



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 Northern Ireland Housing
Executive

Department for Social Development

December 2015

Introduction

- 1.01 A competition to appoint three members to the Board of the Northern Ireland Housing Executive (NIHE) 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 for Social Development (the Department).
- 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 duty is to ensure that public appointments are made in ways that are open, transparent and merit-based.
- 1.05 The Commissioner is concerned about the low level of diversity that currently characterises many of our public boards. In particular very few women hold Board Chair positions and to a lesser extent they are underrepresented at member level. People with disabilities are also underrepresented and the age profile of membership of public boards is too restricted. The Commissioner is committed to working to improve this situation.
- 1.06 Responsibility for appointments rests with the relevant Minister. 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. They are also tasked with improving the low levels of diversity on our public boards.

Approach

- 2.01 This audit report is the result of an examination of the appointment process, from which three breaches of the Code, eleven instances of 'less than best-practice' and one instance of good practice were identified.
- For each breach of the Code and 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 Housing Director's Office. All documentation provided by the Department was well organised.

Acknowledgements

- 3.01 The Commissioner would like to thank the staff from the Housing Director's Office for their assistance and cooperation throughout this audit.

Summary

- 4.01 The audit investigation found some evidence of good work by Departmental officials but overall this public appointment process was an unsatisfactory one. There were a number of weaknesses in procedures with consequent breaches of the Code. For example, positive information on a successful candidate which had not been provided by him during the process but gathered from an extraneous source was provided to the Minister. The most striking weakness, however, was the failure by the Department to learn any lesson from its previous experience of a poor diversity outcome when appointing to the Board of the Northern Ireland Housing Executive.
- 4.02 Despite the fact that since 2013 the Board had only three women out of nine members and a male chair the Department made little effort this time around to rectify the situation. At the end of the process under scrutiny the Department presented the Minister with an all male appointment list. This was an undesirable position in which to put the Minister. It was open to the Minister even at that late stage to ask the Department to reopen the competition in order to try and attract a more diverse pool of applicants. Although this option has cost consequences Ministers have exercised it on a number of occasions.
- 4.03 The provision to the Minister of an all male list in such an important public appointment process reflects a failure on the part of the Department. This is particularly so since housing policy and practice are unlikely to be predominantly male skill sets. A 72% male applicant pool; a 73% male interview pool; a 100% male appointment list: these figures create a strong impression that the Department's commitment to diversity in its public appointments is less than sincere.
- 4.04 The Board of the Northern Ireland Housing Executive now has only two female members out of a total of nine members and a male Chair. The Housing Executive is an important public body that provides services to a citizenry more than 50% of which is women. Apart from the perceptions of a lack of fairness and equality that a poorly balanced public board can create, such a body is at a disadvantage when seeking to understand the needs of its service users and the views of the wider public. It is also well accepted that a Board which is diverse and has a good mix of men and women has the potential for higher performance and better governance than one lacking in gender balance.
- 4.05 At this point I would emphasise that I am not in any way questioning the suitability of any individual appointment. These will be of a high caliber. Rather I am

concerned with the collective dynamic and performance of a Board.

- 4.06 The outcome of this appointment process in its exacerbation of an already poorly gender balanced board has the potential to damage the reputation of the Department, undermine the good work of the Housing Executive and undermine public confidence in the public appointments system.
- 4.07 The Department should consider what steps might be available to the Minister at this stage to improve the situation.

Background

- 5.01 The five year terms of appointment, of three members of the NIHE, were due to end on 31st May 2015.

In consultation with the Chair of the NIHE, the Minister decided not to reappoint the three members, opting instead to initiate a new public appointment process.

As the three outgoing members had served only one term, they were eligible to apply.

CPA NI welcomes the decision not to automatically reappoint public appointees. Such an approach can be an effective tool for tackling underrepresentation by opening up these public appointment positions to fresh applicants. Unfortunately in this case the opportunity was not used to good effect.

Stage 1 – Initial Planning of recruitment competition

Consultation with the Chair the NIHE

- 6.01 A skills audit was conducted by the Department in consultation with the Chair of the NIHE, in the early planning stages of the process.

The Chair's suggestions were reflected in the person specification.

Independent Assessor

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

The Selection Panel

- 6.03 The selection panel consisted of a senior official from the Department who chaired the panel, the Chair of the NIHE and the Independent Assessor.

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

- 6.04 The Department ensured that all panel members were fully trained in line with the

Code. The conduct of the process, however, raises the question of how well the panel understood the diversity requirements of the Code.

- 6.05 All selection panel members signed a confidentiality agreement.

In addition, the Independent Assessor signed a declaration confirming her independence from the Department.

Role Profile and Person Specification

- 6.06 The role profile and person specification were developed by the Department with input from the selection panel. These included all information required by the Code.
- 6.07 Applicants were required to meet five essential criteria in total - four mandatory criteria, and the choice of one further criterion from a selection of three.

Ministerial Authorisation and Planning

- 6.08 A submission containing the role profile, person specification and appointment plan was approved by the Minister on 16th December 2014. The Minister requested an unranked alphabetical list of candidates suitable for appointment.
- 6.09 The appointment plan included all items required by the Code, although the section on diversity was limited, as described below.
- 6.10 The appointment plan included a section on diversity which highlighted the current significant underrepresentation of women on the NIHE board. However despite this, the Department failed to identify the steps necessary to address the gender imbalance and there was no focus on the need to encourage female applicants. Unsurprisingly the result was an applicant pool that was poor in terms of female representation.

People with a disability and people from an ethnic minority were also highlighted as underrepresented on the NIHE Board.

- 6.11 **Recommendation: The Department must set out clear steps to achieve a strong and diverse applicant field particularly in terms of attracting women. This will include outreach to a wide range of women's groups. Previous difficulty in attracting a substantial number of women applicants as was the case for this Board means that the Department must take vigorous and imaginative action to attract a well balanced field of applicants.**

In a Department's actions to address underrepresentation, CPA NI would expect to see careful consideration at every stage of the process including an assessment of the Application Form, with a user friendly focus and effective outreach efforts to encourage a more diverse group of applicants.

There is a strong onus on Departments to develop effective diversity strategies at

every stage of the process, instead of the minimalist approach adopted in this instance.

- 6.12 Paragraph 3.6 of the Code requires Departments to prepare an appointment plan, which will include,

“an indication of how applicants will be informed of the progress and outcome of their application.”

The appointment plan stated that,

“Applicants will be informed of the progress and outcome of their application by letter or email or phone.”

This is insufficient and must be developed to show how long after each stage an applicant will be updated on the progress of their application. This section of the appointment plan should also include potential measures to be taken by the Department to keep applicants informed in the event of a delay, setting out a maximum length of time applicants must wait before contact from the Department.

- 6.13 **Recommendation: The Department must prepare a comprehensive procedure for keeping applicants informed of the progress and outcome of their applications.**

Stage 2 – Preparation

Information Pack and Application Form

- 7.01 The Information Pack included all the key components required by the Code, it included guidance on completing and submitting an application.

- 7.02 The guidance 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.

- 7.03 The Information Pack did not, however, include guidance on how to address each specific criterion, nor did it provide examples of the types of evidence an applicant could provide to meet the criteria. This was an omission that undermined the value of the encouragement of those from a less traditional career background.

The lack of explanation of criteria is a barrier to applicants, in particular to those unfamiliar with public sector terminology. This mitigates against a more diverse applicant pool.

- 7.04 **Recommendation: 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).**

- 7.05 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.

This is inaccurate as marks were not awarded during the sift; applicants were found to have either met or not met each criterion.

The Department should be clearer about what it means by a “proportionate number of applicants”, and should have in place an accurate predetermined mechanism for short-listing.

Paragraph 3.27 of the Code states that the merit principle must not be abandoned to fit a predetermined timetable for interviews or other Departmental restrictions. While short-listing was not required in this instance, the Department’s approach could potentially have resulted in a breach of paragraph 3.27.

- 7.06 **Recommendation: The Department must ensure that they have in place a predetermined mechanism for short-listing which is accurately explained in the Information Pack.**

- 7.07 Applicants were asked to provide a home address, a business address and a preferred contact address (if different).

It is unclear why potentially three contact addresses are required and in future it would be more appropriate to request one address for correspondence.

- 7.08 **Recommendation: In future applicants should only be asked to provide one address for correspondence.**

- 7.09 Applicants were asked to list all current and previous public appointments held, including the remuneration involved. Departments are required by the Code to include, in a press release, any current ministerial public appointments held by the successful candidate(s) and details of any remuneration received. This does not necessitate the provision by applicants of a list of all previous public appointments held.

Paragraph 3.21 of the Code requires that Application Forms “should ask only what is

truly required”.

This has previously been identified as less than best practice in CPA NI audit reports. It is disappointing that despite this Departments continue to ask for this information.

7.10 **Recommendation: In future competitions the requirement to list details of previously held appointments should be removed.**

7.11 Section six of the Application Form asked applicants to sign a general declaration which included the sentence,

“I give permission to the Department for Social Development to contact my employer to confirm that I may take up appointment, if one is offered.”

CPA NI would query why in this instance such a statement is required in the general declaration; this statement could be discouraging for potential applicants and it should be removed from all future application forms.

7.12 **Recommendation: The Department must ensure that this statement is removed from the general declaration for all future competitions.**

7.13 The Department had in place a Guaranteed Interview Scheme which guaranteed an interview to anyone with a disability whose application met the minimum selection criteria for the post.

Stage 3 - Encouraging Applications

8.01 The competition was launched on 14th January 2015.

The vacancy was advertised in a range of regional and national newspapers.

The press advertisement encouraged applications from women, people with a disability and people from ethnic minority communities.

It was posted on the websites of CPA NI, the Department, NI Direct and NIHE, it also featured on the departmental twitter account.

Notifications were sent to the Chamber of Commerce, the Chartered Institute of Housing, the Confederation of British Industry, Disability Action, the Housing Community Network, Inside Housing, the Institute of Directors, and the Northern Ireland Council for Ethnic Minorities.

A Departmental Press Release was issued with details of the competition.

The Department promoted the vacancies without focused outreach to women’s groups. This approach failed to act on the Department's own recognition that the Board of the NIHE had too few women members.

8.02 **Breach: The Department breached the diversity requirements of the Code.**

Recommendation: The Department must ensure that in all future competitions, groups identified as being underrepresented on the public body are actively targeted as part of the outreach and publicity. CPA NI is very willing to assist Departments in their efforts although ultimately it is the Departments who are best placed to identify the appropriate communication strategies including targeting women's representative groups and encouraging applications.

Stage 4 – Selection

Processing Applications

9.01 The closing date for applications was 3rd February 2015. Thirty-six applications were received, comprising of ten female applicants and twenty-six male applicants.

This was a disappointing outcome that undoubtedly reflected the lack of effort by the Department to encourage applications from women.

Sift and short-listing

9.02 Selection panel members attended a sift meeting on 24th February 2015. Anonymous copies of all Application Forms were provided to the selection panel prior to this.

Two selection panel members declared that at least two applicants were potentially known to them; no conflicts of interest were declared.

9.03 Prior to the sift meeting, each member of the selection panel individually assessed the Application Forms, decided whether or not each applicant met each criterion and provided written evidence to support their decision.

At the sift meeting an agreed panel decision was taken on whether or not applicants met each criterion. Written evidence to support the decision was documented and agreed by all selection panel members.

9.04 In order to pass the sift exercise, applicants had to meet all five essential criteria.

A total of eleven candidates, three female and eight male, were invited for interview. This imbalanced interview list reflects the imbalanced applicant pool.

9.05 In the Application Form applicants were required to address four mandatory criteria and select one additional criterion from a choice of three. It was made clear to applicants throughout the Information Pack that they had to choose one of the additional criteria.

One applicant provided evidence against all three of the additional criteria. In determining which criterion against which to sift the applicant, the selection panel

selected what they perceived to be the applicant's strongest.

This experience shows that even where it is made clear to applicants that they must choose one out of three criteria nevertheless some may address all three. It is therefore prudent to have a procedure in place to manage the possibility. It would be preferable to choose the first criterion response and ignore any others.

9.06 **Recommendation: Departments should be aware of the possibility that some applicants may address all the criteria despite being asked to choose one. Where this occurs the best approach is to select the first criterion response and ignore any others.**

9.07 Those applicants not invited for interview were informed of the decision in a letter issued 3rd March 2015.

The letter advised applicants which criteria they had failed to meet and provided details on how to request feedback on the panel's decision.

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

Applicants wishing to request a review were asked to set out their reasons for the request. Paragraph 3.31 of the Code requires Departments to have a system in place to reassess applicants who challenge the results of the competition or any of its parts. Applicants are not required to provide reasons for such a challenge.

9.09 **Recommendation: The Department must remove the requirement for applicants to provide reasons when requesting a review of a selection panel's decision.**

9.10 One applicant requested a review of the decision not to invite her for interview. This was dealt with in line with the Department's policy on reassessment. The panel upheld their original decision, providing supporting evidence which was subsequently provided to the applicant.

9.11 Three requests for feedback were received from applicants; these were dealt with in a timely and professional manner.

Substitution of Chair of the Selection Panel

9.12 The Chair of the selection panel was replaced following the sift due to illness. The incoming Chair was fully apprised of all decisions taken by her predecessor.

Paragraph 3.9 of the Code states that,

"The Members of the selection panel must remain the same throughout the appointment process, unless extraordinary circumstances require substitution."
CPA NI is content that the appropriate action was taken.

Interview

- 9.13 A letter inviting candidates to interview was issued on 3rd March 2015.
- 9.14 Interviews took place on 24th and 31st March, as well as on 20th and 28th April 2015.
- 9.15 Candidates were questioned on the four mandatory criteria, as well as the fifth criterion they chose to address in the Application Form.

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

A pass mark of seven out of twelve was in place for all criteria.

- 9.16 All candidates were asked to identify any conflicts of interest and were questioned on integrity and adherence to the principles of public life. Candidate responses were recorded on the candidate interview summary sheet.
- 9.17 The selection panel agreed that each interview would be limited to forty-five minutes, with fifteen minutes write up time. Selection panel members were required to record the time in and time out for each candidate on the individual interview assessment booklets.

Selection panel members did not record the interview times for all candidates. There were inconsistencies between the times recorded by different selection panel members, for two candidates the difference in recorded times was seven minutes.

Despite the forty-five minute limit, the recorded interview times for several of the candidates exceeded this.

- 9.18 **Recommendation: It is good practice for only the Chair of the selection panel to record the candidates' interview times. Alternatively a panel member may be elected to take on the time keeping role. Times recorded must be accurate and consistent.**

- 9.19 At interview, seven candidates were found to be suitable for appointment. All seven candidates found suitable for appointment were male. This is a very disappointing outcome which reflects poorly on the overall process.
- 9.20 Those candidates found unsuitable for appointment were informed of the decision in a letter issued 22nd May 2015. The letter provided details on how to request feedback on their interview. This was the first correspondence with these candidates since the interviews in March and April 2015.

Paragraph 3.25 of the Code states.

“Everyone who applies for a post must be kept informed by the Department of the progress and ultimate outcome of his or her application in a timely and courteous manner.”

Following the interviews candidates should have been kept apprised of the situation in a timely manner.

9.21 **Breach: The Department breached paragraph 3.25 of the Code.**

Recommendation: The Department must ensure that all candidates are kept informed of the progress of their application.

9.22 One candidate appealed the decision by the selection panel to find her unsuitable for appointment. The Department responded in a letter setting out the selection process and the reason why the candidate’s name did not go forward to the Minister as suitable for appointment. The letter also offered feedback on the interview to the candidate.

Applicant Summary

9.23 Applicant summaries were prepared by the Department and agreed by 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 details of any potential conflicts of interest raised by candidates at interview.

These applicant summaries were submitted to the Minister in an alphabetical list on 12th May 2015.

The background information on candidates provided in the applicant summary relied heavily on the candidates’ employment history, and in certain cases included details of qualifications held.

This type of applicant summary is inconsistent with a criteria based selection process, CPA NI would expect to see how each candidate demonstrated her/his experience and skills against the set criteria.

Any background information provided in the applicant summary should be an objective overview of information on the candidate as taken from the Application Form and interview notes and relating to her/his performance against the set criteria. It should not include stand-alone details on qualifications held by a candidate, and it should not portray a candidate career history.

9.24 **Recommendation: To merely list a candidate’s employment history without directly relating the experience to the criteria is poor practice. Employment history is out of keeping with a criteria based process, it also mitigates against**

improving the diversity on public boards.

- 9.25 The applicant summary for one candidate contained significant information which was not from the candidate's Application Form, the selection panel's interview notes or the agreed panel summary statement.

This candidate was subsequently selected for appointment by the Minister. This extraneous information was not cited by the Minister when recording his reasons for the decision on which candidates to appoint.

The applicant summary for this candidate contained beneficial information which was not provided by the candidate nor taken from the selection panel's assessment of the candidate.

The Department acknowledged that this extraneous information was taken from a "previous template" held by the Department.

- 9.26 **Breach: The Department breached paragraph 3.42 of the Code.**

Recommendation: This is a serious breach of the Code. The applicant summary must be based solely on information provided by each applicant during the appointment round and the selection panel's assessment of that applicant.

Ministerial Decision

- 9.27 On 21st May 2015 the Minister selected three candidates for appointment, and four candidates to be placed on a reserve list.
- 9.28 The four candidates placed on the reserve list, were informed of the decision by letter dated 22nd May 2015.
- 9.29 The three appointees were initially informed of the decision in a telephone call on 22nd May 2015; this was followed up with a letter on the same day.
- 9.30 This was the first correspondence with these candidates since the interviews in March and April 2015.

As previously set out in paragraphs 9.20 and 9.21 of this report this is a breach of the Code, failure to keep applicants informed of the progress of their application in a timely manner is a breach of the Code.

- 9.31 A formal letter of appointment issued to the successful candidates issued on 27th May 2015.

Announcing the Appointment

- 9.32 The Department announced the appointments on 1st June 2015 in a press release which fulfilled the requirements of the Code of Practice.

Summary of Recommendations

10.01 The Department must set out clear steps to achieve a strong and diverse applicant field particularly in terms of attracting women. This will include outreach to a wide range of women's groups. Previous difficulty in attracting a substantial number of women applicants as was the case for this Board means that the Department must take vigorous and imaginative action to attract a well balanced field of applicants.

In a Department's actions to address underrepresentation, CPA NI would expect to see careful consideration at every stage of the process including an assessment of the Application Form, with a user friendly focus and effective outreach efforts to encourage a more diverse group of applicants.²

There is a strong onus on Departments to develop effective diversity strategies at every stage of the process, instead of the minimalist approach adopted in this instance.

10.02 The Department must prepare a comprehensive procedure for keeping applicants informed of the progress and outcome of their applications.

10.03 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).

10.04 The Department must ensure that they have in place a predetermined mechanism for short-listing which is accurately explained in the Information Pack.

10.05 In future applicants should only be asked to provide one address for correspondence.

10.06 In future competitions the requirement to list details of previously held appointments should be removed.

10.07 The Department must ensure that this statement is removed from the general declaration for all future competitions.

10.08 The Department must ensure that in all future competitions, groups identified as being underrepresented on the public body are actively targeted as part of the outreach and publicity. CPA NI is very willing to assist Departments in their efforts although ultimately it is the Departments who are best placed to identify the appropriate communication strategies including targeting women's representative groups and encouraging applications.

10.09 Departments should be aware of the possibility that some applicants may address all the criteria despite being asked to choose one. Where this occurs the best approach is to select the first criterion response and ignore any others.

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when requesting a review of a selection panel's decision.

- 10.11 It is good practice for only the Chair of the selection panel to record the candidates' interview times. Alternatively a panel member may be elected to take on the time keeping role. Times recorded must be accurate and consistent.
- 10.12 The Department must ensure that all candidates are kept informed of the progress of their application.
- 10.13 To merely list a candidate's employment history without directly relating the experience to the criteria is poor practice. Employment history is out of keeping with a criteria based process, it also mitigates against improving the diversity on public boards.
- 10.14 The applicant summary must be based solely on information provided by each applicant during the appointment round and the selection panel's assessment of that applicant.