



CIVIL SERVICE COMMISSIONERS
FOR NORTHERN IRELAND

ENSURING APPOINTMENT ON MERIT AND SAFEGUARDING ETHICS

Annual Report 2004/2005

FEEDBACK

Whilst this Report is a document of record it is important that it is also relevant and informative to the public. Should you have any comments regarding any aspect of the Report (e.g. content, layout, etc.) the Civil Service Commissioners would be happy to receive them. Any such comments should be sent to the following address:

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CIVIL SERVICE COMMISSIONERS
FOR NORTHERN IRELAND

**We, Your Majesty's Civil Service
Commissioners for Northern Ireland,
present to Your Majesty this report
on our work in the period from
1 April 2004 to 31 March 2005.**

A handwritten signature in black ink, appearing to read 'Judith M. Eve'.

Mrs Judith M Eve, CBE
Chairperson

A handwritten signature in black ink, appearing to read 'Alan Henry'.

Mr Alan Henry

A handwritten signature in black ink, appearing to read 'Brian Carlin'.

Mr Brian Carlin, OBE

A handwritten signature in black ink, appearing to read 'John Steele'.

Mr John Steele, CB, OBE, TD, DL

A handwritten signature in black ink, appearing to read 'Sid McDowell'.

Mr Sid McDowell, CBE

A handwritten signature in black ink, appearing to read 'Margaret M Elliott'.

Mrs Margaret M Elliott, CBE

Annual Report 2004/2005

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The Civil Service Commissioners for Northern Ireland



Mrs Judith M Eve, CBE, first appointed in 1993. Graduated from Queen's University, Belfast with an LLB degree in 1971 and qualified as a Barrister-at-Law in 1973. Mrs Eve was employed by Queen's University until 2002, firstly as a legal academic then as International Liaison Officer. She has served as a Mental Health and an Equal Opportunities Commissioner for Northern Ireland and as a non-executive Director of North and West Belfast Health and Social Services Trust. Currently, she is a part-time Chairman of The Appeals Service Northern Ireland, and a Board member of BIH Housing Association and of the NI Medical and Dental Training Agency. Mrs Eve was appointed Chairperson of the Northern Ireland Civil Service Commissioners in 1998.



Mr Brian Carlin, OBE, appointed in 2002, worked for 43 years in Bombardier Shorts before retiring as Executive Vice-President in 1996. In October 1996 Mr Carlin was appointed Chairman of the Central Services Agency and served for a period of seven years. He also serves on the Northern Ireland Council for Curriculum, Examinations and Assessment. Mr Carlin was appointed to the Equality Commission in August 2003.

Mr Carlin acts as an Industrial Tribunal Panel Member and serves on the Board of Maydown Precision Engineering in Derry. Other Voluntary Sector interests include acting as a Trustee for the Bytes Project and as a Trustee of the Bombardier Shorts Charitable Foundation. Mr Carlin was recently elected a trustee of the Bombardier Shorts Pension Fund.



Mrs Margaret M Elliott, CBE, appointed in 1996. Graduated from Queen's University, Belfast in 1973 with an LLB degree and was admitted to the Roll of Solicitors in 1976. Mrs Elliott is a partner in a firm of solicitors with its practice in Newry. She is a past President of the Law Society of Northern Ireland and until October 2004 was a non-executive Director of Northern Bank Ltd, and National Irish Bank in Dublin. She is also Chairman of the National Museums and Galleries of Northern Ireland and was a Fair Employment Commissioner until June 1999.



Mr Alan Henry, appointed in 2002, worked in Royal Mail for 35 years before retiring in 2003 as Head of Human Resources. He has recently been selected for appointment as a Human Rights Commissioner, has been a Commissioner of the Equality Commission since 1999 and is a former Chair of the Equality Forum. Mr Henry is a Member of the Industrial Tribunal Panel and a Lay Member of the Department of Education Schools Inspection Teams. He is also an Assessor for the National Clinical Assessment Authority. Mr Henry is currently a Human Resources consultant specialising in recruitment and selection, as well as equality and diversity.



Mr Sid McDowell, CBE, appointed in 1999. Mr McDowell was Deputy General Secretary of the Northern Ireland Public Service Alliance from 1976 to 1994 and Chairman of the Northern Ireland Housing Executive from 1995 to 2004. He is Chairman of both the Local Government Staff Commission for Northern Ireland and the Construction Excellence Centre (Northern Ireland). He is President of the Northern Ireland Association of Citizens Advice Bureaux, Vice-President of the Association for Spina Bifida and Hydrocephalus (NI) and a member of the Management Board of Threshold, the mental health charity and Habinteg Housing Association. Mr McDowell is also a non-executive Director of AssetCo and a major government agency.



Mr John Steele, CB, OBE, TD, DL, appointed in 1999. Mr Steele retired as Senior Director of the NIO (Belfast) in September 1998 having occupied the post from September 1996. Before that he was Director (Security) in the NIO since 1992, and Controller of Prisons from 1987 to 1992. He was Director of the Northern Ireland Court Service from 1982 to 1987 and before that held a variety of posts in the Northern Ireland Civil Service. He is currently Chairman of Bryson House the Northern Ireland Charity and also holds a number of other voluntary posts.

Chairperson's Foreword

The year 2004-2005, as the previous year, has been one of exceptional activity. The process of reviewing our Recruitment Code, our role and our responsibilities presented a daunting business programme. The outcome, we believe, is a new Recruitment Code which embodies best practice and meets the changing recruitment needs of the Northern Ireland Civil Service (NICS). Commissioners have benefited enormously from the review process and are much better informed about perspectives on, and perceptions of, recruitment to the NICS.

The year began with a major consultation exercise on the draft revised Code. Commissioners held a series of small focus group meetings with representatives of Section 75 interest groups and of the public, voluntary and private sectors at various locations around Northern Ireland. When the consultation period ended on 31 August 2004, Commissioners considered a wide range of comments and opinions which contributed to amendment of the draft Code, in particular to the permitted exceptions to appointment on merit. The Commissioners were pleased that, as a result of the consultation, the NICS accepted our recommendation that they offer existing Employment Support employees permanent appointments in the civil service.

An Equality Impact Assessment (EQIA) of the revised draft was issued for consultation on 17 January 2005 and we were pleased to receive further comments and representations, especially from groups representing people with disabilities and those with previous criminal convictions. We should like to thank all who responded to our two consultations and whose comments helped the Commissioners to make positive adjustments in order to finalise their new Code.

It has not been possible to meet our original aim of introducing the new Code with effect from 1 April 2005. We needed more time to consider fully all comments from the EQIA consultation and to secure the Secretary of State's approval of Regulations implementing revisions to the exceptions to appointment on merit. The new Code will be in operation by the time this annual report is published.

Implementation of our equality and good relations duties under Section 75 of the Northern Ireland Act 1998 remains a high priority for the Commissioners. Appendix D provides a brief report to the Equality Commission of the work undertaken in the past year.

During the year, Commissioners continued to develop their links with departments and agencies through meetings with individual Permanent Secretaries and Chief Executives. At a time of civil service reform and the wider review of public administration, these meetings have proved invaluable, helping the Commissioners to understand the challenges facing the NICS and the public sector as a whole. We also liaised regularly with our counterparts in Dublin and London, and look forward to continuing to raise the profile and work of the Commissioners through these meetings and meetings with other interested parties.

We have continued discussions with the NICS on their review of the existing Code of Ethics governing the values and behaviour of civil servants. In particular, we welcomed the opportunity to comment on a proposed questionnaire to survey civil servants to identify their awareness of the current Code and assess their views on the existing arrangements. The Commissioners noted the proposals in a draft Civil Service Bill published for consultation by the Cabinet Office to create statutory core values for the Civil Service and to allow appeals under the Civil Service Code to be made directly to the Commissioners. We await with interest the Government's response to the consultation process and a possible Bill.

Our programme of thematic audits across NICS departments has continued. As in previous years, these have raised interesting issues relating to aspects of recruitment practice which are discussed in Section 7. This section also outlines the themes we intend to audit in the year 2005-2006.

In what has been a busy and challenging year, I should like to thank my fellow Commissioners and the staff in the Office of the Civil Service Commissioners for their whole-hearted support. Also, I wish to acknowledge the considerable contribution to the work of the Commissioners made by Christine Collins, who acted as Secretary to the Commissioners until April 2004, and Margaret McGurk, who was our Deputy Secretary until 28 October 2004.

The excellent work developing and agreeing the new Code, meeting our equality obligations and consulting with a wide range of groups and individuals has been achieved with the full commitment of all staff and Commissioners. The constructive working relationship we have enjoyed with the Department of Finance and Personnel and the personal contribution of Mr Nigel Hamilton, Head of the Northern Ireland Civil Service, the Permanent Secretaries, the Personnel Directors and their staff in the Northern Ireland Departments and Agencies throughout the year have contributed significantly to the achievement of our objectives.



Judith M. Eve

JUDITH EVE, Chairperson

Authority and Responsibilities of the Civil Service Commissioners for Northern Ireland

Civil Service Commissioners for the United Kingdom were first appointed in 1855 to improve the efficiency of the Civil Service by ensuring that selection for appointment to posts was made on merit, in fair and open competition. The objective was to eliminate the then common practice of appointment of friends and/or family, or for favours, without regard to ability.

Civil Service Commissioners for Northern Ireland were appointed in 1923.

Northern Ireland Commissioners currently derive their powers from prerogative Orders made by the Secretary of State. The Civil Service Commissioners (Northern Ireland) Order 1999, which is reproduced in full in Appendix A, sets out the principle that – “ ... a person shall not be appointed to a situation in the Civil Service unless... the selection ... was made on merit on the basis of fair and open competition.”. The Order gives Commissioners the responsibility to maintain this important principle, known as ‘The Merit Principle’.

The Order provides for Commissioners to discharge their responsibilities by:

- publishing and maintaining a Recruitment Code setting out the essential principles and procedures on which recruitment to the NICS must be based;
- making General Regulations prescribing certain Exceptions to the principle of selection on merit on the basis of fair and open competition;
- approving the procedures for appointment through open competition to senior positions in the NICS;

- auditing the recruitment policies and practices followed by Departments and Agencies in making appointments to the NICS, to ensure that they meet the Commissioners' requirements in regard to the Merit Principle; and
- requiring Departments and Agencies to publish information about their recruitment activity.

Under the terms of the Civil Service Commissioners (Northern Ireland) Order 1999, Commissioners also have the power to consider, and make decisions on, appeals to them under the Northern Ireland Civil Service Code of Ethics which is published by the Department of Finance and Personnel. The Order requires the Commissioners to publish, annually, a report on the number of appeals they received under the Code of Ethics, together with a summary of each appeal - see Section 9.

Section 75 Responsibilities

The Civil Service Commissioners are fully committed to fulfilment of their obligations on the promotion of equality of opportunity and good relations required under Section 75 of, and Schedule 9 to, the Northern Ireland Act 1998. The Commissioners' Equality Scheme and its Implementation Plan set out how they propose to fulfil those obligations and may be viewed on the Commissioners' website at www.nicscommissioners.org. The Commissioners' annual progress report on their implementation of their equality and good relation duties is at Appendix D of this Report.



Prior to 1996, Commissioners were incorporated in the Civil Service Commission which at that time was responsible for operational recruitment into the Northern Ireland Civil Service. The Civil Service (Northern Ireland) Order 1996 took away the operational role, which is now carried out by the Recruitment Service of the Department of Finance and Personnel and various other recruitment points within the civil service, and gave power to the Commissioners to make General Regulations “prescribing the manner by which persons shall be selected for appointment to the Civil Service”. The Commissioners duly made General Regulations and produced their first Recruitment Code in 1997.

The Civil Service (Northern Ireland) Order 1996 and the General Regulations were overtaken in time by the Civil Service (Northern Ireland) Order 1999, the Civil Service Commissioners (Northern Ireland) Order 1999 and the Civil Service Commissioners for Northern Ireland General Regulations 1999. The Civil Service Commissioners (Northern Ireland) Order 1999 gave Commissioners specific responsibility to uphold the principle that selection for appointment to posts in the Northern Ireland Civil Service shall be on merit on the basis of fair and open competition (the Merit Principle). Article 4(3) states that Commissioners “shall prescribe and publish a Recruitment Code on the interpretation and application of the principle of selection on merit on the basis of fair and open competition”. The Commissioners’ Recruitment Code sets out the essential principles on which recruitment to the NICS must be based.

The Code in Practice

The Commissioners’ Recruitment Code should be used in conjunction with all current Codes of Practice issued under relevant legislation e.g. the Code of Practice on Fair Employment in Northern Ireland;

the Equality Commission's Code of Practice on Removing Sex Bias from Recruitment and Selection; and the Employment Code of Practice issued under the provisions of the Disability Discrimination Act 1995. Recruitment to the NICS is also governed by relevant legislation and by NICS policy commitments including, in particular, the NICS Equal Opportunities Statement and the Code of Practice on the Employment of People with Disabilities.

The Code deals only with those aspects of recruitment which are the responsibility of the Commissioners. It is not a complete guide to all requirements for recruitment to the NICS. For example, those undertaking recruitment to the NICS must still ensure that they comply with all legislative requirements, while those appointed must also meet the requirements for appointment prescribed by the Department of Finance and Personnel under Article 4(2)(c) of the Civil Service (Northern Ireland) Order 1999.

During the period under review, the Code consisted of:

- a prescription of how the principle of selection on merit on the basis of fair and open competition is to be applied at each stage of the recruitment process, from determination and use of job criteria through to retention of records;
- an outline of the circumstances in which appointments may be made, other than on the basis of selection on merit (i.e. limited Exceptions where the Merit Principle does not need to apply), with details of the circumstances where Commissioners' prior approval of such appointments is required;
- the arrangements for obtaining Commissioners' approval for all appointments to senior grades made through open competition (including those constituting Exceptions to the Merit Principle);
- guidance on consulting with Ministers in cases where they have a particular interest in open competitions for posts in the Senior Civil Service;

- details of the scope of the Commissioners' audit of recruitment policies and practices within the NICS. The Audit Programme, which started in April 1998, establishes whether the requirements of the General Regulations and the Recruitment Code are being observed; and
- details of the recruitment-related information the Commissioners require each recruiting organisation to publish.

The principles and procedures set out in the Code are mandatory for everyone involved in recruitment to any post in the NICS. The requirements of the Code apply to all appointments whether industrial or non-industrial; temporary, fixed-term or permanent; full or part-time.

Breaches of the Code

Audit Programmes over the years have identified relatively few breaches of the Code. There were no specific breaches in 2004-05 and Commissioners continue to be pleased that their recruitment audits confirm that Departments and Agencies are well aware of the requirements of the Code.

DEVELOPMENTS DURING 2004-05

Revised Recruitment Code

The current Recruitment Code is now eight years old and has been amended several times. Given the social, political and economic changes in Northern Ireland and the changing shape of the NICS, the Commissioners were keen to develop a new revised Code which better meets the changing recruitment needs of the NICS and which ensures that recruitment embraces diversity and helps make the NICS more reflective of the people of Northern Ireland whom it serves. The revised Code is principle-based, rather than prescriptive.

During 2004-05, Commissioners carried out a considerable consultation exercise on the draft and took the opportunity to re-consider their role and responsibilities under the 1999 Order. The draft revised Code was launched for consultation by the Minister, Ian Pearson MP, on 30 March 2004.

As well as inviting written comments on the draft, Commissioners arranged focus group meetings where consultees and members of the public could meet with Commissioners to discuss the consultation document. Focus Group meetings were held in Belfast, Ballymena, Londonderry, Newry and Omagh. The period set aside for consultation on the revised Recruitment Code ended on 31 August 2004.

The Commissioners were pleased and encouraged by the level of interest shown during the consultation exercise. They were also pleased to meet with the staff association NIPSA (Northern Ireland Public Service Alliance) to hear that body's views on the proposed new Code. As a result of the wide range of comments and opinions received amendments were made to the draft, notably around the permitted Exceptions to appointment on merit.

Equality Impact Assessment on the Draft Revised Recruitment Code

A further consultation then took place on an Equality Impact Assessment (EQIA) of the Code. This EQIA document issued on 17 January 2005, consultation ending on 14 March 2005. Commissioners were pleased to receive further comments and personal representation from groups representing people with disabilities (Disability Action) and those with previous convictions (NIACRO). Both consultations were extremely valuable for the Commissioners and have helped develop a better understanding of issues confronting disadvantaged groups and the NICS as an employer.

The Commissioners are particularly pleased at two positive outcomes of the consultation process in relation to those with disabilities. Firstly, they learned that Recruitment Service has appointed a member of staff with specific responsibility for all aspects of disability and, secondly, a decision has been taken by the NICS to offer existing Employment Support workers the opportunity to become directly employed by the NICS rather than as holding placements under the scheme. Commissioners are pleased that the NICS has responded positively to the concept of a principle-based Code and agreed to revise its recruitment policies and procedures for simultaneous publication when the Code comes into effect.

Introduction of the new Code has had to be delayed from 1 April as originally planned, to allow the Commissioners time to consider fully all comments from the EQIA consultation and also to secure the Secretary of State's approval for Regulations implementing revisions to the Exceptions to appointment on merit. It is expected the new Code will be in operation by the time this report is issued. Copies of both the previous Code and the new revised Code can be obtained from:

Office of the Civil Service Commissioners,
5th Floor, Windsor House,
Bedford Street,
Belfast,
BT2 7SR

or from the Commissioners' website: www.nicscommissioners.org

Commissioners Chairing Senior Civil Service Competitions

It has been practice for some time for individual Commissioners, at the request of a Department, to sit as independent assessors on selection panels for appointments to the Senior Civil Service through open competition. This arrangement offered Commissioners the opportunity to see their Code in operation and also to experience at first hand the difficulties/challenges facing the NICS in its recruitment processes.

During 2004-05, the NICS and the Commissioners explored the feasibility of Commissioners officially chairing SCS open competition selection panels. This was judged to provide benefits for all participants. For the Commissioners, it was formal recognition of their role as independent custodians of the Merit Principle; for the NICS, it would introduce an additional element of transparency and openness into their selection process; and for the applicant, it would be further assurance that the appointment process and, consequently, the final appointment, was made in accordance with the Commissioners' Recruitment Code.

Discussions on the practical arrangements continued throughout the year culminating in an agreement that Commissioners, on a rotational basis, would commence chairing senior competitions as from 1 April 2005. A report on how this has worked in practice will form part of next year's Annual Report.

Commissioners' Away Day

Commissioners attended a planning Away Day on 23 November 2004 to focus on issues that affect and shape their work, including ongoing matters of interest. Items discussed included Business Planning and development of a Communications Strategy for 2005-06 to link into their Section 75 Good Relations obligations. Progress on the introduction and implementation of the Communications Strategy will be reported in next year's Annual Report.

Interaction with Relevant Bodies

Commissioners continued to develop closer working relationships with their counterparts in Great Britain and in the Republic of Ireland, learning from experiences in those jurisdictions. They also maintained the system of links set up in 2003-04 with Permanent Secretaries of Northern Ireland Departments and Chief Executives of Departmental Agencies assisting the Commissioners to understand in greater detail the recruitment challenges facing individual Departments, as well as the NICS as a whole.

Exceptions to the Merit Principle

The Civil Service Commissioners (Northern Ireland) Order 1999 lays down that – aside from a limited range of Exceptions – a person shall not be appointed to a situation in the Civil Service unless the selection for appointment is made on merit on the basis of fair and open competition. The objective of permitting a limited range of Exceptions is to provide flexibility where it can be justified as necessary to meet the business needs of the NICS, and its obligations as a good employer. There must also be strong and compelling grounds why it is not reasonably practical to make the appointment in accordance with the Merit Principle.

As part of the exercise to revise the Recruitment Code, Exceptions too came under strong scrutiny. Changes have been made to the Exceptions in the new Code and these will be discussed in full in next year's Annual Report. The permitted Exceptions for the period under review (1 April 2004 – 31 March 2005) were:

- (a) where the person is appointed on secondment;
- (b) where the person has previously held a situation in the Civil Service and is being considered for reinstatement or re-employment;
- (c) where the person holds a situation in another Civil Service of the Crown;
- (d) where the person is, or has recently been, employed on functions which are being, or have been, transferred to the Crown;
- (e) where the person has reached an appropriate standard in a fair and open competition for another situation in the Civil Service without securing appointment and there is a demonstrable shortage of suitable candidates for the relevant situation;
- (f) where the person has been selected for appointment under arrangements which include provision for encouragement and

assistance to any person who is defined under the Disability Discrimination Act 1995 as being a disabled person or as having a disability by or under any enactment relating to the employment of disabled persons;

- (g) where the appointment is justified for exceptional reasons relating to the needs of the Civil Service, and the person proposed for appointment is of proven distinction; or
- (h) where the person has been selected for an appointment under Government programmes to assist the long term unemployed and the total period of service does not exceed 3 years.

The Recruitment Code provides further guidance to Departments and Agencies on their remit and authority in making appointments using the above Exceptions. Departments and Agencies are required to publish, annually, details of appointments made as exceptions to merit. Commissioners also stipulate the circumstances in which Departments and Agencies must seek and obtain Commissioners' approval to appoint an individual as an Exception to merit.

Exceptions which required Commissioners' approval

During the period of this report, Commissioners received four requests for approval to make appointments as exceptions to the Merit Principle. As a result of information provided to them the Commissioners were content to approve all four requests on the basis that the appointments could be justified for exceptional reasons relating to the business needs of the Northern Ireland Civil Service.

The first was a request from the Office of the First Minister and Deputy First Minister (OFMDFM) to appoint, through a secondment arrangement (interchange) an individual to the senior civil service post of Head of Anti-discrimination Division. Based on information provided, Commissioners agreed there were strong and compelling grounds as to why it was not reasonably practical to make the appointment in accordance with the merit principle. The Department, therefore, was granted Commissioners' approval to make the appointment under Regulation 2(a) of their General Regulations 1999.

The second request came from the Department for Regional Development seeking Commissioners' approval to appoint an Interim Director of Asset Management, a senior civil service post within the Water Service, pending a permanent appointment to the position. The Commissioners agreed there were strong and compelling circumstances to approve a short-term interim appointment as an exception to the merit principle. This was made under Regulation 2(g) of the General Regulations 1999.

Unfortunately due to unforeseen personal circumstances the postholder had to leave the post after a few months. The third request to come to the Commissioners, therefore, was the appointment of a replacement. Approval was granted on the same basis as the original appointment. The permanent appointment was subsequently made through open competition.

The final request came from the Department of Finance and Personnel which sought Commissioners' approval to appoint a temporary Legal Assistant to the Departmental Solicitor's sub-office in Londonderry. The Department considered the appointment was necessary to cover the absence of the postholder, who had been granted a career break. Commissioners were content that an appointment could be made as an exception to the Merit Principle in order to alleviate pressing business needs.

Overview of exceptions in the last year

Departments and Agencies report that 146 appointments were made as Exceptions to merit during the period 1 April 2004 to 31 March 2005. Comparing this with 3,754 appointments made through open competition, the Commissioners remain re-assured that appointments under this provision are being made only exceptionally, as intended.

Figure 1 shows the trends over the past three years of appointments to the Northern Ireland Civil Service made as Exceptions to merit.

Figure 2 shows an analysis of these appointments by category. The majority fell under category (f) – an arrangement which includes a provision for encouragement and assistance to any person defined as disabled under the Disability Discrimination Act 1995.

Figure 1: Exceptions to Merit



Figure 2: Exceptions to merit by category

| Exception Category | Number 1 April 2002– 31 March 2003 | Number 1 April 2003 – 31 March 2004 | Number 1 April 2004 – 31 March 2005 |
|--|--|---|---|
| a. secondment | 31 | 15 | 16 |
| b. re-employment | 83 | 27 | 29 |
| c. another civil service of the Crown | 7 | 7 | 3 |
| d. transfer of functions | 218 | 0 | 2 |
| e. shortage of suitable candidates | 0 | 0 | 0 |
| f. assistance to disabled | 68 | 86 | 85 |
| g. needs of the Service | 8 | 3 | 4 |
| h. programmes to assist the long-term unemployed | 1 | 0 | 7 |
| Total | 416 | 138 | 146 |

Commissioners' role in approving appointments to the Senior Civil Service

During the reporting year the Commissioners, acting as independent members of panels, were involved in a NICS pilot project to run a generic competition from which various appointments were made to the Senior Civil Service (SCS). The basis for selection in such a competition was the SCS Leadership Competencies. 609 applications were received, demonstrating the significant amount of interest generated by this competition. To date 12 appointments have been made from the competition; details are at Figure 3. Commissioners noted with interest the findings of the recent review of the competition undertaken by NISRA for the NICS. The experience and review should inform and shape future SCS selection procedures.

During the reporting year we liaised with the NICS as to whether Civil Service Commissioners should adopt a chairing role in all selection panels where appointment is being made to the SCS through open competition. We agreed that, as from 1 April 2005, such competitions would be chaired by Civil Service Commissioners. We will share our experience of this new role in our next Annual Report.

Current Approval Procedure

Every appointment to the Senior Civil Service, whether through open competition or made as an Exception to the Merit Principle, must be approved by the Commissioners. Officials in our Secretariat scrutinise and, if the conditions are satisfied, approve these appointments on the Commissioners' behalf. The current system involves a series of checks at each of the following stages in the recruitment process:

- pre-advertisement
- pre-interview
- post-interview
- pre-appointment

Written approval must be obtained from the Commissioners' office at each of the above stages of appointments to the Senior Civil Service before a competition can progress. The key objective of the approval process is to ensure that procedures being followed are in accordance with the Commissioners' Recruitment Code and to ensure that all SCS appointments made through open competition adhere to the Merit Principle.

During the reporting period, only one Senior Civil Service competition was not carried out by the Northern Ireland Civil Service Recruitment Service on behalf of Departments and Agencies. In that one case, an external recruitment agency was used to recruit a Director of Asset Management for the Water Service.

Experience of Recruitment through Open Competition over the year

Departments and Agencies have continued to fill a consistent number of vacancies for senior positions through open competition. These have ranged from administrative to professional and specialist posts.

Quality Assurance of the work of the Secretariat in the Office of the Civil Service Commissioners

Commissioners conduct an annual audit of the approval process for appointments to the Senior Civil Service to ensure that officers in their Secretariat exercise properly this delegated authority. During the period of this report, twenty-five appointments were made to the Senior Civil Service by way of open competition. Commissioners were satisfied with the thoroughness of the procedures carried out in approving all twenty-five appointments.

Summary of Senior Recruitment through Open Competition

Details of appointments made to the Senior Civil Service following open competition are given in Figures 3, 3(a) & 3(b).

**Figure 3: Approved appointments to the Senior Civil Service
1 April 2004 - 31 March 2005 - SCS Generic Competition: Director Level (Grade 5)**

| Department | Title | Internal/External |
|--|--|----------------------------------|
| Department of Enterprise Trade and Investment | Head of Energy Division Head of Economics and Statistics Division | Internal Internal |
| Department of Social Development | Director of Human Resources SSA Director of Urban Regeneration Strategy Director of Business Development | Internal External External |
| Department of Culture, Arts & Leisure | Director of Culture | Internal |
| Department for Employment and Learning | Director of Skills and Industry Division | Internal |
| Department of Finance and Personnel | Head of Office Estates and Building Standards Division Head of Supply 2 Division | Internal External |
| Department of the Environment | Director of Corporate Services, Planning Service | Internal |
| Department of Education | Head of Policy Research and Youth Division | External |
| Office of the First Minister and Deputy First Minister | Head of Regeneration and External Affairs Division | Internal |

Commissioners' role in approving appointments to the Senior Civil Service

| Job Title | Applicants | | | Appointments | | |
|--------------------------------|------------|--------|-------|--------------|--------|---------------------------------------|
| | Male | Female | Total | Male | Female | Internal/ External Candidate(s) |
| SCS - Director Level (Grade 5) | 435 | 174 | 609 | 3 | 9 | 8 Internal 4 External |

Community Background

| Applicants | | | | Appointments | | | |
|------------|----------------|----------------|-------|--------------|----------------|----------------|-------|
| Protestant | Roman Catholic | Not Determined | Total | Protestant | Roman Catholic | Not Determined | Total |
| 325 | 246 | 38 | 609 | 7 | 5 | 0 | 12 |

**Figure 3(a): Approved appointments to the Senior Civil Service
1 April 2004 - 31 March 2005 - Specific Open Competitions**

| Department | Job Title | Applicants | | | Appointments | | |
|--------------|--|------------|-----------|------------|--------------|----------|---------------------------------------|
| | | Male | Female | Total | Male | Female | Internal/ External Candidate(s) |
| DETI / DRD | Head of Finance & EU Division (1 post in each Department) | 26 | 4 | 30 | 2 | 0 | Both Internal |
| DFP | Head of EOAD | 24 | 31 | 55 | 1 | 0 | Internal |
| | Assistant Commissioner VLA | 2 | 0 | 2 | 1 | 0 | Internal |
| | Deputy Director Professional Services | 11 | 1 | 12 | 1 | 0 | Internal |
| NIO | Assistant Director DPP | 10 | 5 | 15 | 1 | 0 | Internal |
| DHSSPS | Director of Estates Policy | 7 | 0 | 7 | 1 | 0 | Internal |
| | Senior Medical Officer | 6 | 1 | 7 | 1 | 0 | Internal |
| | Director of OHS | 3 | 0 | 3 | 1 | 0 | External |
| OFMDFM | Deputy Director of Communications | 15 | 11 | 26 | 1 | 0 | Internal |
| | Legislative Counsel | 0 | 1 | 1 | 0 | 1 | Internal |
| DRD | Director of Human Resources Water Service | 15 | 6 | 21 | 0 | 1 | Internal |
| | Director of Asset Management Water Service | 24 | 2 | 26 | 1 | 0 | External |
| Total | | 143 | 62 | 205 | 11 | 2 | 11 Internal 2 External |

Commissioners' role in approving appointments to the Senior Civil Service

Community Background

| Applicants | | | | Appointments | | | |
|------------|----------------|----------------|-------|--------------|----------------|----------------|-------|
| Protestant | Roman Catholic | Not Determined | Total | Protestant | Roman Catholic | Not Determined | Total |
| 115 | 78 | 12 | 205 | 11 | 2 | 0 | 13 |

**Figure 3(b):
Approved Appointments to Senior Civil Service via Open Competition
1 April 2002 - 31 March 2005**

| Period | Total | Gender | | Community Background | | |
|------------------------------|-------|--------|--------|----------------------|----------------|----------------|
| | | Male | Female | Protestant | Roman Catholic | Not Determined |
| 1 April 2002 – 31 March 2003 | 19 | 16 | 3 | 14 | 4 | 1 |
| 1 April 2003 – 31 March 2004 | 24 | 15 | 9 | 9 | 13 | 2 |
| 1 April 2004 – 31 March 2005 | 25 | 14 | 11 | 18 | 7 | 0 |

Commissioners' Audit of NICS recruitment policies and practice

Article 4(4) of the Civil Service Commissioners (Northern Ireland) Order 1999 requires the Commissioners to audit recruitment policies and practices within the NICS to establish whether the Recruitment Code is being observed.

Approach to Audit

External auditors, appointed under contract following a tendering process, perform audits on behalf of the Commissioners. A thematic approach is taken to the audit methodology focusing on gathering information at two levels:

Level One: An assessment of policies, procedures and stated practices in relation to an identified theme(s), against the Recruitment Code. This information is gathered in a number of ways including: one to one discussions with NICS Recruitment staff; written documentation relating to policy or procedure and cross-departmental discussion groups; and

Level Two: A review of a sample of competition files relevant to the identified theme to ascertain issues of compliance in relation to that theme and also in terms of general compliance with all aspects of the Recruitment Code.

Three audits were programmed for the reporting year. By the end of the year, however, only one audit had been finalised, that which focused on appointments made as Exceptions to the Merit Principle. The remaining two audits were at various stages of completion and we will report on these in our next Annual Report.

Audit of Exceptions to the Merit Principle

Main Findings

Generally, it was apparent to the auditors that there was some variation in how each Department/Agency categorised appointments under Exceptions to the Merit Principle, including their interpretation of the process to be followed.

This has resulted in some inconsistency in reporting to the OCSC and, in a small number of cases, appointments being reported erroneously as an Exception. The following summarises the main findings against each Exception category.

(a) Inward Secondments

The greatest requirement for use of this exception is within the Department of Health, Social Services and Public Safety where detailed procedures have been established and adhered to and which are compliant with the Recruitment Code.

(b) Re-appointment of former Civil Servants

The auditors judged, from the files reviewed, that it was not often clear that there were strong and compelling grounds for reinstatement. The auditors believe the position has evolved to a situation where former NICS employees, and indeed Departments/Agencies, perceive reinstatement as a right or entitlement. It appears, therefore, that this exception may have been misused in the past. The auditors noted that the NICS had taken steps to address this through the introduction of a revised policy relating to reinstatement.

(c) Transfers into NICS from another Civil Service of the Crown

This Exception is used mainly to allow Home Civil Service employees to transfer into the NICS on compassionate grounds. In the small number of appointments made under this Exception the auditors found the process followed had been in order and well documented.

(d) Transfers into NICS of functions being transferred to the Crown

The very few appointments made under this category were found to be supported by detailed documentation.

(e) Shortage of suitable candidates

No such exceptions were made during the period under audit review.

(f) Candidates with disabilities

Use of this Exception was relatively large. The auditors found considerable variation in the reporting of Exceptions made under this category. The broad Disability Discrimination Act (DDA) definition of disability has led recruitment points to include, for reporting purposes, all applicants where any form of assistance is provided, however minor. Nevertheless, the decision making process was well documented in all the cases reviewed.

(g) Appointments for exceptional reasons

The auditors found that, generally, there was evidence of compliance with seeking Commissioners' approval but there was a very small number of cases where approval had not been sought prior to appointment. In these cases, retrospective contact had been made with OCSC within several days.

(h) Appointments made under Government programmes to assist the unemployed

Only a small number of appointments were made under this heading, all of them under the New Deal Scheme. Processes undertaken and decisions made had been adequately documented.

RECOMMENDATIONS

The Commissioners have considered, and will take appropriate action to address, the following recommendations which were put forward by the auditors:

- (i) Limit the number and categories of Exceptions in the new Recruitment Code and adopt a more restrictive approach to their application;
- (ii) Consider the value of the infrequently used Exceptions and, if still required, consider whether they could be combined with the exceptional needs category;
- (iii) Provide clearer guidance in the revised Recruitment Code as to the circumstances where Exceptions may be used;

- (iv) Following the recent clarification of NICS policy on the reinstatement of former civil servants it is recommended that the Commissioners work with Departments/Agencies to further reinforce accurate interpretation of the Exception; and
- (v) Seek improvements from Departments and Agencies in relation to recording and monitoring Exceptions. It is recommended that Departments provide statistical information on Exceptions more regularly to OCSC.

ACTION PLAN

Commissioners considered the findings and recommendations from this audit to be extremely informative. These, together with information received from extensive consultation on the Recruitment Code, greatly influenced their decision to review and reduce the permissible Exceptions to the Merit Principle. In order to restrict further these Exceptions, Commissioners have proposed to reduce the number of Exceptions from eight to five (with one being an amalgamation of two former exceptions).

Commissioners have endorsed the general view from consultees that appointments under the Exceptions should be rare. Less than 4% of all appointments to the NICS are normally made by way of Exception although occasional transfers of functions and, consequently, people into the civil service can distort this figure.

Two Exceptions, one permitting appointment of former civil servants and the other of particular individuals where there is a shortage of suitable candidates, have now been removed. A further Exception allowing the appointment of candidates with disabilities is amalgamated with one designed to assist the long-term unemployed. The previous Exception was causing confusion as Departments were tending to treat appointment of all disabled people, including those actually made on merit, as exceptions to the Merit Principle.

FUTURE AUDITS

Commissioners agreed the following programme of Audits for their next reporting cycle:

2005-2006 Audit Programme

Audit 1 A Review of current recruitment and selection processes used by Recruitment Agencies to recruit NICS staff, including the use of Agency workers and adherence to current NICS policy. To establish the number of Agency staff employed, the areas in which they are being utilised and the business needs for their employment.

Audit 2 A compliance audit of the Department for Regional Development;

and

Audit 3 It had been intended that the 3rd audit would address how the revised Recruitment Code was being implemented by the NICS. However, in view of the slippage in introduction of the new Code from 1 April to 20 June 2005, it was felt such an audit might be of questionable value in the year 2005/06. It has therefore been deferred until 2006/07. A replacement audit will be confirmed later.

Commissioners look forward to the positive outcomes they believe will follow from these audits.

Requirement to publish recruitment information

Under the Civil Service Commissioners (Northern Ireland) Order 1999, Commissioners may require the publication of such information as they may specify relating to recruitment and to the use of permitted Exceptions to the principle of selection on merit on the basis of fair and open competition.

What Commissioners require from recruitment points in the various Departments and Agencies

The Recruitment Code stipulates that the information must comprise, as a minimum:

- a statement that systems are in place to ensure that selection for appointment is made in accordance with the Recruitment Code;
- a statement that recruitment policies and practices are subject to regular internal monitoring;
- details of the appointments made by way of exceptions to the Merit Principle;
- statistical summaries of all recruitment activity during the relevant period, including analyses by gender, community background and disability.

The method of publication is at the discretion of the recruiting body. Some Agencies, e.g. the Social Security and the Child Support Agencies, have included recruitment sections in their Annual Reports, whereas other Departments and Agencies have accepted NICS Recruitment Service's offer to include their information in its Annual Report.

Placing this information in the public domain improves the accountability of Departments and Agencies in respect of their recruitment practices.

Summary Information

Whilst more detailed information is available in the NICS Recruitment Service Annual Report, summaries are provided in Figures 4, 4(a) and 4(b) broken down to compare both the main types of appointments made and the category of vacancies concerned.

FIGURE 4: Appointments by Type
1 April 2004 - 31 March 2005

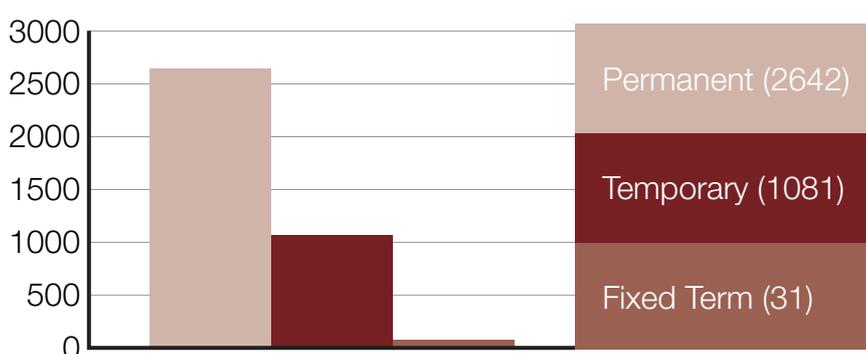


Figure 4(a): Recruitment by job category
1 April 2004 - 31 March 2005

| Job Category* | Number of Applications | Number of Appointments |
|-----------------------------|------------------------|------------------------|
| General Service Grades | 13,317 | 2,580 |
| Secretarial Grades | 0 ⁺ | 6 |
| Scientific Grades | 1,247 | 250 |
| Technology Grades | 532 | 148 |
| Legal Grades | 129 | 33 |
| Computer Grades | 839 | 66 |
| Other Prof & Tech Grades | 1,957 | 393 |
| Centralised Services Grades | 998 | 164 |
| Industrial Grades | 723 | 114 |
| Total | 19,742 | 3,754 |

* See Appendix E for examples of jobs in each job category

⁺ Relevant applications received prior to reporting year

**Figure 4(b): Appointments by job category
1 April 2002 - 31 March 2005**

| Job Category* | Number of Appointments 1 April 2002 – 31 March 2003 | Number of Appointments 1 April 2003 – 31 March 2004 | Number of Appointments 1 April 2004 – 31 March 2005 |
|-----------------------------|---|---|---|
| General Service Grades | 3,187 | 3,480 | 2,580 |
| Secretarial Grades | 8 | 11 | 6 |
| Scientific Grades | 112 | 190 | 250 |
| Technology Grades | 36 | 118 | 148 |
| Legal Grades | 0 | 36 | 33 |
| Computer Grades | 75 | 81 | 66 |
| Other Prof & Tech Grades | 585 | 732 | 393 |
| Centralised Services Grades | 86 | 111 | 164 |
| Industrial Grades | 205 | 182 | 114 |
| Total | 4,294 | 4,941 | 3,754 |

*See Appendix E for examples of jobs in each job category

Appeals under the Northern Ireland Civil Service Code of Ethics

As in previous years the Commissioners report on their responsibility to hear and determine appeals under the Northern Ireland Civil Service Code of Ethics. Commissioners, under the terms of the Civil Service Commissioners (Northern Ireland) Order 1999, have been assigned the role of providing an independent appeals mechanism for Northern Ireland civil servants under the NICS Code of Ethics. The Code of Ethics sets out the constitutional framework within which civil servants work and the values they are expected to uphold.

To ensure that those making appeals have full confidence in the independence of the appeals process, Commissioners have determined that appeals will be dealt with by at least two, but usually three, Commissioners. The Commissioners are independent of the NICS and therefore have no vested interest in issues arising from these appeals.

During 2004-05 a number of Commissioners continued to work with members of the Northern Ireland Senior Civil Service to contribute to the development of a revised Code of Ethics for the NICS. The Commissioners are keen to see the outcome of research being carried out by the NICS through questionnaires and discussion group sessions with staff on the awareness of the Code of Ethics, the relevance of behaviours and values in the NICS and awareness of the reporting mechanisms and appeals procedures.

The Commissioners will continue to strive to progress with the NICS this review of the Code of Ethics which embodies the principles of propriety and integrity in the NICS and safeguards the right of staff to raise concerns freely. The Commissioners are also keen to see the Government's response to the consultation on the Civil Service Bill which would put civil service values on a statutory footing and introduce changes to appeal procedures.

Appeals – 2004/2005

No appeals were received during the period of this report. The Commissioners remain concerned that civil servants do not appear to be fully aware of the appeals mechanism relating to the Code of Ethics. They are working closely with the NICS to assess awareness of the existing arrangements and ensure that any necessary adjustments are made for improving the procedures for pursuing alleged breaches of the Code of Ethics. Commissioners also will review their own procedures to ensure that there is nothing which might discriminate against any individual or group of civil servants who may wish to report any matter which has not been satisfactorily resolved.

In the forthcoming year 2005-06 the Commissioners will be concentrating their efforts on launching their new Recruitment Code and seeing it implemented. They will be considering how the new Code is being applied and whether additional guidance is required to support practitioners. As the new Code is rolled out it is the Commissioners' intention to identify and share examples of good practice and to address promptly issues of concern in relation to the application of the Merit Principle.

As part of their planned audit programme, Commissioners intend to focus on:

- a review of the current recruitment and selection processes used by Recruitment Agencies to recruit NICS staff, including the use of Agency workers; and
- a compliance audit across the Department for Regional Development.

A third audit had been planned which would have addressed how the revised Recruitment Code was being implemented by the NICS. However, in view of the slippage in introduction of the new Code from 1 April to 20 June 2005, it was felt such an audit might be of questionable value in the year 2005/06. It has therefore been deferred until 2006/07. A replacement audit has still to be confirmed.

Relationships with others

The Commissioners intend to maintain and further enhance their relationships with the Commissioners and staff of the UK and Republic of Ireland Commissioners. The now well established and very useful 'links' meetings with Permanent Secretaries of individual Departments will be continued as necessary over the next year and the Commissioners will also work to establish relationships with Ministers and other relevant parties interested in their work.

They look forward to implementing their Communications Strategy which has been developed as a result of this year's business planning process and is an important tool in raising the Commissioners' role and profile with key stakeholders. As stated earlier, this Strategy will be integrated into the Good Relations Strategy, ensuring commitment to Section 75 requirements.

Issues of interest

Commissioners will continue to show a strong interest in the NICS programme to outsource personnel functions. They have appreciated the regular up-dates provided by the NICS and will consider, as the e-HR programme emerges, the implications that any change to the delivery of recruitment functions may have on their ability to adhere to the principles of the revised Recruitment Code.

ORDER OF THE SECRETARY OF STATE

CIVIL SERVICE COMMISSIONERS (NORTHERN IRELAND) ORDER 1999

In exercise of the powers conferred on me by Letters Patent of Her Majesty dated 20 December 1973 and of all other powers enabling me in that behalf, I hereby make the following Order:-

Title and commencement

1. This Order may be cited as the Civil Service Commissioners (Northern Ireland) Order 1999 and shall come into operation forthwith.

Interpretation

2. (1) The Interpretation Act (Northern Ireland) 1954^(a) shall apply to this Order as if this Order were an enactment, and for the purposes of that Act, as applied by this paragraph, the 1996 Order shall be deemed to be an enactment revoked by this Order.

(2) Without prejudice to paragraph (1), any reference in an instrument or other document to a provision of the 1996 Order to which there is a corresponding provision in this Order shall be construed as a reference to that corresponding provision in this Order.

(3) In this Order, except where otherwise expressly provided -

“the 1996 Order” means the Civil Service (Northern Ireland) Order 1996^(b);

“appointed to a situation in the Civil Service” means appointed to a situation in the Civil Service, other than by promotion or transfer from within the Civil Service, where that promotion or transfer was not made following competition for the situation open to applicants from within and without the Civil Service and “appointment to any situation in the Senior Civil Service” shall be construed accordingly;

(a) 1954 c. 33 (NI).

(b) The 1996 Order was printed in the Belfast Gazette on 20 December 1996.

“civil servant” means any person serving in a situation in the Civil Service;

“the Civil Service” means the Northern Ireland Civil Service;

“the Code of Ethics” means a Code of Ethics made under Article 4(2)(b) of the Civil Service (Northern Ireland) Order 1999;

“the Commissioners” means the persons for the time being appointed by Her Majesty to be Civil Service Commissioners for Northern Ireland;

“the Department” means the Department of Finance and Personnel;

“enactment” has the meaning assigned to it by Section 1(b) of the Interpretation Act (Northern Ireland) 1954.

(4) In this Order any reference to the New Northern Ireland Assembly shall, after the coming into operation of Parts II and III of the Northern Ireland Act 1998, be construed as a reference to the Northern Ireland Assembly.

Selection on merit

3. (1) Except as otherwise expressly provided by or under this Order, a person shall not be appointed to a situation in the Civil Service unless:
 - (a) the selection of that person for appointment was made on merit on the basis of fair and open competition; and
 - (b) the person appointed satisfies such requirements for appointment as may be prescribed by the Department under Article 4(2)(c) of the Civil Service (Northern Ireland) Order 1999.
- (2) Paragraph (1)(a) shall not apply where an appointment is made to a situation in the Civil Service:
 - (a) directly by Her Majesty; or

(b) subject to paragraph (4), by any relevant member for the purpose only of providing advice to him during a period terminating on or before the ~~next dissolution of the New Northern Ireland Assembly~~^(a) date on which the relevant member ceases to hold office

(3) In paragraphs (2)(b) and (4) “relevant member” means any of the following persons, that is to say -

(a) the Presiding Officer of the New Northern Ireland Assembly;

(b) the First Minister or Deputy First Minister; or

(c) any other member of the Executive Committee of that Assembly.

(4) The First Minister and the Deputy First Minister may each appoint up to three persons to hold, at any one time, a situation under paragraph (2)(b) and any other relevant member may appoint one person to hold, at any one time, such a situation.

(5) The terms and conditions of employment of any appointment under paragraph (2)(b) shall be in accordance with such terms and conditions of employment as shall be prescribed by the Department of Finance and Personnel in regulations or directions.

Functions of the Commissioners

4. (1) The Commissioners shall maintain the principle of selection on merit on the basis of fair and open competition in relation to selection for appointment.

(2) Without prejudice to Article 3(2), the Commissioners may, with the approval of the Secretary of State, prescribe, in General Regulations, or by directions, the circumstances in which the principle of selection on merit on the basis of fair and open competition shall not apply.

(3) The Commissioners shall prescribe and publish a recruitment code on the interpretation and application of the principle of

(a) As amended by the Civil Service Commissioners (Amendment) (Northern Ireland) Order in Council 2003

selection on merit on the basis of fair and open competition, including the circumstances in which any exceptions to that principle prescribed by the Commissioners, in pursuance of General Regulations or directions made under paragraph (2), may be exercised.

- (4) The Commissioners shall audit recruitment policies and practices followed in making appointments to situations in the Civil Service to establish whether the recruitment code is being observed.
- (5) The Commissioners may require the publication of such information as they may specify relating to recruitment and to the use of permitted exceptions to the principle of selection on merit on the basis of fair and open competition.

Appeals under the Code of Ethics

5. (1) The Commissioners may consider and determine appeals to them by a civil servant under the Code of Ethics.
 - (2) For the purposes of paragraph (1), the Commissioners may -
 - (a) regulate their own procedure;
 - (b) require the parties to any appeal or to any investigation occasioned by an appeal to provide such information and other assistance as the Commissioners think necessary or appropriate; and
 - (c) make recommendations.
 - (3) The Commissioners -
 - (a) shall publish annually a report of the number of appeals made to them under the Code of Ethics together with summary information as to the nature of such appeals; and
 - (b) may make such other reports on appeals to them under the Code of Ethics as they think fit.

The Commissioners' approval for appointment

6. Other than an appointment referred to in Article 3(2), no appointment shall be made to any situation in the Senior Civil Service, or to any situation prescribed by General Regulations or by directions for the purposes of this Article by the Commissioners with the approval of the Secretary of State, without the written approval of the Commissioners, whose decision shall be final.

Exercise of the Commissioners' functions

7. (1) The functions of the Commissioners may be exercised by any one or more than one of the Commissioners and references to the Commissioners shall be construed accordingly.

(2) The Secretary of State may assign officers to act as secretary and deputy secretary to the Commissioners and shall afford to the Commissioners such assistance as they may reasonably require for the discharge of their functions.

(3) The Commissioners may, in relation to such matters, and to such extent as they may specify, authorise their secretary, deputy secretary or any other person to act on their behalf.

(4) A Commissioner may be paid such remuneration and allowances as the Secretary of State may determine.

**Northern Ireland Office
2 March 1999**

**Marjorie Mowlam
One of Her Majesty's
Principal Secretaries of State**

EXPLANATORY NOTE (This note is not part of the Order)

This Order lays down the functions of the Civil Service Commissioners for Northern Ireland (“the Commissioners”). Under section 36(1) of the Northern Ireland Constitution Act 1973, any appointment to the office of Civil Service Commissioner for Northern Ireland shall be by Her Majesty.

The principal provisions of this Order are:-

1. **Article 3** provides that, apart from permitted exceptions, all appointments to the Northern Ireland Civil Service (“the Civil Service”) shall be made on merit on the basis of fair and open competition (the “merit principle”).
2. **Article 4** provides for the Commissioners to maintain the merit principle, to prescribe exceptions to it, and to prescribe and publish a recruitment code on the interpretation of the merit principle. This Article also provides for the Commissioners to audit recruitment to the Civil Service, and to require the publication of information on Civil Service recruitment.
3. **Article 5** provides for Commissioners to consider and determine appeals to them by a civil servant under the Code of Ethics.
4. **Article 6** provides that no appointment shall be made to the Senior Civil Service, or such other situations in the Civil Service as the Commissioners may prescribe, without the approval of the Commissioners.
5. **Article 7** allows any function of the Commissioners to be exercised by one or more of the Commissioners and allows the Commissioners, in relation to such matters as they may specify, to authorise any person to act on their behalf. The Article also requires the Secretary of State to make provision to support the work of the Commissioners.

CIVIL SERVICE COMMISSIONERS FOR NORTHERN IRELAND

GENERAL REGULATIONS 1999

The Civil Service Commissioners for Northern Ireland (“the Commissioners”) in exercise of their powers under the terms of Article 4(2) of the Civil Service Commissioners (Northern Ireland) Order 1999 (“the Order”), and with the approval of the Secretary of State, hereby make the following Regulations.

Preliminary

1. (1) These Regulations may be cited as the “Civil Service Commissioners for Northern Ireland General Regulations 1999” and shall come into operation forthwith.

(2) These Regulations prescribe the exceptions to the principle of selection on merit on the basis of fair and open competition (“the Merit Principle”).

(3) In these Regulations, “secondment” means a voluntary and temporary transfer from a permanent employer for a fixed period which does not sever the employment relationship of the person seconded with the permanent employer.

Exceptions to the Merit Principle

2. Subject to any conditions which the Commissioners may specify in a recruitment code, the Merit Principle shall not apply to an appointment to a situation in the Civil Service:-
 - (a) where the person is appointed on secondment;
 - (b) where the person has previously held a situation in the Civil Service and is being considered for reinstatement or re-employment;
 - (c) where the person holds a situation in another Civil Service of the Crown;
 - (d) where the person is, or has recently been, employed on functions which have been or are being transferred to the Crown;

(e) where the person has reached an appropriate standard in a fair and open competition for another situation in the Civil Service without securing appointment and there is a demonstrable shortage of suitable candidates for the relevant situation;

(f) where the person has been selected for appointment under arrangements which include provision for encouragement and assistance to be given to any person who is defined as being a disabled person or as having a disability by or under any enactment relating to the employment of disabled persons;

(g) where the appointment is justified for exceptional reasons relating to the needs of the Civil Service, and the person proposed for appointment is of proven distinction; or

(h) where the person has been selected for an appointment under Government programmes to assist the unemployed and the total period of employment does not exceed 3 years.

Revocation

All General Regulations previously made by the Commissioners are hereby revoked.

Dated this 29th day of June 1999.

JUDITH EVE (Chairperson)

IAN DOHERTY

MARY DONNELLY

MARGARET ELLIOTT

SIDNEY McDOWELL

JOHN STEELE

Civil Service Commissioners for Northern Ireland

The Secretary of State hereby approves the foregoing Regulations.

MARJORIE MOWLAM

One of Her Majesty's

Principal Secretaries of State

OFFICE OF THE CIVIL SERVICE COMMISSIONERS FOR NORTHERN IRELAND BUSINESS PLAN – 2004/05

Function of OCSC

The Office of the Civil Service Commissioners for Northern Ireland supports the Civil Service Commissioners for Northern Ireland, who are responsible for ensuring that appointments to the Northern Ireland Civil Service are made on merit in fair and open competition.

Office work programme

OCSC's work programme for 2004/05 and progress against targets are set out overleaf.

Office organisation 2004/05

| | |
|--|---|
| | Commissioners |
| | Secretary - Grade 5 (part-time) Jim McKeown |
| | Deputy Secretary – Grade A (part-time) Joanne Dowling |
| | Grade B1 (on loan) Ena McKnight |
| | Grade B2 Paul Lavery |
| | Grade D1 Helen McLarnon |
| | Grade D1 (part-time) Mae Hamilton |
| | Grade D1 (part-time) (12 January 2004 – 4 January 2005) Irene Perver |

The budget allocation for OCSC agreed for the year 2004/05 was as follows:

| ITEM | ALLOCATION (£) |
|-----------------------------|-----------------------|
| Commissioners' Fees | 35k |
| Audit Contract | 35k |
| Staff | 99k |
| Accommodation and Overheads | 59k |
| Training | 2k |
| Total | 230k |

PROGRESS AGAINST OBJECTIVES IN THE BUSINESS PLAN 2004/05

| OBJECTIVES CARRIED FORWARD FROM 2003/04 | | |
|---|---|--|
| OBJECTIVES | TARGETS FROM 2003/04 | PROGRESS AGAINST TARGETS |
| Implementation of the Commissioners' Equality Scheme | Review the Recruitment Code | Achieved. A new Recruitment Code will issue in 2005/06. |
| | Prepare EQIA documents | Achieved. An EQIA consultation document was issued on 17 January 2005 with a consultation end date of 14 March 2005. |
| | Liaise as necessary with umbrella groups | Achieved |
| | Seek comments from consultees within 8 week consultation period | Achieved |
| | Analyse results from the consultation process | Achieved. A report to the Equality Commission will be prepared in 2005/06. |
| Progression of decisions on Code of Ethics appeals | Identify issues arising from revised Code of Ethics, when available | A revised Code of Ethics has not as yet been produced by the NICS. Objectives carried forward to 05/06. |
| | Process all new appeals in line with agreed procedures | see above |
| Review Commissioners' Role and Function | Review and agree role and functions by 30 September 2003 | Achieved - new Code sets out how Commissioners discharge their roles and responsibilities and this will be taken forward in the 2005-06 Business Plan and Communications Strategy. |
| | Establish formal links between Commissioners and individual departments | Achieved |

| 2004/05 OBJECTIVES | | |
|--|--|---|
| OBJECTIVES | TARGETS FOR 2004/05 | PROGRESS AGAINST TARGETS |
| Provision of support and advice to the Commissioners | Prepare all papers at least 1 week in advance of meetings | Achieved |
| | Provide responses to queries within 1 day of receipt where all information is available | Achieved |
| Approval of SCS appointments | Review and approve each stage of the procedures within 2 working days of receipt of all relevant information | Achieved |
| | Identify relevant issues from Senior Approval audits by independent consultants and Commissioners | Achieved |
| | Implement agreed recommendations within agreed timescales | Achieved |
| | Identify changes to procedure required in light of revised Recruitment Code and redraft accordingly | Not achieved. Revised Recruitment Code not agreed within 2004/05. Carried forward to 2005/06. |
| Fulfil obligations under the Freedom of Information Act | Review information stored on IT systems, by 30 September 04 | Achieved |
| | Maintain and review the Publication Scheme | Partially achieved. Review of the Publication Scheme carried forward to 2005/06. |
| Live within the budget set for the financial year 2004/05 | Measure actual spends against forecasts | Achieved |
| | 100% scrutiny of bids, business cases and in-year expenditure | Achieved |
| | Achieve objectives within budget | Achieved |

| 2004/05 OBJECTIVES (continued) | | |
|---|--|--|
| OBJECTIVES | TARGETS FOR 2004/05 | PROGRESS AGAINST TARGETS |
| Review Commissioners' Role and Functions | To have agreed role and functions by November 2004 | Achieved - new Code sets out how Commissioners discharge their roles and responsibilities and this will be taken forward in the 2005-06 Business Plan and Communications Strategy. |
| | Raise Commissioners' profile by April 2005 | Achieved. 9 Focus Group meetings held throughout NI. |
| | Establish and maintain Commissioners' formal links with individual departments | Achieved |
| Continuous improvement of OCSC and staff | Improve electronic records management in line with agreed standards by 31 March 2005 | Achieved |
| | Continue to provide development opportunities for Commissioners | Achieved |
| | Produce Branch Training Plan by 31 May 04 | Achieved |
| | Ensure that website access and layout is more user friendly by 31 March 2005 | Not achieved. Carried forward to 2005/06. |
| Annual Report | Publish and distribute Report by 31 October 04 | Achieved |

| 2004/05 OBJECTIVES (continued) | | |
|--|---|--|
| OBJECTIVES | TARGETS FOR 2004/05 | PROGRESS AGAINST TARGETS |
| Audit Programme | Ensure that reports are completed by agreed timescales | Achieved |
| | Identify and implement within agreed timescales action required as a result of agreed recommendations | Achieved |
| Implementation of Equality Scheme | Organise and run 9 Focus Group meetings | Achieved |
| | Collate and analyse comments from consultation | Achieved |
| | Carry out an impact assessment of proposed changes to the Recruitment Code | Achieved |
| | Prepare a revised Recruitment Code for implementation on 1 April 2005 | Not achieved by 31 March 05. Carry forward to 2005/06. |

PROGRESS REPORT TO THE EQUALITY COMMISSION ON IMPLEMENTATION OF THE EQUALITY AND GOOD RELATIONS DUTIES UNDER SECTION 75 OF THE NORTHERN IRELAND ACT 1998

1 APRIL 2004 – 31 MARCH 2005

Section 1: EXECUTIVE SUMMARY

The Civil Service Commissioners for Northern Ireland are fully committed to ensuring equality of opportunity and good relations throughout every aspect of their work. During the reporting year, the Civil Service Commissioners carried out a thorough review of their statutory duty to ensure that appointments to the Northern Ireland Civil Service (NICS) are made on merit on the basis of fair and open competition. The Commissioners also reviewed the exceptions to this recruitment policy which are prescribed by them. These reviews resulted in the successful and effective completion of an Equality Impact Assessment of the Commissioners' proposed new Recruitment Code. The outcome is a new Code which must be complied with for any appointment to the NICS and a reduced number of categories of exceptions to appointment on merit on the basis of fair and open competition.

Outcomes for people in the nine equality categories

The EQIA consultation process has heightened the community's awareness of the role and remit of the Civil Service Commissioners. Relationships have been enhanced or developed with various Section 75 representative bodies. Representatives from all nine equality groups were given an opportunity to endorse or influence a change to the content of the Recruitment Code and the categories of exceptions. Commissioners actively sought and welcomed the feedback and where practicable, suggestions for amendments have been incorporated into the revised Code.

Commissioners are pleased to note that their new Recruitment Code is viewed positively and that there is no evidence to indicate that it will cause adverse impact on any of the Section 75 groups.

Policy considerations and decisions which took account of equality implications in relation to major policy issues

The primary role of the Civil Service Commissioners is to ensure that a person shall not be appointed to a situation in the NICS unless the selection for appointment was made on merit on the basis of fair and open competition. The role of the Commissioners therefore impacts directly on the employment policy of the NICS.

An EQIA of their new Recruitment Code was undertaken, therefore, to test whether the mandatory requirements of the new Code caused any differential impact on the various categories of people set out in Section 75 of the Northern Ireland Act 1998.

Following the EQIA and the feedback obtained the Commissioners have concluded that there is no evidence to indicate that the application of the new Code will result in any form of unlawful discrimination, direct or indirect, active or passive. They also believe that it provides a vital benchmark against which any selection process adopted, and the manner in which it is applied, can be measured to ensure equality, fairness and openness. The findings of the EQIA consultation process support the Commissioners' view that the Code will operate to the benefit of all groups.

During the year, the Commissioners considered and commented upon the Department of Finance and Personnel's EQIA on Developing Policy on Recruitment and Promotion in the NICS and the NICS "Fit for Purpose" reform agenda.

The Commissioners also monitor progress on NICS considerations to outsource aspects of its personnel function to ensure that the Commissioners' role is not diminished. Similarly, the Commissioners keep a watching brief on the Review of Public Administration to assess its potential impact on recruitment to the NICS and implications, if any, for the Commissioners' responsibilities.

Problems encountered and solutions developed in terms of achieving better equality outcomes

The Commissioners sought to encourage as wide a range of views as possible in the consultation programme on their proposed new Code, especially by arranging focus groups in addition to engaging by letter. Many valuable comments and representations were received.

Whilst the Commissioners remain confident in the outcome of the Equality Impact Assessment they note that many bodies were unable to fully participate in the consultation exercises due to the limited resources and business pressures which they experienced.

Section 2: Strategic Implementation of the Section 75 Duties

Ensuring equality of opportunity and merit remain fundamental principles and objectives for the Civil Service Commissioners in carrying out their roles and responsibilities. In their new Code, the Commissioners have ensured that equality features as a vital aspect of each of the 4 key recruitment principles. In particular, the Code emphasises that merit embraces issues of diversity, inclusivity and equality of opportunity, and that recruitment processes should fully embrace these concepts.

Commissioners have prepared a Communications Strategy for 2005-06 designed, among other things, to develop more regular contact with key stakeholders and representative bodies, and to assist the preparation of a Good Relations Strategy by 31 March 2006. Commissioners review the implementation of the Communications Strategy and progress on their Equality Scheme at their regular business meetings. Tasks and targets associated with Section 75 responsibilities have been incorporated into each staff member's job description and performance against the responsibilities is reflected within the appraisal system.

Throughout the reporting period Commissioners continued to liaise and work closely with the Department of Finance and Personnel in order to progress Section 75 obligations. They also initiated regular liaison meetings with the Permanent Secretaries of all Departments. The Secretary and Deputy Secretary to the Commissioners attended an Equality Commission seminar on 15 March 2005 and welcomed the opportunity of sharing with other small public authorities.

Implementation of the Commissioners' Equality Scheme is undertaken within existing resources. During 2004-05, a substantial proportion of a Staff Officer's time was spent in preparing an EQIA on the Commissioners' new Recruitment Code, with significant inputs from the Commissioners, a Grade 5, Principal and Deputy Principal in attending focus groups, holding meetings and considering and approving draft papers. £30,000 was allocated to the organisation of consultation events and the printing and circulation of consultation documents, including the EQIA.

Section 3: Screening and Equality Impact Assessment (EQIA)

During 2004-05 the Commissioners' draft revised Recruitment Code was subject to an Equality Impact Assessment (EQIA). The findings and agreed outcome will be published in early summer 2005.

Section 4: Training

As a small public authority with limited responsibilities, representatives have benefited by attending meetings of the Smaller Public Bodies Network organised by the Equality Commission.

Appropriate representatives attended the Equality Commission's launch of the revised Guidance for implementing Section 75 of the Northern Ireland Act 1998.

The Commissioners and their Secretariat note the six themes and proposed actions identified for the purposes of establishing the terms of reference for the Equality Commission's review of the effectiveness of the Section 75 duties. In particular they have addressed, in their Training and Development Plan, a proposal in relation to training requirements on policy making.

It is the Commissioners' policy that all new Commissioners and staff receive timely relevant training on Section 75 obligations and commitments.

Section 5: Communication

In autumn 2004 the Commissioners developed and agreed a revised implementation plan in relation to their Equality Scheme. This detailed plan has greatly assisted in focusing Commissioners and their secretariat on the Section 75 statutory duties and their agreed commitments. The plan is updated regularly and is reviewed by the Commissioners at their routine business meetings.

The Commissioners report annually in their annual report and on their website details of the progress made in relation to the implementation of the equality and good relations duties.

For 2005-06, the Commissioners have agreed a Communications Strategy. The following targets have been set for the 2005-06 reporting year:

- To increase awareness of the Commissioners' role and extend and strengthen relationships with key stakeholders;
- To review the Commissioners' Equality Scheme in consultation with key interest groups;
- To meet with UK and Irish Civil Service Commissioners;
- To develop relationships with the Office of the Commissioner for Public Appointments and share common areas of interest e.g. Diversity;
- To produce a Good Relations Strategy primarily focused on enhancing relations with Section 75 Groups;
- To review the Commissioners' Publication Scheme with a view to making more information available to the public; and
- To review Commissioners' website to enhance access to information.

Section 6: Data Collection and Analysis

The Commissioners rely on the Department of Finance and Personnel in relation to providing recruitment monitoring and statistical

information in regard to the composition of the NICS and applications for recruitment competitions. The Commissioners have noted with interest the commitments made by DFP in meeting its obligation to have due regard to the promotion of equality of opportunity contained in Section 75 of the Northern Ireland Act 1998. In particular they support the need to further develop recruitment monitoring information in relation to a number of the Section 75 Groups.

In undertaking an EQIA of their revised Recruitment Code the Commissioners formally consulted with the nine equality categories in order to obtain relevant data or information.

Commissioners will review annually all statistical information provided to them by the NICS in relation to individuals making applications for appointments and candidates successful in obtaining an appointment. Appropriate action will be taken to ensure that the principles of the Recruitment Code have been maintained.

In taking forward their Good Relations Strategy, Commissioners will ascertain from Section 75 Representative Groups any concerns they may have on the effectiveness of the Recruitment Code.

Section 7: Information Provision, Access to Information and Services

All publications are available in alternative formats if desired. An information leaflet detailing the roles and responsibilities of the Civil Service Commissioners is issued by the NICS to each applicant seeking a job in the NICS. Commissioners are currently reviewing their Publication Scheme with a view to making additional information about their work more readily available to the public.

Section 8: Complaints

The Civil Service Commissioners for Northern Ireland have a complaints procedure. Where a person believes that he/she has been directly affected by a failure of the Commissioners to comply with the Equality Scheme, he/she should, in the first instance, bring the complaint to the attention of the Office of the Civil Service Commissioners for Northern Ireland. The Commissioners aim to respond within one month.

No Section 75 complaints have been received during the reporting year and there are no ongoing complaints.

Section 9: Scheme Timetable

The Equality Scheme implementation plan is under constant review to ensure that the Equality Scheme commitments are progressed. The EQIA on the Commissioners' Recruitment Code has been completed and the outcome will be published in early summer 2005. A process for screening existing and any new policies is in place. Further EQIAs will be carried out as necessary. The Commissioners' function of determining appeals made to them under the Code of Ethics will be screened in June 2005 to establish whether an EQIA on this function is necessary.

A complete review of the Civil Service Commissioners' Equality Scheme will be completed by the end of June 2006 in line with the guidance which will be provided by the Equality Commission.

Section 10: Consultation, Participation and Engagement

During the reporting year the Commissioners carried out two major consultation exercises which included the EQIA of their revised Recruitment Code embodying their statutory duty to ensure that appointments to the NICS are made on merit on the basis of fair and open competition. Written documentation was issued to over 200 key representatives including representatives from the Section 75 categories. This was followed by a series of focus groups and public meetings attended by representatives of the civil and public services, as well as Section 75 interest groups, at various locations and suitable times throughout Northern Ireland. Commissioners actively sought feedback on the proposed changes to their existing Recruitment Code and believed that this approach was necessary in order to obtain a complete perspective on their Recruitment Code, from how it operates in practice to the impact that it has on the community. They were pleased at the interest shown and gave careful consideration to the feedback and observations obtained. All feedback was analysed, meetings were held as requested and a number of amendments arising from representations made were incorporated into the revised Code.

Section 11: The Good Relations Duty

Commissioners recognise their need to actively promote and progress their responsibilities under the good relations duty. In their 2005-2006 Business Plan they have incorporated a target to develop a Good Relations Strategy by 31 March 2006. In doing so, they will benchmark existing good practice in this area and will research models and approaches which have been adopted effectively. In particular, they will use their Communications Strategy to test the views of various groups and representative bodies.

Section 12: Additional Comments on Mainstreaming

As custodians of the “Merit Principle” in relation to NICS appointments, the Commissioners and their secretariat are very focused on ensuring equality, diversity and inclusivity. Section 75 duties are mainstreamed into all their procedures and policy processes.

In agreeing their new Recruitment Code Commissioners have considered all the feedback and evidence presented to them. They are pleased with the interest shown and note that the Code is viewed positively. From the evidence provided they are confident that the Code will not cause adverse impact on any of the Section 75 groups.

Commissioners believe that the content of their new Recruitment Code has been greatly enhanced through undertaking an EQIA and the associated consultation process.

Appendix E

OCCUPATIONAL GROUPS FOR RECRUITMENT PURPOSES

For recruitment purposes there are 8 occupational groups. Examples of grades within these groups are as follows:

| OCCUPATIONAL GROUP EXAMPLE GRADES | |
|---------------------------------------|--|
| General Service Grades | Graduate Recruitment, Administrative Officer, Administrative Assistant |
| Secretarial Grades | Typist |
| Scientific Grades | Scientific Officer, Fisheries Officer, Fuel Technologist, Microbiologist |
| Technology Grades | Graduate Trainee Quantity Surveyor, Electrical Engineer, Architect, Trainee Civil Engineering Assistant, Tracer |
| Legal Grades | Legal Assistant, Law Clerk |
| Computer Grades | Programmer, Programmer Analyst, Systems Analyst |
| Other Professional & Technical Grades | Graduate Trainee Valuer, Inspector of Schools, Nursing Officer, Statisticians, Vehicle Inspectors, Veterinary Officers |
| Centralised Services Grades | Cleaner, Messenger, Security Guard, Telephonist, Laboratory Attendant |
| Industrial Grades | Road Workers, Industrial Technicians, Porters, Farm Workers, Labourers, Fish Farm Assistants |



**CIVIL SERVICE COMMISSIONERS
FOR NORTHERN IRELAND**