

An Coimisiún um Cheapacháin Seirbhíse Poiblí
Commission for Public Service Appointments

CODE OF PRACTICE
ATYPICAL APPOINTMENTS
TO POSITIONS IN THE CIVIL
SERVICE AND CERTAIN
PUBLIC BODIES

MERIT

BEST PRACTICE

PROBITY

ACCOUNTABILITY

CONSISTENCY



An Coimisiún
um Cheapacháin
Seirbhíse Poiblí
Commission
for Public Service
Appointments

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FOREWORD

Recruitment to all positions within the remit of the Public Service Management (Recruitment and Appointments) Act 2004 is subject to Codes of Practice published by the Commission for Public Service Appointments. These prescribe the necessary standards of probity, merit, equity and fairness to be applied by all those carrying out recruitment under the terms of the Act, and set out requirements in relation to the conduct of candidates in the selection process, thereby ensuring that a standardised approach to recruitment is adopted. The Commission accepts that recruitment practices need to be able to evolve to keep abreast of good practice in every sense, and does not wish to limit such scope by prescribing a fixed process for recruitment. As such, the dynamic nature of recruitment systems is acknowledged and indeed encouraged.

The Commission accepts that it may be necessary from time to time for Civil Service office holders to make appointments to specific positions in the Civil Service where (i) the appointment necessitates the regrading of a person from the grade in which he/she is currently serving to another grade at an equivalent level, or (ii) it is deemed appropriate that the selection process be confined to unestablished civil servants.

The Commission also accepts that it may be necessary, where standard recruitment and selection approaches may not be appropriate to meet critical short-term needs, for Civil Service office holders, and office holders of other public bodies subject to its remit, to assign a specific serving civil servant or public servant, as appropriate, to higher duties on a temporary basis for a defined short-term period to address such needs.

Appointment processes for appointment to positions as set out at (i) and (ii) in paragraph 2 above, and to which this Code of Practice applies, shall, unless the Commission decides otherwise, be carried out by the Chief Executive of the Public Appointments Service.

Appointment processes for appointment to positions as set out at paragraph 3 above, and to which this Code of Practice applies, shall be carried out by the relevant office holder.



“The Commission has a statutory role to ensure that appointments in the organisations subject to its remit are **made on merit** and as the result of **fair and transparent** appointment processes.”

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SECTION 1

INTRODUCTION

1.1 The Commission for Public Service Appointments

The Commission for Public Service Appointments (Commission) is an independent body. The mandate for the Commission is set out in the Public Service Management (Recruitment and Appointments) Act 2004 (the Act).

The Commission consists of five ex-officio members (Commissioners):

- Chairperson of Dáil Éireann (An Ceann Comhairle)
- Secretary General to the Government
- Secretary General, Public Service Management and Development, Department of Finance
- Chairperson, Standards in Public Office Commission
- Ombudsman.

1.2 What is the Commission's statutory remit?

The Public Service Management (Recruitment and Appointments) Act 2004 governs appointments to positions in the Civil Service, An Garda Síochána, the Health Service Executive, the Health Information and Quality Authority, any other public body to which the application of the Act has been extended by order of the Minister for Finance, and to those positions in the local authorities and vocational education committees to which the Local Authorities (Officers and Employees) Act, 1926 applies.

The purpose of the Act is to provide a modern and efficient framework for public service recruitment that allows for increased flexibility while maintaining high standards of probity and fairness. It provides the Commission with responsibility for establishing and safeguarding standards in the recruitment and selection of appointees as well as the powers necessary to enforce those standards, which include the power to amend the terms of a recruitment licence issued to a public body, or to revoke the licence in extreme cases, but which do not include the power to alter a recruitment decision once made.

The standards established by the Commission must be made publicly available in Codes of Practice and must be observed by office holders.

1.3 What does the Commission do?

The Commission establishes standards of probity, merit, equity and fairness to be observed in the appointment of persons to positions in the bodies subject to its remit.

The Commission discharges its responsibilities by:

- Publishing and maintaining Codes of Practice which set out the standards to be observed in relation to appointments in the public service
- Auditing and evaluating recruitment policies and practices to safeguard these standards and to establish whether or not its Codes of Practice are being observed

- Granting recruitment licences and revoking same where necessary
- Issuing instructions and advices to licence holders
- Establishing and setting down appropriate appeal procedures
- Reporting to the Oireachtas and the government, and providing information to ministers on the operation of recruitment and selection processes
- Carrying out its powers and duties under the Act.

The Commission has responsibility for the protection of the public interest in relation to recruitment and selection matters and uses its audit function to ensure that those operating its Codes are at all times committed to the principles set out in them.

The Commission contributes to the development of an effective and impartial public service by carrying out the duties imposed on it by the Act. It provides an assurance to the public that appointments are made on merit. This means that office holders select, from those candidates available, the best person for the job for the purpose of ensuring, as far as reasonably possible, that the duties of the job will be carried out as effectively as possible.

1.4 What are the Commission's Codes of Practice?

The Codes of Practice set out the Commission's core recruitment and selection principles and inform their interpretation and application. These standards must be observed by all those involved in the appointment processes under the Commission's remit. This principle-based approach is intended to maintain and enhance consistency, fairness, transparency, accountability and diversity in recruitment practices. As such, the Codes reflect the Commission's responsibilities with regard to protecting the public interest.

The Codes provide office holders with a clear and concise guide to the approach they must take to ensure a fair, open and transparent appointment process that produces a quality outcome and commands public confidence. They are intended to contribute to the development of best practice in the field of recruitment and selection.

The Codes provide a flexible framework based on the Commission's recruitment principles. They recognise that office holders require flexibility to deal efficiently and effectively with the diverse range of appointments they make. Accordingly, the Codes enable office holders to adopt strategies and develop processes to implement the principles effectively. All appointments made under each Code must also comply with relevant employment and equality legislation.

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Each Code also sets out the procedure in relation to requests for review and cases of failure to comply with any provision of that Code.

the appointment is greater than six months the Commission must be notified of the particular reasons for this extended period of appointment.

1.5 When does this Code apply?

1.5.1 This Code applies to appointments where (i) the appointment necessitates the regrading of a serving civil servant from the grade in which he/she is currently serving to another grade at an equivalent level, or (ii) it is deemed appropriate that the selection process be confined to unestablished civil servants. The sanction of the Minister for Finance for the making of such appointments shall be required in advance of the commencement of such appointment processes, which, unless the Commission decides otherwise, will be carried out by the licence holder.¹

1.5.2 This Code also applies to an appointment process where standard recruitment and selection approaches may not be appropriate to meet critical short-term needs and it is necessary to assign a specific serving civil servant or public servant to higher duties on a temporary basis for a defined short-term period to address such needs. Office holders who make such appointments under the terms of this Code of Practice must provide details of the appointment to the Commission. In addition, if the term of

1.6 Structure of this Code

This Code of Practice details the core principles of probity, equity and fairness, selection based on merit, and best practice, which should be applied to all recruitment processes. The Code, originally developed in 2006 and subsequently reviewed and refined in 2007 to take account of observations from office holders and the general public alike, reflects a changing work and social environment, the different business needs that this has placed on those operating the Code, and the consequent necessity for flexibility, subject to the principles, in recruitment practices. The main body of the Code is arranged as follows:

Section 2: Definitions and interpretations of each of the Code principles in relation to the appointment process

Section 3: Details of how the audit function of the Commission operates

Section 4: Details of responsibility for the application of the principles

Section 5: Details of the obligations placed on candidates

Section 6: Details regarding investigations by the Commission

Section 7: The procedure for processing requests for review made to an office holder

¹ Chief Executive of the Public Appointments Service or other licence holder with the prior consent of the Commission.

Section 8: The procedure to be followed by the office holder and by the Commission in reviewing allegations of failure to comply with this Code of Practice

Section 9: An outline of ministerial responsibilities.

In addition, appendices offer further details on positions for which this Code is not applicable and definitions of the terms used in this Code.

1.7 Monitoring the application of the Codes

Section 13 of the Act provides that the Commission may audit recruitment and selection policies and practices in order to evaluate and safeguard the standards established in its Codes of Practice.

The audit function is a key mechanism to ensure adherence to the principles set out in each Code of Practice. Audit programmes are carried out periodically to determine how the principles are being interpreted and applied. Audits may also focus on issues of particular interest or concern to the Commission (see section 3).

1.8 Further advice

Advice and information regarding the content and interpretation of the Commission's Codes of Practice are available from the Director at the Office of the Commission for Public Service Appointments, or such officer(s) as may be nominated by the Director.

PRINCIPLE 1

2.1 Probity

A key objective of the Commission is to ensure acceptable standards of probity in all appointment processes. The principles established by the Commission in this Code of Practice are underpinned by the core values that define probity such as integrity, impartiality, fairness, reliability and ethical conduct. The Commission is concerned to nurture a values-based culture of trust, fairness, transparency and respect for all, and to ensure that probity standards are subject to consistent, rigorous oversight through its audit function. Office holders must be committed to these values and must ensure that all aspects of the appointment process are managed ethically.

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Examples of this principle in practice include:

Code of Practice

- Compliance with the terms of this Code of Practice and any other guidelines issued by the Commission.

Recruitment licence

- Adherence to the terms and conditions of the recruitment licence.

Respecting confidentiality

- The treatment of applications in strict confidence, subject to the provisions of the Freedom of Information Acts 1997 and 2003 and any other provisions that have been clearly identified in the published documentation.

Legislative requirements

- Compliance with relevant legislation, including the Public Service Management (Recruitment and Appointments) Act 2004, Employment Equality Acts 1998 and 2004, Disability Act 2005, Official Languages Act 2003, Data Protection Acts 1988 and 2003 and Freedom of Information Acts 1997 and 2003.
- Compliance with the Code of Practice for the Employment of People with Disabilities, published by the Department of Finance.

PRINCIPLE 2

2.2 Appointments made on merit

Appointment on merit means the appointment of the best person for any given post through a transparent, competitive recruitment process where the criteria for judging suitability of candidates can be related directly to the qualifications, attributes and skills required to fulfil the duties and responsibilities of the post. This fundamentally fair and just approach to dealing with applicants results in the selection of individuals whose competencies, abilities, experience and qualities best match the needs of the organisation in question. Merit is therefore an integral principle which must underpin all appointment practices.

Throughout any merit-based process, it is essential to ensure that the selection process does not provide unjustifiable advantage or disadvantage to any particular candidate or group of candidates. The selection process should embrace genuine equality of opportunity, and this should be integral to the processes by which appointments are made.

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Examples of this principle in practice include:

Reaching potential applicants

- Ensuring that all potentially eligible candidates are made aware of the process. (This does not apply in the case of appointments made as set out at 1.5.2 of this Code.)

Job and person specifications/competency framework

- Job specifications/competency role profiles identify relevant criteria against which candidates can be measured throughout the selection process and can be justified in accordance with relevant legislation.
- Person specifications are related accurately and precisely to the duties of the post.

Selection process

- A high-quality selection process based on the skills and qualities relevant to the post.
- Job and person specifications/competency profiles are reflected consistently throughout the selection process.
- Criteria for selection are based on the essential requirements of the post, promoting the principle of equality of opportunity.
- An active focus on ensuring that adverse impact issues are considered and addressed in advance of recruitment campaigns.
- Appointment processes are monitored and evaluated, and positive solutions are found to tackle any matters arising.
- Clear decisions are made regarding the approach to be adopted in any recruitment

campaign, and explicit consideration is given to opportunities and/or measures to promote (or remove possible barriers to) equality of opportunity, as part of the planning of a selection process.

Assessment mechanisms

- Assessment mechanisms facilitate the identification and selection of the person or persons who best match the requirements of the post.
- Applications are considered on the basis of abilities, qualifications and suitability for the post in question.

Eligibility sift

- Adequate checks are in place to ensure that a candidate meets the eligibility requirements before an offer of appointment is made.
- Only candidates who fulfil the eligibility criteria and who have successfully completed the selection process (including compliance with this Code of Practice) are deemed eligible for appointment.
- Candidates who do not satisfy the eligibility criteria are disqualified from the process and notified accordingly.

Appointments

- Appointments are made following a competitive, merit-based selection process in which all candidates have been treated equally at each stage. Merit relates to the abilities, experience and qualities of individuals who best meet the requirements of the particular job.

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- Information on the approach that will be adopted to determine the order of merit is communicated to candidates at the outset.
- The criteria on which selection decisions will be made are identified in advance.
- Decisions taken throughout the selection process are based on the qualifications, attributes and skills necessary to undertake the duties and fulfil the responsibilities of the post to the required standard.
- At the final stage, candidates who meet the required standard for the job are placed in order of merit and considered for appointment in that order.

PRINCIPLE 3

2.3 An appointment process in line with best practice

All appointment processes should be efficient, cost-effective and in line with best practice. Best practice extends to all aspects of the appointment process, including defining job and person specifications, marketing the vacancy and selecting appropriate assessment mechanisms. It also includes providing training and supporting management arrangements to ensure the creation and maintenance of appropriate records.

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Examples of this principle in practice include:

Determination of job criteria

- Requirements are not unduly restrictive and reflect what is necessary to perform the duties of the position. Non-essential requirements, which could have the effect of excluding persons with disabilities, should not be specified.
- Desirable criteria, where identified, are not regarded as a prerequisite for the job.
- Terms and conditions, eligibility criteria and the use and knowledge of the Irish language are agreed with the appropriate minister at the outset, in accordance with the requirements of the job and/or any statutory requirements.

Language proficiency

- Provision in relation to the award of additional credit for proficiency in both the English and Irish languages is made in line with government policy, in accordance with the requirements of the job and/or any statutory requirements.

Job and person specifications

- The job specification and person specification, being the foundation of the selection process, are considered and endorsed at an appropriate senior level within the employing organisation in advance of commencing the process.
- Substantive elements of the job and person specifications are consistently reflected throughout the selection process.
- A well-thought-through approach to recruitment is evident with a real focus on the requirements of the job and the skills needed.

- Appropriate measures are taken in relation to flexibilities which might be employed to facilitate persons with a disability.

Reaching potential applicants

- Ensuring that all potentially eligible candidates are made aware of the process. (This does not apply in the case of appointments made as set out at 1.5.2 of this Code.)

Application process

- All reasonable efforts are made to provide an application process which is accessible to all candidates.

Documentation

- Accurate, sufficient and appropriate documentation is issued to candidates, including information on how to access this Code of Practice and in particular information in relation to review procedures as outlined in sections 7 and 8 of this Code.
- Fully documented records, which clearly support each stage of the process, are retained, including notes of interviews.
- Documentation supporting assessment stages of the process reflects the selection criteria.
- Documentation and information on its use, which are open to audit by the Commission, can be retrieved and accessed.
- Documentation sets out, in line with the requirements of the Act, the specific criteria candidates are obliged to fulfil, i.e. they must:

- ◆ have the knowledge and ability to discharge the duties of the post concerned
 - ◆ be suitable on the grounds of character
 - ◆ be suitable in all other relevant respects for appointment to the post concerned;
- and if successful, they will not be appointed to the post unless they:
- ◆ agree to undertake the duties attached to the post and accept the conditions under which the duties are, or may be required to be, performed
 - ◆ are fully competent and available to undertake, and fully capable of undertaking, the duties attached to the position.

Assessment mechanisms

- Assessment mechanisms are used in line with best practice.
- Assessment processes are appropriate to the selection criteria.
- Selection processes are underpinned by objectively written and effective job and person specifications, focusing on the purpose of the job, its main accountabilities and the essential skills needed to perform the job effectively.
- Selection processes consist only of properly validated selection tools and techniques.
- Written tests, where they are used as part of the selection process, are job related.
- All reasonable efforts are made to accommodate candidates, with no unnecessary obstacles placed in their way.
- Enhanced facilities and equipment are provided as necessary to enable candidates to perform to their optimum.

Shortlisting

- An appropriate means of shortlisting is employed (where shortlisting exercises are carried out).

Management systems and administration

- Effective management systems are in place.
- Controls are in place to ensure that appropriate processes are adopted and delivered.
- Measures are in place to ensure that policies and practices comply with the Code of Practice.
- The effectiveness of assessment processes is reviewed and evaluated regularly.

Training

- All selection practitioners fully understand their role and have the necessary skills to discharge their responsibilities.
- Training is delivered on a timely basis and is appropriate to the specific assessment process being deployed.
- Chosen selection techniques are only used by appropriately qualified individuals who have been properly trained in their administration, scoring and interpretation, and who are qualified to select a test which is valid for a particular purpose.
- Disability awareness training is provided as appropriate.

Quality assurance procedures

- Appropriate procedures are in place to quality assure the appointment process.
- The effectiveness of assessment processes is reviewed and evaluated regularly.

PRINCIPLE 4

2.4 A fair appointment process applied with consistency

The Commission wholly opposes any form of unacceptable or unlawful direct or indirect discrimination, whether active or passive. The selection process adopted and the manner in which it is applied must be undertaken with real commitment to equality of opportunity. Office holders have an obligation to treat candidates fairly, to a consistent standard and in a consistent manner.

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Examples of this principle in practice include:

Job and person specifications

- Job and person specifications are free from bias or poor practice.
- Job and person specifications are consistently reflected throughout the selection process.

Reaching potential applicants

- Vacancies are communicated openly to afford equality of opportunity.
- Ensuring that all potentially eligible candidates are made aware of the process. (This does not apply in the case of appointments made as set out at 1.5.2 of this Code.)
- All documentation and supporting materials are accessible, free from bias and reflect, where appropriate, the job and person specifications.

Documentation

- All documentation and the use of such documents comply with relevant employment legislation, Freedom of Information Acts 1997 and 2003, Data Protection Acts 1988 and 2003 and equality legislation and guidelines.

Assessment mechanisms

- Assessment tools comply with requirements for fairness and freedom from bias.

Selection process

- Shortlisting criteria are job related and applied consistently across all candidates.
- Reasonable consideration is given to equality principles when constituting selection boards, where practicable, e.g. gender representation is taken into account.
- Systems are in place to ensure that selection boards carry out the selection process in a fair and consistent manner.
- All appropriate and reasonable accommodations are provided to candidates with disabilities thereby ensuring that they have the best opportunity to perform to their optimum.

Management arrangements

- The effectiveness of assessment processes is regularly reviewed and, where necessary, appropriate action is taken.
- Appropriate monitoring arrangements are in place and follow-up actions are adopted.
- Mechanisms are in place to collect feedback from all those participating in the appointment process.
- Controls are in place to ensure that appropriate processes are adopted and delivered.

Training

- Arrangements are in place to ensure that appropriate training, including disability awareness training, is available and delivered.

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- Arrangements are in place to ensure that all those participating in an appointment process have the necessary skills and are provided with appropriate information on the process.
- Training is delivered to an appropriate standard and updated as necessary.
- Training covers the structure of the process and the appointment context, including current and forthcoming legislation.
- Effectiveness of training is monitored and evaluated and follow-up action is taken on an ongoing basis.

PRINCIPLE 5

2.5 Appointments made in an open, accountable and transparent manner

Transparency in the appointment process and the openness with which candidates are dealt with by office holders will enhance candidate confidence. Open and active communication on the process and the basis for assessment is essential. There should also be a real commitment to offering meaningful feedback to candidates who seek it.

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Examples of this principle in practice include:

Reaching potential applicants/Identification of potential applicants

- Communication systems and supporting materials are accessible to all candidates.

Application process

- All reasonable efforts are made to ensure an application process which is accessible to all candidates.

Documentation

- Documentation and the use of all documents support a commitment to offer open feedback to candidates.

Management arrangements

- Arrangements are in place to ensure effective candidate communication throughout an appointment process.
- Appointment processes are not subject to undue delays, with reasons for any delay recorded.

Selection process

- The criteria for selection promote the principle of equality of opportunity.
- There is an active focus on ensuring that adverse impact issues are considered and addressed in advance of recruitment campaigns.

- Appointment processes are monitored and evaluated, and positive initiatives are employed to tackle any matters arising.
- Clear decisions are taken on the approach to be adopted in any recruitment campaign, and explicit consideration is given to opportunities and/or measures to promote (or remove possible barriers to) equality, as part of the planning of a selection process.

Selection boards

- Systems are in place to ensure that selection boards carry out the selection process in an open and transparent manner.
- Members of selection boards have regard to their responsibilities under the freedom of information, data protection and employment equality legislation.
- Members of selection boards are briefed on disability awareness and equal opportunity policy.

Communication

- There is a commitment to open, timely and effective communication to candidates.
- Enquiries are dealt with in an efficient and timely manner.

Feedback

- Clear, specific and meaningful feedback is provided when requested by candidates.
- Effective systems are in place to manage the feedback function.

Requests for review

- Requests for review of a selection decision are dealt with in an efficient and timely manner and in line with the Code procedures.

Complaints alleging a breach of the Code of Practice

- Allegations of a breach of the Code of Practice are dealt with in an efficient and timely manner and in line with the Code procedures.

Retention of records

- Appointment processes are fully documented at all stages.
- Records/papers are retained for a reasonable period of time and only then disposed of in accordance with the terms of the National Archives Act, 1986.

SECTION 3

AUDIT OF RECRUITMENT POLICIES AND PRACTICES

3.1 The legal position

Section 13(1)(c) of the Act provides that the Commission may establish procedures to audit the recruitment and selection process.

3.2 Application

3.2.1 The objective of the audit process is to ensure that recruitment policies, practices and support systems are designed and operated in accordance with the Code of Practice. Audits may examine any part of the appointment process and may focus on individual office holders. Audits may also be carried out on a thematic basis across all office holders. An audit examination may include a review of individual recruitment programmes.

3.2.2 The audit function is a key mechanism enabling the Commission to safeguard standards. It aims to ensure that the core principles set out in the Code of Practice are maintained and, where relevant, that the office holder operates the recruitment licence in accordance with the terms and conditions set out by the Commission.

3.3 Audit procedures

3.3.1 Office holders must co-operate fully with all audits undertaken by or on behalf of the Commission. Audits will be undertaken in a professional

manner, in a spirit of improvement and with the goal of sharing knowledge and best practice rather than focusing solely on compliance.

3.3.2 Advance notice will be given of the intention to carry out an audit. This will provide sufficient time to prepare all necessary documentation and statistics and will enable the review to take place with the minimum possible disruption.

3.3.3 Audits will be conducted in an efficient manner and the audit steps will be set out clearly in advance.

3.3.4 At the conclusion of an audit, the findings will be discussed with the audited body before a report is submitted to the Commission. Those subject to audit will also have the opportunity to comment on audit reports in respect of matters of factual accuracy before such reports are finalised.

3.3.5 Where an audit identifies shortcomings in a particular area of recruitment, recruitment policy or recruitment practice, recommendations will be made to address the fault. The emphasis will be on providing assistance and support.

3.3.6 When conducting audits, the Commission's mandate is to ensure that:

- Appointment processes are operated in accordance with the Code of Practice
- There is no scope for patronage
- Office holders' instructions and guidance, including (in the case of licence holders) guidance on the use of listed recruitment agencies, are consistent with the spirit and letter of the Code of Practice
- All those with responsibility for organising appointment processes understand the Commission's requirements
- Those serving on selection boards have either undergone training delivered on a timely basis and appropriate to the specific assessment process deployed or have sufficient interviewing experience at an appropriate level
- Those administering selection techniques are appropriately qualified individuals who have received proper training
- Action has been taken to correct any instances uncovered by internal monitoring where the Code of Practice has not been followed, and any new developments in recruitment policy or practice such as new selection procedures are consistent with the Code.

3.4 Publication of reports

3.4.1 The Commission will publish a report of the outcome of each audit on its website: www.cpsa-online.ie The Commission will also publish an account of its audit activity in its annual report.

SECTION 4

RESPONSIBILITY FOR THE APPLICATION OF THE RECRUITMENT PRINCIPLES

ATYPICAL APPOINTMENTS TO POSITIONS IN THE CIVIL SERVICE AND CERTAIN PUBLIC BODIES

4.1 Responsibility for the application of the principles

4.1.1 Responsibility and accountability for appointments rest with the office holder. To maintain the probity of the appointment system, an office holder is responsible to the Commission for ensuring full compliance with the terms and conditions of the recruitment licence (where relevant), this Code of Practice and any other guidelines issued by the Commission.

4.1.2 Office holders who are granted recruitment licences may delegate all or part of the task of recruitment to the Public Appointments Service. Where such a delegation is made, the Chief Executive of the Public Appointments Service, rather than the office holder concerned, is responsible, to the extent of the delegation, for adherence to the terms and conditions of the recruitment licence, this Code of Practice and any other guidelines issued by the Commission.

4.1.3 Licence holders may seek the assistance of listed recruitment agencies (details available from the Commission) in respect of some of the tasks connected with selection under the recruitment licence held. Notwithstanding this, the licence holder has sole responsibility for the final selection of candidates for appointment and for placing candidates on a panel for appointment. Where the assistance of a listed recruitment agency is procured, it will remain the duty of the licence holder to ensure that that agency complies with the terms and conditions of the recruitment

licence, this Code of Practice and any other guidelines issued by the Commission.

4.1.4 Where an appointment process is undertaken jointly by two or more organisations, the office holders concerned must agree in advance that one of their number will be responsible and accountable to the Commission for ensuring that the terms and conditions of this Code of Practice and any other guidelines issued by the Commission are fully complied with.

4.2 Accounting for recruitment decisions

Those responsible for recruitment and selection processes need to be able to demonstrate that they have complied with the Commission's recruitment principles. Accordingly:

- All decisions on the approach adopted in any appointment process should be clear and evident
- Appointment processes should be fully documented and effective management systems and arrangements (including document management) should be in place
- Those responsible for recruitment need to monitor and evaluate their processes and take positive initiatives to tackle any matters arising
- Records/papers should be managed in accordance with the terms of the National Archives Act, 1986 (see also section 2.5 of this Code)
- Office holders – and ultimately the Commission – need to be satisfied that appointment processes have been properly carried out.

SECTION 5

RESPONSIBILITY OF CANDIDATES

5.1 Canvassing

Candidates should note that canvassing will disqualify them and will result in their exclusion from the appointment process.

5.2 Candidates' obligations

Candidates in the recruitment process must not:

- Knowingly or recklessly provide false information
- Canvass any person, with or without inducements
- Interfere with or compromise the process in any way.

A third party must not personate a candidate at any stage of the process.

5.3 Penalties for failure to comply

5.3.1 Any person who contravenes the above provisions, or who assists another person in contravening the above provisions, is guilty of an offence. A person who is found guilty of an offence is liable to a fine and/or imprisonment.

5.3.2 If a person found guilty of such an offence was or is a candidate in a recruitment process, then:

- Where he/she has not been appointed to a post, he/she will be disqualified as a candidate
- Where he/she has been appointed subsequent to the recruitment process in question, he/she shall forfeit that appointment.

SECTION 6

INTERFERENCE WITH THE RECRUITMENT PROCESS

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Where the Commission is of the opinion that there may have been interference or attempted interference with an appointment process, it may investigate the matter or cause it to be investigated by a person authorised on its behalf. Accordingly:

- The office holder has a duty to inform the Commission of any interference or attempted interference with the process
- Where all or part of a recruitment process covered by this Code of Practice has been delegated to the Public Appointments Service, the Chief Executive of the Public Appointments Service has a duty to inform the Commission of any interference or attempted interference with the process
- A listed recruitment agency has a duty to inform the licence holder of any interference or attempted interference with the process
- A person found guilty of an offence is liable to a fine or imprisonment, or both.

OVERVIEW OF REVIEW / APPEALS PROCEDURES

The Commission has a statutory role to establish and set down procedures to address candidates' requests for review and candidates' complaints in relation to an appointment process.

There are two distinct procedures and they are mutually exclusive.

- Section 7 sets out the precise manner in which a request for a review of a decision relating to an appointment process should be made by a candidate as well as the manner in which the request should be dealt with once made.

Section 7 review procedures apply in cases where a candidate is unhappy with an action or decision in relation to his/her candidature and wishes to have that decision reviewed, in circumstances where the candidate, while unhappy with the action or decision, does not believe it to have amounted to a breach of the Commission's Codes of Practice. A section 7 review is carried out by, or on behalf of, the office holder. The Commission has no role in a review process conducted under this section.

- Section 8 sets out the precise manner in which an allegation of a breach of this Code of Practice should be made by a candidate, as well as the manner in which the complaint should be dealt with once made.

Section 8 review procedures apply in cases where a candidate believes that there has been a breach of the Commission's Codes of Practice. Allegations of such breaches should

be addressed to the office holder in the first instance. If a candidate is dissatisfied with the outcome of the office holder's review, he/she may then request the Commission to undertake an examination of the alleged breach.

A candidate seeking feedback relating to his/her candidature should obtain this from the office holder in charge of the recruitment process and need not invoke any of the procedures referred to above. It is expected that such feedback will be managed by an office holder as an integral part of the appointment process.

Before submitting a request for review, candidates should determine which procedure is appropriate to their particular circumstances. Office holders are advised to satisfy themselves, as far as is practicable, that the appropriate procedure has been invoked by the complainant when accepting a request for review.

The review procedures allow for matters to be resolved on an informal basis and the Commission recommends that the office holder, subject to the agreement of the candidate, should endeavour where feasible to avail of the informal process before making use of the formal review procedures.

It is important to note that where a selection process is reviewed under section 7, a complainant may not then seek a further review in respect of the same matter under section 8, other than in exceptional circumstances, as may be determined by the Commission in its sole discretion.

Section 7 and 8 review procedures are set out in detail overleaf.

SECTION 7

REVIEW PROCEDURES WHERE A CANDIDATE SEEKS A REVIEW OF A DECISION TAKEN IN RELATION TO HIS/HER APPLICATION

ATYPICAL APPOINTMENTS TO POSITIONS IN
THE CIVIL SERVICE AND CERTAIN PUBLIC BODIES

General information

- 7.1 The review procedures established and set down in this section (section 7) apply in cases where a candidate wishes to have an action or decision in relation to his/her candidature reviewed. The procedures and standards to be followed by the complainant and the office holder in the handling of requests for review are set out below.
- 7.2 As with the recruitment processes themselves, and within reason, fair procedures should be applied by all bodies dealing with requests for review made under this section.
- 7.3 The Commission has no remit to investigate complaints from candidates which do not amount to a breach of the Code of Practice.
- 7.4 It is essential for office holders to have effective systems in place for handling requests for review. Office holders must keep a full record of all correspondence and any relevant documentation, such as minutes of meetings, records of emails and notes of telephone conversations, in relation to all candidates who present for any form of assessment whether successful or not.
- 7.5 Each office holder should appoint a decision arbitrator (a person at a senior level unconnected with the selection process) who will adjudicate on requests for review in cases where a candidate is not satisfied with the outcome of an initial review. The office holder may appoint a suitably qualified external decision arbitrator if he/she so wishes.

- 7.6 The review procedure comprises two stages. The first stage involves a review by a person in the recruiting body referred to as the “initial reviewer”. Where a candidate remains dissatisfied following this initial review, he/she may seek to have the conduct of the initial review examined by a “decision arbitrator”.

As an alternative to the above, it is open to a candidate to seek to have the matter resolved on an informal basis, as set out below. If a candidate remains dissatisfied following any such discussion it is open to him/her to seek a formal review.

Informal process

- 7.7 When a request for a review of a selection decision is received from a candidate, the Commission recommends that every effort should be made by the office holder, subject to the agreement of the candidate, to resolve the matter on an informal basis before making use of the formal review procedures set out below. Should the candidate remain dissatisfied following any such discussion, or not wish to have the matter dealt with informally, then he/she may adopt the formal procedures in accordance with the process set out below.
- 7.8 The informal process may be availed of within 5 working days of notification of the initial decision, and should normally take place between the candidate and the person who communicated the decision (or such other person acting on behalf of the office holder as may be appropriate depending on the circumstances).

7.9 Where the decision being conveyed relates to an interim stage of a selection process, the request for informal review must be received within 2 working days of the date of receipt of the decision.

7.10 The office holder must carry out the informal review without delay and within a period of time that enables the candidate to avail of the formal review procedures within the specified timelines should he/she so wish.

7.11 Where a candidate remains dissatisfied following any such informal discussion, he/she may adopt the formal procedures set out below. If the candidate wishes the matter to be dealt with by way of a formal review, he/she must do so within 2 working days of the notification of the outcome of the informal review.

Formal process: Initial review

The procedures and standards to be followed by the complainant and by the office holder in the handling of requests for review are set out below.

7.12 The candidate must address his/her concerns in relation to the process in writing to the office holder, setting out those aspects of the action or decision in relation to his/her candidature that he/she wishes to have reviewed.

7.13 A request for review must be made within 10 working days of the notification of the initial decision. Where the decision relates to an interim stage of a selection process, the

request for review must be received within 4 working days. This is necessary to ensure that delays in the recruitment process are avoided.

7.14 Any extension of these time limits will only be granted in the most exceptional of circumstances and will be at the sole discretion of the office holder.

7.15 The review procedure:

- Upon receipt of the request for review, the office holder should issue an acknowledgement within 3 working days.
- The case should be reviewed by a person other than any individual directly associated with the decision in question.
- The person(s) conducting the initial review (the “initial reviewer(s)”) should consider any written submissions made by the candidate, and all other relevant information, including any emails, notes or memoranda held by the office holder in respect of the selection process. Where necessary, the initial reviewer should meet with the personnel of the office holder involved in the selection process and/or the candidate for the purpose of eliciting further information. Subject to any statutory (or other relevant) restrictions on disclosure, the initial reviewer shall provide the candidate with any relevant and material emails, notes or memoranda held by the personnel of the office holder in respect of the selection process, on request.
- The outcome must generally be notified to the candidate within 20 working days of receipt of the complaint or request for review.

SECTION 7

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Where the investigation does not allow a decision within this timeframe, the initial reviewer must keep the candidate informed of the status of the review and the reasons for the delay.

- In communicating the outcome to the candidate, which will be done by means of a written report, the initial reviewer should indicate that the candidate may seek to have the outcome of the initial review reviewed by referring the matter to the decision arbitrator. The initial reviewer must further state that a request to do so must be made in writing within 7 working days of receipt of the outcome of the initial review.

Review by the decision arbitrator

7.16 Should a candidate be dissatisfied with the outcome of the initial review, he/she may request a review by a decision arbitrator of the conduct of the initial review.

7.17 The role of the decision arbitrator is to assess whether the initial review has been carried out in line with proper procedures.

7.18 The decision of the decision arbitrator in relation to such matters is final.

7.19 A request made to the decision arbitrator must be received within 7 working days of the notification of the outcome of the initial review.

7.20 The review procedure:

- Upon receipt of the request for review, the decision arbitrator should issue an acknowledgement within 3 working days.
- The outcome of the investigation must be notified to the candidate in the form of a written report within 10 working days.
- The decision of the decision arbitrator in relation to such matters is final. The decision arbitrator will make his/her decision on the basis of any written information available in respect of the matter, or written submissions made, and will not generally conduct interviews, although he/she may do so if warranted by the particular circumstances of individual cases.

7.21 Where a review of a recruitment/selection process has taken place under this section 7, a complainant may not seek a further review of the same matter under section 8 other than in the most exceptional circumstances (which will be determined by the Commission in its sole discretion).

SECTION 8

REVIEW / APPEALS PROCEDURES IN RELATION TO ALLEGATIONS OF A BREACH OF THE CODE OF PRACTICE

General information

- 8.1 The review/appeals process enables persons to seek a review by the office holder in the first instance, and by the Commission subsequently on appeal, when they believe that there was a breach of the Code of Practice by an office holder. Allegations of such breaches should be addressed in writing, setting out the basis for the complaint being made, to the office holder in the first instance. The Commission has no remit to investigate complaints relating to non-selection or non-appointment unless it appears reasonable to conclude from the information provided to it that the selection process may have breached the Code of Practice, save where the complaint relates to an alleged failure to conduct a review under section 7 or 8 in accordance with the requirements of section 7 or 8.
- 8.2 As with the recruitment processes themselves, and within reason, fair procedures should be applied by all bodies dealing with complaints and requests for review.
- 8.3 A complaint in relation to an alleged breach of the Code of Practice will be accepted by the Commission only when it has been examined by the office holder in the first instance and the complainant is dissatisfied with the outcome of that examination.

Informal process

- 8.4 When an allegation of a breach of the Code of Practice is received from a complainant, the Commission recommends that every effort

should be made by the office holder, subject to the agreement of the complainant, to resolve the matter on an informal basis before making use of the formal review procedures set out below. Should the complainant remain dissatisfied following any such discussion, or not wish to have the matter dealt with informally, then he/she may adopt the formal procedures in accordance with the process set out below.

- 8.5 The informal process should normally take place between the complainant and the person acting on behalf of the office holder. The office holder must carry out the informal review without delay.
- 8.6 Where a complainant remains dissatisfied following any such informal discussion, he/she may adopt the formal procedures set out below. If the complainant wishes the matter to be dealt with by way of a formal review, he/she must do so within 2 working days of the notification of the outcome of the informal review.

Formal review by the office holder

- 8.7 The standards and procedures to be followed by the complainant and the office holder in relation to allegations of breaches of the Code of Practice are set out below.
- A complaint in relation to a breach of the Code of Practice must be made in writing to the office holder without delay. Details of the allegation should be provided in writing, together with any

SECTION 8

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relevant documentation which the complainant feels might support his/her allegations.

- Upon receipt of the complaint, the office holder should issue an acknowledgement within 3 working days.
- The complaint should be reviewed by a person other than any individual directly associated with the appointment process in question. The person(s) conducting the review (the “reviewer(s)”) will have regard to all information which is material to the complaint, including any emails, notes or memoranda prepared by the personnel of the office holder, and including also any relevant documentation provided by the complainant. Where necessary the reviewer will meet with personnel of the office holder relevant to the complaint and/or the complainant for the purpose of eliciting further information. Subject to any statutory (or other) restrictions on disclosure etc. the reviewer shall provide the complainant with any relevant and material emails, notes and memoranda held by the personnel of the office holder in respect of the appointment process in question.
- The outcome must generally be notified to the complainant within 20 working days of receipt of the complaint. Where the investigation does not allow a decision within this timeframe, the complainant must be kept informed of

the status of the review and the reasons for the delay.

- In communicating the outcome to the complainant, the office holder should indicate that the complainant may seek a further review by referring the matter to the Commission by way of an appeal of the review of the office holder. The office holder must further state that any such appeal must be made in writing within 10 working days of receipt of the outcome of the office holder’s review.

8.8 In order to facilitate the Commission in its review of alleged breaches of the Code of Practice, office holders must keep a full record of all correspondence and any relevant documentation, such as minutes of meetings, records of emails and notes of telephone conversations or meetings, as well as all documentation provided by the complainant in respect of the complaint.

Formal review by the Commission

8.9 The Commission may take whatever action it considers necessary where it deems there to have been a failure, on the balance of probabilities, to comply with the Code of Practice, in accordance with the provisions of the Public Service Management (Recruitment and Appointments) Act 2004, including the revocation of a recruitment licence, where appropriate.

8.10 The procedures and standards to be followed by the Commission in the handling of complaints of alleged breaches of the Code of

Practices are set out below.

- An appeal to the Commission in relation to an alleged breach of the Code of Practice must be made in writing within 10 working days of receipt of the notification of the decision of the office holder. Details of the grounds of appeal, together with any documentation supporting such grounds, and any documentation provided to the office holder in respect of the original request for review, should be provided in writing to the Commission within this timeframe.
- Acknowledgement of receipt of the request will be made within 3 working days.
- The complaint will be examined by the Commission.
- The outcome will be notified, in the form of a written report, to the party making the complaint and the office holder within 25 working days. Where the investigation does not allow a decision within this timeframe, the Commission will keep both parties informed of the status of the review and the reasons for the delay.
- The Commission will make its decision on the basis of any written information available in respect of the matter, or on the basis of any written submissions made to it, and will not generally conduct interviews, although it may do so if warranted by the particular circumstances of individual cases.
- The decision of the Commission is final.

SECTION 9

MINISTERIAL RESPONSIBILITY

ATYPICAL APPOINTMENTS TO POSITIONS IN
THE CIVIL SERVICE AND CERTAIN PUBLIC BODIES

The relevant government minister is responsible for all matters relating to recruitment including eligibility criteria, terms and conditions and use or knowledge of the Irish language.

A Excluded positions

This Code of Practice is not applicable to a number of positions. These include:

- Appointments to posts established under the Constitution
- Appointments to those posts included in the definition of 'office holder' at Section 2 of the Ethics in Public Office Act 1995 (i.e. ministers of government and of state; attorney general; chairpersons or deputy chairpersons of Dáil Éireann and of Seanad Éireann; chairpersons of committees of either House or of joint committees of both Houses of the Oireachtas)
- Presidential appointments
- Governmental appointments
- Appointment as officer of the Houses of the Oireachtas
- Appointment as special advisor within the meaning of Section 19 of the Ethics in Public Office Act 1995
- Certain appointments to unestablished positions which are made in the public interest
- Appointments made on the recommendation of the Top Level Appointments Committee (in cases where there is a requirement that all candidates be serving civil servants)
- Appointments to positions designated as scheduled occupations under the Act.

B Definition of terms

In this Code:

The Act means the Public Service Management (Recruitment and Appointments) Act 2004.

Except where the context otherwise requires:

Appointment means the appointment of a person to a position in the Civil Service, An Garda Síochána, the Health Service Executive, the Health Information and Quality Authority, and any other public body to which the application of the Act has been extended by order of the Minister for Finance.


Commission means the Commission for Public Service Appointments.

Licence holder means a person to whom a recruitment licence has been granted.

Minister means the relevant government minister as set out in Section 58 of the Act.

Office holder means the head of a department/office/body.

Short-term period means a period of approximately 0 to 6 months.



This Code of Practice (No. 04/07) was prepared by the Commission for Public Service Appointments in accordance with the provisions of Sections 23 and 24 of the Public Service Management (Recruitment and Appointments) Act 2004.

The Commission may revoke or amend this Code of Practice as it sees fit.

It is open to the Commission to take whatever action it deems necessary where it is of the opinion that there has been failure to comply with the terms of this Code of Practice.



An Coimisiún
um Cheapacháin
Seirbhíse Poiblí
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