



# **Recruitment Code**

## **Version 16**

Ensuring appointment on merit and supporting ethical standards

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## **SECTION 1**

### **FOREWORD**

- 1.1** This Recruitment Code, published by the Civil Service Commissioners for Northern Ireland provides advice and guidance on the interpretation and application of the principle of selection on merit, on the basis of fair and open competition, for posts in the Northern Ireland Civil Service (NICS).
- 1.2** Civil Service Commissioners for Northern Ireland were first appointed in 1923. Commissioners are independent of the Northern Ireland Civil Service (NICS) and are supported by staff assigned to the Office of the Civil Service Commissioners by the Secretary of State for Northern Ireland. Under the Civil Service Commissioners (Northern Ireland) Order 1999, Commissioners have a statutory duty to ensure that appointments to the NICS are made on merit, on the basis of fair and open competition (known as the Merit Principle). Commissioners have an important role in seeking to ensure that recruitment decisions are free from personal and political patronage or partiality. The legislation also requires Commissioners to publish and maintain a Recruitment Code on the interpretation and application of the Merit Principle, including the circumstances in which any exceptions might apply.
- 1.3** The first Recruitment Code was published in 1997 and over the years has been reviewed regularly and, as necessary, updated to reflect changes in the wider context within which it operates. In 2005, Commissioners introduced the first principle-based Code, which recognised that it was for the NICS to determine the detail of how best to operate in accordance with the Merit Principle and to ensure that its policies and practices were consistent with the Code's requirements. The 2005 Code was, therefore, less prescriptive than previous Codes. This shift to a principle-based approach also reflected more accurately the Commissioners' role as guardians of the Merit Principle rather than as guardians of any particular policy, process or procedure.

Commissioners are content that this principle-based approach remains appropriate and valid and the approach, therefore, has continued in this Code.

- 1.4** Commissioners have a statutory duty to safeguard the Merit Principle while the NICS, and individual Departments as the appointing authorities, have a duty to comply with the Merit Principle. The NICS and Departments must operate in accordance with the Merit Principle and with the Commissioners' requirements, as articulated in this Code. Commissioners scrutinise NICS recruitment policies and practices through a regular audit and review programme to determine to what extent they comply with the Merit Principle and the Code's requirements. The full range of activities undertaken by Commissioners in order to discharge their statutory responsibilities is set out in more detail in paragraph 2.3. Commissioners will also review and refresh the Code to take account of changes in the wider political, business and social environment and, therefore, the context for recruitment to the NICS. The return of devolved powers to Northern Ireland, coupled with a significant reform agenda across the NICS and other major developments, have changed substantially the context within which the NICS operates and created a demand for a wider range of skills and experience throughout the organisation, along with a need for greater flexibility to respond to local needs, challenges and circumstances.
- 1.5** Commissioners will periodically revise this Code, as required, to ensure that it is fit for purpose and provides clarity and guidance in relation to any important developments, including changes in NICS recruitment policies and practices.
- 1.6** This Code should be read in conjunction with all of Northern Ireland's equality and anti-discrimination legislation, the principles espoused therein, and the associated statutory Codes of Practice. In taking forward their statutory duty to safeguard the Merit Principle, Commissioners remain fully committed to promoting equality, diversity and good relations in all aspects of their work and to upholding the principle of selection on merit on the basis of fair and

open competition. In updating this Code, Commissioners undertook an Equality and Human Rights screening of the proposed draft and, as a result, determined that a full equality impact assessment was not required.

- 1.7** Adherence to this Code is mandatory for everyone involved in open recruitment and selection to the NICS. This includes contractors or consultants who act on behalf of the NICS. The principles expressed may be equally applicable across other employment sectors.
- 1.8** We believe firmly that adhering to this Code will ensure appointments to the NICS are made on merit, on the basis of fair and open competition. This adherence will ensure that the best people are recruited for the posts available and will promote an effective Civil Service which reflects the diversity of Northern Ireland society (consistent with nationality requirements) and enjoys the confidence of the people it seeks to serve.



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## **SECTION 2**

### **INTRODUCTION TO THE CODE**

#### **WHAT DO COMMISSIONERS DO?**

- 2.1** Civil Service Commissioners for Northern Ireland were first appointed by Royal Warrant in 1923. Commissioners are appointed under the Northern Ireland Constitution Act 1973, which requires them to uphold the principle that selection for appointment to posts in the Northern Ireland Civil Service (NICS) should be on merit on the basis of fair and open competition (this principle is known as the Merit Principle). Additionally, Commissioners may consider and determine appeals made by existing civil servants under the NICS Code of Ethics.
- 2.2** While internal transfer and/or promotion are outside the remit of Commissioners, the broad principles set out in this Code reflect good practice and Commissioners consider they are applicable equally to internal appointments in order to safeguard the Merit Principle.

#### **DISCHARGING OF COMMISSIONERS' ROLES AND RESPONSIBILITIES**

- 2.3** Commissioners discharge their statutory responsibilities by:
- maintaining the principle of selection on merit on the basis of fair and open competition in relation to selection for appointment;
  - making General Regulations which prescribe the circumstances in which the Merit Principle shall not apply;
  - publishing and maintaining a Recruitment Code on the interpretation and application of the Merit Principle;

- auditing recruitment policies and practices followed in making appointments to the Civil Service to establish whether the Recruitment Code is being observed; and
- requiring the publication of such information as they may specify relating to recruitment and to the use of permitted exceptions to the Merit Principle.

**2.4** In addition to the statutory responsibilities outlined in paragraph 2.3 above, Commissioners have a duty to promote equality of opportunity and good relations under Section 75 of the Northern Ireland Act 1998.

**2.5** Commissioners seek opportunities to promote their role in order to enhance understanding of the Merit Principle and open new channels of communication whereby those interested in the Commissioners' areas of responsibility can offer additional information and feedback.

**2.6** Commissioners contribute to the development of an effective and impartial Civil Service by carrying out the duties imposed on them by the 1999 Order. This contribution provides assurance to the public that appointments to the NICS are made on merit, on the basis of fair and open competition. When appointments are made on merit, it should follow that the Civil Service has selected from those available, the best persons for the jobs and the duties of the posts should therefore be carried out more effectively.

**2.7** The Commissioners do not make appointments themselves. The Department of Finance (DoF) formerly known as the Department of Finance and Personnel (DFP), is responsible for determining the regulations for appointment to the NICS and for setting, and ensuring compliance with, NICS recruitment policy. Selection and appointment of staff is the responsibility of DoF and individual Departments. Since April 2017, recruitment for all departments is managed by NICSHR, the centralised HR resource for the

NICS, which sits within DoF. Some elements of the process have been contracted out to HRConnect. The role of Commissioners is to ensure that the Merit Principle is upheld throughout the NICS recruitment process. This Recruitment Code sets out the essential principles on which recruitment to the NICS must be based. Commissioners have a detailed approval process which must be followed for all open recruitment leading to appointment to the Senior Civil Service (SCS) – see paragraph 2.15. The statutory duty placed upon Commissioners to ensure that the principle of selection on merit on the basis of fair and open competition is maintained can best be discharged by Commissioners chairing all open SCS competitions. Any deviation from this position should be exceptional and will require the advance approval of Commissioners.

- 2.8** Under Article 5 of the Civil Service Commissioners (Northern Ireland) Order 1999, the Commissioners may consider and determine appeals lodged by existing civil servants under the NICS Code of Ethics. The Code sets out the core values of integrity, honesty, objectivity and impartiality, which support good government and seek to ensure the achievement of the highest possible standards in all that the Civil Service does. This, in turn, helps the Civil Service to gain and retain the respect of Ministers, the Executive, the Assembly, the public and its customers. Normally Commissioners would become involved only after the individual case has been considered by the Department. In exceptional circumstances, Commissioners may consider appeals received directly from civil servants, should circumstances warrant such an approach. In line with the legislation, Commissioners publish in their Annual Report the number of appeals relating to the Code of Ethics which have been received each year, together with a summary of the nature of such appeals.



## **WHO ARE THE CIVIL SERVICE COMMISSIONERS?**

- 2.9** The first Civil Service Commissioners for Northern Ireland were appointed in 1923 by His Majesty the King. Commissioners themselves are appointed on merit following public advertisement and by fair and open competition. All Commissioners are independent of the NICS and this is fundamental in discharging their duties with regard to regulation. They bring to the job wide experience from different backgrounds, careers and interests.

## **RECRUITMENT CODE**

- 2.10** Commissioners have a statutory duty to prescribe and publish a Recruitment Code on the interpretation and application of the Merit Principle and the circumstances in which any exceptions to the Merit Principle may be permitted. This Code applies to appointments made other than by internal transfer or promotion. Compliance with the Code is mandatory for all individuals and/or bodies involved in the recruitment and selection process for appointment to the NICS. By requiring Departments and Agencies to comply with the Code, Commissioners seek to promote public confidence in the process of recruitment to the NICS.
- 2.11** It is the Commissioners' intention that this Code will contribute to the development of best practice in the field of recruitment and selection. It reflects, but does not replace, relevant employment legislation. All appointments made under this Code must also comply with all of Northern Ireland's equality and anti-discrimination legislation, the principles espoused therein, the associated statutory Codes of Practice and the NICS requirements for appointment prescribed by DoF under Article 4(2)(c) of the Civil Service (Northern Ireland) Order 1999.

**2.12** Commissioners support the application of positive actions to promote equality of opportunity for people with disabilities who may otherwise have difficulty gaining access to employment in the NICS. The Commissioners welcome the fact that the effect of the Disability Discrimination Act 1995 is to ensure that the appointment of persons with a disability to situations in the NICS is in accordance with the Merit Principle.

## **EXCEPTIONS TO THE MERIT PRINCIPLE**

**2.13** Article 4(2) of the Civil Service Commissioners (Northern Ireland) Order 1999 states that the Commissioners may, with the approval of the Secretary of State, prescribe, in General Regulations or by directions<sup>1</sup>, the circumstances in which the principle of selection on merit on the basis of fair and open competition shall not apply. The Commissioners' objective in permitting exceptions is to provide flexibility where it can be justified as necessary and appropriate to meet the business needs of the NICS. However exceptions should be rare and only used where it would not be reasonably practicable for the Department to make the appointment in question through open competition and in accordance with the Merit Principle. Commissioners monitor, scrutinise and challenge all requests submitted to them and must be satisfied, on a case-by-case basis, that appointment by exception is warranted. Departments are permitted to make some appointments by exception to merit without Commissioners' approval. Details are set out in paragraphs A.13 to A.41 of Appendix A to this Code. However, in all cases the requirements of this Recruitment Code must be met and all appointments made by exception to merit may be subject to scrutiny by Commissioners. The categories of exception are set out in the Commissioners' General Regulations 2007, which should be read in conjunction with paragraphs A.13

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<sup>1</sup> In March 2020 in response to the Covid-19 pandemic the Commissioners made a Direction with the approval of the Secretary of State that the merit principle shall not apply to an appointment in the NICS when a person had left their employment with the NICS voluntarily between 28 February 2020 and 19 March 2020 to take up the offer of a new position which, due to the pandemic, had been rescinded or postponed with no offer of furlough pay, provided that there was a suitable position available for them to return to within the NICS at the same grade and pay.

to A.41 of Appendix A to this Code.

- 2.14** Commissioners consider apprenticeships to be an additional method of recruitment, offering an alternative entry route to a career in the NICS. Apprenticeship schemes may be used to address workforce or skills needs in a profession or job role within the NICS. Apprentices may only be appointed to the NICS on merit through a fair and open competition. Apprentices are not considered to constitute an Exception to the Merit Principle.

## **COMMISSIONERS' STATUTORY ROLE IN APPOINTMENTS TO THE SENIOR CIVIL SERVICE**

- 2.15** The Commissioners' statutory role relates to appointments to the NICS by open competition. Article 6 of the Civil Service Commissioners (Northern Ireland) Order 1999 provides that any appointment to the Senior Civil Service (SCS) made through open competition requires the written approval of the Commissioners. This approval role extends also to any appointment to the SCS made as an exception to the Merit Principle – see paragraph 2.13 and Appendix A paragraphs A.13 to A.41. The SCS is the top-level leadership cadre within the NICS and includes all those at Grade 5 and above. Commissioners have a detailed approval process which must be followed for all open competitions leading to appointment to the SCS whether on the basis of a permanent, fixed term or part-time contract or by way of secondment. Where applicable, Commissioners will seek a clear assurance of the fixed-term or temporary nature of these appointments. Since November 2019, Commissioners chair all recruitment panels for open competitions for appointment to the SCS and preside over the Article 6 process, designed to streamline recruitment while ensuring good governance.

## **MONITORING THE APPLICATION OF MERIT**

- 2.16** Under Article 4(4) of the Civil Service Commissioners (Northern Ireland) Order 1999, Commissioners have a statutory duty to audit recruitment policies and practices followed in making appointments to the NICS to establish whether the Recruitment Code is being observed. This audit function is one of the key mechanisms to assure adherence to the Merit Principle. Audit is an integral part of Commissioners' Strategic Plan and an Annual Audit Plan focuses on issues which provide information as to how, and to what extent, the Merit Principle is being interpreted and applied.
- 2.17** While assuring adherence to the Merit Principle is the primary purpose of the audit and review process, the outcomes provide a basis for discussions between Commissioners and senior representatives of the NICS to help determine future arrangements for adherence to the Merit Principle and the supporting principles in the Recruitment Code. Audit and Review seeks to:
- provide assurance of Departmental and NICS-wide adherence to the Merit Principle, identifying any weaknesses/areas of concern for priority action;
  - provide advice on good practice and opportunities for improvement; and
  - communicate findings, conclusions and recommendations in an open and consultative way.
- 2.18** Commissioners advise the NICS of the outcomes of each audit and review and monitor the implementation by the NICS of key recommendations, as necessary.
- 2.19** Summary findings from the audits, together with key outcomes against the recommendations, are published, as part of the Commissioners' Annual Report.

## **MINISTERIAL ROLE IN APPOINTMENTS**

- 2.20** The application of the Merit Principle and this Recruitment Code serve to reassure the public that all appointments to the NICS are made on merit, in fair and open competition. Ministers will be similarly reassured that those who will work closely with them on a day-to-day basis are so appointed.
- 2.21** The appropriate Minister(s) may wish to be involved in certain appointments on an exceptional basis. This exceptional involvement may occur in relation to appointment of; the Head of the Civil Service (HOCS); Permanent Secretary; or a very limited number of other SCS posts located outside this jurisdiction. It is important that any such involvement should be accommodated within a process which ensures that individual appointments are made on the basis of merit, free from personal and political patronage or partiality. Appointments made in this manner will reassure the public that those appointed may serve Ministers of different political backgrounds and, in so doing, safeguard the impartiality of the Civil Service. It is essential to put in place arrangements which provide that recruitment decisions are made in an open and transparent manner thereby ensuring that the person appointed is selected on merit through fair and open competition and through a process which adheres to the requirements of the Commissioners' Recruitment Code.
- 2.22** Commissioners have set out guidance on the Ministerial role in the process for appointments to the Senior Civil Service at Appendix A to this Code.

## **SECTION 3**

### **COMMISSIONERS' RECRUITMENT PRINCIPLES**

- 3.1** Commissioners have identified four Principles which they believe underpin the concept and practical application of recruitment on the basis of merit. It is intended that these Principles should form the basis of the NICS approach to recruitment policy and practice and should be observed by all those involved in the recruitment process.
- 3.2** Although it is for the NICS to establish the appropriate means to apply the Principles in practice, some guidance has been provided to illustrate the Commissioners' views on the application of their recruitment Principles. Each Principle is set out below, together with a brief explanation.

#### **PRINCIPLE 1: Appointments should be made on merit**

- Merit has been and remains the core Principle on which appointments must be made. Making appointments on merit, on the basis of fair and open competition, is critically important to an effective and impartial Civil Service.
- Merit means the appointment of the best available person. No-one should be appointed to a job unless they are competent to do it and the job must be offered to the person who demonstrates that they would do it best.
- This Principle accords with the Civil Service Commissioners (NI) Order 1999 which gives Commissioners a statutory duty to maintain the Principle that "...a person shall not be appointed to...the Civil Service unless the selection...was made on the basis of merit in fair and open competition."

- Diversity, inclusivity and equality of opportunity are central to the Merit Principle and these should be embraced fully during recruitment processes.

## **PRINCIPLE 2: Appointment processes should be fit for purpose**

- All recruitment processes and practices adopted by the NICS should be fit for purpose, consistent with appointment on merit, on the basis of fair and open competition, and commensurate with good practice.
- This Principle extends to all aspects of recruitment including defining job and person specifications, advertising the vacancy and the use of appropriate assessment processes.
- Excellence in recruitment policy, management and practice is a business benefit.
- Commissioners welcome and support innovative approaches to ensuring that appointment processes deliver against the Merit Principle.

## **PRINCIPLE 3: Appointment processes should be fair and applied with consistency**

- Fair means that there is no bias in the assessment of candidates. Selection processes must be objective, impartial and applied consistently.
- Commissioners oppose wholly any form of unlawful discrimination, direct or indirect, active or passive and expect the NICS to adopt a vigorous approach to ensure that this does not arise.

- The NICS has an obligation to treat candidates fairly, to a consistent standard and in a consistent manner. Selection processes and the manner in which they are applied must be demonstrably fair and underpinned by real commitment to diversity, inclusivity, and equality of opportunity.

**PRINCIPLE 4: Appointments should be made in an open, accountable and transparent manner**

- Open means that job opportunities must be advertised publicly and potential candidates given reasonable access to information about the job and its requirements, and about the selection process.
- Confidence is enhanced by the transparency and openness of the manner with which the NICS deals with candidates at all stages of the recruitment process. Such confidence requires open and active communication on the processes to be adopted, the methods for assessment and the arrangements for constructive feedback.
- By requiring Departments and Agencies to comply with this Code, Commissioners contribute to the development of an effective and impartial Civil Service and expect this to provide assurance to the public that appointments to the NICS are made on merit, on the basis of fair and open competition.



## **SECTION 4**

### **REQUIREMENTS OF THE CODE**

- 4.1** Commissioners are committed to the concept of a principle-based Recruitment Code. The guidance set out below offers insight into the requirements of the Code and how the Principles should be applied.
- 4.2** This guidance is structured under a number of headings. Each statement represents an expectation of what should happen in practice and illustrates the type of areas Commissioners will seek to review in discussions with senior management and practitioners in the NICS and through the Audit and Review Programme.

#### **Attracting Candidates**

- 4.3** Attracting the widest possible pool of candidates of the calibre to meet the needs of the NICS is central to upholding the Merit Principle. Commissioners expect to see evidence of an active approach to implementation of the Merit Principle through:
- Recruitment policies and practices which are developed and promoted to advance an agenda for diversity, inclusivity and equality of opportunity and which specifically target under-representation;
  - Clear decisions on the appropriateness of the approach adopted in any recruitment competition. This should include explicit and early consideration of diversity and outreach measures and action to identify and, as appropriate, remove potential barriers to broad appeal across the community as part of competition planning;

- Clear decisions, with supporting documentation, on the use of advertising/information and other channels which are appropriate to the vacancy under consideration, accessible to all potential applicants;
- Open and clear communication of vacancies and, in particular:
  - where it is known at the outset of a competition that more than one vacancy exists, the number of vacancies should be communicated clearly to potential candidates in all advertising and candidate information;
  - candidate information states how long the merit list will be valid for; and
  - where the merit list may be used to fill posts with similar duties and responsibilities. In such cases, this should be detailed in candidate information, together with the specification that such vacancies will have the same eligibility requirements.
- Accessible candidate information and briefing materials which are free from bias and correspond with both the job and person specifications and the assessment process to be followed;
- Measures to ensure that career opportunities in the NICS are understood by, and accessible to, a wide spectrum of the community;
- Clear and transparent communication as to the terms of appointment to include reference to, for example, whether the appointment will be permanent, temporary, fixed term or by way of secondment, as applicable; and

- Measures to ensure that due regard is paid to the potential for unfair treatment of those who are not given the opportunity to be considered for appointment. Particular attention should be paid to this issue when considering making further appointments from an existing Merit List.

## **Assessment, Selection and Appointment Processes**

**4.4** The assessment, selection and appointment processes used and the manner in which they are deployed in practice are important dimensions of the Merit Principle. Commissioners expect to find practices which include:

- An active emphasis on ensuring that the adverse impact and diversity issues are considered and addressed as appropriate in advance of the competitions;
- Job descriptions and person specifications, informed and supported by job analysis, which are identified, considered and endorsed by appropriate sponsors at the earliest stage and reflected consistently throughout the selection process;
- Selection criteria which are clear, objective and fair and derived from a clear focus on the key requirements of the job description and person specification. Such criteria should also promote principles of diversity, inclusivity and equality of opportunity;
- Measures to ensure that the panel composition is sufficiently diverse and expert to ensure appointment on Merit;
- Use of good practice documentation which complies with legislation, is free from bias and which demonstrates a consistent approach throughout the selection process;
- Use of assessment processes which comply with requirements of fairness, are free from bias, are in line with good practice, and are appropriate to the demands and level of the post concerned;

- Measures to ensure that the assessment, selection and appointment process is not subject to undue delay, with reasons for such delay recorded;
- Appointments to positions made on an order of merit basis, including those competitions which result in more than a single appointment;
- Measures to ensure the terms of appointment(s) are confined to the employment status set out for candidates in the competition documentation, to include reference to whether the appointment is, for example, permanent, temporary, fixed term or by way of secondment; and
- Measures to ensure the assessment, selection and appointments process accommodates requests for reasonable adjustments, as required.

## **Training**

**4.5** Commissioners regard appropriate training for all those involved in recruitment as fundamental to ensuring adherence to the four Principles of this Code. In practice, Commissioners expect:

- Training to cover the requirements of this Recruitment Code.
- Training should cover not only the structure of the process, but also the skills of those involved and the recruitment context, including equality and diversity considerations, outreach measures and which ensures understanding and knowledge of current and any forthcoming legislation;
- Arrangements to be in place to ensure that appropriate training is available and delivered on a timely basis to all those involved in the recruitment and selection process;
- Recent and relevant training to be delivered to an appropriate and consistent standard reflecting current good practice with an awareness of new approaches. This includes training on the roles, responsibilities

and functions of the key contributors at each stage of the recruitment process. Such training should be undertaken by each contributor and panel member participating in a recruitment competition and should be refreshed regularly; and

- The content and effectiveness of training to be monitored regularly and evaluated by the NICS and the necessary follow-up action taken.

## **Communication**

### **4.6 Commissioners will seek evidence that:**

- Panels are provided with professional HR expertise and guidance at key stages of the recruitment and selection process;
- There is effective communication between the various stakeholders involved during each stage of the recruitment and selection process and a clear and shared understanding of their respective roles and responsibilities;
- There is a commitment to clear, meaningful and timely communication with candidates, including feedback;
- There are opportunities for panel members or other key contributors to raise concerns they may have about any aspect of the competition and;
- Enquiries and/or complaints are dealt with in an efficient, appropriate and timely manner.

## **Management and Quality Assurance Arrangements**

### **4.7 Commissioners recognise that management and quality assurance arrangements for recruitment in general, and for specific competitions, will demonstrate how effectively the Code is being applied. HRConnect has a key role in managing and delivering some elements of the recruitment process**

and it will be important to ensure that this role is understood by all those involved. Commissioners expect to find evidence of:

- Measures to ensure that policies and practices comply with legislation and are consistent with the Merit Principle;
- Adequate controls in place to ensure that appropriate processes are adopted and delivered;
- Measures to ensure that all those involved in the process are appropriately trained and that the process for their involvement and their specific roles and responsibilities are clearly defined and understood;
- Measures to ensure the recording of panel members' declaration of interest, including knowledge of candidates, whether personal or professional; and of any appropriate action taken as required;
- Senior NICS management involvement in ongoing monitoring of the effectiveness of NICS recruitment policies, including issues of equality, diversity and adverse impact;
- Effective post-competition evaluation to identify and disseminate lessons learned from individual competitions;
- Analysis of Section 75 monitoring information;
- Proactive measures to regularly monitor and evaluate recruitment policies and practices so as to identify and implement any improvements which would further promote and support the principles of this Code; and
- Proper completion and retention of all records, clearly supporting each stage of the recruitment and selection process, available and accessible for the purposes of audit and review.

## **APPENDIX A**

### **COMMISSIONERS' APPROVAL PROCESSES**

#### **APPOINTMENTS TO POSTS IN THE SENIOR CIVIL SERVICE (SCS)**

- A.1** Civil Service Commissioners (Northern Ireland) Order 1999 sets out that no appointment may be made to any post in the Senior Civil Service (SCS) filled through open competition (or those made under the exceptions below) without the written approval of the Commissioners, whose decision shall be final. This includes any appointment to the SCS in respect of which Ministers have declared that they wish to have a direct involvement in the recruitment process. Commissioners will publish details of competitions in which there has been Ministerial involvement in their Annual Report.
- A.2** Since November 2019, Commissioners chair all recruitment panels for open competitions for appointment to the SCS and preside over the Article 6 process, designed to streamline recruitment while ensuring good governance. Commissioners' authorisation for SCS appointments will be granted solely in respect of the opportunity as defined in the competition documentation. Any change in employment status, which has not been communicated openly to candidates as an opportunity in the competition documentation will require justification by the NICS and authorisation by Commissioners, for example, conversion from a temporary, fixed term or secondment arrangement to a permanent appointment.

#### **MINISTERIAL ROLE IN THE PROCESS FOR APPOINTMENTS TO THE SENIOR CIVIL SERVICE (SCS)**

- A.3** The application of the Merit Principle and this Recruitment Code serve to reassure the public, the Northern Ireland Assembly and Ministers that all appointments are made on merit, in fair and open competition. This is important in order to safeguard the impartiality of the Civil Service and to

ensure that Ministerial involvement in the NICS recruitment and selection processes is managed appropriately within NICS policies and procedures and adheres to the Commissioners' Article 6 approval process. As adverted to in paragraph 2.21 of this Code, the appropriate Minister(s) may wish to be involved in the recruitment process on an exceptional basis, namely the appointment of the Head of the Civil Service or a Permanent Secretary, or a very limited number of other SCS posts located outside this jurisdiction. This section sets out guidance on the involvement of Ministers in such circumstances. The NICS should record the nature and extent of Ministerial involvement, ensuring it is in accordance with the provisions of this Code. If a Minister(s) is to be involved in the recruitment process, the Department will be required to ensure that appropriate training is provided in line with the requirements of paragraph 4.5.

- A.4** Ministerial involvement can be properly accommodated within a selection process which is appropriately managed within established NICS policies and procedures. This will ensure that individual appointments are made on the basis of merit, free from personal and political patronage or partiality, and that the appointee is able to continue to serve Ministers of different political backgrounds. This is essential in order to safeguard the impartiality of the NICS and to ensure that recruitment decisions are appropriately managed and meritorious. The Recruitment Code is designed to provide these safeguards, and applies to all appointments to the NICS, within the context of the following guidance.

### **Appointment of the Head of the Northern Ireland Civil Service**

- A.5** The post of Head of the Northern Ireland Civil Service (HOCS) is unique in terms of its duties and responsibilities and its relationship to the Executive. This has implications for the recruitment process. In recognition of this, the NICS has engaged with Commissioners with a view to providing assurance



that any arrangements made to appoint a HOCS through open competition safeguard the Merit Principle.

- A.6** Whilst responsibility for the development of the recruitment and selection process rests with the NICS under the general management and control provisions set out in the Civil Service (Northern Ireland) Order 1999, it is the role of Commissioners to satisfy themselves that the process has been properly applied in relation to the appointment of the HOCS and that the person to be appointed has been selected on merit, in fair and open competition.
- A.7** The NICS recruitment process for the appointment of the HOCS includes the potential active involvement of the First Minister and deputy First Minister (FM&dFM) in the recruitment and selection process. Where it is intended that there should be active involvement on the part of the FM&dFM, this will be accommodated within the NICS established process.

#### **Appointment of Permanent Secretary and a small number of other positions in the SCS**

- A.8** In the appointment of a Permanent Secretary, or a very limited number of other SCS posts located outside this jurisdiction, the Minister may declare an interest and an involvement within the process. The Minister's interest must be declared after a decision has been taken by the NICS to initiate a recruitment process and before the recruitment competition is advertised. As noted above, responsibility for the recruitment and selection process falls within the NICS general management and control provisions as set out in the Civil Service (Northern Ireland) Order 1999. In the case of the appointments envisaged in this paragraph, Ministerial involvement may extend to:
- Consulting in relation to the planning of the recruitment exercise; and/or

- Endorsing the lead candidate<sup>2</sup>

- A.9** Where the Minister(s) has contributed to the planning of a recruitment exercise the Minister may brief the selection panel and/or each of the shortlisted candidates. If the Minister avails of the opportunity to brief shortlisted candidates, each briefing shall be standardised and confined to setting out the Minister's expectations of the role and its responsibilities and will be overseen by the relevant Civil Service Commissioner.
- A.10** It is important to be clear that ownership of, and responsibility for, all selection decisions rests with the panel. If the Minister has declared an interest as outlined in Paragraph A.8 above, this must be identified in all advertising and candidate information. In line with the selection process for posts in the SCS, all relevant documentation, including the panel's agreed merit list, must be referred to the Commissioners for approval before the name of the lead candidate is referred to the Minister(s).
- A.11** Where Ministerial endorsement has been agreed as part of the appointment process (see A.8 above), the Minister should be advised, in writing, only of the candidate placed first on the merit list. In order to ensure that appointments are made on the basis of merit, free from personal and political patronage or partiality, the Minister(s) should not meet the lead candidate prior to appointment. In the event that (subsequent to Ministerial endorsement) the lead candidate does not accept the offer of appointment, the position may be offered to individual reserve candidates in order of merit, subject to Commissioners' approval and Ministerial endorsement.

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<sup>2</sup> Where there are no Ministers in post to fulfil the discretionary functions available to them in this Code (e.g. in the absence of a functioning Executive or should the Executive cease to function at any point during a competition), and except where appointing legislation requires otherwise, all stages of the recruitment process to make an appointment to the position of HOCS, Permanent Secretary or other, will continue to be progressed without Ministerial involvement.

- A.12** Should the Minister decide not to endorse the lead candidate, the Department concerned must then inform Commissioners that the competition has been terminated and of any fresh proposals for filling the post, as appropriate.

## **EXCEPTIONS TO APPOINTMENT ON MERIT IN FAIR AND OPEN COMPETITION**

- A.13** Commissioners recognise that, as with any principle, there may be particular circumstances where exceptions to the Merit Principle are justified. Under Article 4(2) of the Civil Service Commissioners (Northern Ireland) Order 1999 Commissioners may, with the approval of the Secretary of State, prescribe such exceptions in General Regulations or by directions. At the time of publication of this Code, the Commissioners' General Regulations 2007 are in force but may be subject to future amendment, as required. Details of all appointments made by way of exception to the Merit Principle will be reported in the Commissioners' Annual Report. The use of Exceptions to Merit should be rare.
- A.14** Departments are permitted to make some appointments below SCS under a number of categories of Exception to Merit (details are specified under each category below), without Commissioners' prior approval, provided that such appointments are made in accordance with the requirements set out in this Recruitment Code. In doing so, Departments will be required to justify why it is not reasonably practicable to make the appointment in question in accordance with the Merit Principle. All Exceptions to Merit appointments made by Departments may be subject to scrutiny by Commissioners.
- A.15** Commissioners' approval is required for all Senior Civil Service appointments made by Exceptions to Merit and some other categories of Exceptions, as detailed in this Code. Commissioners will carefully monitor and scrutinise any request made to them to approve an appointment by way of exception,

whether on the basis of legislation, a specific business need or otherwise. They will require to be satisfied on a case-by-case basis that such appointment is justified.

- A.16** In considering the application of exceptions to the Merit Principle, Departments should bear in mind their continuing obligation to ensure compliance with relevant employment and equality legislation when carrying out selection and appointment procedures. Regard should be paid to the potential for unfair treatment of those who are not given the opportunity to be considered for the appointment in question.

### **Categories of exception to appointment on merit**

- A.17** Regulation 3 of the General Regulations 2007 permits appointments to be made other than in accordance with the Merit Principle in the following circumstances:

- a) where the person is appointed on secondment;
- b) where the person to be appointed holds a situation in another Civil service of the Crown;
- c) where the person to be appointed is, or has recently been, employed on functions which have been or are being transferred to the Crown;
- d) where the person to be appointed is of proven distinction and exceptional reasons relating to the business needs of the Civil Service provide justification for the appointment;
- e) where the person has been selected for an appointment under Government programmes or initiatives; and
- f) where the person has previously held a situation in the Civil Service and is being reinstated (this provision may be used only to reinstate former civil servants following a period of parliamentary candidature or membership).

**A.18** Appointments within the above categories may be made only in the circumstances described in this Code.

**A.19** When a Department makes an appointment under one of the categories at paragraph A.17, the circumstances and the reasons must be recorded clearly.

### **Regulation 3(a) – Where the person is appointed on secondment**

**A.20** For the purposes of this exception, “secondment” means a voluntary transfer from a permanent employer for a fixed period which does not sever the employment relationship of the person seconded with the permanent employer. Any proposed secondment to the SCS under Regulation 3(a) will require the written approval of the Commissioners.

**A.21** Commissioners recognise that the use of inward secondment to the NICS can have a positive effect in promoting skills and understanding between the NICS and other civil service jurisdictions; other areas of the public sector; private and third sectors. However, as with all Exceptions to Merit, all options to fill the post in accordance with the Merit Principle should be considered, including open competition for a fixed-term appointment.

**A.22** It is possible to select a person for appointment on inward secondment in an open competition on the basis of the Merit Principle, that is, where the option of secondment has been offered clearly to all candidates. Secondments in any other circumstances can be made only in accordance with the provisions set out below. Observance of these provisions may be subject to scrutiny in the course of the Commissioners’ audit of recruitment practices.

**A.23** A person may be seconded to a post in the NICS, otherwise than on the basis of the Merit Principle, where:

- (i) the secondment is arranged:
  - (a) by approaching a number of suitable organisations and inviting them to nominate individuals for consideration, after which those nominated must be considered fairly and selected on merit; or
  - (b) by participation in an exchange scheme with a specific organisation or group of organisations; or
  - (c) by identification of an individual(s) for a post(s) requiring specific skills and knowledge and/or requiring an immediate response to unforeseen circumstances; **and**
- (ii) the secondee is assessed via an approved process as being capable of undertaking effectively the duties of the post he or she has been selected to fill and records are kept as to how that assessment has been made.

**A.24** Departments can make appointments under Regulation 3(a) without the approval of Commissioners provided the individuals are below SCS and the appointment will last no longer than three years. Any such appointments must be made in accordance with the provisions set out in A.23. The Department may, with Commissioner approval, extend the secondment beyond three years in exceptional circumstances. Extension beyond five years will only be permitted by the Commissioners where a very short period of time is required to complete a piece of work and there are proper reasons to demonstrate why its completion within five years has not been possible. All requests for extensions to secondments must be accompanied by a robust business case.

- A.25** The duration of SCS appointments made by way of a secondment under Regulation 3(a) will be approved in line with the requirements set out in paragraph A.24 above.
- A.26** Where there is an ongoing or long-term requirement for the skills, Departments should take steps to ensure that effective skills transfer takes place and consider filling the post at the earliest opportunity.
- A.27** A person who has completed a secondment must not be reappointed as a secondee by way of Regulation 3(a) (secondment) for a period of at least that of the original secondment. Commissioners may exercise discretion to waive this requirement in exceptional circumstances upon receipt of a request accompanied by a robust business case. Each request will be considered on its individual merits and amongst the factors which Commissioners will take into consideration in deciding whether or not to exercise their discretion in whole or in part will be the overall period covered by the original secondment and proposed consecutive secondment.

**Regulation 3(b) – Where the person to be appointed holds a situation in another Civil Service of the Crown**

- A.28** This provision may be used to enable persons to be appointed on a temporary or permanent basis to the NICS from another Civil Service of the Crown on exceptional grounds relating to the business needs of the NICS. Only those originally selected on Merit on the basis of fair and open competition may be appointed under this provision. In cases involving the proposed appointment of individuals into the SCS, the prior written approval of the Commissioners will be required. Temporary appointments made under this category of exception should be for a limited period in line with the relevant business need.

**Regulation 3(c) – Where the person to be appointed is, or has recently been, employed on functions which have been or are being transferred to the Crown**

**A.29** This provision may be used where the function in which a person is, or has recently been, employed is being transferred to the Crown. In cases involving the proposed transfer of individuals into the SCS, the prior written approval of the Commissioners will be required.

**Regulation 3(d) – Where the person to be appointed is of proven distinction and exceptional reasons relating to the business needs of the Civil Service provide justification for the appointment**

**A.30** With the prior written approval of the Commissioners, a person may be appointed to employment in the NICS without open competition, where:

- (i) the person is of proven distinction;
- (ii) the appointment is justified by exceptional reasons relating to the business needs of the NICS; **and**
- (iii) the appointee is assessed formally as being capable of undertaking effectively the duties of the post he or she has been selected to fill and records are kept as to how that assessment has been made.

**A.31** This exception may be appropriate in circumstances when the requirements of Regulation 3(a) (Inward Secondments) might otherwise have been satisfied but it is not possible to second the individual concerned from a permanent employer.



**A.32** Applications to use this exception will be considered individually by the Commissioners, each on its merits. In order to satisfy the proven distinction requirement, Commissioners would expect the individual to be recognised for their excellence and/or unique abilities in a particular field and where such expertise is not otherwise available within the NICS. When considering such requests, Commissioners will expect to be presented with a strong and clear case of both the compelling business need within the NICS along with a detailed consideration of how the specific knowledge, skills and attributes of the identified individual would enable him/her to meet the business requirements. Commissioners will need to be persuaded that an appointment by way of this exception is both necessary and appropriate and of the reasons why it is not possible to make the appointment by way of an open competition. If an appointment were to be approved under this exception, Commissioners will seek a clear assurance of the fixed term and temporary nature of this appointment. The Department involved would be expected to make appropriate arrangements to ensure that an effective skills transfer takes place in a timely way and/or to fill the post in a permanent capacity by way of an open competition at the earliest opportunity, where appropriate.

**Regulation 3(e) – Where the person has been selected for an appointment under Government programmes or initiatives**

**A.33** From time to time, provision may be made for temporary or permanent appointments in the context of a particular and current government programme or initiative. Examples include those programmes designed to assist, for instance, people who are unemployed or people with disabilities who often have difficulty in gaining employment through the normal competitive process. Commissioners accept that the NICS should be able to employ individuals through government programmes or initiatives, adapting the principles of this Code, as appropriate.

**A.34** In this context, a government programme or initiative is defined as a scheme which has been designed by the NI Executive or its departments for implementation in any organisation in Northern Ireland or a bespoke programme which has been designed by the NI Executive or its departments for use in the NICS.

**A.35** In the case of a programme or initiative which has been designed by the NI Executive or its departments with a view to implementation in the NICS, the relevant Permanent Secretary or HOCS, as appropriate, must indicate in writing to Commissioners their opinion as to whether or not the programme/initiative may have the capacity to be novel or contentious. In so doing, the relevant Permanent Secretary or HOCS, as appropriate, must provide evidence as to why this conclusion has been reached, including whether:

- (a) the programme/initiative may require Executive approval in accordance with the Ministerial Code;
- (b) the programme/initiative is likely to enjoy support from all sections of society;
- (c) the programme/initiative will enhance diversity and inclusion in the NICS workforce; **and also**
- (d) provide evidence on the extent to which a proper balance can be struck between those appointed on merit and those appointed by way of an exception to merit.

**A.36** In either circumstance outlined at A.29 above, the introduction of a government programme or initiative for use in the NICS must have prior

Commissioner approval. *(See Appendix D for guidance on how Commissioners will consider their decision on whether to approve a scheme.)*

- A.37** The selection procedures used in determining who to appoint within the specified programmes or initiatives must be demonstrably fair and based on the requirements of same. Records must be kept on how suitability for appointments has been assessed.
- A.38** Where departments have made temporary appointments under Regulation 3(e), they may wish to make those individuals permanent upon successful completion of the relevant scheme.
- A.39** Requests to make an appointment permanent following completion of an approved temporary scheme must be approved in advance by Commissioners. All such requests must be submitted for approval by Commissioners at least three months in advance of the end date of the temporary appointment, except for schemes lasting for less than one year, whereby requests must be submitted one month in advance of the end date.
- A.40** The process used by the NICS when making a permanent appointment must be fair and fit for purpose and may be subject to Commissioners' audit. Such process should provide assurance to Commissioners that those appointed to permanent positions through a government programme or initiative have been considered to be suitable for appointment.

**Regulation 3(f) – Where the person has previously held a situation in the Civil Service and is being reinstated**

- A.41** This provision may be used only to reinstate former civil servants following a period of parliamentary candidature or membership. Only former civil

servants who resigned from the NICS in order to pursue parliamentary candidature or membership should be considered under this provision.

## **APPENDIX B**

### **COMMISSIONERS' AUDIT OF RECRUITMENT POLICIES AND PRACTICES**

#### **Introduction**

- B.1** Article 4(4) of the Civil Service Commissioners (Northern Ireland) Order 1999 requires Commissioners to audit recruitment policies and practices followed in making appointments to situations in the Northern Ireland Civil Service (NICS) to establish whether the Recruitment Code is being observed.
- B.2** The objective of the audit and review process is to ensure that NICS recruitment and supporting systems are designed and operated in accordance with the Commissioners' Recruitment Code. Audits and reviews may examine any part of the recruitment systems; these may focus on individual departments or be carried out on a cross-departmental basis. The audit and review process may include review of individual competition files.
- B.3** Audit and review will examine the extent to which the recruitment and supporting systems of the NICS comply with the main principles set out in this Code as follows:
- (1) appointments should be made on merit;
  - (2) appointment processes should be fit for purpose;
  - (3) appointment processes should be fair and applied with consistency;
  - (4) appointments should be made in an open, accountable and transparent manner.

- B.4** This Code contains illustrations of the Commissioners' requirements as to how these principles should be applied in practice and the assessment of their application is the core purpose of the audit and review process.
- Commissioners accept that NICS recruitment practices need to evolve and to keep abreast of good practice in every sense and they do not wish to limit such scope by prescribing a fixed process for recruitment. As such, the dynamic nature of recruitment systems are acknowledged and indeed encouraged. The key issue for Commissioners, and the audit and review process, is that the core principles are maintained irrespective of the method of delivery.

### **Definition of Audit and Review**

- B.5** In this context, an audit is an objective and systematic evaluation of NICS selection and recruitment policies and practices against the Recruitment Code. It also provides information, observations and recommendations for the purpose of promoting improvement in performance and outcomes. The Commissioners support the principle of proportionate regulation and, to that end, recognise that audit engagements can and should range widely in scope and approach from comprehensive assessments and evaluations to lighter touch reviews, studies and surveys.

### **Audit and Review Procedures**

- B.6** Departments and agencies must co-operate with any audit or review undertaken by or on behalf of the Commissioners and any contracts or arrangements with parties outside of the NICS for relevant recruitment services must include a requirement for the external provider to do so. Audit and Review will be undertaken in a professional manner, in a spirit of improvement and with the goal of sharing knowledge and good practice and ensuring adherence to the principles of this Code.

- B.7** Audit and review engagements will be undertaken in line with the guidance issued by Commissioners. Advance notice will be given of the intention to examine a particular area of recruitment. This notice will be given to NICSHR in the Department of Finance, and any relevant department as required, who will agree with the Commissioners' Secretariat the extent of their involvement and that of the external provider(s) of HR services to the NICS in the audit and review process.
- B.8** Audit and review will be conducted in an efficient manner and the audit steps will be set out clearly in advance of commencement. Information will be sought from NICSHR (and, if appropriate, departments and agencies) and relevant external provider(s) of HR services to the NICS in advance of on-site visits and adequate time made available to enable preparation of the information.
- B.9** At the conclusion of an audit or review, the key outcomes, findings and recommendations will be documented and where appropriate discussed with the NICS. The NICS response should address any necessary actions as a result of the audit engagement and detail the related outcomes and the timescales within which these will be implemented. DoF will be responsible for following up issues. Major issues arising out of audit engagements may also be raised by Commissioners at appropriate meetings with NICSHR and/or Permanent Secretaries.
- B.10** Commissioners will publish a summary of audit and review engagements in their Annual Report reflecting specific audit findings, recommendations and their implementation as appropriate.

## **APPENDIX C**

### **COMMISSIONERS' REQUIREMENTS FOR THE PUBLICATION OF RECRUITMENT INFORMATION**

#### **Introduction**

- C.1** Article 4(5) of the Civil Service Commissioners (Northern Ireland) Order 1999 provides that information relating to recruitment must be published in accordance with any requirements which the Commissioners may specify.
- C.2** On an annual basis, DoF should publish information on all recruitment competitions which have been held to appoint staff to the NICS. The information to be published, and the publication period, are matters for determination by Commissioners and may change over time in response to changing circumstances and requirements. The current requirements are set out in paragraph C.3 below. A copy of the published information should be forwarded to the Commissioners in a timely way.

#### **Information to be published**

- C.3** The information, as set out below, should relate to all appointments, including appointments which require Commissioners' approval:
- a) evidence to provide assurance that systems are in place in the NICS to ensure that selection for appointment is made in accordance with the Recruitment Code;
  - b) evidence to provide assurance that recruitment policies and practices in the NICS are subject to regular internal monitoring;



- c) details of the appointments made under Regulation 3 (Exceptions) of the Commissioners' General Regulations 2007;
- d) statistical summaries, in a format which the Commissioners may specify, of all recruitment activity during the publication period, including analyses by all categories covered by Section 75 of the Northern Ireland Act 1998;
- e) any actions or initiatives undertaken in the reporting year to attract candidates, and advance a recruitment-related agenda for diversity, inclusivity and equality of opportunity and which specifically target areas of under-representation;
- f) a report on the outcomes as a result of any such actions or initiatives referred to at (e) above; and
- g) any other relevant information in a specified format regarding recruitment and selection as Commissioners may require.

## **APPENDIX D**

### **CONSIDERATIONS THAT COMMISSIONERS WILL TAKE INTO ACCOUNT WHEN PROCESSING A REQUEST TO APPROVE THE INTRODUCTION OF A GOVERNMENT PROGRAMME OR INITIATIVE UNDER THE EXCEPTION TO THE MERIT PRINCIPLE REGULATION 3(e)**

#### **Regulation 3(e) – Where the person has been selected for appointment under a government programme or initiative**

- D.1** This guidance will set out the considerations that Commissioners will take into account when making a decision on whether or not to approve a government programme or initiative under Regulation 3(e).
- D.2** Government programmes or initiatives are an effective and practical way to provide a range of pathways to employment with the NICS and the opportunity to gain invaluable work experience. They are designed to improve life chances and assist those who often have difficulty in gaining employment through the normal competitive process, for instance, people who are unemployed or people with disabilities and as such will create a more diverse workforce for the NICS which is representative of the society it serves.
- D.3** These programmes will generally provide for temporary or permanent appointments in the NICS at Grade 7 or below for varying periods of time as dictated by the terms of the particular government programme or initiative.
- D.4** Commissioners will evaluate requests for all programmes or initiatives and the suggested justification for their introduction. Whilst not intended to be prescriptive, the following are examples of the type of considerations that Commissioners will take into account:
- (a) Is there evidence that the government programme or initiative will enhance diversity and inclusion in the NICS workforce?

- (b) Is there evidence that the government programme or initiative will improve the life chances of the participants?
- (c) Is there evidence that the government programme or initiative will provide a pathway to employment for those in a category which is currently under-represented within the department/NICS?
- (d) Will the effect of making such appointments via the programme or initiative have the potential to improve the range of life and work related diversity of experience within the department/NICS?
- (e) Will the effect of making such appointments via the programme or initiative satisfy an otherwise unmet skills/knowledge need of a department/NICS which cannot be met from external open recruitment?
- (f) Is there a proper balance being struck between those appointed on merit and those appointed by way of an exception to merit?

**Converting a temporary appointment to a permanent appointment following the completion of a temporary government programme or initiative**

**D.5** In certain cases, departments may wish to convert appointments made under a temporary programme or initiative, previously approved by Commissioners, to permanent situations in the NICS. All such requests must be submitted for approval by Commissioners at least three months in advance of the end date of the temporary appointment, except for schemes lasting for less than one year, whereby requests must be submitted one month in advance of the end date

**D.6** In seeking approval a department/the NICS is required to:

- (a) Explain the rationale behind the request;
- (b) Explain why the government programme or initiative was originally introduced as offering temporary employment;
- (c) Outline what, if anything, has changed in the meantime; and
- (d) Provide any other emerging evidence in relation to any of the factors listed at D.4 (a) to (f) as above.

**D.7** Whilst Commissioners consider that NICSHR should deploy a formal process to assess how participants should be selected for a permanent position, they are satisfied that the precise nature of the formal process to be deployed is a management and control issue for NICSHR, provided that the chosen process is fair and fit for purpose.

**D.8** Commissioners are fully supportive of initiatives aimed at improving and enhancing the work experience of society within Northern Ireland and recognise the advantages that a diverse workforce can bring. However, Commissioners are mindful of their statutory role which requires them to uphold the principle that selection should be on merit on the basis of fair and open competition and must ensure that any such request for permanency arising from a government programme or initiative does not adversely impact on the Merit Principle.