

DETI PUBLIC APPOINTMENTS POLICY



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INTRODUCTION

1. DETI is responsible for making board appointments to four executive NDPB's (Invest NI, NITB, HSENI & GCC NI).

The Commissioner for Public Appointments, Northern Ireland (CPANI)

2. The Commissioner for Public Appointments, Northern Ireland regulates and monitors departments' compliance with the Commissioner's Code of Practice on Public Appointments (The Code) and also provides advice to departments on departmental appointments procedures and investigates complaints.

Code of Practice

3. The Code sets out the regulatory framework for the public appointment process and is based upon the seven principles, as recommended by the Committee on Standards in Public Life. The Code sets out the principles and practices which the Commissioner requires government departments to adopt. It provides departments with a clear and concise guide to the steps they must follow in order to ensure a fair, open and transparent appointments process

The Central Appointments Unit (CAU), OFMDFM

4. CAU has a central policy responsibility for public appointments which centres around encouraging best practice across departments, and the publication of an annual report which lists and analyses public appointments made by departments. The Unit also produces on a regular basis a list of forthcoming vacancies which it issues to interested individuals/groups and advertises it in the local newspapers and on its website.

CAU Best Practice Guidance

5. This guidance focuses on public appointment policy and the roles and responsibilities of those involved in making public appointments. It does not create any new rules, nor does it change the existing, mandatory guidance ie the Code.

Within DETI

6. The Department adheres to the CPANI Code of Practice when making its NDPB Board appointments. It has also given an undertaking to the Public Accounts Committee that it will make compliance with the Code a condition of future offers of funding to Third Party Organisations (TPOs). This is, however, subject, to considerations of practicality and proportionality. The majority of the Code is concerned with the public appointments process and will not be relevant to every TPO. However, "Probity and Conflicts of Interest" will be applicable to all TPO board members (and members of the key management team). Offers of funding to new TPOs and future offers of funding to existing TPOs contain a condition that the TPO will comply with the Code.
7. Like all other departments, DETI is committed to the principles of public appointments based on merit with independent assessment, openness and transparency of process. We recognise the importance of attracting all sections of society to ensure the best and most appropriate people are appointed to our

public bodies. We advertise all our public appointment vacancies.

8. DETI is committed to equality of opportunity and welcomes application forms from all suitably qualified applicants irrespective of religious belief, gender, disability, race, political opinion, age, marital status, sexual orientation or whether or not they have dependants.
9. The Department has a dedicated Public Appointments Unit (PAU) in order to increase the efficiency of the appointments/ reappointments process and to ensure compliance with the Code.
10. DETI PAU has three members of staff who report to the G7, Head of DETI Central Management Branch. DETI PAU is responsible for DETI policy in relation to public appointments, for the delivery of key administrative tasks and for monitoring and providing support to sponsor branches. PAU acts as a central source of advice and guidance within the Department on all aspects of public appointments. PAU also deals with issues such as annual statistics, briefing and provision of material to senior management, the Minister, CPANI and CAU.
11. The risk associated with public appointments described as "Failure to follow CPANI procedures in relation to Public Appointments" is recorded in the Department's Risk Register and is reviewed quarterly. The impact of the risk is deemed to be 'high' but the likelihood of this occurring is deemed to be 'low'.
12. This document is the Department's own policy document which supplements the Code and CAU's Best Practice Guidance. It sets out policy and procedures which are particular to the Department. It should be read in conjunction with and reviewed against the Commissioner's current Code and CAU's Best Practice Guidance.

DIVERSITY

13. The Commissioner for Public Appointments requires departments to adhere to equal opportunities principles in the public appointments process and apply the standards required by law, which would include Sex Discrimination, Fair Employment and Race Relations legislation. PAU must ensure that candidates are not subject to either direct or indirect discrimination in the appointments process.
14. In an effort to obtain as wide a field of candidates as possible, all DETI Ministerial public appointments will be advertised. All advertisements and information packs will include the Departments' Equality Opportunities Statement as follows:-

The Department is committed to the principles of public appointments based on merit with independent assessment, openness and transparency of process. The Department is also committed to equality of opportunity and welcomes application forms from all suitably qualified applicants irrespective of religious belief, gender, race, political opinion, age, disability, marital status, sexual orientation, or whether or not they have dependants.

15. PAU will ensure that the person specification does not contain unnecessary requirements that might discourage or eliminate applications.

16. The Department is committed to increasing the number of candidates from under-represented groups on its public bodies. In the interests of diversity, and bearing in mind the principle of proportionality, PAU will respond to requests for competition material on audio tapes, in Braille, or in large print etc.

Application Forms

17. PAU will provide advice on criteria-based selection with all application forms issued.
18. Details of 'Qualifications' or 'Additional Information' will not be requested unless relevant to a particular post. To assist applicants with a visual impairment, font sizes 12 and above will be permitted, although there will be a limit of 400 words per criterion. Any information supplied over and above this limit will be disregarded.
19. To ensure that documentation remains consistent throughout the competition, PAU will pay particular attention to this aspect eg ensure that wording of criteria is the same between the advert, the information pack and the application form.

Short-Term Working Group on Diversity

20. In July 2005, the Office of the Commissioner for Public Appointments for Northern Ireland published the Report of the Short Term Working Group on Diversity in Public Appointments. The recommendations and examples of actions identified in the report are attached at **Annex A**. PAU will endeavour to take whatever action, resources permitting, to carry out as many of the recommendations as possible.
21. PAU will continue to contribute to CAU's six-monthly list of public appointments 'All Aboard'.

"Interested Lists"

22. PAU will maintain a register of individuals or organisations who have expressed an interest in serving on the Department's public bodies. PAU will send advance notification of upcoming competitions to all concerned. The Northern Ireland Local Government Association (NILGA) has been added to the register as a result of an undertaking made by Minister Arlene Foster in November 2008. The "Interested Lists" will be reviewed at least every two years.

External Consultants

23. Sponsor Branches are responsible for deciding when and how to fund an executive search eg in the case of a high profile vacancy or where an "expert" is required. If external consultants are used, PAU will ensure that the requirements of the Code are adhered to.

TIMETABLES

24. A timetable of vacancies/reappointments for 12 months ahead is updated and reviewed monthly by PAU. In this way PAU ensures that appointment processes are initiated 8 – 9 months in advance in conjunction with the relevant Sponsor Branch.

25. At the outset of each appointment/reappointment process, PAU will agree a timetable with the Sponsor Branch, which will take account of potential delays, together with roles and responsibilities. The appointments timetable will show all of the major steps involved in a typical appointments exercise, a sample of which appears at **Annex B**. PAU will review the timetable with the Sponsor Branch regularly throughout the process.

Appointment Plan

26. For each new competition, PAU will provide a draft Appointment Plan. The Plan will record key decisions and outcomes as the process progresses. Selection panel members will be provided with the latest version at the planning, sift and interview stages.

LATE APPLICATIONS

27. For each competition, the Sponsor Branch and PAU will have agreed a closing date, which will have been specified in the advertisement. In the interests of consistency of practice, it is important that the Department adopts a uniform approach in the handling of late applications, which are received outside the closing date of the competition. PAU will use a spreadsheet to record the date and time of receipt of completed application forms to ensure late applications can be clearly identified.
28. The policy of the Department is that applications must be received by the time and date stated in the publicity material. Late applications are generally not accepted unless the Department believes there are extenuating reasons for doing so.
29. Applications may be received in a number of different ways, for example they may be submitted:
- by post;
 - on-line;
 - by fax; or
 - hand delivered.
30. Applicants who send their application form electronically are also required to meet the closing deadline for receipt in PAU. The time of receipt will be defined by the Department's server, not the time and date sent.
31. Applicants who send their application form electronically or by fax will be required to sign a hard copy of their form, if invited to interview.
32. It is the responsibility of the applicant, taking into account their chosen method of delivery, to ensure that sufficient time is allowed for their application to arrive with the Department on or before the publicised deadline.
33. In some circumstances, for example, a postal strike or other disruption to the postal system, the Department may decide to extend the publicised closing date for receipt of completed applications. The Commissioner's approval to any such extension will be sought.

34. Handling late applications requires officials to exercise a degree of judgement. The Department will reject those where it appears there is no good reason for the delay. It is not sufficient for an applicant to simply state that an unforeseen circumstance delayed submission of their application. While the reasons for late submission may sometimes be personal in nature, an objective evaluation of their merit requires that some details be provided. Specific information about the timing and nature of the cause of the delay will be necessary so that an informed decision can be made.
35. The Department may accept a late application if it appears that the applicant took reasonable steps to submit it in good time. An application will not be considered to be late if it appears or can be proven that the delay was caused by that the Departments own systems, for example:
- applications received in a post room before the closing date but are not delivered to the office managing the appointments process until after the closing date; or
 - applications received electronically before the closing date but because of a delay at the Department's server are not delivered until after the closing date.
36. Late applications that are accepted will be considered alongside those applications received before the closing date.
37. Decisions on the acceptance or otherwise of a late application, will be made by the Head of Public Appointments Unit. Applicants whose applications have been rejected on the grounds that they were late may appeal the decision. The interview panel will be asked to consider any appeals.

Electronic Application Forms

38. DETI's policy is to make application packs available for download from the Department's website. PAU will accept a name at the bottom of an email or a scanned signature as authentication. The time of receipt will be defined by the Department's server, not the time and date sent.
39. Applicants who send their application form electronically or by fax will be asked to sign a hard copy of their form, if invited to interview.

Screening of Application Forms

40. Formal screening of application forms received will take place after the closing deadline has passed. This policy will ensure that all candidates are treated equally with those who submit incomplete forms early in an advertising period not receiving any advantage over incomplete forms received closer to the closing date. Applications with one or more incomplete criteria will not be progressed further and the relevant applicants will be informed that valid applications have not been received from them.

Monitoring Forms

41. Applicants who have not completed the monitoring form ie failed to submit a form or submitted an incomplete form, will be given a second opportunity to do so.

SELECTION PANELS

42. PAU will be responsible for securing an independent panel member for each competition. The purpose of the independent member will be to assist in the task of making effective public appointments that comply with the principle of selection on merit. The independent member will play a full, visible and active part in the selection process, which will include the scrutiny of competition material, shortlisting, interviewing and assessment of candidates. Participation of an independent member will provide an assurance that proposed appointees have been scrutinised and found to be suitable by a panel whose advice included an independent element. When sourcing an independent member, PAU will check the individual's background, as far as is practical, to ensure there are no conflicts of interest. This will be corroborated with the individual before securing their services. PAU will actively seek to vary the individuals used in order to maximise their independence. The Sponsor Branch will be charged with securing the remaining panel members. These will normally be:-

- an official from the Department, (Deputy Secretary or Head of Division) who has a good knowledge of the work of the public body and who has been involved in establishing the criteria for the post. This member will Chair the panel; and
- a representative from the public body involved (Chair or Deputy Chair), who has a detailed working knowledge of the remit of the body, its demands and the qualities that would be advantageous in a new member. If, for substantive reasons, it is not appropriate to include a representative from the body, the Department will substitute another departmental official.

43. The Sponsor Branch is responsible for ensuring, as far as possible, that panels are balanced in terms of community background and gender.

44. A member of staff from PAU will act purely as Secretary to the Sift Panel to provide advice and record decisions taken.

SIFT PROCESS (SHORT-LISTING)

45. PAU will convene a "Competition Initiation Meeting" with selection panel members at the beginning of a competition, to examine the proposed selection criteria. The panel will be asked to discuss and agree on the interpretation of individual criteria. Draft performance indicators will be provided for agreement on what applicants will be assessed against.

46. The selection panel will also be asked to agree a marking frame for the performance indicators. The recording of comments to substantiate all decisions made, will be emphasised to participants.

47. Where there are discrepancies in individual scores, a record will be made of the discussions and the rationale which supports the agreed final score.

48. The Department will abide by the Independent Panel Member's recommendations with regards to anonymising the short-listing process or not.

49. PAU, where practical, will arrange for selection panels to carry out the entire short-listing process. The objective of a Sift Panel is to determine which applications fully meet the essential criteria. If this generates too large a field of

candidates for interview then the Panel will also examine the applications against the desirable criteria.

50. In preparation for the meeting, PAU will ask panel members to complete an individual assessment per criterion, per applicant. The guidance supplied will remind panel members that all decisions, including those to reject, must be fully documented. Following discussion at the meeting, the Secretary to the Panel will record the agreed panel's assessment per criterion, per applicant.

Feedback

51. PAU will provide those applicants sifted out with meaningful feedback, based on the agreed panel's assessment, in order to encourage them to apply for future board positions.

Re-assessment Process

52. In public appointment terms there is no right of appeal against decisions made by selection panels. Appeals by their nature tend to involve a review of processes or decisions by a person or body different from that which took the decision complained of and this is not possible in relation to decisions taken by selection panels. However, in the absence of a right of appeal, a selection panel can be asked to re-assess their decision to omit an applicant from the short-list for interview.
53. Applicants who wish to contest the decision not to shortlist them for interview will be advised to write to/email the Head of DETI's PAU within 10 working days of receipt of their feedback letter, setting out their reasons for contesting the decision. This time limit is adjustable at panel's discretion eg if the regrets letters where to issue during a holiday period.
54. If the Department is satisfied with the applicant's reasons for contesting the panel's decision the application will be referred back to the selection panel for re-assessment. If the applicant has highlighted information contained in his or her original application form that is relevant to the decision not to shortlist, this information will be brought to the panel's attention. However, it would not be fair to introduce new information that was not in the original application and information of this nature will not be put in front of the panel.
55. The outcome of the re-assessment will be recorded and communicated to the applicant. If the panel overturns their original decision and decides that the applicant should be shortlisted, then the Department will arrange for the applicant to be called for interview.

COMPLAINTS

56. Applicants will be advised to put their complaints in writing, in the first instance, to the Permanent Secretary. If however, the Permanent Secretary is a member of the selection panel, all applicants will be directed to write to another senior official (either Grade 5 or Grade 3), unconnected to the actual selection process. The complainant's letter will be acknowledged within 3 working days of receipt and a substantive response made within 10 working days of receipt. If the individual remains dissatisfied, they will be directed to write to the Commissioner for Public

Appointments for NI. A copy of the CPANI complaints procedure leaflet will be enclosed in all information packs.

CANDIDATE'S EXPENSES

57. CPANI recommends reimbursement of travelling expenses to ensure equality for candidates and remove any barriers to low income/unemployed candidates from attending interview. The Department has agreed the following policy:-

- applicants invited for interview are eligible for reimbursement of reasonable travelling expenses, incurred within the UK/ROI only;
- Mileage - The Public Transport Rate of Mileage will be paid;
- Other expenses such as Buses, Trains, or Taxis will be paid only in respect of actuals;
- Loss of earnings not be reimbursed;
- Subsistence Allowance - Day subsistence will not be paid. Overnight subsistence (at NICS rates) may be paid depending on the circumstances and is limited to one night. (This issue might arise in the case of a candidate coming to Northern Ireland from the mainland or from the ROI);
- Car parking - Suitable car parking facilities will be provided at Netherleigh. However, if only public (chargeable) parking is available we shall reimburse on ticketed receipt;
- Air Fares - We will refund on the basis of the most economical air fare available.

58. With Finance Branch agreement, Sponsor Branches are asked to meet claims from surplus funds within their existing budgets. A copy of the claim form is attached at **Annex C**. All completed claim forms will be date stamped on receipt in PAU, (Valid Invoice Date), and checked and countersigned by the AO to confirm attendance and accuracy of amount claimed. The EOI will approve for payment and send to the Sponsor Branch concerned to process the payment. Copies of all paperwork will be kept by both PAU and the Sponsor Branch for the audit trail.

PERFORMANCE ASSESSMENT OF APPOINTEES

59. Performance assessments of Chairpersons (by Sponsor Branch Grade 3 or 5) and Members (by Chairperson) will be carried out annually. PAU is responsible for initiating the annual performance process and for holding the completed proforma in one central point on behalf of the Department. On completion of the process, PAU provides a summary report to the Permanent Secretary so that effective completion is monitored.

60. It is the responsibility of Sponsor Branches to have procedures in place to address unsatisfactory performance including the removal of individuals where circumstances make it necessary to do so.

Basis of Assessment

61. A standardised assessment form will be completed (**Annex D**) and will cover the following aspects:-

- attendance levels at meetings and committees;
- leadership skills (Chair specific)

- teamwork
 - communications
 - constructive challenge
 - strategic thinking
 - analytical & effective decision making skills
62. PAU will review the pro-forma annually to take into account all best practice advice with regard to Probity & Conflict of Interest.
63. Nigel Hamilton wrote to departments in July 2006 to emphasise the importance of the annual performance appraisal process in corporate governance. Quote – *“Board members have a critical role to play and it is our responsibility to ensure that they carry out their responsibilities in an efficient and effective manner.”*
64. The model Letter of Appointment now highlights that an unsatisfactory appraisal report may lead to dismissal from the Board, and it allows for the termination of appointment in the event of an individual being considered unfit or incapable of performing their duties.

The Process

65. Sponsor Branch completes Part 1 (**Annex D**) of the proforma in respect of each Chair/member; the Assessor (reporting officer) copies Part 1 and Part 2 (blank) to the individual and sets up a meeting; the individual considers his/her contribution under each of the headings and Assessor and individual meet to discuss and agree the detail of Part 2.
66. All sections must be completed and appropriate supporting comments and examples provided, as these assessments will be used as part of the re-appointments process. Where shortcomings are evident, they should be approached in a positive way, with the initial emphasis on identifying development needs. The Assessor must give details of areas for further development or training identified during this assessment. The Assessor and the individual sign-off the proforma
67. The Assessor should consult with the Endorsing Officer at a mutually agreeable stage prior to the completion of the process. This can be in advance of the Assessor meeting with the individual or it can be after the individual has been interviewed. The Endorsing Officer’s role is to review the assessment and raise any concerns with the Assessor before signing-off and submitting to DETI’s Public Appointments Unit
68. The information contained in performance appraisals may be shared with other departments, in line with their policy on the use of references when making appointments.

PROBITY/PERFORMANCE CHECKS

69. PAU will consult CAU's database to confirm which candidates have a current or previous public appointment. PAU will then liaise with other departments, as appropriate, to enquire about any probity, conflict of interest or performance issues. Confirmation of satisfactory performances will be given to the Sponsor Branches, **post interview**, for reference by them in final Ministerial submissions. Any adverse information will be passed to the Sponsor Branch who will have

responsibility for taking such information into account and advising the Minister before a new appointment is made.

70. When making appointments to companies limited by guarantee, PAU will do a name check (in advance of the sift/short-listing process) against Companies Registry "Register of Disqualified Directors", (www.detini.gov.uk). Any applicants found to be disqualified from being a Company Director will automatically be disqualified from the competition and advised in writing.

INTERVIEWS

71. PAU will arrange for the selection panel to attend a pre-interview meeting to discuss and agree the structure of the interview, questions, scoring mechanism and performance indicators. A draft Interview Booklet will be provided, (see **Annex E**).
72. The Sponsor Branch is responsible for providing the draft questions and performance indicators, based on the essential criteria. PAU will provide the panel with all relevant interview papers and marking grids.
73. The interview starts from the premise that all the short-listed candidates have demonstrated that they meet all of the essential criteria and now have the opportunity to demonstrate in interview how they can better meet the demands of the post.
74. Panel members will be reminded of the importance of taking their own notes to substantiate their own decisions and scores and to record the reason(s) for any alterations to their initial markings and to initial any such changes. The documentary evidence must show that all candidates have been asked the same questions about their interests and experience and that the interview process has been fair to all.
75. The Chairperson of the selection panel is also responsible for exploring potential conflicts of interest with candidates and for ensuring that candidates meet the standards required by the principles of probity.
76. PAU will check to ensure that the paperwork is fully complete and has been signed by the Panel and that the candidate's suitability or otherwise has been clearly indicated.

Feedback

77. PAU will provide those candidates who failed to meet the criteria at interview with meaningful feedback, on request.

PRESS RELEASES

78. The Sponsor Branch is responsible for preparing the main body of the Press Release which must be approved by the Minister before issue. The DETI Press Office shall not process and issue any public appointment press release unless they have received a statement from the Head of PAU or a Deputy that all of the relevant information referred to in the CPANI Code of Practice paragraph 3.49 has been supplied.