



The Commissioner
for Public Appointments
Northern Ireland

“Guardian of the Public Appointment Process”

Audit Report 2015/2016

Appointment of three Members to the Board of the Health and Safety
Executive for Northern Ireland

Department of Enterprise, Trade and Investment

June 2015

Introduction

- 1.01 A competition to appoint three members to the Board of the Health and Safety Executive of Northern Ireland [HSENI] was selected for audit as part of the 2015/16 audit programme of the Commissioner for Public Appointments for Northern Ireland (CPA NI). This competition was administered by the Department of Enterprise, Trade and Investment [DETI].
- 1.02 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 Code), version issued February 2014.
- 1.03 The Commissioner is required, by law, to prescribe and publish the Code to regulate the process by which public appointments are made. The Code sets out principles and practices which the Commissioner requires Government Departments to adopt.
- 1.04 The role of the Commissioner is to regulate, monitor, report and advise on the way in which Ministers make appointments to the Boards of public bodies in Northern Ireland. The Commissioner's key concern is to ensure that public appointments are made in ways that are open, transparent and merit-based.
- 1.05 Responsibility for appointments rests with the relevant Minister.
- 1.06 Northern Ireland Government Departments have the responsibility of ensuring that the principles and practices contained in the Commissioner's Code are upheld throughout every public appointment recruitment competition.

Approach

- 2.01 This audit report is the result of an examination of the appointment process, from which two instances of 'less than best-practice' and four instances of particularly good practice were identified. There were no breaches of the Code.
- For each identified issue of 'less than best-practice', CPA NI has produced a recommendation which the Department must address.
 - Recommendations are summarised at the end of the report and will be followed up by CPA NI in subsequent audits for evidence of implementation by the Department.
 - Where instances of good practice are highlighted, it is hoped by CPA NI that all Departments will study these for use in their own competitions.
- 2.02 CPA NI carried out a comprehensive review of all appropriate records, as provided by the DETI Public Appointments Unit. All documentation provided by the Department was of a high standard and was comprehensive and well organised.

Acknowledgements

- 3.01 The Commissioner would like to thank the staff from the DETI Public Appointments Unit for their assistance and cooperation throughout this audit.

Stage 1 – Initial Planning of recruitment competition

Consultation with the Chair the Health and Safety Executive for Northern Ireland

- 4.01 The Department consulted with the Chair of the HSENI in the early planning stages of the process. The Chair was fully involved with drafting the criteria and the documentation.

Independent Assessor

- 4.02 CPA NI allocated an Independent Assessor at the outset; the Assessor was involved in all relevant stages of the selection process.

The Department maintained regular contact with the Assessor over the course of the competition, ensuring she was kept up to date on progress. CPA NI commends the Department for this constructive working relationship with the Assessor.

The Selection Panel

- 4.03 The selection panel consisted of a senior official from the Department, the Chair of the HSENI and the Independent Assessor.

Selection panel members were involved in all relevant aspects of the selection process prior to the Ministerial decision.

- 4.04 The selection panel attended a competition initiation meeting on 26th March 2014, at which panel members agreed a range of issues including the appointment plan and the competition documentation.

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

- 4.05 All selection panel members, and the departmental competition secretary, signed a confidentiality agreement.

In addition, the Independent Assessor signed a declaration confirming her independence from the Department and the HSENI, and a declaration that she was aware of the “double payment” principle and not employed in the civil/public sector.

Role Profile and Person Specification

- 4.06 The role profile and person specification were developed by DETI with input from the selection panel. These included all information required by the Code.

- 4.07 Applicants were required to meet four essential criteria
- 4.08 It was evident that the Department, in conjunction with the Chair of the Panel, had ensured that the criteria accurately reflected the requirements of the HSENI and were not unnecessarily restrictive.

Ministerial Authorisation and Planning

- 4.09 A submission containing the role profile, person specification and appointment plan was approved by the Minister on 16th April 2014. The Minister agreed to commence the competition to appoint up to four new board members.

The Minister requested an unranked alphabetical list of candidates suitable for appointment.

- 4.10 The appointment plan, which fulfilled all the requirements of the Code of Practice, was detailed and comprehensive. The appointment plan demonstrated a commitment to achieving the best possible spread of applicants.

Stage 2 - Preparation

Information Pack and Application Form

- 5.01 The Information Pack included all the key components required by the Code.

Guidance was provided on completing and submitting an application, and on the appointment process as a whole.

- 5.02 For each of the criteria, the Information Pack provided examples of the type of evidence sought by the selection panel.

- 5.03 The Information Pack stated that,

“The Department wishes to recognise less traditional career patterns and experiences such as community involvement or voluntary work, as well as those experiences found within the employment field. Therefore, in your application form, you may use examples from your working or personal life, e.g. part-time activities or leisure activities, including any voluntary or community work you are or have been involved in.”

CPA NI welcomes and commends this positive approach by the Department in encouraging applicants to highlight relevant skills and experience, however gained, when addressing the criteria in the Application Form.

- 5.04 The Information Pack contained guidance for applicants from the public sector on the potential for “double payment” (being paid twice from the public purse) should they be appointed.

- 5.05 The Information Pack stated that in the event that short-listing was required, the panel would analyse the marks awarded across the criteria, and a “proportionate” number of applicants would be invited for interview from amongst those who best met the criteria.

In future the Department should be clearer about what it means by “proportionate”. If, as is clarified in paragraph 7.06, in this case it meant an additional filter of a pass mark of five in at least one criterion, the Department should state this in the Information Pack. This will avoid the risk of being perceived to breach paragraph 3.27 of the Code.

- 5.06 The Application Form was clear and straightforward.
- 5.07 Section one of the Application Form asked applicants to provide details of current employment and/or voluntary work. This information was not made available to the selection panel until the interview stage.
- 5.08 Section four of the Application Form asked for information on criminal convictions, outstanding charges, bankruptcy, dismissal from office or employment, disqualification as a company director and company liquidation, receivership or administration.

Stage 3 - Encouraging Applications

- 6.01 Prior to the launch of the competition, advance notification of the competition was issued to organisations representing employers and organisations representing employees as required under the Health and Safety at Work (Northern Ireland) Order 1978. The Department also took the opportunity to issue advance notification to a range of Section 75 groups.

The competition was launched on 1st May 2014.

The vacancy was advertised in the Belfast Telegraph, the Irish News and the Newsletter. It was posted on the websites of CPA NI, DETI and the Office of the First Minister and deputy First Minister (OFMDFM).

An information flyer was also issued to wide range of individuals and organisations which included under-represented groups.

A Ministerial Press Release was issued encouraging applications from a wide range of backgrounds.

CPA NI commends the Department for the effort put into promoting the vacancy.

Stage 4 - Selection

Processing Applications

7.01 The closing date for applications was 30th May 2014. Eighty-three applications were received.

One late application was received; this was rejected in line with the DETI policy on the handling of late applications.

Sift and short-listing

7.02 Selection panel members attended a sift meeting on 11th June 2014. Anonymous copies of all Application Forms were provided to the selection panel prior to this.

7.03 A word limit was in place for each criterion. As stated in the Application Form, any text beyond the admissible number of words was redacted from the Application Form issued to the panel.

7.04 It was clear that the DETI Public Appointments Unit provided high quality support during the sift stage and throughout the whole selection process.

7.05 Prior to the sift meeting, each member of the selection panel individually assessed the Application Forms, and allocated a score against each criterion, with notes to substantiate these marks.

An agreed panel score was allocated to each applicant. A summary of the panel's collective decision on each applicant was documented and agreed by all selection panel members

7.06 In order to pass the sift exercise, applicants had to meet the pass mark of four out of seven in each criterion. Forty applicants passed the eligibility sift.

The panel then shortlisted applicants by identifying those who had achieved a score of five in at least one criterion. Twenty-four applicants were invited for interview.

7.07 Upon completion of the short-listing exercise, selection panel members were provided with the names of the successful applicants, and asked to declare any conflicts of interest.

All three selection panel members confirmed that at least one applicant was known to them in a professional capacity; no conflicts of interest were declared.

7.08 Those applicants not invited for interview were informed of the decision in a letter issued 13th June 2014.

The letter advised applicants whether they had failed to achieve the pass mark in each criterion, or had failed to achieve a mark of five in at least one criterion.

The letter did not provide feedback beyond this, or information on how an applicant could request feedback.

7.09 **Recommendation: The Department should ensure that applicants are made aware of how to request feedback.**

7.10 The letter provided applicants with details on how to request a review of the decision. Any such request was to be made within five working days of the letter.

7.11 Despite the lack of guidance regarding feedback, seven requests for feedback were received from applicants; these were dealt with in a timely manner.

7.12 One applicant requested a review of the decision not to invite her for interview. Following the review, the panel changed its original decision and the applicant was invited for interview.

Interview

7.13 Those applicants who passed the short-listing exercise were initially informed of the outcome by e-mail and asked to provide a preference for an interview date.

A letter formally inviting candidates to interview was issued on 25th June 2014. The letter provided candidates with details of the seven principles of public life, a conflict of interest guide for candidates and a candidate preparation leaflet with information on the interview process.

7.14 Two candidates withdrew from the competition prior to interview.

7.15 Interviews took place on 3rd, 4th, 5th and 8th September 2014

7.16 Each panel member completed an individual interview assessment booklet for each candidate, to record the evidence against each criterion. An individual panel member score, along with a justification, was awarded for each criterion. An agreed panel assessment sheet recording individual panel member scores, agreed panel scores and agreed comments was completed by the panel Chair and signed by all panel members.

7.17 All candidates were asked to identify any conflicts of interest and were questioned on integrity and adherence to the principles of public life. They were also questioned on time commitment. Candidate responses were recorded on the agreed panel assessment sheet.

7.18 DETI sought information from other Government Departments on any areas of concern relating to other public appointments held by candidates. No Department raised any concern with respect to any candidate.

7.19 DETI carried out a Company Director's disqualification and bankruptcy check on all candidates. Applicants had not been advised of this in the Information Pack

7.20 **Recommendation: The Department should ensure applicants are made aware, in the Information Pack, of any check to be carried out during the recruitment process.**

7.21 At interview, fourteen candidates were found to be suitable for appointment.

7.22 Those candidates found unsuitable for appointment were informed of the decision in a letter issued 16th September 2014.

The letter provided details on the candidate's performance at interview, including comments from the selection panel.

7.23 Successful candidates were advised by e-mail on 16th September 2014 that their name would be submitted to the Minister.

7.24 One request for feedback was received from a candidate [whose name was put forward to the Minister as suitable for appointment] following the interviews. The Department and the Chair of the selection panel dealt with the request following the Ministerial decision.

Applicant Summary

7.25 Applicant summaries were prepared by the Department with input and agreement from the selection panel. Each applicant summary utilised information from the candidate's Application Form and the findings and comments of the selection panel at interview. It also included a synopsis of the candidate's response to the interview questions on integrity, conflicts of interest and time commitment.

These applicant summaries were submitted to the Minister's private office in an alphabetical list on 15th September 2014.

7.26 The applicant summary for one candidate was subsequently amended. This was done after the candidate contacted the Department to inform them that he had recently been appointed to the public body of another Department, and that this presented no conflict of interest or time commitment issues in relation to his potential appointment to the HSENI.

The new information was included in the applicant summary under background and experience and the applicant summaries were resubmitted to the Minister on 18th September 2015.

Ministerial Decision

7.27 The Department contacted all candidates on 7th October 2014 to inform them that the Ministerial decision was still pending.

- 7.28 On 21st October 2014 the Minister selected four candidates for appointment, and two candidates to be placed on a reserve list.
- 7.29 The unsuccessful candidates, including the two candidates placed on the reserve list, were informed of the decision by letter dated 23rd October 2014.
- 7.30 The successful candidates were informed of the decision in a telephone call.
- 7.31 One of the successful candidates informed the Department that she was being considered for appointment to a position on another public body. This appointment would present a conflict of interest with her appointment to the HSENI board. This candidate was subsequently successful in the alternate competition and declined the appointment to the HSENI board.
- 7.32 A second submission was issued to the Minister inviting her to select one candidate from the reserve list for appointment.
- 7.33 The remaining three successful candidates were kept updated of the delay by the Department.
- 7.34 On 24th November 2014 the Minister decided not to appoint a fourth member.
- 7.35 A letter formally offering the position was issued to the successful candidates on 8th December 2014.

Announcing the Appointment

- 7.36 The Department announced the appointments on 2nd February 2015 in a press release which fulfilled the requirements of the Code of Practice.

This delay in announcing the appointment was due to the failure of one of the appointees to return the political activity form despite repeated reminders from the Department.

Diversity

- 7.37 Whilst this competition had yielded a higher percentage of female applicants than the previous HSENI competition, the number of female applicants was still low. Following the interviews, the issue was discussed by the members of the selection panel, who provided suggestions for addressing the low number of female applicants. The Department noted these points to take forward in future competitions.

CPA NI commends the Department for this proactive approach to tackling under-representation on its public bodies.

General Conclusions

- 8.01 This was a well run competition in which there were no breaches of the Code and in which DETI added further evidence that it is developing the ways in which it reaches out to a wider range of potential candidates in order to address the issue of under-representation on the boards of its public bodies.

The Department should take steps to address the recommendations below.

Summary of Recommendations

- 9.01 The Department should ensure that applicants are made aware of how to request feedback.
- 9.02 The Department should ensure applicants are made aware, in the Information Pack, of any check to be carried out during the recruitment process.