

**Department for Regional Development
Belfast Harbour Commissioners Chair Competition
(Monitored Appointment)**

Terms of Reference

- 1.1 The audit of the public appointments process for the Chair of the Belfast Harbour Commissioners, administered by the Department for Regional Development (DRD), forms part of the Commissioner for Public Appointments' Audit Programme in respect of 2006-07.
- 1.2 This audit process is conducted under the Commissioner for Public Appointments (Northern Ireland) Order 1995 and the Commissioner for Public Appointments (Amendment) Order (Northern Ireland) 2001 and included an assessment of the extent to which relevant recommendations from previous Departmental audits have been taken forward (**Appendix 1** refers).
- 1.3 The applicable guidance in force was the 'Code of Practice for Ministerial Appointments to Public Bodies' August 2005 (the Code), issued by the Commissioner for Public Appointments for Northern Ireland.

Executive Summary

- 2.1 This public appointments process arose as a result of the existing Chair being due to retire, having been in post from 1998 and latterly re-appointed for a third period of two years (3+3+2), with the agreement of the Commissioner for Public Appointments in 2004.
- 2.2 The format of this audit report is based on an examination of the main stages of the appointments process, from which a number of audit issues were identified. These are set out in detail within the report and summarised in an Audit Issues Grid within **Appendix 2**, which includes associated audit recommendations and the Department's responses. The main issues identified are:
 - ❖ A tender for external consultants issued to 5 companies resulted in one tender, which restricted comparisons. DRD did not approach Central Procurement Directorate (CPD) to ascertain why there was limited interest
 - ❖ The external consultants did not provide all data on requests for application pack information, only those generated by the Department itself, initially responding that this was unavailable on the grounds of 'confidentiality'
 - ❖ There was a lack of formal minuting of decisions taken at the shortlisting meeting regarding criteria and weightings

- ❖ There was a lack of documented evidence on coverage of the probity principle at candidate interview in terms of assessment and testing, although verbal assurances were given that this principle was tested
- ❖ There was a lack of documented evidence on coverage of conflict of interest in terms of explanation and follow-up with any of the interview candidates, although verbal assurances were given that this area was tested
- ❖ The Panel Chair failed to complete and return a feedback form on the IA's performance during the appointments process to the Office of the Commissioner for Public Appointments (OCPANI)
- ❖ The Independent Assessor (IA) was not notified of the outcome of the competition once the Minister had signed off on the Departmental Submission (*raised as an audit issue in a previous Departmental competition*).

Overall Conclusion

- 3.1 Overall, the quality of the appointments process associated with this competition in terms of compliance with the Code (on a scale of High-Medium-Low) has been assessed as *Medium*, as a result of the nature of the audit issues identified.

Main Stages of the Appointments Process

(1) Planning and Preparation

- 4.1 This competition involved the use of external consultants, with DRD in correspondence with OCPANI on 31/7/06 regarding its intention (senior management decision) to use executive search consultants for the 'head hunting' element only. DRD took up OCPANI's offer to talk through the process. A tendering exercise followed involving DFP's Central Procurement Directorate (CPD), with tender documents issued to Capita (Veredus)/Deloitte & Touche/Bearing Point (KPMG)/PA Consulting/PwC. Companies chosen were based on 'the absence of any other knowledge of the subject and following a recent exercise by the Water Reform Unit. This produced one respondent, Veredus, appointed "to ensure that as many as possible high quality candidates are made aware of the opportunity but encouraged to apply as well".
- 4.2 In addition, during this stage of the process, the Department itself observed that late approaches by headhunters can leave candidates little time to respond by a deadline (and subsequently have their application rejected).

- 4.3 The Panel Members involved in the competition were the Permanent Secretary; a staff member at Grade 3; an external member from the Department for Transport; and the IA.
- 4.4 It was noted from discussions with the IA that he raised an issue with DRD on aspects of the Person and Role Specifications which he would have moved between these documents if time had been less pressing, although this was not fundamentally damaging to the overall process.
- 4.5 Details of expenses to be reimbursed in relation to the selection process were not included in the Information Pack, as set down in the Code, but issued instead along with the 'Invitation to Interview' letters.

Issues Arising

- 4.6 The Department did not follow-up with CPD to obtain feedback as to why there had been such a low level of response from the tender for external consultants, for future reference – **ISSUE**.
- 4.7 The IA noted that time was tight for the shortlisting stage to be completed. Both he and the Department requested details held by the external consultants during the appointments process and had some difficulties in obtaining these. In the case of the Department, this related to data on requests for application pack information, while the IA had requested what he viewed (with an HR background) as basic data to inform his role in the process - feedback on conversations held with those candidates directly approached by Veredus - which the company regarded as 'confidential'. The IA did receive the necessary details in due course - **ISSUE**.

(2) Selection

- 4.8 The selection process used involved the completion of a written application form followed by a shortlisting process and a formal interview.
- 4.9 Notes on completion of the Application Form stated that 'this form should not be reformatted', which would constitute changing font sizes; adding additional pages or changing page numbers. In this competition, 3 applicants used 3-4 pages on a criteria area for which 1½ pages had been allowed, while 6 further applicants changed the font size of text to include additional details - this raises an issue of equality across the candidate field, although the Department confirmed that it was raised for discussion by the Panel and was deemed 'acceptable' to allow this variation.
- 4.10 One panel member recorded scores on the interviewing template in pencil, an example of poor practice which was not noted by the Department.

- 4.11 It was noted that DRD policy is to take up both References and Performance Assessments following the interview stage. However an incomplete audit trail was identified in terms of the outcome of a minority of identified Performance Assessments not being documented as satisfactory, although this was the case. A formal audit issue is not being raised, as the Code currently places no requirement on Departments to carry out and document follow-up on the Performance Assessments with regard to new appointments.

Issues Arising

- 4.12 Shortlisting meeting discussions on file were in the form of rough notes. This lack of formal minuting made, eg decisions on the weighting of criteria difficult to ascertain, in order to follow through their implementation during the process – **ISSUE**.
- 4.13 There was a lack of documentary coverage of the probity principle with each candidate at interview in terms of assessment and testing provided on file (although verbal assurances were provided by two of the panel members that this principle was tested). The Chair of the Panel was tasked with covering this area but the probity question did not appear on his list of questions and there was no indication, either in panel interview notes on file or the interview marking framework that a satisfactory outcome was achieved in each case – **ISSUE**.
- 4.14 There was a lack of documentary coverage of conflict of interest in terms of explanation and follow-up with any of the interview candidates, (regardless of whether a declaration was made or not [and 2 candidates did make a declaration]), in order to demonstrate that the concept was understood and tested satisfactorily (although verbal assurances were again provided by two of the panel members that this area was tested). The Panel Chair was to cover this area, but there were no indications of coverage from the panel interview notes or marking framework that a satisfactory outcome was achieved in each case – **ISSUE**.

(3) Post-Selection

- 4.15 This stage of the process related to the preparation of the Ministerial Submission for consideration and approval and dissemination of this, along with the provision of feedback to candidates as required and to the IA on their role in the process as a whole.

Issues Arising

- 4.16 Two elements were identified in relation to documentation associated with the IA role at the close of the appointments process, which were overlooked. The first was the provision of a completed feedback form on the IA's role in the competition, which was to be completed within 2

weeks of its conclusion by the Panel Chair – reference to its completion was not found on Departmental files, and it was not received or subject to follow-up by OCPANI – **ISSUE**.

- 4.17 Secondly, the IA did not receive formal notification of the outcome of the appointments process once the Ministerial Submission had been submitted and returned to the Department, eg through the issue of a Press Release, as required by the Code. *This was also raised as an audit issue in a previous Departmental competition* and continues to reflect the fact that the IA is not afforded the opportunity to raise any concerns which may arise at the appointments stage (**Appendix 1** refers) – **ISSUE**.

APPENDIX 1

Previous audit recommendations considered as part of 2006-07 competition audit

- ❖ Any setting aside of Code provisions not referred to the Commissioner in advance? – NOT IN RESPECT OF THIS APPOINTMENT
- ❖ Early IA involvement in the process? YES
- ❖ Specific closing date and time for applications? YES
- ❖ Was the IA notified of the appointment outcome? NO

Other general departmental audit recommendations arising which are pertinent to this competition

- ❖ Evidence of testing of Conflict of Interest and Probity Issues at interview – NO EVIDENCE OF THIS FROM FILE DOCUMENTATION

AUDIT ISSUES

APPENDIX 2

	Audit Issue	Impact	Recommendation	Priority Level	Departmental Response
1	The tender for external consultants was issued to 5 companies, with one tender received (from Veredus) which restricted comparisons. DRD did not approach CPD (acting on their behalf in the procurement process) to ascertain why there was limited interest	This type of feedback could inform the approach to competitions in the future using a similar method	That the Department approaches CPD for more detailed feedback to inform future competitions	2	DRD will consider approaching CPD to obtain feedback
2	Not all the data on requests for application pack information were provided by Veredus to the Department, only those generated by the Department itself. The initial response from Veredus was that this could not be made available during the process on the grounds of 'confidentiality'	This type of data could prove useful in future competitions and should have been provided, as the Department had ultimate ownership of all data generated in relation to the competition	That the Department is clear in future as to its rights to data generated on its behalf by a third party engaged under contract during the competition process	2	DRD is satisfied that it received all relevant data available from Veredus
3	Shortlisting meeting discussions on file were in the form of rough notes – lack of formal minuting of decisions on criteria and weightings to be applied made this difficult to understand, in order to follow through on implementation	Shortlisting approach to the process was unclear due to lack of full documentation – Code compliant issue	Formal documenting of all key decision-making meetings and outcomes	1	A record of all shortlisting decisions was retained and a formal record is now on file

AUDIT ISSUES

	Audit Issue	Impact	Recommendation	Priority Level	Departmental Response
4	There was a lack of documentary coverage on file of the <u>probity</u> principle at candidate interview in terms of assessment and testing (although verbal assurances were provided that this principle was tested). The Chair of the Panel was covering this area but the probity question did not appear on his question list, neither was there any indication from panel interview notes or the marking framework that a satisfactory outcome was achieved in each case	This is a Code compliant issue – ‘candidate recommendations should only be made to the Minister where this standard has been met’	The ways and means by which this requirement will be handled by the panel should be formally agreed and documented on file prior to interview, with its implementation then clearly noted in the interview documentation (eg marking framework)	1	DRD acknowledges the importance of documenting responses to the probity principle at interview to provide assurance of a satisfactory outcome for each candidate
5	There was a lack of documentary coverage of <u>conflict of interest</u> in terms of explanation and follow-up with <u>any</u> of the interview candidates, (whether a declaration had been made [as in the case of two candidates] or not), in order to demonstrate that the concept was understood and tested satisfactorily (although verbal assurances were provided that this area was tested). The Panel Chair was covering this area, but there were no indications of coverage from the panel interview notes or marking framework that a satisfactory outcome was achieved in each case	This is a Code compliant issue	The method of handling this requirement during interview should be formally documented on file by the panel in advance and its outworking and the outcomes clearly noted in the marking framework used	1	DRD acknowledges the importance of documenting responses on conflict of interest issues, including any potential conflicts identified at interview, to provide assurance of a satisfactory outcome for each candidate

AUDIT ISSUES

	Audit Issue	Impact	Recommendation	Priority Level	Departmental Response
6	The Panel Chair failed to complete and return a standard feedback form on the IA's performance during the competition process to OCPANI	This is a Code compliant issue	That the Department ensures that this takes place on each occasion as standard practice, for example, through its inclusion in a competition action checklist	1	A feedback form has now been completed by the Grade 3 panel member and submitted to OCPANI DRD will introduce an action checklist for each competition which will help to ensure that this action takes place in a timely manner

AUDIT ISSUES

	Audit Issue	Impact	Recommendation	Priority Level	Departmental Response
7	The IA was not notified of the outcome of the competition once the Minister had signed off on the Departmental Submission, eg through issue of the formal Press Release	This is a Code compliant issue	That the Department ensures that this takes place on each occasion as standard practice, for example, through its inclusion in a competition action checklist	1	DRD had considered it sufficient to advise the IA of the outcome of the competition <u>only</u> where this differed from the panel's agreed deliberations. However, the requirement has been noted for future competitions, and DRD will introduce an action checklist to help ensure that this takes place in a timely manner