



An Coimisiún um Cheapacháin Seirbhíse Poiblí
Commission for Public Service Appointments

ANNUAL REPORT 2014

OUR MISSION

Our mission is to safeguard the integrity of the recruitment, selection and appointment of people to publicly funded positions and, by striving to improve standards, to engender widespread confidence in the ability of those appointed to contribute to the delivery of public services.

MEMBERS OF THE COMMISSION



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INTRODUCTION

2014 marked the Commission's tenth full year in operation as regulator of recruitment and selection to the Civil Service, An Garda Síochána, the Health Service Executive, the Health Information and Quality Authority and a number of other public service bodies.

The Commission is responsible for engendering trust and confidence in public sector appointments processes that exemplify the principles of probity, merit, transparency, impartiality, consistency and fairness. The Commission is committed to ensuring that these core principles are not mere ends in themselves but the means to achieving the greater goal of attracting and selecting the strongest possible candidates, thus facilitating the delivery of most efficient and effective public services.

The Commission has a significant role to play in underpinning confidence in the system of appointments as a way of engendering trust in those persons appointed to fill these positions. The systems through which individuals are appointed to positions in public bodies are key to recruiting and selecting the most competent candidates and building trust and confidence in the institutions of the State.

In carrying out its brief, the Commission publishes Codes of Practice for recruitment and selection to positions in public sector organisations. It monitors the performance of public service bodies under its remit on their adherence to the codes through regular monitoring and auditing. It also advises on and promotes the codes of practice and processes allegations of breaches against them as required.

Following a number of years of very limited recruitment activity on foot of the Public Service Recruitment Moratorium, there was an appreciable increase in recruitment activity in 2014. Not surprisingly, the Commission experienced a commensurate increase in the numbers of complaints it received.

The Commission is satisfied that the audit and assurance function, developed since its establishment, has proven a robust and effective mechanism for improving efficiency by ensuring that selection for appointment is made on merit, following a fair, open, and competitive process. The Commission is happy to note that public service recruitment and selection practices are overwhelmingly being conducted in line with the standards established in its codes of practice and that the values and principles defining merit are being respected.

The Commission also wished to express its gratitude to the staff of the Office for their continuing dedication and commitment.

CODES OF PRACTICE

One of the Commission's primary functions is to establish and safeguard the standards to be observed by those responsible for the appointments process in each of the public bodies within its remit. In so doing, the Commission must ensure public confidence in an appointments process that is open, fair, inclusive and, above all, firmly based on merit. The standards established by the Commission are published as codes of practice.

The codes also set out the procedures which those responsible for the appointments process must follow when handling complaints and grievances brought by candidates. There are specific procedures for complaints in relation to a decision affecting a candidate's participation in the appointments process and separate procedures for an allegation of a breach of the code.

The current codes of practice are:

[Appointment to Positions in the Civil Service and Public Service \(No. 01/07\)](#)

[Emergency Short-Term Appointments to Positions in the Health Service Executive \(No. 02/07\)](#)

[Appointment of Persons with Disabilities to Positions in the Civil Service and Certain Public Bodies \(No. 03/07\)](#)

[Atypical Appointments to Positions in the Civil Service and Certain Public Bodies \(No. 04/07\)](#)

[Appointment to Positions Where the Garda Commissioner has Statutory Responsibilities \(No. 01/09\)](#)

The codes reflect the Commission's intent that all appointments processes are conducted with integrity and that decisions are always made on the basis of merit. They offer guidance rather than prescriptive instructions to those who will operate them. This enables recruiters to adopt a flexible and innovative approach to recruitment procedures without compromising the principles of integrity and merit.

The standards that the Commission has established are fundamental to ensuring a recruitment system that is genuinely open to values such as fairness, equality and respect for diversity, as well as meeting the professional imperatives of efficiency and effectiveness. As part of its ongoing commitment to quality assurance, the Commission acknowledges that these standards must be reviewed from time to time, and revised where necessary, to remain relevant. In keeping the codes under review, the Commission will continue to take account of feedback from organisations within its remit and other interested parties, insight gained through audit work and the general flow of queries from departments, offices and other public bodies.

SAFEGUARDING STANDARDS

The Commission is responsible for ensuring that appointments to public service bodies within remit are made as a result of competitive merit-based appointment processes in accordance with the standards set out in the Codes of Practice. Each year since its establishment in 2004 the Commission agrees an annual audit plan to monitor and review recruitment and selection practices by organisations within remit across the public service to ensure compliance with the requirements under the Public Service Management Act 2004.

The Commission, through its audit function, has established an ongoing agenda for reviewing recruitment and selection practices within Departments/Offices. Over the past decade this ongoing review process has resulted in a very satisfactory level of compliance with the Code principles which have become embedded within appointment processes being conducted across public service bodies. The Commission believes there is a real commitment among all such bodies to achieve and maintain high standards in recruitment to the public service by selecting and appointing candidates on the basis of merit and through fair and transparent practices.

During 2014 the Commission received an unprecedented number of requests for review under Section 8 of the Code of Practice which provided an opportunity to examine recruitment and selection practices across a number of organisations. Any areas for improvement identified during such a review were then discussed with the body concerned with a view to introducing revised procedures in line with the principles set out in the Code of Practice. The Commission, through follow-up audits carried out to monitor the implementation of recommendations, is satisfied that any such issues arising have been addressed by the organisation concerned.

In addition to the examination of these complaints the Commission carried out an audit of appointments in the Irish Prison Service which included a follow-up on an earlier report resulting from complaints received about a particular selection process. During the year the Commission received a request from the Office of the Revenue Commissioners to conduct an audit of an internal appointment process for promotion to Executive Officer (EO) which had raised concerns both within and outside the organisation. This audit also included the examination of a number of requests for review received separately from complainants about the process.

In addition to ongoing review the Commission is committed to pursuing an audit programme employing audit methodologies that include:

- Conducting in-depth reviews of specific appointments processes including evaluating recruitment policies and procedures and assessing compliance with the terms and conditions of the recruitment licence(s), and
- Carrying out thematic audits that encompass a number of public service bodies involving self-completion questionnaires and follow up.

The Commission acknowledges the continued assistance and co-operation it receives from all organisations within remit. While recognising that these organisations have many competing pressures, the Commission's view is that the benefits of internal reviews of appointment processes by the bodies concerned warrant consideration. Taking this further, the Commission urges the use of periodic internal auditing of recruitment and selection policies and practices as part of each organisation's risk management process.

Review and Evaluation

Audit reports are placed on the Commission's website – www.cpsa.ie – and can be viewed by all organisations and used as a tool to benchmark their own policies and practices. Where appropriate, each audit report includes recommendations for improvement. It is important that the public service body addresses any identified shortcomings and the Commission will continue to monitor progress in this regard. The Commission also acknowledges that many organisations demonstrate good practices developed through ongoing review and evaluation of policies and procedures, development of management systems, training and staying abreast of good recruitment practices.

COMPLAINTS/REQUESTS FOR REVIEW

During 2014 the Commission received a significant number of enquiries and informal complaints in addition to the large number of formal requests for review under Section 8 of the Code of Practice. It advised 51 Complainants that it would undertake an examination of the allegations submitted. This is an increase on the 29 complaints it accepted in 2013.

The Commission considered 44 of these complaints in 2014 which is an increase on the 20 complaints examined in 2013 however this meant that the Commission had 7 more complaints on hand at the end of 2014 than at the beginning of the year.

That said, the Commission considers that the increase in complaint activity reflected a loosening of the recruitment moratorium rather than a diminution of standards. Following its examination of these complaints, the Commission is broadly satisfied that there is a genuine commitment among the organisations within remit to achieve and maintain high standards in the selection and appointment of candidates to public service positions. Furthermore based on its experience of examining complaints the Commission believes there is a good awareness and understanding among these organisations of their responsibilities and obligations prescribed in the Codes of Practice.

The management of complaints both formal and informal was, once again, a significant feature of the Commission's workload during the year.

The table below provides a breakdown of the complaints received.

Organisations	Complaints
HSE	26
Revenue	5
An Garda Síochána	5
PAS	5
Irish Prison Service	3
Other	7

While many of these complaints were made against the Health Service Executive (HSE), the Commission is satisfied that the number of complaints against the HSE is relatively small in comparison to the overall number of candidates and the numbers of appointments made across the Health Services. In a number of cases the complaints arose on foot of changes to recruitment processes implemented by the HSE.

The Commission's examination of complaints involves a comprehensive review of all aspects of the appointment process and, where appropriate, of relevant personnel. In dealing with a complaint, the Commission's remit is to address and respond to the complainant's allegations of breaches of the Code principles following a full and thorough investigation in line with the standards and procedures outlined in the Code. In addition to the Section 8 reviews conducted by the Commission, candidates often contact the Office of the CPSA and are provided with informal advice and information in response to enquiries about different aspects of the appointments process.

During the examination of a complaint the Commission engages with the relevant organisation which provides an opportunity to offer guidance and advice on best practice in the appointment process. This is an important aspect of the Commission's role in upholding the principles of probity, merit, equity and fairness in recruitment and selection practices.

Review Procedures

There are two distinct review procedures. The first applies in cases in which a candidate is unhappy with a decision in relation to his or her candidature (but does not believe that there was a breach of the Code) and wishes to have that decision reviewed. The review of a recruitment decision is conducted by the public service body. The Commission cannot overturn the decision of the body concerned and, aside from setting out how the review should be conducted, has no role in this process.

The second review procedure applies in cases where a person believes that an appointments process has breached the Code and wishes to have it investigated. The complainant must make the complaint to the body concerned in the first instance. If the complainant remains dissatisfied with the outcome of this review, he or she may request the Commission to investigate the alleged breach of the Code. In this particular regard, the Commission's powers are limited. The Commission may, amongst other things, amend or revoke the recruitment licence of a public body, however, it does not have the power to alter a recruitment decision once it has been made and is, in fact, expressly precluded from doing this by the terms of the Public Service Management (Recruitment and Appointments) Act 2004. In 2014 the Commission made a number of recommendations to organisations within remit with a view to addressing shortcomings identified during its investigations.

Summary of Complaints

An outline of some of the complaints investigated during 2014 is provided below:-

1. Complaint in relation to Reference Checking

A candidate contacted the CPSA alleging that he had been unfairly denied a position because of unfair and prejudicial reference checking procedures.

The CPSA learned that the candidate had been successful at interview and was advised that he was under consideration for the position. The letter he received from the public body set out that his appointment was conditional upon it receiving satisfactory references in support of his application. The organisation subsequently sought and received three references. Two of the referees worked at senior levels within the organisation but did not have direct line management responsibility for the candidate. The third referee had previously worked as his line manager. While the first two referees provided satisfactory references, his former line manager provided a negative reference.

The candidate was advised that as it had not received a satisfactory suite of references in support of his candidature, the organisation could not proceed with his appointment.

In his complaint to the Commission, the candidate referred to the very complimentary references he had received from senior staff in the organisation. While he acknowledged that he had received a verbal warning under the Office's disciplinary code from the line manager who had issued the unsatisfactory reference some years back, he argued that the Office's disciplinary procedures stipulated that the record of this warning should only have been retained on his personal file for a period of 6 months and should not be used against him in this selection process.

In its correspondence with the CPSA, the public body advised that:-

- The decision taken not to appoint the Complainant was taken on foot of a case meeting involving appropriately senior staff during which the contents of the three references were considered;
- The sensitive nature of the post involved required it to adopt a low risk approach to making appointments;
- It needs to take appropriate measures to ensure that those it appoints to sensitive positions not only have the professional knowledge and skills required for the role but have the personal attributes and behaviours needed to meet the standards and values required of them;
- The decision reached reflected its policy of giving a greater weighting to references from a Line Manager than from other former colleagues of a candidate.

The Commission acknowledged the important role reference checking plays in the appointment process and understands the requirement that an appointment cannot be made without carrying out appropriate reference checking. It also recognised the sensitive nature of the work involved and the need for the public body to be risk averse in its approach to the appointment. However, given the significant impact this decision had on the Complainant and his career prospects, the Commission highlighted its concerns that the public body took a decision not to appoint the Complainant on the basis of the opinion of one individual. It considers that there are risks associated with making such a fundamentally significant decision on the basis of one person's opinion given the scope for personal differences. The Commission noted with some concern that the Complainant did not have an opportunity to rebut the contents of the reference provided by his former Line Manager, a concern that was heightened by the fact that he received positive references from two other senior staff within the same organisation.

On the basis of its examination of all aspects of this case, the Commission considered that, had the public body provided the candidate with an opportunity to rebut the unsatisfactory reference, the Complainant **may** have been able to provide some context to the information and opinions provided by his former Line Manager.

The Commission recommends that, in situations where there is such a strong divergence in the views expressed in the references, organisations ought to allow candidates an opportunity to contest or rebut the information set out in the negative reference(s) and that this information, along with that contained in the original references, is considered by qualified persons before a final decision is reached. It also expects that public bodies will retain sufficiently detailed records of the decision making process.

2. Managing conflicts of interest for members of Interview Boards

From time to time, candidates contact the Commission setting out their belief that certain members of a shortlisting board or an interview board should recuse themselves from the panels on the basis of their knowledge of, or working relationship with, certain candidates.

The following are summaries of three cases considered by the Commission during 2014.

- i. In advance of its examination of an internal recruitment process involving a large number of candidates, the Commission was contacted by a number of individuals who outlined their concerns at the manner in which interview boards were arranged. The individuals advised that it appeared to them that the appointment process was compromised as the public body concerned was not taking sufficient care and attention to ensure that managers were not interviewing their direct reports. While some of the individuals who contacted the Commission were concerned that the connection between the line manager and the candidate was likely to have a negative effect on the candidate's application, most expressed the view that line managers are more likely to seek to influence the process to the advantage of their staff.

In response, the organisation advised that it was acutely aware that many of its board members will have worked with many of the candidates. It advised that the nature of the organisation made it virtually impossible for it not to have some candidates interviewed by their present or former line managers. Instead of trying to avoid these almost inevitable situations, it seeks to manage them. It said that, working on advice it had received from PAS and others, it instructs its board members to make it known to the other board members which of the candidates s/he knows. While the board will interview all candidates in a consistent fashion, the board members who know candidates will be the last to offer a view on the interview performance of the candidate in question.

The Commission accepted that it would be extremely challenging to avoid connections between board members and candidates in this and many other organisations and noted the mitigations in place to manage the risks associated with these connections. It also noted that this procedure was properly documented in the interview guide issued to Board Members and referred to in the pre-interview briefing.

However in the interests of openness and transparency, and in light of the quite pervasive perception amongst candidates and others within the organisation that there is a problem with connections between board members and candidates, the Commission proposed that the body concerned includes in its paper trail of the process a record setting out which board members declared their knowledge of which candidate and confirming that the standard protocol referred to in the Interview Guide had been followed.

- ii. In another recent case, a candidate contacted the Commission complaining that she did not know in advance of her interview that she would be interviewed by a former supervisor – an individual she had also listed as one of her referees. In this appointment process, the public body sought references ahead of the interviews and presented them to the members of the interview board.

The Commission noted that as the appointment process was to a very senior post in a highly specialised area, it would have been extremely difficult to constitute an interview board where board members would not know or have worked with a number of the Irish based candidates at some point in their respective careers.

Notwithstanding the obvious challenges that this presents, the Commission outlined that there is an onus on all public service bodies to have safeguards in place to protect the integrity of the different stages of the appointment process and to support the evaluation of candidates in an objective, fair and consistent manner. It noted that, in these cases, the public body may select a senior practitioner from outside the jurisdiction to sit on the interview board and considers that this approach is very helpful in promoting confidence in the appointments system. It accepted that the safeguards are likely to help the organisation manage rather than avoid the potential

risks associated with those on selection panels knowing or having worked with candidates. At the very least, the public body must ask selection board members to declare which candidates they know and to retain a record of the declared connections between the board member and the candidate.

The Commission understood the candidate's unease in discovering that one of her referees was, in fact, also a member of the selection board. It is also conscious that members of similar interview boards had, in the past, also acted as referees for candidates. While acknowledging that, in the absence of explicit guidance from the organisation, the Interview Board member may not have known how to deal with the request to provide a reference, it considers that she should have brought this to the attention of the public body in advance of the interview and sought guidance.

The Commission understands that it is not general practice to release the names of selection board members to candidates. However, in view of the circumstances arising in this and other similar cases, the Commission recommended that the public body considers reviewing its practice of not making the names of its selection board members available to candidates. It also recommended that the body establishes clear procedures its selection board members are required to follow in cases where they may know or have worked with a candidate to avoid a situation arising whereby a candidate only learns on the day of his/her interview that one of his/her referees is a member of the selection panel.

- iii. In another case, a candidate contacted the Commission outlining his belief that he had been unfairly treated by an interview board. He outlined his concern that one of the members of the interview board had been involved in conducting an external review of a project that he had worked on while another, by dint of the position he held, would have been very familiar with the report of the review team. He believed that the two board members had used this prior knowledge of his work in framing their questions and in carrying out their evaluation. He added that he believed that some of the conclusions reached by the review team were unfair and that the two board members had, through questioning him on the matter pertinent to the review, demonstrated a bias against him.

The Commission learned that the nature of the work of one of the Board Members meant that he had some oversight of the work of many of the Irish based candidates. It understood that as this was a senior specialist role, it was inevitable that many of the available board members would know or be familiar with many of the Irish based candidates. It noted that, in his application, the candidate had referred to the work programme that had been subject to the review as well as his work in supporting the review team. It also noted the Board Members comments that the review was, in fact, broadly complimentary and their position that it would have been inappropriate and unfair of them not to afford an opportunity to the Complainant to speak about this major piece of work that had been heavily flagged in his application.

The Commission concluded that:-

- The selection of the interview board members was in line with the standard formula used by the organisation for these senior professional roles.
- There were safeguards in place to ensure consistency and an open transparent selection process. These safeguards included discussions in advance of the interviews about the requirements of the role, areas of questioning based on agreed job-related criteria and the presence of a note taker to document decisions taken during the process and to provide assurances that all candidates were treated in a fair and consistent manner.
- It was entirely appropriate for the Board to question the candidate about information he had included in his application form.

3. Feedback to Candidates

The Commission has received a large number of complaints which highlighted the importance of feedback as a means of promoting confidence in the integrity of the selection process.

Many complainants were unhappy about the quality of the feedback provided and could not understand the decision reached by the selection board.

Others have complained that:

- The feedback did not support the candidate in future applications;
- The feedback comment is not reflective of interview performance;
- The feedback comments are not specific or helpful;

In examining these complaints the Commission has emphasised its position that feedback is vitally important in promoting confidence in the appointment process. It has stressed to public bodies that the training and briefing provided to members of selection boards must provide for specific and meaningful feedback. In this regard, the Commission expects that the feedback offered will reflect not only key aspects of the requirements of the role but also refer to the manner in which the candidate presented to the interview board.

In some cases the Commission commented that where there are a large number of candidates applying for positions, it is useful to inform those who request feedback how they fared relative to others (their overall position if available, their scores, the average score awarded etc).

Equally the Commission has noted that candidates must also be open to receiving constructive criticism. The Commission has been greatly heartened at the efforts made by a number of public bodies to arrange face to face meetings between the candidates and a member of the selection board to convey specific and meaningful feedback to candidates. The Commission recognised that, in cases when these meetings are managed properly and when candidates are open to accepting constructive criticism, this open and progressive approach generally provides an invaluable opportunity for candidates to gain a fuller understanding of how they were assessed relative to those who were successful in their application for the role.

In a number of cases, feedback was provided to candidates in a somewhat haphazard manner. Some candidates' interpretation of the feedback varied from that which the board member sought to convey. In other cases, the candidates spoke to different board members at different times and received different messages.

In supporting public bodies in their management of these meetings, the Commission has suggested that they have a centrally co-ordinated formal and documented feedback system in place and that the verbal feedback message is supplemented by a written summary comment.

LICENSING

The Commission is responsible for granting recruitment licences to certain public service bodies who wish to conduct their own recruitment. Recruitment licences may be granted either in respect of all positions in the public body (a general licence) or in relation to one or more particular positions (a specific licence).

An application for a recruitment licence must be made to the Commission in which the public body is required to demonstrate its capability to carry out the selection process in line with the Commission's code of practice. The Commission is available to provide appropriate advice or assistance during the application process.

Each licence granted has certain terms and conditions attached which must be strictly adhered to by the licence holder of the public body. The Commission monitors compliance with the terms and conditions of a recruitment licence through its audit function. Although a recruitment licence is not time-limited the Commission has the power to terminate a licence in certain circumstances. This power has not been invoked to date.

During 2014 the Commission granted three new recruitment licences as follows:

- Child and Family Agency (Tusla) – General
- Irish Human Rights and Equality Commission – General
- Department of Jobs, Enterprise and Innovation - Specific

The Commission has granted thirty recruitment licences to public bodies to the end of 2014 – this includes both general and specific licences. In some instances public bodies hold both types of recruitment licence.

EXCLUDED POSITIONS

The Commission is empowered under Section 8 of the Public Service Management (Recruitment and Appointments) Act 2004 to exclude, by Order, unestablished positions in the Civil Service from the operation of the Act.

In agreeing to exclude these positions from its remit, the Commission requires that the Civil Service Office or Department adheres to guidelines setting out the nature of positions it will exempt and also the length of time that will apply.

Table 1 sets out the principal appointment categories for which such Orders were made or extended in 2014.

Each Order relates to a specific type of position or grade in the Civil Service. Consequently, as more than one person may have been appointed to the position or grade in question, the number of orders granted does not reflect the number of persons appointed. In the case of the 19 Orders relating to Ministerial Private Staff, the conditions of service of the appointees provide that they will cease to hold their positions when the Government or Minister leaves office.

29 Orders were granted to support specific short-term initiatives, i.e. student placement programmes and WAM (Willing Able Mentoring) projects. One Order was granted to allow a person working in the Private Sector to exchange position with a Civil Servant for a period of up to 12 months under the Staff Exchange Scheme. The remaining 30 Orders enabled persons to be employed temporarily pending the completion of formalities for permanent employment and allowed Departments and Offices to secure the services of staff for a specific period to provide specialist skills as required.

TABLE 1: Orders Made in 2014

Category	Number of Orders
Students Placement Programmes (including Internships)	14 (61 posts)
WAM Projects	15 (15 posts)
Ministerial Private Staff	19 (75 posts)
Appointments where specific skills were required for time limited periods	18 (36 posts)
Engagement of retired staff members (specific skills)	12 (14 posts)
Staff Exchange Scheme	1 (1 post)
Total	79

RECRUITMENT ACTIVITY REPORT

All of the figures in this report are based on information/statistics provided to the Commission for the years in question.

TABLE 2: External Recruitment Activity

	Number of Appointments Made			
	2011	2012	2013	2014
CIVIL SERVICE				
Permanent Appointments	310	276	302	449
Temporary Clerical Staff	842	1089	889	1285
GARDA SÍOCHÁNA				
GARDA Trainee	0	0	0	200
GARDA Reserve	276	241	188	89
LOCAL AUTHORITY (Local Authorities (Officers and Employees) Act 1926)				
Professional/Managerial	9	24	38	41
HEALTH INFORMATION AND QUALITY AUTHORITY				
	4	14	27	31
HEALTH SERVICE EXECUTIVE				
	1107	1633	2794	3544
TOTAL	2548	3277	4238	5639

TABLE 3: Internal Recruitment Activity

	Number of Appointments Made			
	2011	2012	2013	2014
CIVIL SERVICE	159	456	308	811
GARDA SÍOCHÁNA (Sergeant and Inspector)	9	3	116	228
HEALTH INFORMATION AND QUALITY AUTHORITY	0	0	0	0
HEALTH SERVICE EXECUTIVE	0	0	4	7
TOTAL	168	459	428	1046

TABLE 4: Temporary Acting Up Positions*

	Number of Appointments Made			
	2011	2012	2013	2014
CIVIL SERVICE	314	511	440	556
HEALTH INFORMATION AND QUALITY AUTHORITY	0	0	0	6
HEALTH SERVICE EXECUTIVE	0	80	26	62
TOTAL	314	591	466	624

* Note- The figures reflect the number of new appointments to Temporary Acting Up Posts and not the total number of staff in receipt of Acting Up Allowances.

