



The Commissioner
for Public Appointments
Northern Ireland

“Guardian of the Public Appointment Process”

AUDIT REPORT 2011 / 12

DHSSPS - Regulation and Quality Improvement Authority (RQIA)

May 2012

DEPARTMENT OF HEALTH, SOCIAL SERVICES AND PUBLIC SAFETY

REGULATION AND QUALITY IMPROVEMENT AUTHORITY (RQIA)

1 Introduction

- 1.1 The Commissioner for Public Appointments (Northern Ireland) Order 1995 requires the Commissioner 'to carry out an audit to review the policies and practices of Departments in making public appointments to establish whether the code of practice is being observed'. The Commissioner launched a new Code of Practice in February 2012.
- 1.2 A competition carried out by the Department of Health, Social Services and Public Safety (DHSSPS) was selected to be audited during the 2011/12 year. The main objective was to evaluate whether Ministerial appointments to the Regulation and Quality Improvement Authority (RQIA) were made in accordance with the Commissioner's 'Code of Practice for Ministerial Public Appointments in Northern Ireland' [the Code]. The Commissioner wrote to the Permanent Secretary informing him of his decision to carry out the audit and asking for all documentation relating to this competition.

What follows are the results of a stage by stage examination of the process used to make the appointments, using the Code as a guide.

2 Ministerial Authorisation and Planning

- 2.1 The Department consulted the Minister early in the planning stage of the appointment process. The submission requested Ministerial approval for all necessary aspects of the process, including the appointment timetable, panel members and the manner in which he preferred to have candidates suitable for appointment presented to him. It provided details of the necessary skills, knowledge and experience of the three posts that were to be filled, and the specific requirements for two specialist posts. The three posts to be filled were for one Lay, one Financial and one Legal member.
- 2.2 The Ministerial submission did not state the length of the appointment term, as is required in paragraph 3.5 of the Code.
- 2.3 **The Department should ensure that the length of the appointment term is provided in submissions to the Minister for future public appointments.**

- 2.4 Approval was provided by the Minister and he requested an alphabetical list (unranked) of candidates found suitable for appointment, upon which to make his decision.

3 Role and Specification

- 3.1 It was evident that the Department gave careful consideration to the selection criteria, by developing essential criteria for all candidates plus specific requirements for legal and financial candidates.

4 Under-Representation

- 4.1 Consideration of breadth/diversity and widening the potential pool of candidates was apparent. For example, in the case of the financial member, financial experience only was necessary, not formal qualifications, and for the legal member, length of experience was not required as this may have discriminated against newly appointed solicitors / barristers.

5 Selection Panel

- 5.1 Public Appointments Unit (PAU) contacted Central Appointments Unit (CAU) in OFMDFM at the outset of the process to acquire an Independent Assessor. The Chair of the panel was the Director of the branch within DHSSPS responsible for the sponsor control of RQIA, and the third panel member was the Chair of the RQIA. All panel members had received appropriate training and were involved in all aspects of the appointment process.

6 Publicity

- 6.1 The posts were advertised in three newspapers available throughout Northern Ireland in the week commencing 5 September 2011. To obtain maximum coverage and increase diversity, the Department issued the advertisement by letter to Disability Action, RNID, RNIB, the Law Society of Northern Ireland and the General Council of the Bar of N Ireland. It was available in alternative formats and all publicity carried the CPA NI logo.

7 Information Pack

- 7.1 The Information pack contained the requirements specified in the Code, including role profile and person specification, information about RQIA, information on the process including the Minister's request for an unranked list, and the planned dates for interview. A copy of the CPA NI Guidance on 'Complaint, Conflicts of Interest and Integrity' was included and also details of expenses to be reimbursed in relation to the selection process. A telephone number for potential applicants to obtain information about the appointment process and the progress of their application was also included.

8 Application Forms

- 8.1 The Code under paragraph 3.21 states that 'application forms must be clear and straightforward and should only ask what is truly required'. In this competition the forms were split into seven clear sections – personal information, specific post applied for, how applicant was informed of opportunity, monitoring information, suitability for appointment based on response to essential criteria, previous employment / voluntary work experience and previous and current public appointments.
- 8.2 The section relating to work experience required candidates to give specific dates of employment for the past ten years. It is recommended that this section is revisited for possible removal for future competitions.
- 8.3 **The Department should consider that if employment history is not part of the selection process then it is an unnecessary part of the application form.**
- 8.4 Disqualification criteria were included in the information pack. One candidate would have been disqualified but agreed to step down from the conflicting post if offered a post on the RQIA Board.

9 Closing Date

- 9.1 The closing time and date for the competition was 12.00 noon on Thursday 29 September 2011. All applicants received notification of their applications having been received by the Department. The time and date of receipt was noted by PAU and an annotation made to show that the monitoring form had been received and removed. There were no late applications.

10 Selection

- 10.1 The panel undertook all sift exercises. The Department wrote to the panel members to thank them for agreeing to be a member of the short-listing and interview panel. The letter outlined the next steps of the appointment process, and it confirmed the agreed panel dates for the advertisement, the individual assessment of applications and the panel short-listing meeting. It also explained the marking frame, minimum standard required, training requirements and the role of panel.
- 10.2 A summary of the selection panel short-listing meeting clearly shows the individual scores assigned to each criterion for each applicant by each of the three panel members. An agreed panel score is also recorded. Where panel member's scores differed, a discussion entailed to reconsider the evidence and arrive at an agreed score. Notes were kept of all deliberations. In advance of the short-listing, the panel agreed that each applicant was required to be awarded an agreed score of 4 or more in each criterion to be deemed to have reached the minimum 'acceptable' standard to go forward to

the next stage of the short-listing process. In the cases where applicants received a score of 3/6 a reason was given for the score.

- 10.3 The total number of expressions of interest received was 189, and the total number of applications received was 76. At Stage 1 of the short-listing process, the panel agreed that there were 27 applicants awarded 3 or below in one or more criterion and eliminated them from the competition at this stage. At Stage 2 of the process, the panel agreed that 49 applicants were awarded 4 or more in each criterion.
- 10.4 In order to apply a fair and proportionate approach the remaining 49 applicants were ranked in order of the scores awarded by the selection panel (this element of the short-listing was done without the names of applicants being presented to the panel). The Panel agreed that applicants who were awarded a score of 29+ across five essential criteria were invited for interview. In addition, applicants in the financial category were required to meet the minimum standard in that specific criterion and applicants for the legal category were required to be eligible to practice in Northern Ireland.
- 10.5 The rejection letter to candidates stated 'Due to the high number of applications received (76 in total) it was necessary to apply a proportionate approach in order to achieve a manageable number of applicants going through to the interview stage. As a result the standard set required applicants to be awarded an overall total score of 29 or above against five essential criteria in order to be invited for interview'.
- 10.6 It was not agreed prior to the short-listing process to restrict interviews to candidates who had scored 29 or more on their application.
- 10.7 **The Department should consider, in future competitions, the benefit of advising candidates in the information pack, that in the case of a high volume of applications a further score requirement may be introduced.**

11 Final Assessment

- 11.1 A formal interview was used as the method of final assessment to determine which applicants were suitable for appointment. Thirteen applicants were invited for interview. One applicant subsequently withdrew from the competition resulting in twelve attending for interview. The remaining 36 applicants were advised of the short-listing panel's decision. The interviews took place on 26 and 28 October 2011. Interviews were conducted in compliance with the requirements of the Code. Contemporaneous records were made of all twelve interviews and retained with each application. As in the short-listing assessment, in instances of panel score variances, an agreed panel score was awarded following panel discussion. This was noted in the interview assessment booklet.

12 Integrity and Potential Appointees

- 12.1 Correspondence to panel members explained that, in addition to the applicants being questioned on essential criteria, the panel must ensure that each applicant is fully aware of the standards of behaviour required of public appointees and can demonstrate his/her understanding of this issue. The panel must also ensure that conflicts of interest have been explained to, and explored fully and robustly with, each individual. It was evident from interview notes that the panel carried this out consistently.
- 12.2 The selection panel also discussed all real, perceived and potential conflicts between themselves and every applicant. Two panel members confirmed that they knew several applicants in either a personal or professional capacity. This was discussed at sift stage with details of their involvement recorded. The third panel member declared no conflicts of interest. In the summary of the selection panel short-listing meeting it is stated that 'There was a discussion among all panel members regarding declared applicants known to panel members. It was concluded unanimously that none of the cases warranted any special action.' This was signed and dated by all panel members on 12 October 2011.

13 Ministerial Submission / Decision

- 13.1 A submission was made to the Minister on 15 November 2011. The Minister had previously requested an unranked list of suitable appointees. The panel found eight applicants suitable for appointment. The submission indicated the category that the applicant had applied for, financial, legal or lay member, and the panel summary comments on their degree of suitability for each specific post, i.e. suited, well suited or outstanding. The submission also contained a pen picture for each of the eight successful applicants. The pen pictures provided a background to the candidate's employment and public appointment history. They did not contain a specific summary of the skills and attributes that the candidate would bring to the role.
- 13.2 **The Department should ensure that it complies with paragraph 3.42 of the Code which requires 'the applicant summary to provide the Minister with an objective analysis of each applicant's skills and experience, based on the information provided by each applicant during the appointment round and selection panel's assessment of that applicant'.**
- 13.3 In line with paragraph 3.44 of the Code, the selection panel members were informed of the Minister's final decision prior to publication.

14 Feedback

- 14.1 The Department had a process in place for dealing with feedback requests following the short-listing process and the final assessment process. The

Department received ten requests for feedback. Eight requests were made following the short-listing exercise. The scores were provided to all of the assessed candidates with their rejection letters. They were also advised that they had ten working days to request feedback. However, interviews took place before this ten day period elapsed. Verbal feedback was provided by the Chair of the panel to all applicants following the formal interviews. This is a breach of the Code and does not give candidates the opportunity to effectively challenge the panel's decision.

14.2 The Department should ensure their feedback procedures are compliant with paragraphs 3.47 and 3.48 of the Code.

14.3 Four candidates who requested feedback made the similar point that the marking summary narratives that described the scores within the framework were confusing. The panel Chair discussed and agreed with applicants that the wording and overall marking frame needed review.

14.4 The Department should review the marking framework. It should be in place for upcoming DHSSPS appointment competitions so as to provide clarity for potential candidates on the requirements of their application.

15 Announcing the Appointment

15.1 The Minister selected a candidate that the selection panel had deemed to be well suited as a legal member, one that was well suited as a financial member and the outstanding candidate at interview that the panel considered particularly well suited as lay member of the RQA Board.

15.2 The Department wrote to the successful candidates on 9 December 2011 to advise them of the Minister's decision. As stated, the skills and knowledge that the candidate would bring to the role were not included in the applicant summaries to the Minister. The Department contacted each of the three appointees prior to the issue of the press release to obtain this information, in order to comply with paragraph 3.49b of the Code.

15.3 A press release issued from the Department on 20 December 2011 which met the requirements of the Code. CPA NI received a copy of the press release at that time.

16 Overall Conclusions

16.1 The evidence provided overall demonstrates the Department complied with the Code in most respects. Action will be required to address the issues highlighted in the recommendations below. A follow up will be conducted by the Commissioner's office in due course.

17 Summary of Recommendations

- 17.1 The Department should ensure that the length of the appointment term is provided in submissions to the Minister for future public appointments.
- 17.2 The Department should consider that if employment history is not part of the selection process then it is an unnecessary part of the application form.
- 17.3 The Department should consider, in future competitions, the benefit of advising candidates in the information pack, that in the case of a high volume of applications a further score requirement may be introduced.
- 17.4 The Department should ensure that it complies with paragraph 3.42 of the Code which requires 'the applicant summary to provide the Minister with an objective analysis of each applicant's skills and experience, based on the information provided by each applicant during the appointment round and selection panel's assessment of that applicant'.
- 17.5 The Department should ensure their feedback procedures are compliant with paragraphs 3.47 and 3.48 of the Code.
- 17.6 The Department should review the marking framework. It should be in place for upcoming DHSSPS appointment competitions so as to provide clarity for potential candidates on the requirements of their application.