



CIVIL SERVICE COMMISSIONERS
FOR NORTHERN IRELAND

PILOT AUDIT OF NICS ARRANGEMENTS FOR INWARD
SECONDMENTS BY WAY OF EXCEPTION TO THE MERIT
PRINCIPLE

FINAL REPORT
JULY 2012

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1. ACKNOWLEDGEMENT

- 1.1 The Civil Service Commissioners (Commissioners) would like to thank the staff of the Departments and Corporate Human Resources (CHR) for their co-operation, assistance and positive response during this pilot audit. In addition, the Commissioners are grateful to secondees who agreed to meet with the pilot audit team to outline their experiences of working within the Northern Ireland Civil Service (NICS).

2. INTRODUCTION

- 2.1 Under Article 4(4) of the 1999 Order, Commissioners, as part of their regulatory role, have a clear duty to conduct independent audits to establish whether the requirements of the Recruitment Code are being observed and thereby provide assurances of the integrity of appointments to the NICS.
- 2.2 The topic for the pilot audit was identified and agreed with NICS as one which was discrete and manageable and which would lend itself to the application and evaluation of the revised arrangements for audit.
- 2.3 The purpose of the pilot audit was to undertake a review of those NICS appointments made specifically under Regulation 3(a) of the General Regulations, where the person is appointed on secondment by way of exception to the Merit Principle, in order to assess the extent to which they were warranted.
- 2.4 The pilot audit looked for evidence that measures were in place to ensure that policies, procedures and practices met the requirements of the Recruitment Code and Audit Framework; and that adequate controls were in place to ensure that appropriate policies, procedures and practices were adopted and delivered in practice.
- 2.5 The pilot audit was also used to test the Commissioners' revised arrangements for conducting audits to enable the process to be refined and improved.
- 2.6 The terms of reference for this pilot audit are set out in **Annex A**.

3. NATURE AND SCOPE

- 3.1 In reviewing secondments made by way of exception under Regulation 3(a) in order to assess the extent to which they are warranted, the pilot audit team (the team) requested that each Department, through Corporate HR, would provide details of such appointments in the 5 year period from 2006/07 – 2010/11.
- 3.2 Departmental returns (**Annex B**) indicated that some 210* appointments had been made under Regulation 3(a) where the secondment was arranged:
- by approach to suitable organisations; or
 - by participation in an exchange scheme; or
 - by identification of an individual(s) with specific skills and knowledge.
- *This initial number was subsequently corrected to 135.
- 3.3 In deciding which of the Departments would be involved in the pilot the team identified those where secondment was used more widely, those where secondment was used to facilitate interim transitional arrangements and those where secondment was used to meet a compelling business need (under the category provided for at A.18 (i) (c) of the Recruitment Code¹).
- 3.4 Following a review of the nature and scope of secondments across Departments, consideration of the availability of resources to conduct the audit and agreement of the need for sampling, it was decided that six² of the Departments would be audited through a process which included the scrutiny of files and other documentation, discussions with key personnel and, where possible, meetings with existing secondees.
- 3.5 The Audit Guidance and Framework, including key performance questions and associated key performance indicators to be used by the team, was made available to all Departments in the NICS in advance of the pilot audit.

¹ This refers to the June 2005 version of the Code under which this pilot audit was conducted.

² Department of Culture Arts and Leisure; Department of Education; Department of Employment and Learning; Department of Enterprise, Trade and Investment; Department of Finance and Personnel; and Department of Health, Social Services and Public Safety.

4. CONTEXT AND BACKGROUND

- 4.1 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, 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. Commissioners believe that exceptions to the Merit Principle should be rare and that there must be strong and compelling grounds as to why it is not reasonably practicable to make the appointment in question through open competition and in accordance with the Merit Principle.
- 4.2 The Civil Service Commissioners for Northern Ireland General Regulations 2007 sets out the exceptions to the principle of selection on merit on the basis of fair and open competition, and secondment is one such exception. Regulation 3 (a) and the Recruitment Code, together with the NICS policies and procedures governing secondment, provide the framework and context for the provision of secondment within the NICS.
- 4.3 The number of appointments made by way of secondment is limited when compared to overall NICS staffing levels. However, for those appointments made as an exception to merit, Commissioners expect to see secondment policies and practices in place which meet the requirements of the Recruitment Code and provide evidence as to how the NICS assures itself and others that this is the case.
- 4.4 Corporate Human Resources (CHR) produces guidance to ensure a corporate approach to recruitment matters across the NICS. Section 1.5 of the NICS Recruitment Policy and Procedures Manual requires Departments to bear in mind their continuing obligation to ensure compliance with relevant employment and equality legislation when carrying out their selection and appointment procedures. In addition, section 1.06 of the NICS HR Policy

Handbook sets out the policy, procedures and practices to be followed by Departments when making secondments. CHR does not seek a specific assurance from each Department in relation to compliance with relevant employment and equality legislation when arranging secondments.

4.5 Since 2010, Appointments and Marketing Branch within CHR collects annually from Departments, the details of individual appointments on secondment and forwards these to the Office of the Civil Service Commissioners (OCSC) as required by the Recruitment Code. The current policy was reviewed in 2006 and there have been no amendments to the content since that time. Officials from CHR reported to Commissioners that the secondment policy is currently on CHR's list for review.

4.6 Some Departments use the Interchange programme to make appointments under Regulation 3(a) which includes provision for the use of secondment by way of participation in an exchange scheme. This programme is a collaborative initiative which encourages the exchange of personnel and good practice between the public, voluntary and private sectors in NI. The programme provides a number of exchange opportunities and secondment is but one of the options available to those who seek to enhance their experience, skills and expertise.

5. CRITERIA

- 5.1 The Recruitment Code, together with the key performance questions and associated key performance indicators contained in the Audit Guidance and Framework, formed the basis for the development of the approach adopted for the pilot audit. The indicators which relate specifically to secondment by way of exception to merit are to be found in **Annex A**.
- 5.2 In reviewing the appointments made by way of secondment as an exception under Regulation 3 (a) in order to assess the extent to which they are warranted, and drawing on Commissioners' core Recruitment Principles, the team used the following framework to underpin the process of auditing and reporting:

MERIT To what extent are appointments by way of exception to the Merit Principle warranted?
FIT FOR PURPOSE What evidence is there that all exceptions to the Merit Principle are monitored and managed appropriately as part of Departmental accountability arrangements?
FAIR What evidence is there that due regard is given to the potential for unfair treatment of those who are not given the opportunity to be considered for the appointment in question?
OPEN AND TRANSPARENT To what extent does the NICS provide public assurance that appointments by exception are rare and warranted?

- 5.3 The team used the written records and documentary evidence provided in files, reports of discussions held with senior officials and secondees and additional supplementary materials provided by Departments to review the appointments made by way of exception under Regulation 3 (a). Where files were incomplete or unavailable, the team provided additional opportunities for Departments to clarify issues and to obtain the necessary information, where available.

6. FINDINGS

- 6.1 Secondment provides an important and valuable opportunity for the NICS to benefit from the specialist knowledge, expertise and experience of those employed in other sectors and, in return, secondees gain a greater understanding of the work of Government and the business of the NICS. Secondment has the potential to make a positive contribution to the delivery of business objectives and to the transfer of knowledge, skills and experience in an innovative and flexible way. The use of secondment within Departments, in terms of its frequency and scope, is often dependent on the nature and complexity of Departmental business and on the need to secure and exchange additional professional and expert advice in particular areas and to meet specific needs.
- 6.2 Some Departments consider that the classification of secondment as an exception to merit restricts the use of it as a beneficial exchange of knowledge and expertise, making secondment almost an option of last resort instead of an attractive business benefit.
- 6.3 Notwithstanding the requirements of the Recruitment Code, the guidance contained in the NICS Recruitment Policy and Procedure Manual and NICS HR Policy Handbook and the advice offered by CHR to Departments, the evidence from the audit confirms that there is inconsistency across Departments in the implementation of policies, practices and procedures related to inward secondment. Whilst the requirements and associated guidance on secondment by way of exception to merit are clear and unambiguous there was evidence of some uncertainty around levels of understanding of the different categories of secondment and their application. On occasions, due regard had not been given to the maintenance of accurate and relevant records. Where the secondment arrangement involved another organisation, be that a Departmental Agency or Interim body there was sometimes a lack of clarity regarding responsibility for the maintenance and availability of such records.

- 6.4 Senior officials from CHR report that they are aware of some differences in procedures and practice across the Departments but, apart from the annual request to Departments for a report of secondment numbers, CHR undertakes no formal monitoring of the policy. There are no arrangements in place to ensure the consistent application of secondment policies, procedures and practices or to monitor their effective application.
- 6.5 In one of the Departments, which regularly uses secondment to support its business, the administrative arrangements in place were, for the most part, well-established, consistent and appropriate. A suite of documentation to include Departmental specific guidance, a business case pro-forma and a number of checklists was clear, ordered, well-maintained and accessible. Internal controls, supported by the documentation, were used to challenge the proposed business cases, to monitor the secondment arrangements and to ensure consistency of approach in terms of procedures and practice.
- 6.6 In one of the Departments the expectations regarding knowledge transfer for the individual host Department and parent organisation were considered fully and articulated clearly. In addition, secondees were required to sign the Official Secrets Act and the NICS Code of Conduct.
- 6.7 In almost all of the Departments audited there was limited evidence on record of:
- a detailed business case and record of circumstances and reasons for the secondment;
 - an explanation/justification for the strong and compelling grounds to depart from the Merit Principle;
 - measures to ensure compliance with relevant employment and equality legislation when carrying out selection and appointment procedures;
 - measures to ensure that due regard is paid to the potential for and impact of unfair treatment when carrying out selection and appointment procedures; and

- an evaluation of how the business needs were satisfied by the secondment/s.
- 6.8 Across almost all Departments audited there was inconsistency of practice in:
- the methodologies employed for recruitment, selection and assessment of secondees;
 - the terminology used to describe the three different categories of secondment as provided for in the Recruitment Code;
 - the arrangements employed to monitor the fixed term nature of secondments;
 - the written records maintained; and
 - the means by which Departments assured themselves of the capabilities of the secondee.
- 6.9 A number of practices did not comply with the specific provision of the Recruitment Code in relation to secondments namely:
- seeking Commissioners' approval for extension to secondment beyond two years;
 - seeking Commissioners' approval for all secondments to SCS; and
 - assessing secondees formally as being capable of undertaking effectively the duties of the post and keeping records as to how that assessment had been made.
- 6.10 In at least two of the Departments audited, secondment as an exception to merit had been used as a mechanism to enable staff to be placed in the Department for an indeterminate period of time, prior to the establishment of a new Authority. This unforeseen use of secondment is not provided for in the Code. Should the practice become more regular, then the arrangements to underpin its use should be considered for provision within the Recruitment Code.
- 6.11 Most of the Departments audited have some experience of using the Interchange programme for the purposes of arranging secondment; some

Departments consider that the secondment elements of the programme lie outwith the normal provisions of the Recruitment Code in relation to appointment by exception to merit. If the programme is to become more effective in serving the needs of Departments then the current list of partners needs to be reviewed and refreshed so that it can be more responsive to the business needs of Departments.

- 6.12 Whilst the approval function for secondments for a period of up to two years¹ rests within individual Departments, it was evident from discussions with staff that most Departments rely on the written guidance offered by CHR to ensure that their procedures and practices are appropriate, particularly in relation to employment and equality legislation. In almost all Departments there were insufficient controls in place to ensure the implementation of appropriate policies, procedures and practices.

¹ apart from those in the Senior Civil Service

7. RECOMMENDATIONS

7.1 Commissioners are aware of all the benefits of secondment in meeting business needs, transferring knowledge and expertise and sharing of good practice. If the potential of secondment is to be realised, whilst protecting the Merit Principle, then the following recommendations should be considered:

Recommendation 1:

CHR should review its existing processes for determining the adequacy of its controls and for ensuring that appropriate procedures and practices are adopted and applied by Departments.

Recommendation 2:

CHR should put in place appropriate monitoring arrangements to seek formal assurance from Departments that secondments by way of exception to the Merit Principle are made in accordance with the requirements of the Recruitment Code and in line with NICS policy and practice.

Recommendation 3:

CHR should provide advice, support and guidance, together with training, where required, for those involved in the arrangement of secondments to ensure they are sufficiently well-informed and equipped to apply the provisions of the Recruitment Code.

Recommendation 4:

CHR and Departments should ensure appropriate and effective compliance with the relevant employment and equality legislation and consideration of the potential for, and impact of, unfair treatment.

Recommendation 5:

In all secondments, Departments should demonstrate strong and compelling grounds to depart from the Merit Principle and justify why it is not practicable to make appointments in accordance with the Merit Principle.

Recommendation 6:

Departments should ensure the accuracy of returns to CHR; and ensure that their secondment arrangements are supported by systematic, timely and accurate records.

Recommendation 7:

Departments should ensure that all secondees are assessed formally as being capable of undertaking effectively the duties of the post and that details as to how that assessment is made should be recorded accurately.

Recommendation 8:

Departments should ensure that the current or future use of interim arrangements comply with the Recruitment Code.

Recommendation 9:

Departments should ensure that secondments made under the Interchange programme comply fully with the Recruitment Code.

Recommendation 10:

CHR and Departments should consider a review of the Interchange programme in response to current and changing needs.

Recommendation 11:

Steps should be taken to regularise secondments where appropriate approvals have not been sought in relation to SCS level secondments and to extensions to secondments beyond two years.

Recommendation 12:

In light of the findings of the pilot audit, NICS may wish to consider, singly or jointly with Commissioners, a review of inward secondments as an exception to merit within the Recruitment Code.

8. MOVING FORWARD

- 8.1 The revised approach to audit represents a shift in emphasis from the traditional focus on compliance towards a greater emphasis on performance improvement. The pilot tested the revised arrangements to determine their effectiveness, both as a mechanism for review and as a contributor to improvement. During the pilot it was evident that the Audit Framework and Guidance had helped to raise awareness of the issues related to inward secondment and to promote some elements of reflective practice within Departments.
- 8.2 The implementation of the recommendations within this report represents a considerable programme of work and will require resources to support its planning and implementation. Commissioners expect NICS colleagues to use the findings from this pilot to inform, influence and improve procedures and practice in relation to inward secondment as an exception to merit. This report, together with the meetings with CHR and the Departments involved in the pilot, provide a basis for continued engagement.

ANNEXES

REGULATORY AUDIT: PILOT AUDIT TERMS OF REFERENCE

Introduction

1. Article 4(4) of the Civil Service Commissioners (Northern Ireland) Order 1999 requires Commissioners to audit recruitment policies, procedures and practices followed in making appointments to situations in the Civil Service in order to establish whether the Recruitment Code is being observed.
2. Regulation 3 of the Civil Service Commissioners for Northern Ireland General Regulations 2007 permits appointments to be made by way of exception to the Merit Principle. This recognises that there may be specific circumstances where exceptions are justified to meet the business needs of the NICS and where there exist strong and compelling grounds to depart from the Merit Principle.

Purpose

3. The purpose of this pilot audit is to undertake a review of NICS appointments made specifically under **Regulation 3(a)** of the 2007 General Regulations, where the person is appointed on **secondment by way of exception to the Merit Principle**. The audit will look for evidence that:
 - (a) there are measures to ensure that policies, procedures and practices meet the requirements of the Recruitment Code and Audit Framework; and
 - (b) adequate controls are in place to ensure that the appropriate policies, procedures and practices are adopted and delivered in practice.
4. This audit also will test Commissioners' new arrangements for conducting audits to enable the process to be refined and improved.

Objectives

5. The objectives of this audit are:
 - (a) to review appointments made by way of exception under Regulation 3(a) in order to assess the extent to which they are warranted;
 - (b) to provide Commissioners and NICS with assurances that the requirements of the Recruitment Code have been observed in relation to such appointments; and to make recommendations where evidence would indicate that policies, procedures or practices are insufficient to meet the requirements of the Code; and
 - (c) to examine how the NICS assures itself that policies, procedures and practices meet the requirements of the Code and assesses the adequacy of those systems.

Scope

6. This audit will focus on Regulation 3(a) appointments made during the last **5 years**.
7. The audit will include an examination of examples of each of the 3 types of secondment arrangement provided for under Regulation 3(a), that is:
 - (i) by approach to suitable organisations;
 - (ii) by participation in an exchange scheme; and
 - (iii) to meet a compelling business need.

Audit Requirements

8. The audit team will require access to all records, personnel, premises and such information and explanations as considered necessary to fulfil audit responsibilities.

Conduct of Audit

9. The audit work will be carried out in accordance with the Commissioners' Audit Guidance, Framework and Protocol, and in compliance with Appendix B of the Recruitment Code.
10. In particular the Audit Framework contained within the Guidance will be used. An extract from Part 2 of the Framework, dealing with exceptions to Merit, sets out the key performance questions and indicators which will be used by the audit team to assess the degree to which the requirements of the Code are being met. See attached at **Appendix 1**.

Methodology

11. The audit team will comprise:

- A Lead Commissioner;
- A supporting Commissioner;
- A member of the Secretariat to the Civil Service Commissioners; and
- An independent associate.

Another Commissioner will perform a peer review role.

12. Initially the audit team will work with CHR to establish the existence of policies, procedures and practices and how CHR seeks to ensure that such policies, procedures and practices achieve compliance with the Recruitment Code and with relevant legislation. The team will further investigate the arrangements established by CHR to achieve consistent application of policy, procedures and practices throughout NICS and to monitor their effective application in practice

13. The next step will involve a consideration of each category of secondment and the team will engage with Departmental HR Representatives and the senior line managers as considered necessary.
14. In the course of field work the audit team will obtain, review and evaluate all relevant documentation and the team may conduct interviews with key staff members from CHR, NICS Departments and Agencies, and NICS senior management to gather evidence of congruence between policies, procedures and practices. These interviews may involve:
 - Permanent Secretaries / Chief Executives;
 - the Director / other representatives of CHR;
 - the Head of AMB and AMB staff;
 - senior Departmental HR staff;
 - senior management;
 - secretariat / Commissioners; and
 - secondees.
15. The audit team will comply with the arrangements set out in the Guidance and Protocol in terms of sharing the outcomes of the audit with NICS.

ANNEX B

CORPORATE HR SUMMARY RESPONSE TABLE

Year	Department/ Agency	Figures supplied for Pilot Audit	Figures published in AMB Annual Report	Revised Figures for Pilot Audit *
2006/7 AMB ANNUAL REPORT	DOE	1	1	1
	SSA	1	1	1
	DFP	1	1	1
	DCAL	1	1	1
	DEL	2	2	2
	DHSSPS	19	19	19
	DE	1	0	1
2007/8 AMB ANNUAL REPORT	DCAL	4	4	4
	DOE	2	2	2
	DHSSPS	11	11	11
	NIO	3	3	3
	SSA	1	1	1
	DE	4	0	7
2008/9 AMB ANNUAL REPORT	DCAL	5	5	5
	DFP	2	2	2
	DHSSPS	5	5	5
	DE	11	0	16
2009/10 AMB ANNUAL REPORT	DETI	2	2	2
	DCAL	2	2	2
	DHSSPS	2	2	3
	DE	23	0	10
2010 (CALENDAR YEAR) REPORTED BY NISRA	DHSSPS	1	1	1
	DOJ	26	26	26
	DETI	2	2	2
	DE	24	0	1
2011 (CALENDAR YEAR) TO BE REPORTED BY NISRA	OFMDFM	2	2	2
	DCAL	1	0	0
	DHSSPS	4	4	4
	DOJ	23	0	0
	DE	24	0	0
TOTAL		210	99	135

* revised by CHR on receipt of corrected figures received from Departments