



The Commissioner
for Public Appointments
Northern Ireland

“Guardian of the Public Appointments Process”

REPORT

Complaint to the Commissioner for Public Appointments for Northern
Ireland

From Mr Gerry Gilpin

concerning

Re-appointment procedure for the position of Chair of the Governing Body
of Northern Regional College

by

THE DEPARTMENT FOR EMPLOYMENT AND LEARNING

March 2015

COMPLAINT TO THE COMMISSIONER FOR PUBLIC APPOINTMENTS FOR NORTHERN IRELAND ON THE RE-APPOINTMENT PROCEDURE FOR THE POSITION OF CHAIR OF THE GOVERNING BODY OF NORTHERN REGIONAL COLLEGE

by

THE DEPARTMENT FOR EMPLOYMENT AND LEARNING

The Complaint

By letter of 3RD February 2015, Mr Gerry Gilpin [the Complainant] submitted a complaint to the Commissioner, regarding his non re-appointment by the Department for Employment and Learning, [DEL or the Department]. The Complainant stated that the Minister's decision not re-appoint him was handled in an insensitive and disrespectful manner, created a potential perception that his integrity had been compromised, that this could adversely affect his being successful in any future public sector selection process under the Nolan Principles, and that it could reflect badly on the re-appointment process itself.

The Complainant hoped that action would be taken to prevent this occurring in any future reappointment process.

The CPA NI decision to investigate the complaint

The Commissioner made the decision to investigate the complaint under paragraph 5.10 of his Code, which states, "The Commissioner may decide to investigate a complaint which has come to him directly".

Scope of the Investigation

The investigation involved a detailed review of the following documentation:

- A. Supplied by the Complainant
 - Letter of complaint to CPA NI.
 - Letter from DEL to the complainant.
 - Terms and Conditions of Appointment.
 - Email from Complainant to DEL.
 - Letter to Complainant from Minister.
 - Email from Complainant to Governors.

- B. Supplied by the Department [DEL]
 - Letter from Minister to Commissioner.
 - Letter from Minister to Complainant.
 - Correspondence from DEL to Minister.

Background

In September 2014, the Complainant was due for potential re-appointment, to the position of Chair of the Northern Regional College.

The Complainant states that in early July 2014 the Department contacted him and asked if he would like to serve for another four year period. The Complainant agreed and informed the Principal and relevant colleagues inside and outside the College.

The Complainant continued to execute his role as Chair, unaware of any issue the Department had regarding his re-appointment.

On 9th July 2014 the Department submitted correspondence to the Minister, providing an analysis of the Complainant's position as Chair and that of the Chairs of the other two colleges.

In August 2014 the Complainant received a call from the Department asking him to meet the Minister. The Complainant says he asked if he needed to prepare for the meeting and the Department informed him that no preparation was required as this was 'normal practice'.

The Complainant met the Minister on 14th August 2014. The Complainant says that whilst there was an amicable discussion the Minister did raise the issue of the requirement for more 'hands-on' leadership. The Minister agreed to reflect on the discussion and would inform the Complainant of his decision by the 18th August 2014.

The Complainant received a letter dated 18th August 2014 informing him that, after careful consideration, the Minister had taken the decision not to re-appoint him for a second term.

The Complainant then met the Commissioner for Public Appointments on 27th January 2015, and wrote to the Commissioner on 3rd February 2015 asking him to investigate the matter.

Findings

The CPA NI investigation considered each element of the complaint and sought to determine whether the Code has been breached and if the process employed by the Minister constitutes good practice.

The determination on the complaint is as follows:

1. Whilst the Complainant's strongly held view is that he was treated insensitively and with disrespect, the actions of the Minister and his officials in this matter did not constitute a breach of the Code of Practice; however, there were aspects of the re-appointment process which could have been improved.

The Complainant inferred from the contact with the Department in early July that his re-appointment was imminent. The Department should have given more consideration to the Complainant's potential perception of his re-appointment and to the nature of the contact.

It is very clear, from the Department's submission to the Minister regarding the strengths and weaknesses of the Board Chairs, and in the Annual Assessment of the complainant's performance [completed subsequent to the decision not to reappoint the Complainant] that there are no issues regarding the high standard of integrity of the complainant; the issues relate to the lesser standard of achievement in the organisation in the 2013/2014 year compared with previous years.

Conclusion

1. The Complainant's integrity was not called into question at any stage, by the Minister or the Departmental officials.
2. In the exercise of the Minister's right to re-appoint (or not to re-appoint) any public appointee, the Department should revisit the process to ensure no further potential embarrassment or confusion is caused.

In particular, it should ensure:

[i] that no misunderstanding arises from the initial contact by the Department seeking the potential re-appointee's willingness to serve a second term, perhaps by conducting the contact in writing rather than solely in a phone call, including the clear warning that re-appointment is not to be taken as granted until the Minister has made his decision,

[ii] that the reasons for non-appointment are fully explained to the potential re-appointee and

[iii] that the performance assessment of the potential re-appointee, for the final year of his / her first term, should be completed before the re-appointment decision is made by the Minister. [To achieve this would mean assessment of perhaps eleven months rather than the full year.]