



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 Invest NI

The Department for the Economy

September 2020

Introduction

1. A competition to appoint a Chair to the Board of Invest NI (the Board) was selected for audit as part of the 2019/20 audit programme of the Commissioner for Public Appointments for Northern Ireland (CPANI). This competition was administered by the Department for the Economy (the Department). The final appointment decision was taken by the Permanent Secretary of the Department under the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018.
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 recruitment 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 issues 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 Invest NI Board 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. Overall this was a well-run successful appointments process with generally good documentation, officials making significant efforts to attract as wide an applicant pool as possible and the selection panel making careful and evidenced assessments. The one important caveat to note was the lack of a well-structured and thoughtful skills audit exercise prior to commencement of the process. This is an issue CPANI sees occurring across Departments. Guidance to Departments on carrying out a skills audit will be issued shortly by CPANI.

List of recommendations

13. Departments should recognise the important role that the skills audit plays in a successful public appointments process. In carrying out a skills audit the Department must ensure that an outgoing Chair is consulted, unless there is a cogent reason to do otherwise, as it is likely that he/she will have an important contribution to make. The skills audit should assess the current and future challenges and opportunities facing the Board and organisation and assess the current skills level on the Board to establish whether there are any gaps. The exercise, especially for significant posts, should be structured and documented. CPANI will shortly publish guidance for Departments on how best to carry out a skills audit.
14. The Chair of the selection panel must record the reasons for an interview taking considerably longer than expected.
15. Where a potential or perceived conflict of interest exists the selection panel must make a clear determination as to whether or not it can be managed, it should not simply advise the appointing authority that the candidate considers that it can be managed.

Background

16. Invest NI, set up under the Industrial Development Act (Northern Ireland) 2002, is the regional business development agency. The role of Invest NI is to promote innovation,

enterprise and competitiveness in Northern Ireland businesses, encourage new business start-ups and market Northern Ireland as a location for inward investment.

17. Schedule 1 of the 2002 Act provides for the appointment of the Chair and members of the Board:

“Invest NI shall consist of a chairman; and not fewer than 10 or more than 20 other members appointed by the Department. In making appointments the Department shall secure that each member has experiences in a field of activity relevant to the discharges of the functions of Invest NI.”

18. The outgoing Chair of the Board was appointed to the role on 01 January 2012, serving two terms of three years which were due to finish on 31 December 2017. The second term was extended by 18 months due to the absence of an Economy Minister. The founding legislation requires that *“a person shall not be appointed as a member for more than five years at a time”* and accordingly a new Chair was required before the end of December 2019 to ensure compliance with the legislation.
19. At the outset of the process the Board consisted of the Chair and ten members. The diversity profile at this stage was three women and eight men (27% women representation).
20. CPANI issued a letter to the Department which highlighted the significant 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 any appointment process for the Invest NI Board.
21. The Department sought an exception to the Public Appointments Code in January 2019 to allow the Permanent Secretary to initiate the process, to approve the relevant documentation (appointment plan, person specification and role profile) and if necessary to make the appointment decision.
22. In February 2019 the Department decided that there were compelling reasons to make the Chair appointment and the Permanent Secretary approved the initiation of the

public appointment competition. Any appointment was subject to the caveat that it could be reviewed, and confirmed or terminated, by any incoming minister.

Stage 1 – Initial planning of the appointment process

Skills audit

23. 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. In most cases an outgoing Chair will have a unique viewpoint and an important contribution to make and he/she should be directly involved. Paragraph 3.4 of the Public Appointments Code provides for this: *'The Department should, where appropriate, seek the views of the Chair of the Body on issues such as selection criteria and balance of the Board. Such consultation should be at the beginning of the process'*.
24. 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 an incoming Chair. These discussions were not documented nor was the outgoing Chair consulted.
25. **Breach:** The Department breached para 3.4 of the Code by not seeking the views of the outgoing Chair on the selection criteria.
26. Furthermore the exercise to carry out a skills audit for this important post was not documented so it is difficult to assess how meaningful or complete the exercise was.
27. **Recommendation:** Departments should recognise the important role that the skills audit plays in a successful public appointments process. In carrying out a skills audit the Department must ensure that an outgoing Chair is consulted, unless there is a cogent reason to do otherwise, as it is likely that he/she will have an important contribution to make. The skills audit should assess the current and future challenges and opportunities facing the Board and organisation and assess the current skills level on the Board to establish whether there are any gaps. The exercise, especially for significant posts,

should be structured and documented. CPANI will shortly publish guidance for Departments on how best to carry out a skills audit.

The selection panel

28. CPANI allocated an independent assessor who was involved in all relevant stages of the selection process.
29. The selection panel consisted of two senior officials from the Department one of whom chaired the panel, the independent member of the DfE departmental board and the independent assessor. All selection panel members were involved in all relevant aspects of the selection process prior to the final appointment decision.
30. The Department ensured that all selection panel members were fully trained in line with the Public Appointments Code.

Person Specification and Role Profile

31. The Department developed the person specification and role profile. The responsibilities set out in the role profile 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.
32. 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

33. All candidates were required to meet the following essential criteria.
 - I. Experience of Business and Economic Development - The successful applicant will have experience of running a successful business or of working and influencing at senior levels in a business environment; experience of economic development; and a broad knowledge of the Northern Ireland economy and the factors which

may influence it, as the role involves leading the Board in considering how best to attract new international business and support new and existing companies. Please demonstrate from personal experience your knowledge of the Northern Ireland business sector and the local economy.

- II. Leadership - Using leadership skills to ensure focus, direction and the delivery of long term goals within an organisation. Please demonstrate from personal experience how your leadership skills have made a positive contribution to the performance of an organisation you have worked for, or with which you have been involved.
- III. Making an Impact with Others – developing and maintaining cooperative working relationships to achieve results. Please demonstrate from personal experience how you developed and maintained co-operative working relationships in an organisation you have worked for, or have been involved with, that helped ensure it delivered successful results.
- IV. Thinking Strategically - making a significant contribution to organisational objectives in a complex and changing environment. Please demonstrate from personal experience how you influenced the strategic direction of an organisation you have worked for, or have been involved with, that helped ensure it took full account of a complex and changing environment.
- V. Financial Management & Analytical Thinking - setting and managing significant budgets and understanding financial information to help make decisions and solve problems within a team and/or organisation. As problems arise you will have to interpret a wide range of financial information to analyse problems and work with others to find effective solutions in a timely fashion. Please demonstrate from personal experience how you have used different analytical approaches and types of financial information when making decisions involving significant budgets.
- VI. Corporate Governance & Risk Management – applying the principles of corporate governance and risk management to ensure the proper accountability of an organisation you have worked for, or have been involved with. Please

demonstrate from personal experience how you have applied the principles of corporate governance and risk management to ensure the proper accountability of an organisation you have worked for, or have been involved with. [Note: corporate governance and risk management aspects must both be addressed].

Competition initiation meeting

34. The selection panel attended a competition initiation meeting on 08 March 2019.
35. The DfE officials administering the selection process put forward a submission to the DfE Permanent Secretary requesting his approval for the competition documentation on 13 March 2019. The submission contained the appointment plan, person specification and role profile. The Permanent Secretary agreed to the commencement of the competition and the related documentation on 14 March 2019.
36. No decision was taken at this stage as to how, following interviews, the list of appointable candidates would be presented, that is in a ranked or an unranked list. The Permanent Secretary agreed to seek any incoming minister's preference, or to make the decision himself at a later date.

Appointment Plan

37. The appointment plan contained all items required by the Public Appointments Code.
38. The appointment plan highlighted the under-representation of ethnic minorities, people with a disability, women and young people. It was clear that addressing such under-representation was a prominent feature in the planning of this selection process.
39. It was also noted that the previous Chair competition conducted for the Invest NI Board attracted a poorly balanced applicant pool in terms of gender and stated that it was vital to positively address this on this occasion.
40. The appointment plan set out that, if necessary, the panel would shortlisted applicants by identifying those who had achieved a score of five in at least one criterion.

Stage 2 – Preparation

Information Pack and application form

41. 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.
42. Examples were provided against each criterion of the type of evidence the selection panel would be looking for. Candidates were advised to demonstrate from personal experience how they met each criterion and that such experience could be found in a candidate's personal life as well from within the employment field.
43. The Department had in place a guaranteed interview scheme meaning that any applicant with a disability who met the six essential criteria would not be subject to further shortlisting should this have taken place.
44. The application form was clear, straightforward and asked only that which was truly required.
45. The application form contained guidance for candidates on criteria based selection and advice on the completion of the application form. Applicants were limited to 400 words per criterion, any information over and above this limit was redacted by departmental officials.

Stage 3 – Encouraging applications

46. As part of the appointment plan the Department compiled an outreach plan in an effort to address the substantial imbalance on the Board in terms of men and women members.
47. The competition launched on 27 March 2019. The vacancies were advertised widely in the press and on social media by both the Department and Invest NI. The Department circulated the vacancies to the membership of a wide range of organisations, including those representative of traditionally under-represented groups. The outreach was

targeted taking into account the nature of the post and current membership profile of the Board.

48. The outreach involved a number of innovative approaches including the circulation of frequently asked questions covering the selection process and the Chair role. In addition members on other DfE Boards were asked to promote the vacancy and a temporary stand promoting the vacancy was placed in the reception area of the Invest NI Headquarters. An article was published in the Belfast Telegraph highlighting the departure of the Chair and the upcoming launch of a competition to appoint a replacement, the article highlighted the under-representation of women on the Board and welcomed applications from women.
49. A letter issued to the Chair of the NICS Women's Network, who is also the NICS Gender Champion, asking her to promote and encourage interest in the opportunity. The letter also noted that applicants from people with a disability and ethnic minorities were also welcome.
50. Throughout the application period the Department monitored the website and social media accounts showing how often the vacancy had been viewed and the information downloaded, this ensure the Department were aware of the ongoing interest in the vacancy. At the end of the application period the Department reviewed how applicants had become aware of the vacancy. CPANI views this approach as good practice.
51. The work undertaken to try to attract a diverse pool of applicants in particular to attract more women is to be commended. There are a number of examples of good practice here.

Stage 4 – Selection

Processing applications

52. The closing date for applications was 18 April 2019. Eighteen applications were received comprising of five women candidates and thirteen men candidates (28% women / 72% men). While the limited number of women applicants is disappointing CPANI

encourages the Department to continue its positive outreach for future public appointment competitions.

Sift

53. Anonymous copies of the application forms were provided to the panel members.
54. The process to be used to sift applications was clearly set out in guidance provided to selection panel members. Selection panel members were reminded of the CPANI audit recommendation to consider interviewing a larger number of applicants (without being overly disproportionate) in order to give more applicants the opportunity to experience the public appointment interview process. The guidance also included extracts from previous CPANI audit reports highlighting the requirement for selection panels to keep full and contemporaneous records documenting their decisions when assessing candidates. The Department provided an example of a completed sift form to show the standard of supporting comments expected from panel members. Such support for the selection panel in terms of ensuring proper documentation of the process is good practice.
55. A scoring framework of one to seven was in place for the sift of applications; indicators of effective performance were provided against each criterion.
56. 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 were asked to tick or highlight the indicators they saw evidence of and to provide a comment to substantiate the assessment.
57. The individual comments recorded by selection panel members to substantiate the scores awarded were comprehensive and meaningful.
58. While the sift was anonymous selection panel members were asked to indicate whether they knew any candidate in a personal or business capacity based on the information provided in the application form. The Department also provided selection panel members with the extract from the Public Appointments Code regarding conflicts of

interest and drew to the panel's attention the Northern Ireland Audit Office Good Practice Guide on conflicts of interest.

59. The selection panel attended a sift meeting on 16 May 2019. The selection panel compared individual assessments and awarded a final consensus score for each criterion. The departmental secretary to the selection panel recorded the final consensus score awarded and where a panel member indicated potential knowledge of a candidate.
60. Throughout the sift stage there was strong support for the selection panel from departmental officials.
61. Eleven candidates achieved the pass mark in all the criteria; the selection panel decided that no further shortlisting was required.
62. Following the sift the selection panel were provided with the names of those candidates to be interviewed, and panel members were asked to declare any knowledge of these candidates. Knowledge was declared for four candidates, each instance was discussed and it was agreed by the panel that no conflict of interest existed.
63. The eleven candidates were invited to interview comprised of three women and eight men.
64. A letter to those candidates who did not pass the sift exercise issued on 21 May 2019. The letter set out the criteria the candidate did not meet and provided brief comments on the reason for this. These comments had been drafted by the Department and agreed by the selection panel. The letter offered further feedback for the candidate and provided information on how a candidate could request reassessment. No requests for reassessment were received.
65. In the continuing absence of a Minister a submission issued to the Permanent Secretary on 31 May 2019 asking him to confirm his preference for how the list of appointable candidates would be presented, that is in a ranked or unranked list. The submission advised the Permanent Secretary that eleven candidates had been invited to interview and provided details of the gender profile of the candidate pool for interview. The

submission included guidance on making evidence based appointment decisions from ranked and unranked lists. The Permanent Secretary chose to be presented with a ranked list.

Interview

66. A letter inviting candidates to interview issued on 24 May 2019. The letter provided good meaningful information on the interview process. It advised candidates on the format of the interview, including all topics on which they would be questioned, it also provided guidance on conflicts of interest and advice on how to prepare for a competency based interview.
67. One candidate did not attend for interview.
68. A marking framework of one to seven was in place for the interview assessment. This marking framework included performance indicators for each criterion; ahead of the interviews the selection panel discussed the approach they would take to the performance indicators. CPANI commend this approach by the selection panel which ensures a common understanding and consistent approach to the use of performance indicators during the assessment of a candidate.
69. Prior to the interviews the Department carried out a bankruptcy check and a check on other public appointments held by candidates for each candidate.
70. Interviews took place on 04 and 05 June 2019. Candidates were questioned against all six essential criteria. In order to pass the interview candidates had to score at least four out of seven in each criterion.
71. Each member of the selection panel completed an individual interview assessment booklet for each candidate recording the evidence provided, a panel member score and justification for that 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.

72. 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.
73. The interview duration for different candidates ranged from 48 to 63 minutes. Candidates had been informed that the interview would last approximately 50 minutes. While there is no indication that any candidate was disadvantaged by the duration of the interview CPANI would advise that when an interview takes significantly longer than an explanation for this is recorded.
74. **Recommendation:** The Chair of the selection panel must record the reasons for an interview taking considerably longer than expected.
75. The selection panel completed and signed an agreed panel assessment sheet for each candidate which detailed the outcome of the interview stage. This document recorded the individual panel member scores against all criteria along with the agreed consensus score, consensus comments against each criterion and a determination on whether candidates were suitable for appointment. On a separate document the selection panel listed those candidates successful at interview in ranked order with the score. It is also listed the unsuccessful candidates without disclosing the score.
76. Those candidates found unsuitable for appointment were informed of the outcome in a letter dated 26 June 2019. The letter contained feedback on the criteria failed by the candidate, this was based on the agreed consensus selection panel comments. The letter advised the candidates that they would receive application packs for all future DfE competitions.

Candidate Summaries

77. At interview four candidates were found to be suitable for appointment comprising one woman and three men. Candidate summaries were prepared and agreed by the selection panel.

78. Each candidate summary contained a 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.
79. The wording used in the candidate summary to cover the selection panel assessment was consistent with the marking framework. However the marking framework sometimes contained more than one word or phrase to describe a numerical score awarded (for example 'very good' and 'strong' both relate to a score of six) and in some cases both words/phrases were used to describe where different candidates were awarded the same score. Such an approach can be problematic for a decision maker when candidates are presented in an unranked list. While a ranked list of candidates was used on this occasion departments must be aware of potential difficulties with this approach.

Conflicts of interest

80. The candidate summaries included information on conflicts of interest. It is a requirement of the Public Appointments Code that the selection panel must assess whether there is a conflict of interest issue and how it will be handled. The panel must document the discussion and conclusions arrived at. The candidate summaries must then include clear written reference to any actual, perceived or potential conflicts of interest. They must include sufficient information to ensure the decision maker is fully aware of these matters and can make an informed decision.
81. For one candidate the summary stated that the candidate had indicated that perceived conflicts of interest between the Chair role and other roles held by the candidate could be managed. Another candidate indicated that all potential conflicts could be managed. The summary for a third candidate advised the Permanent Secretary that the candidate felt that additional roles held did not present a conflict of interest. In each case the selection panel has not fulfilled its duty as required under the public appointment code.
82. **Recommendation:** Where a potential or perceived conflict of interest exists the selection panel must make a clear determination as to whether or not it can be

managed, it should not simply advise the appointing authority that the candidate considers that it can be managed.

Permanent Secretary's decision

83. The candidate summaries for those found suitable for appointment were submitted to the Permanent Secretary on 19 June 2019 in order ranked by interview score. The Permanent Secretary was asked to select one candidate for appointment; the submission stated that the remaining three candidates would be retained on a reserve list.
84. On 28 June 2019 the Permanent Secretary selected the top ranked candidate for appointment. The Permanent Secretary recorded his reasons for this decision.
85. Having made the appointment decision the Permanent Secretary spoke with the successful candidate to advise her of the appointment, this was followed by an official offer of appointment dated 04 July 2019.
86. Those candidates selected for the reserve list were informed of this by letter dated 08 July 2019.

Announcing the Appointments

87. The Department announced the appointment in a press release dated 10 July 2019 which fulfilled the requirements of the Public Appointments Code.
88. The Press Release was copied to all those interviewed for the post.
89. On completion of this process the diversity profile of Invest NI was improved with an increase in the representation of women from 27% to 30%.