the public body need to work together to develop a concerted and more effective outreach strategy. CPANI recommends that for all Boards, such as the Londonderry Port and Harbour Commissioners for which it has been historically difficult to attract applicants from under-represented groups, the relevant department and the public body concerned should plan and implement a sustained campaign to promote awareness of the Board and its work. Such a campaign should be designed to encourage interest in serving on the Board.
58. One late application was received. This was rejected in line with the departmental procedure on late applications.
59. Receipt of all applications was acknowledged by the Department with the applicants.

Sift

60. Anonymous copies of the application forms were provided to the panel members. The process to be used to sift applications was clearly set out in guidance provided to selection panel members.
61. Five applicants had gone over word limit for at least one criterion. The additional words were redacted.
62. A scoring framework of one to seven was in place for the sift of applications; indicators of effective performance were provided against each criterion.
63. Selection panel members conducted an individual sift of all applications completing an assessment form for each candidate. Panel members awarded a score for each essential criterion and provided a comment to substantiate the assessment.
64. The selection panel attended a sift meeting on 01 October 2019. The selection panel compared individual assessments and awarded a final consensus score for each criterion.
65. The panel completed a consensus form for each applicant recording the individual selection panel member's scores, the agreed panel score and a determination on

whether the applicant would be invited for interview. No consensus panel comments were recorded on this form.

66. **Recommendation:** Paragraph 5.3 of the Public Appointments Code requires that a complete audit trail is readily available and this necessitates that a record is kept of how a consensus panel score was reached by the selection panel.
67. Thirteen candidates achieved the pass mark in all the criteria; the selection panel decided that further shortlisting was required and agreed to interview all applicants who had scored achieved a cumulative score of over 25.
68. Seven candidates were invited for interview; two women and five men.
69. A letter to those candidates who did not pass the sift and shortlisting exercise issued on 03 October 2019. The letter set out the criteria the candidate did not meet. The letter provided information on how a candidate could request reassessment and advised that further feedback could be requested following the closure of the reassessment period.
70. Two requests for reassessment were received. The sift documentation, including the anonymous application forms, was reissued to the selection panel who were asked to liaise with one another to reassess each of the criteria. There was no variation to the panel's collective decision in either instance.
71. One request for feedback was received; this was provided in a timely manner by the Chair of the panel

Interview

72. A letter informed candidates that they had been selected for interview issued on 03 October 2019. A further letter inviting those candidates to interview issued on 14 October 2019. The letter provided good meaningful information on the interview process. It provided guidance on how to prepare for a competency based interview.
73. One candidate withdrew from the process prior to interview.
74. A marking framework of one to seven was in place for the interview assessment. This marking framework included performance indicators for each criterion. The indicators at this stage were different to those at the sift stage.

75. Prior to the interviews the Department carried out a bankruptcy check and a check on other public appointments held by candidates for each candidate.
76. Interviews took place on 30 October and 05 November 2019. Candidates were questioned against all five essential criteria. In order to pass the interview candidates had to score at least four out of seven in each criterion.
77. Each member of the selection panel completed an individual interview assessment booklet for each candidate recording the evidence provided, a panel member score with justification for that score, and the agreed panel score. The interview booklet contained a section for each criterion. This included the lead questions, a selection of possible supplementary questions and the performance indicators for use by the selection panel. All members of the selection panel kept comprehensive notes detailing the evidence provided by candidates and to justify the individual scores awarded.
78. All candidates were asked to identify any perceived, potential or real conflict of interest and integrity issues. Responses were recorded on the individual interview assessment booklet.
79. The selection panel completed and signed a consensus panel assessment sheet for each candidate which detailed the outcome of the interview stage. This document recorded the agreed consensus score and comments against each criterion along with the total score awarded and a determination on whether the candidate was suitable for appointment.
80. Those candidates found unsuitable for appointment were informed of the outcome in a letter dated 08 November 2019. The letter detailed the scores awarded against each criterion. The letter did not contain further details on how a candidate could request further feedback to this. The information pack had stated that this correspondence would advise how candidates could request feedback on their performance.
81. Recommendation: the Department must ensure that applicants are made aware of how to request further feedback.

Candidate Summaries

82. At interview three candidates were found to be suitable for appointment comprising one woman and two men. The Department wrote to these candidates advising that their name would be presented to the Permanent Secretary.
83. On 11 November the Chair of the selection panel issued a submission to the Permanent Secretary requesting a decision on whether she wanted an alphabetical or merit-ordered list presented. The Department had sought an exception from the Commissioner for Public Appointments to allow the Permanent Secretary to make the appointment decision in the continued absence of a Minister. The submission ensured that the Permanent Secretary was aware of the implications of either choice. The submission contained guidance from The Executive Office on the use of ranked and unranked lists in the absence of a Minister and a copy of mandatory Ministerial guidance on making public appointment decisions.
84. The Permanent Secretary requested a merit-ordered list of candidates.
85. Candidate summaries were prepared by the Department, amended and agreed by the selection panel. Each candidate summary contained a brief paragraph with background information on the candidate and a section setting out the selection panel's consensus views from their assessment of the candidate at interview. Sections on integrity, probity and conflicts of interest; and time commitment were also included. No conflicts of interest were identified and all candidates confirmed their ability to meet the time commitment for the post.

Permanent Secretary's decision

86. The candidate summaries for those found suitable for appointment were submitted to the Permanent Secretary on 22 November 2019 in order ranked by interview score.
87. On 25 November 2019 the Permanent Secretary selected the top ranked candidate for appointment, and placed the next top scoring candidate on a reserve list. The Permanent Secretary recorded her reasons for this decision.
88. The Permanent Secretary wrote to the three candidates on 25 November 2019 advising them of the outcome of the selection process.

Announcing the Appointments

89. The Department announced the appointment in a press release dated 10 December 2019 which fulfilled the requirements of the Public Appointments Code.
90. On completion of this process the diversity profile of the Londonderry Port and Harbour Commissioner's remained at three women and five men.

Post appointment review of the selection process

91. In April 2020 the Department conducted a post appointment review of the different aspects of the selection process. CPANI view this as an important and useful exercise and commend the Department for this.