

**Date:** Wednesday 6 March 2002  
**Time:** 9.30am  
**Venue:** Committee Room 3 & 4, National Assembly Building  
**Title:** Code of Practice on Public Appointments

**Purpose**

1. The purpose of this paper is for the Committee to consider and comment on a revised Code of Practice for Public Appointments. The Committee are being asked for their views before Ministers and the Cabinet consider the matter further.

**Summary**

2. The draft - attached at **Annex A** – brings into one document provisions in the Commissioner for Public Appointments Code of Practice (revised in 2001) and the existing Assembly Code of Practice for Public Appointments.

**Consideration**

3. For ease of reference in this draft Code, provisions from the Commissioner's Code are indicated in plain text and provisions that relate only to Assembly appointments are indicated in italics. This distinction will not be made in the final version of the Code.

4. Assembly specific provisions include:

<b>Paragraph/s</b>	<b>Issue</b>
2.3	Ministerial responsibility
2.6/ 2.7/ 3.6 / 3.30	Independent Scrutiny
2.12/ 3.39/Annex C	The role of Subject Committees
3.20	Multiple Appointments
3.30	Sifts
3.32	Interviews
3.34	Related Codes
3.38	References
5.1	Complaints

**Action for the Committee**

5. To provide the Chair with comments on the revised Code, in particular on provisions which relate to Assembly appointments only.

**THE NATIONAL ASSEMBLY FOR WALES**

**CODE OF PRACTICE**

**FOR**

**MINISTERIAL APPOINTMENTS TO PUBLIC BODIES**

**Public Appointments Unit  
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**[Month] 2002**

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## **Chapter 1: Introduction**

### **The role of the Commissioner**

1.1 The post of Commissioner for Public Appointments was established in November 1995 on the recommendation of the Committee on Standards in Public Life, then popularly known as the Nolan Committee.

1.2 The Commissioner is appointed by the Queen, as Commissioner for Great Britain, under the Public Appointments Order in Council 1995, and is independent of both the Government and the Civil Service. The Commissioner's role is to regulate, monitor and report on ministerial appointments to health bodies, non-departmental public bodies, public corporations, nationalised industries and the appointments of the Utility Regulators.

1.3 The Commissioner's remit is restricted to ministerial appointments within the bodies listed above. There are a few exceptions within some of these bodies where ministers do not make the appointments, and many other public appointments in the wider sphere, all of which fall outside the Commissioner's remit.

1.4 The generic terms 'public body' and 'public appointment process', when used in this Code of Practice, refer only to those appointments that fall within the remit of the Commissioner.

### **The purpose of the Commissioner's Code of Practice**

1.5 The Commissioner's Code of Practice sets out the regulatory framework for the public appointments process and is based upon seven principles as recommended by the Committee on Standards in Public Life. It aims to provide departments with a clear and concise guide to the steps they must follow in order to ensure a fair, open and transparent appointments process that produces a quality outcome and can command public confidence.

1.6 With this in mind, the main body of this Code of Practice is arranged in two sections: Chapter 2 which defines and interprets the Code Principles in relation to the process, and Chapter 3 which charts the procedure to be followed from start to finish.

1.7 The procedure takes account of two important factors: it recognises the need both for proportionality and to allow departments the flexibility they require to deal efficiently and effectively with the diverse range of appointments they make. As the range of appointments is so varied, occasionally a situation may arise which is not covered within the Code of

Practice. If this happens the Office of the Commissioner for Public Appointment (OCPA) must be consulted. Similarly, any significant departure from the prescribed process must be discussed in advance with OCPA and duly recorded.

### **Complementary guidance on the Public Appointments process**

**a)        *The National Assembly for Wales’ Code of Practice for Ministerial Appointments to Public Bodies.***

*1.8        This Code of Practice draws heavily on the Commissioner’s Code and is intended as a guide specifically in respect of appointments made by the Welsh Assembly Government. This Code is intended to supplement, rather than replace or change, the Commissioner’s Code of Practice and it has been lodged with OCPA. It is available to all organisations that have a nominating function for appointments made by the Welsh Assembly Government.*

*1.8.i     For ease of reference, the numbering of paragraphs has been adjusted to ensure that paragraph numbers remain the same as those for equivalent paragraphs in the Commissioner’s Code.*

**b)        **Central Secretariat’s: “Best Practice Guidance”****

1.9        A separate volume of “Best Practice Guidance” has been compiled by the Central Secretariat of the Cabinet Office.

## **Chapter 2: Principles**

### **Ministerial responsibility**

The ultimate responsibility for appointments is with ministers.

### **Merit**

All public appointments should be governed by the overriding principle of selection based on merit, by the well-informed choice of individuals who through their abilities, experience and qualities match the need of the public body in question.

### **Independent scrutiny**

No appointment will take place without first being scrutinised by an independent panel or by a group including membership independent of that part of the Assembly/ portfolio responsibility of the Minister filling the post.

### **Equal opportunities**

The National Assembly for Wales has a statutory duty under section 120 of the Government of Wales Act 1998 to "securing that its functions are exercised with due regard to the principle that there should be equality of opportunity for all people" and as a public authority it has a duty under the Race Relations (Amendment) Act 2000 to "promote racial equality".

### **Probity**

Board members of public bodies must be committed to the principles and values of public service and perform their duties with integrity.

### **Openness and transparency**

The principles of open government must be applied to the appointments process, its working must be transparent and information provided about the appointments made.

### **Proportionality**

The appointments procedures need to be subject to the principle of proportionality, that is they should be appropriate for the nature of the post and the size and weight of its responsibilities.

## **The Principles**

2.1 These are the seven principles that underpin the Code of Practice. They come directly from recommendations by the Committee on Standards in Public Life (“Nolan: First Report”, May 1995). They are the foundations of the public appointments process and are designed to ensure appointment on merit and a quality outcome.

2.2 The relevant procedural points relating to each principle are set out below.

### **Ministerial responsibility**

2.3 *In addition to the Commissioner’s requirements, overall responsibility for ensuring that the public appointments procedures in Wales are in accordance with the Commissioner’s Code of Practice rests with the First Minister. The First Minister may delegate responsibility for specific public appointments to Ministers. For certain high profile appointments, eg the Chair of the Welsh Development Agency, the First Minister may reserve to himself the role played in all other appointments by the relevant Minister.*

*Public Appointments Unit, as part of Cabinet Executive Group, provides centralised support, advice and guidance to officials involved in the appointments process. The NHS Appointments Unit, part of the NHS Directorate, undertakes the entire appointments process for all NHS appointments.*

To ensure ministers can fulfil their role properly, Public Appointments Unit will assist the divisions (known as sponsor divisions) that have responsibility on behalf of a minister for the day to day relationship with the public body, to ensure that they:

- agree appointment criteria and the process to be followed with ministers at the outset to avoid disruption of the process at a later stage;
- ensure that once the process is under way these criteria are not changed; and
- ensure that all candidates put to the minister for approval meet the criteria and the standards required by the principle of probity.



## **Merit (and diversity)**

2.4 Appointment on merit is the overriding principle within the appointments process. However, in line with the Nolan Committee's original recommendations, criteria for selection can take account of the need to appoint boards which include a balance of skills and background. Nonetheless:

- Those involved in the selection process will guard against positive discrimination;
- political balance is only a consideration where there is a statutory requirement, or in certain strictly limited instances where the nature of a public body makes it essential that individual political parties are represented on it (eg the Committee on Standards in Public Life). **[Welsh eg?]**

2.5 To ensure that existing board members standing for reappointment meet the current criteria and can compete, when appropriate, in an open competition, sponsor divisions will ensure that the bodies to which Ministerial appointments are made have in place a meaningful performance appraisal system.

## **Independent scrutiny**

2.6 Independent scrutiny is a mandatory element of every competition. No appointment may be made unless an independent assessor has been involved in the process. Within this requirement:

- *the Public Appointments Unit will, in liaison with OCPA, recruit their own independent assessors, but should seek suitable candidates from diverse backgrounds. This list of Assessors will be recruited on merit and be, in addition to the Commissioner's requirements, so far as it is possible, representative of the Welsh public as a whole in terms of gender, race, age and disability. The list should also*

*include a sufficient number of Welsh speakers to enable Public Appointments Unit to continue using Welsh speaking selection panels where appropriate. This does not, however, preclude the inclusion of some Independent Assessors from outside Wales who may possess a particularly relevant expertise or background. Selection will be made using open and transparent methods and against the established criteria in accordance with the quality assurance measures set out in Annex A;*

- *Public Appointments Unit will provide the First Minister with a list of the Independent Assessors.*
- *Independent Assessors recruited to scrutinise Ministerial appointments after [date] will be appointed by the Commissioner for Public Appointments.*
- *newly appointed independent assessors cannot normally participate in the selection process until they have completed the induction training provided by OCPA. The Public Appointments Unit will supplement this training with an internal programme;*
- *independent assessors must be asked to declare the same personal information and complete the same political activity question as candidates. The Public Appointments Unit will record this information for audit purposes, but it will **not** be included in the statistical returns submitted to OCPA.*

2.7 When making its recommendation on the principle of independent scrutiny, the Nolan Committee said "Independence cannot be precisely defined but should normally mean that such a person has no operational role within the bodies or the government departments concerned". In line with this recommendation:

- *a person can be selected as an independent assessor if that individual already holds a post on one of the public bodies it sponsors or has left such a post within the past 12 months; however, if this is the case, that individual is only eligible to act as an Independent Assessor for appointments in subject areas which are not delegated to the same Minister who has delegated responsibility for the body on which he/she serves.*
- *retired civil servant can be selected. However, if that person has been employed by the Assembly during the previous 12 months, he/she is*

*only eligible to act as an Independent Assessor for appointments in subject areas which are not delegated to the same Minister to whom he/she worked.*

- Most independent assessors will not be former civil servants.

### **Equal opportunities**

2.8 The principles of equal opportunity and diversity are not only socially just, but will benefit any board to which they are applied. Individuals from all sections of society may have much to offer a public body by virtue of their diverse experience and background. Therefore:

- the principles of equal opportunity and diversity must be inherent within the appointments process. Care must be taken, at every stage, not to discriminate on the grounds of gender, race, age, disability, religion, marital status, sexual orientation or community background.
- Public Appointments Unit/ NHS Appointments Unit will take positive action to attract suitable candidates from all sections of society, and this in turn, should lead to wider representation on public bodies. Those involved in the appointments process must ensure that any initiative or positive action they take to encourage or achieve wider representation is within the law.

### **Probity**

2.9 The Public Appointments Unit/ NHS Appointments Unit and sponsor divisions will ensure that the individuals appointed are committed to the principles and values of public service. The problem most likely to arise is that of actual or perceived conflict of interest. As early as possible in the recruitment process, all candidates will be asked to disclose information or personal connections which, if they were to be appointed, could be misconstrued. Sponsors divisions, in consultation with the bodies themselves, are best placed to judge what might constitute a conflict of interest. If it appears that a possible conflict might exist or arise in the future, this must be fully explored with the candidate to establish whether it is sufficiently significant to prevent the individual from carrying out the duties of the post. The discussions and decision must be fully documented and Ministers must be able to justify decisions publicly if necessary.

2.10 In relation to conflicts of interest there are four issues most frequently encountered:

- financial interests or share ownership;
- candidates who are actively sought from within a field of expertise in which the public body works. Such a connection does not preclude an appointment, but it might well be perceived by the public as a conflict of interest and will need to be handled sensitively;
- membership of societies (eg Freemasons). In some instances, such membership may be cited as creating an obvious conflict of interest, but it must not be an automatic bar to appointment. It must be established whether there is a genuine conflict of interest and if it would hamper the individual in carrying out the requirements of the post;
- candidates must be assessed on merit and not treated more or less advantageously because of the activities, associations or employment of a partner or friend, nor must that relationship influence their actions if appointed. Again, such relationships should not automatically preclude appointment but those involved in the appointments process will be sensitive to a situation that might create an actual or perceived conflict of interest.

2.11 Appointees must be made aware of the need to notify the Minister if there is any relevant change in their situation or connections during the period of the appointment.

### **Openness and transparency**

2.12 To gain public confidence, all the workings of the appointments system must be clearly visible. All stages of the process, including relevant conversations, must be documented and the information readily available for audit. Information should be stored for a minimum of two years. However:

- personal information about applicants and panel members must remain confidential, unless the individual concerned gives permission for its release; *In addition to the Commissioner's requirements, Ministers, subject committees nominees, Independent Assessors and any other selection panel members are bound by the Assembly Standing Order provision that discussion of individuals will be in private.*
- data protection legislation must be considered in relation to all recorded information.

- *In addition to the Commissioner's requirements, information about forthcoming public appointments will be provided on demand by Public Appointments Unit/ NHS Appointments Unit.*

### ***Inclusivity***

*2.12.i. In addition to the Commissioner's requirements and the requirements in this Code, the relevant Assembly subject committee has a role in the scrutiny of those public appointments for which it has oversight. The relevant subject committee will appoint two members of the committee. At least one of these nominees should be from a different political party to that of the relevant Minister. The subject committee nominees will consider the appointments with the relevant Minister and, on the basis of selection on merit, express an opinion before the relevant Minister approves any public appointment having taken account of the views expressed. The process for consulting subject committee nominees is set out in **Annex C** and further explained in **paragraphs 3.30iii, 3.32 and 3.34** below.*

*2.12.ii. The First Minister, or the Minister to whom the First Minister has delegated responsibility for specific appointments, retains final responsibility but is required to consult appointed representatives from the relevant subject committee.*

*2.12.iii. No appointment shall be made by a Minister without consultation with the relevant subject committee through its two nominees.*

### **Proportionality**

2.13 A degree of proportionality is built into the appointments process through the tier system. This Code of Practice sets out the minimum measures required. However, within this framework the relevant Minister has the flexibility to adopt the approach he/she considers the most suitable and effective. A number of factors will influence that approach. These will include:

- the nature of particularly high profile or potentially contentious appointments;
- availability (and non-availability) of sufficient suitable candidates;
- special circumstances relevant to the appointment (eg the need to appoint quickly or in unusual circumstances).

2.14 Proportionality arguments must not be used to circumvent proper procedures. All deviations from the process must be fully recorded and the Public Appointments Unit will consult the Commissioner or OCPA in advance of any significant departure.

2.15 The Commissioner can grant specific exemptions where it is judged they are justified by exceptional circumstances.

## Chapter 3: The Appointments Process

### The 'two tier' system

**Public Appointments Unit keeps an up-to-date list of all Ministerial appointments – available on request. The list notes whether an appointment falls into the Lower or Upper Tier categories.**

3.1 Under this system all bodies which fall within the Commissioner's remit are allocated to an upper or lower tier according to the level of remuneration paid to their members and/or the level of government funding they receive. Ministers have discretion to raise a body that meets the lower tier criteria into the upper tier, if warranted by its public profile. The only requirement is that the Commissioner should be notified.

#### a) Upper tier

A body falls into this category if it meets **at least one** of the following criteria:

- members (**excluding chair**) individually receive £5,000 or more per annum in fees and/or honoraria (excluding travel, subsistence and other expenses such as child care and loss of earnings); **or**
- it receives £10 million or more of government funding (as recorded in the Government publication *Public Bodies*).

#### b) Lower tier

A body falls into this category if it meets **both** of the following criteria:

- members (**excluding chair\***) individually receive less than £5,000 annually in fees and/or honoraria (excluding travel, subsistence and other expenses, such as child care and loss of earnings); **and**
- it receives less than £10 million per annum in government funding (as recorded in the Government publication *Public Bodies*).

\*If the Chair receives £20,000 or more, that **appointment alone** is subject to upper tier procedures, however, the body remains in the lower tier.

**c) OCPA Audit arrangements**

3.2 The appointments processes for both upper and lower tiers are subject to OCPA audit. Audit arrangements are set out in more detail in Chapter 4.



# The Procedure

## Introduction

3.3 For ease of reference, the process is described in this chapter under three stage headings:

- Stage 1 Planning
- Stage 2 Preparation
- Stage 3 Selection

The regulatory requirements, which reflect the relevant Code principles, are set down at each stage. The requirements apply to all appointments. Where there is a difference in the requirements for upper and lower tier bodies, these are shown under the two separate sub-headings.

3.4 The procedures for all appointments made by the Welsh Assembly Government will be carried out in a considerate and timely manner.

3.5 The principle of proportionality, that appointment procedures should be appropriate for the nature of the post and the size and weight of its responsibilities, will be applied wherever possible within the broad regulatory framework of this Code.

## Stage 1 Planning

### Initial ministerial involvement

3.6 Ministers must be consulted very early in the planning stage. In particular, it is important that they agree the selection criteria and the way the process is to be conducted. If ministers wish formally to nominate candidates for consideration they should do so at this stage.

### *Initial involvement of Independent Assessors*

*3.6.i. In addition to the Commissioner's requirements, wherever possible, the Public Appointments Unit will involve the Independent Assessor/s at an early stage of each appointments process. The Assessor should have an early opportunity to comment on the job and person specification and the advertisement (where the appointment is to be advertised). Wherever possible, the appointments plan submission should identify who the Independent Assessors are and indicate whether they are content with these documents.*

### ***Appointments Plan Submission***

- 3.7. *The sponsor division, in liaison with Public Appointments Unit (PAU), should advise the relevant Minister on the nature of the process and draw up a firm timetable.*

### **Joint departmental bodies or involvement of the other Devolved Administrations**

3.7.i. *There are a large number of public appointments which are made jointly with UK government departments or on which the Welsh Assembly Government is consulted. Public Appointments Unit keeps an up-to-date list of all such appointments – available on request.*

3.8 Arrangements for joint departmental appointments or those requiring consultation with Devolved Administrations must be agreed at the start of the process in order to avoid the risk of subsequent difficulty and delay. It is essential that the sponsoring departments contact the relevant departments and/or Administrations to agree and record, in advance, the approach they intend to adopt and/or their respective level of direct involvement. The agreement should cover how to proceed in the event of a difference of opinion at any stage and should have the full support of all the relevant ministers.

### **Consultation with public bodies**

3.9 As part of their planning of the appointments process, sponsor divisions may wish to seek the views of the chairs of the bodies concerned on issues such as selection criteria and the balance of the board. Decisions on all such matters, however, remain with ministers.

### **Role and person specification**

3.10 Role and person specifications must be produced for each and every appointment as member, chair or deputy chair of a public body. These must be reviewed each time a post becomes vacant and not automatically assumed to have remained unchanged since the last time an appointment was made. In setting the selection criteria departments must ensure that:

- these do not discriminate unlawfully against any group or groups in society;

- role descriptions are comprehensive and include: details of any remuneration, allowable expenses, conditions of service and a realistic indication of the time commitment required. Any specific issues which are relevant to the post must be highlighted (eg a particular residential qualification);
- the person specification addresses the qualities, experience, background, competencies, and where applicable the professional qualifications, sought;
- the person specification does not contain unnecessary requirements that will rule out applications from a particular group within society;
- where positive action is taken to attract applications from a particular group, extreme care is exercised to avoid anything which might constitute positive discrimination.

### **Reappointments**

3.11 Once the number of forthcoming vacancies has been identified, the relevant sponsor division, in liaison with Public Appointments Unit, will establish how many of the members whose terms of office are due to end are eligible for a further term of appointment and meet the current requirements of the board. This will be governed by the time and performance criteria set out below. Decision to reappoint must be taken in a timely manner, and in all cases before the current term expires.

#### **a) Total period in post**

3.12 The number of terms an individual may serve and the conditions for reappointments vary between upper and lower tier bodies as set out in paragraph 3.15. In either case the maximum period in office must not exceed 10 years on the same board. Only in exceptional circumstances will an extension of service beyond the 10-year limit be considered and in this case the Commissioner's agreement must be sought. . The person concerned will still be expected to compete for the appointment through full and open competition.

Where a member has been promoted to deputy chair, the periods in both posts must be taken into account. Where a member is appointed chair or deputy chair through open competition or elected from amongst the membership under statute or other legally binding rules of the body, it counts as a new appointment so the clock starts again.

## **b) Performance assessment**

3.13 Sponsor divisions will ensure that all bodies to which Ministerial appointments are made have in place performance assessment processes that will provide the necessary, robust evidence for considering reappointments:

- no one can be reappointed unless they have performed satisfactorily during their current term;
- it is essential that, for audit purposes and the investigation of complaints, all performance assessments are fully recorded and documented.

## **Retiring members**

3.14 Members who will not be invited, for whatever reason, to serve for a further term, must be notified once the formal decision has been taken and before any action is taken publicly to replace them.

## **Terms and criteria for reappointments**

3.15 The requirements vary between upper and lower tier bodies and are as follows:

### **a) Reappointment to upper tier bodies**

- Appointments to upper tier bodies will normally be restricted to two terms. The length of these terms will be determined by any statutory constraints or be a matter for decision by ministers. In total, though, they cannot exceed the 10-year rule.

#### **— First reappointments**

- First reappointments (ie a second term of office in the same role) may be made subject to a satisfactory performance assessment as set out in paragraph 3.13.

#### **— Second reappointments**

- Second reappointments (ie. a third term of office in the same role) will be rare; and

- can only be made if the individual has been considered alongside other applicants in open competition and has proved to be the most suitable candidate. In making this judgement the Minister can take into account the fact that the current post holder:

- i) has particular skills or experience essential to efficient functioning of the board; or
- ii) will provide continuity during a period of change (perhaps when a number of appointments are coming to an end simultaneously or bodies are merging).

**b) Reappointments to lower tier bodies**

Appointees may serve any number of terms subject to the 10-year rule, providing their performance has been continuously assessed as satisfactory.

**Extensions**

3.16 Where a full term reappointment is not appropriate (eg a pending merger or review) the Minister may consider an extension of the current term. These will be exceptional and must not be seen as a means of circumventing the appointments procedure. Extensions:

- must be agreed with OCPA in advance;
- must not normally exceed 18 months; and
- should not normally be followed by a reappointment without open competition, although OCPA may consider this in exceptional circumstances.

**Monitoring reappointments**

3.17 All processes and decisions relating to reappointments are subject to the same information requirements as initial appointments, and to review by the OCPA auditors.

### **Promotions to Chair and Deputy Chair**

3.18 Unless there is statutory or other legally binding provision for members to elect a chair from their own number, or a candidate has been selected and appointed as chair designate, promotion to chair is subject to the full appointments process. However:

- where there are urgent and compelling reasons for promoting a member (eg the death or sudden resignation of a chair) OCPA may agree to an exemption, on condition that all existing members of the board have the opportunity to express their interest and all candidates assessed as being suitable are considered for the post;
- promotion from member to deputy chair can be made on the basis of a satisfactory performance assessment without competition.

### **Experts**

3.19 Very occasionally, there are posts that require such a rare combination of skills and experience that it is impractical to try to fill them through the usual procedure. These posts are diverse and the only practical approach is to deal with them on an individual basis. Therefore, if sponsor divisions, in liaison with Public Appointments Unit, think that a particular appointment falls into this category a case for 'expert' designation should be presented to OCPA.

### **Emergency appointments**

3.20 Sponsor divisions will, on occasion, face emergencies where a public appointment needs to be made very quickly indeed and in politically sensitive circumstances. In such cases either the minister concerned or the permanent secretary should contact the Commissioner personally to discuss the options available.

### **Multiple Appointments**

*3.20- i. In addition to the Commissioner's requirements, the Welsh Assembly Government has a policy on multiple appointments. The policy only has bearing on appointments made by the Welsh Assembly Government.*

*3.20 – ii. Appointing people to more than one public body at the same time is discouraged. Such multiple appointments can give the impression of concentrating power in the hands of the few. There may be cases where this is desirable or necessary and someone already holding a public appointment is not prevented from applying for an advertised appointment. This policy should be stated in every application pack and candidates advised that if they already hold a public appointment but wish to apply for a further appointment, they will be given the opportunity to demonstrate that they can take on the additional responsibility. They should be told that the Minister will take this into account - as well as the need to avoid multiple appointments on diversity grounds - in considering who to appoint.*

*3.20 – iii. If candidates already in appointment are invited to interview they should be advised that as they are already serving on a public body, their capacity to do the job effectively (in relation to their other appointment responsibilities) will be explored at interview. They should be reminded that the Minister will take this into account - as well as the need to avoid multiple appointments on diversity grounds - in considering who to appoint.*

3.21 The requirements at the preparatory stage are governed primarily by the need to ensure a demonstrably fair and open process that is appropriate to the nature and degree of responsibility attached to the post being filled. It is recognised that diversity is an essential element on public bodies and that reaching out to a wide range of potential appointees from different backgrounds is the best way to achieve this.

### **Publicising appointments**

3.22 To demonstrate openness of the system people must be made aware that an appointment is available through some form of publicity. Advertising is one way, but may not necessarily be the most effective or proportionate mechanism.

#### **a) Upper tier bodies**

- All posts must be publicised in an effective but proportionate way, eg websites, advertisements, issuing notice of forthcoming appointments to interested groups.
  - All competitions to fill chair posts, posts that are paid, have a high profile or have responsibility for managing significant public funds must involve a proportionate form of advertising.

#### **b) Lower tier bodies**

As with unpaid posts in upper tier bodies, these appointments must be publicised and Ministers have the discretion to do so in the most effective and proportionate way.

3.23 All advertisements for posts within the Commissioner's remit must display the 'OCPA Regulated' kitemark.

### **Other sources of candidates**

3.24 Ministers, sponsor divisions and Public Appointments Unit/ NHS Appointments Unit may also seek candidates through other sources:

- a) Cabinet Office Public Appointments Unit**
- b) Public Appointments Unit Database**



All entries on the Public Appointments Unit database should be updated regularly and generally time limited to no more than three years. Thereafter, candidates should either be invited to restate their interest or informed courteously that their names have been removed from the list.

**c) Targeting of individuals**

- Anyone can suggest or put forward the names of potential candidates. Regardless of the way in which the individual is targeted, applications must go through the same formal process as those from any other source. This includes completing an application form.
- Ministers and officials are equally free to suggest names of possible candidates, but where they wish to make formal nominations applications from their nominees must be received by the same closing date as for applications from any other sources. The sponsor must then take no further part in the selection process, though ministers will obviously be involved at the point of final decision;
- If the sifting process does not produce a strong shortlist, Public Appointments Unit/ NHS Appointments Unit can seek additional applications, providing their reasons are fully recorded and notified to OCPA in advance.

**d) Nominating bodies**

Some organisations have a statutory right to have their interests represented on a particular public body. Public Appointments Unit/ NHS Appointments Unit may also seek or welcome such nominations. In either case Public Appointments Unit/ NHS Appointments Unit must ensure that the nominating organisation is aware of, and abides by, the guidance set out in the OCPA leaflet 'Nominating Bodies'.

**e) External consultants**

If Ministers choose to use external consultants, the requirements of the Commissioner's Code of Practice still apply and, in liaison with Public Appointments Unit, it is the sponsor division's responsibility to ensure that the consultants have followed them to the full. In particular, this includes the requirement for all applicants to complete an application form prior to the specified closing date.

### **Information packs**

3.25 Information packs must be sent out to all applicants and, as a minimum, must contain:

- the application form;
- role and person specifications;
- a realistic indication of the time commitment;
- details of remuneration and expenses relating to the appointment;
- full details of the body;
- information on the process and how long it will take;
- OCPA *Complaints* leaflet; and
- details of expenses to be reimbursed in relation to the selection process.

*All documents drafted in-house must be bilingual (English/Welsh).* In the interests of diversity Public Appointments Unit will be prepared to respond to requests for this information on audio tapes, in Braille, or in large print, etc.

### **Application forms**

3.26 Public Appointments Unit will design application forms. These will ask for all the information and statistics required by the Commissioner for monitoring purposes (see Chapter 6). However, they will also be simple and straightforward and ask only what is required. In particular:

- applicants should be made aware that some of the information will be placed in the public domain if they are successful;
- the political activity question must be asked of all candidates **exactly** as shown at Annex B.

### **Closing date for applications**

3.27 Application forms, or the covering letter, should specify the closing date for the competition:

- This should also feature in advertisements or any other form of publicity seeking applications;

- Once the closing date has been specified it must be maintained. If there are exceptional reasons for extending a deadline these must be discussed with OCPA in advance, before an extension is made, and must be documented.

## Stage 3      Selection

3.28      This stage covers the identification and selection of appointees. The requirements are governed primarily by the need to maintain the principles of appointment on merit and equal opportunities, and to ensure diversity within boards. The requirements are set out under individual headings, as follows:

### **The role of independent assessors**

3.29      Independent scrutiny underwrites the integrity of the appointments process. Independent assessors will always be used at the selection stage, which deals with the identification and selection of candidates. Here the following framework requirements apply:

#### **a)          Upper tier bodies**

As a minimum, independent assessors must have an overview of the earlier stages of the process and be directly involved in shortlisting and interviewing. This is likely to be as a member of an **advisory or scrutiny panel**, and their role in this respect is described in the context of the overall requirements for these panels, which are set out in paragraph 3.30.

#### **b)          Lower tier bodies**

- As a minimum, an independent assessor must review the process up to and including shortlisting and **prior** to any final decision being made. However:
- Independent assessors will have a greater involvement in the case of paid appointments; and
- And there will be full involvement of an independent assessor when the appointment is likely to attract public interest.

### ***Certificate of Satisfaction***

3.29.i.      *In addition to the Commissioner's requirements, Public Appointments Unit/ NHS Appointments Unit asks all independent assessors to complete a 'Certificate of Satisfaction' at the end of each appointments exercise. This gives them a formal opportunity to confirm either that they are satisfied that the appointments process has been conducted within the principles of the Code of the Commissioner for Public Appointments or record issues that have been discussed with the Department and*

*concluded satisfactorily or referred to the Commissioner.*

### **Advisory and/or scrutiny panels**

3.30 The requirements vary between upper and lower tier bodies as follows:

#### **a) Upper tier bodies**

- The key stages of an appointments process must be overseen by a panel rather than an individual. *Public Appointments Unit/ NHS Appointments Unit will convene a scrutiny panel for each particular competition;*
- The panel membership will normally include an official, a representative from the public body or other interested group, as appropriate, but must include at least one independent assessor;
- The scrutiny panel , convened for a particular competition, should comprise the same members throughout. In extenuating circumstances representatives or officials on the panel may vary, but the independent assessor must not normally be changed. On occasions where the need for change appears unavoidable, departments may apply in advance to OCPA for an exemption;
- A representative of the public body or interest group cannot be designated as the independent assessor;
- The independent assessor is expected to take a full and active part, but cannot chair the panel;
- Ministers will consider membership of panels in terms of diversity;
- No appointment can be recommended to ministers unless the candidate has been scrutinised by the panel, even if this means reconvening the panel (eg in exceptional circumstances to look at agreed late entrants).

#### **b) Lower tier bodies**

The key stages of an appointment process cannot be overseen by one individual. The Commissioner does not require use of full panels as constituted for upper tier bodies, but they are strongly advised for

high profile or potentially controversial appointments. Where independent assessors are not involved as panel members, they must nonetheless review the overall process and certify their satisfaction prior to any formal decision being made.

*3.30 – i. In addition, to the Commissioner’s requirements, Independent Assessor/s will always be part of the sift and (where interviews are held) interview panels but they are not required to attend ‘conversations with a purpose’ held for Lower Tier appointments.*

*3.30 – ii. If an Independent Assessor has any concerns about an appointment exercise, this should be raised with the Public Appointments Unit. If the problem is not resolved, they should then speak to other members of the appointments panel and to the relevant Minister or the First Minister. At any time in the process and certainly if Ministers are unable to answer the Assessor’s concerns, the Assessor is also free to liaise with OCPA and any concerns can be discussed with the Commissioner.*

#### **Selecting a shortlist**

*3.30.iii. After advertisements and other sources have produced a number of applications by a designated closing date, the applications should be sifted by a sift panel which may include a senior official from the sponsor department/division and the Independent Assessor/s and may include the Chair of the relevant public body where appropriate. The consequent recommended shortlist of applicants and a list of those recommended for rejection shall be submitted for amendment and/or approval to the relevant Minister who must, on the basis of selection on merit, discuss the recommendations with the two relevant subject committee nominees.*

3.31 All those involved must be familiar with the Code principles and be confident that the shortlist is being compiled on the basis of merit. No candidate can be shortlisted unless they have been satisfactorily assessed against the publicised criteria. **All decisions, including those to reject, must be fully documented.**

#### **Interviews**

3.32 The requirements vary between upper and lower tier bodies as follows:

**a) Upper tier bodies**

A formal interview must take place.

*In accordance with the principle of proportionality, the Minister can decide that the selection panel should have limited membership – for example, a senior official, the Chair of the body concerned and an Independent Assessor (this last being an essential requirement). This panel will report their conclusions and recommendations to the Minister and (through a letter from the Minister) to the subject committee nominees. In addition to the Commissioner's requirements, the Minister may wish to establish a larger selection panel to sift applications and/or to interview candidates on the approved short list. Such a selection panel could consist of the relevant Minister, the two nominated relevant subject committee members, two Independent Assessors, a senior official from the sponsor department/division and, where appropriate, the Chair of the relevant public body.*

**b) Lower tier bodies**

- No individual should be appointed on the basis of written evidence alone. Ministers have the discretion to decide the most appropriate approach at this stage. It should be assumed that formal interviews will be held for high profile appointments, whereas a 'conversation with a purpose' between a candidate and a senior civil servant will suffice for unpaid appointments. Such conversations must be documented. Only in very exceptional circumstances and when a candidate is already well known can a meeting be considered to be unnecessary;
- Ministers are allowed this flexibility of approach, but must adopt a clear policy on interviewing in order to ensure a consistent approach within and between individual competitions. This approach must be documented;
- All decisions arising from interviews or conversations, including those to reject, must be fully documented.

**3.33** Whenever an independent assessor is a member of an interview panel, in liaison with the sponsor division, Public Appointments Unit / NHS Appointments Unit will:

- agree with the independent assessor the procedures to be followed during the selection process, including the criteria against which candidates will be assessed;

- provide the independent assessor with a copy of the panel's collective decision on the outcome of the interview process. This must record the names of the candidates whom the panel has agreed to recommend to ministers for appointment. It must also record whether each candidate met the agreed criteria for appointment.

#### **Other considerations at this stage**

3.34 At the shortlisting stage, whether or not it includes an interview, if the Public Appointments Unit/ NHS Appointments Unit has not already done so they must ensure:

- that candidates are fully aware of the standards of probity required of public appointees;
- *Ministers and subject committees must make certain that their public bodies have adopted a code of conduct which should, as a minimum, reflect the Cabinet Office's model code 'Guidance on Codes of Practice for Board Members of Public Bodies'.*
- *The Minister and subject committee nominees responsible for Health should be aware of the separate Policy entitled 'Policy for the appointment of Chairs and NEDs to NHS Trusts and Health Authorities'. The Minister for Health, the Health and Social Services Committee and the Committee on Equality of Opportunity have agreed this policy.*
- *Appointees to public bodies must be prepared to adhere to the code applicable to their individual body.*
- that questions of conflict of interest have been explained to and explored with the candidate;
- that all monitoring information, including that on political activity, has been provided; and



- that they themselves have taken account of the statutory disqualifications which apply in respect of Assembly Members, MPs, MEPs or members of the other Devolved Administrations.

### **Political activity**

3.35 On the recommendation of the Committee on Standards in Public Life all applicants for a public appointment must answer the standard question on political activity. The Commissioner has designed the format of the question, which appears at Annex B, after consultation with the Government and the Committee on Standards in Public Life. It must not be amended in any way. The question only asks for information that is already in the public domain; it does not ask for personal or private information such as membership of political parties or voting preferences.

The Public Appointments Unit/ NHS Appointments Unit will make a determined effort to ensure that applicants complete the question and any refusal to do so will be recorded.

### **Final ministerial decision**

3.36 Ministers will normally expect to be offered a choice of candidates.. Sponsor divisions submitting advice to Ministers will ensure:

- the overriding principle remains appointment on merit and no candidate can be recommended to ministers unless they have been judged as suitable against the established selection criteria;
- ministers will wish to balance boards in terms of diversity as well as skills and experience; consequently sponsor divisions may recommend that ministers appoint any candidate who has fully met the selection criteria in order to assist in achieving a desired balance on a board's membership;
- under **no** circumstances, however, should a candidate who has been judged unsuitable for an appointment be recommended in order to achieve that balance on a board.

### **Non-compliance with the Commissioner's Code of Practice**

3.37 If a minister wishes to set aside any of the provisions of this code the

Minister is required to consult the Commissioner as early as possible:

- if there is no scope for agreement and the minister still decides to proceed, the Minister must inform the Commissioner, in writing, before an announcement is made;
- similarly, if a minister rejects an entire list of recommended candidates the Minister must inform the Commissioner immediately, in writing;
- in instances of non-compliance with the Code of Practice the Commissioner may decide to comment publicly on the decision, or require any announcement made by the Minister to make it clear that the required procedure had not been followed.

### **Updating this Code**

*3.37.i. If the Commissioner makes revisions to her Code of Practice, aspects of this Code which mirror the Commissioner's Code will be amended accordingly within a timescale agreed with the Commissioner's office. Sections of this Code which are specific to the Assembly can only be amended [?by agreement of the Assembly in Plenary].*

### **References**

*3.38. References can provide additional background information about candidates, and flag up areas of concern or of particular strength that may not otherwise come to light. In addition to the Commissioner's requirements, references should be taken up after shortlisting and before interview and used by the interview panel to pursue any particular issues. Best practice and a consistent approach should be employed. References only need to be taken for candidates being interviewed for Upper Tier appointments.*

### **Publicising appointments**

3.39. In keeping with the principle of openness and transparency all appointments to public bodies must be publicised in an appropriate way. In all cases, the independent assessor involved must be informed of the final outcome.

### **Upper tier bodies**

Press releases are required for upper tier appointments. These should include:

- a short description of the body to which the appointment has been made and its functions;
- a brief summary of the appointee's career/experience;
- details of the appointee's response to the political activity question. If no political activity has been declared this should be made clear;
- length of appointment and whether it is a paid post or not. If paid, the amount should be given;
- a list of other ministerial appointments held and any related remuneration received. If none, this should be clearly stated.

*3.39.i. In addition to the Commissioner's requirements, the relevant Minister will announce the reappointment(s) and/or appointment(s) to the relevant subject committee.*

## **Chapter 4: OCPA Audit**

### **OCPA Routine audit**

4.1 Under the 1995 Order in Council the Commissioner is required to audit appointments within their remit for compliance with the Code of Practice. The arrangements are as follows:

- a) upper tier appointments will be formally audited by independent auditors;
- b) a selection of lower tier appointments will be audited annually by the Commissioners' Office though independent auditors may be called in to assist if necessary; and
- c) the auditors may be asked to conduct thematic reviews throughout the year.

#### **a) Upper tier bodies**

- Based on the findings of an in-depth **risk analysis** the auditors will conduct a rotating plan of visits to all departments over a three-year cycle;
- Follow up visits will be made to departments if the Commissioner considers it necessary;
- The risk analysis and the rotational plan will be updated annually to ensure that it remains appropriate and takes account of any significant developments in the meantime;
- In the first quarter (ie April–June), departments due to be audited during that year will be informed by the Commissioner's office of the intended schedule of visits, and asked to agree a commencement date with the auditors;
- Individual audit reports will be issued to the relevant departments via the Commissioner's office as soon as possible after the departmental audit has been completed;
- The Commissioner's office will issue a summary report of the year's audit work to all departments.

#### **b) Lower tier bodies**

- OCPA staff will carry out checks on a selection of lower tier appointments over the course of the year. These reviews will take the form of either a compliance or a thematic audit; and
- Letters detailing the findings and any recommendations will be sent to the department.

#### **Other OCPA audit work**

4.2 In addition to the routine audits described above, the Commissioner may decide to ask the independent auditors to carry out ad hoc audits. These may cover issues arising from a previous audit, or relate to an individual complaint or a series of complaints.

## Chapter 5: Complaints

### COMPLAINTS REGARDING PROCEDURES SPECIFIC TO THE ASSEMBLY

*5.1.i. All complaints will first be dealt with by Public Appointments Unit (PAU) in liaison with the sponsor division responsible for the appointment concerned. If concerns are not resolved, PAU will provide advice to the relevant Minister who should provide a comprehensive response to the complainant. If concerns remain unresolved, PAU should advise the First Minister who may wish to take the issue to the Cabinet and, if necessary, to the Assembly in Plenary. The Assembly Plenary is able to amend the Assembly-specific sections of this Code and is therefore best placed to make a final decision on any cases of complaint.*

*5.1.ii. Where there is shown to be any departure from the Assembly specific provisions in this Code, the Assembly can require that any announcement regarding such a departure draws attention to the fact that the appointment was not made in accordance with the Code.*

*5.1.iii. The following provisions apply only to the provisions in this Code which reflect those in the Commissioner's Code of Practice*

5.1 The Commissioner **will not deal** with any complaint relating to an appointment made more than **one year previously**, ie from the date specified in the letter of appointment.

5.2 Subject to this time limit the Commissioner will investigate all complaints relating to the appointments procedure that concern:

- i) an individual's experience as an applicant;
- ii) the way an appointment's process has been handled; or
- iii) a challenge to the appointment of the successful candidate only if it appears that the appointment process has been breached.

5.3 The Commissioner has **no remit** to investigate complaints relating to non-selection or non-reappointment unless it appears that the selection process has breached the Code of Practice.

5.4 The Commissioner **does not deal** with complaints relating to the way in which a public body is run, the actions of its members or remuneration.

5.5 OCPA's *Complaints* leaflet sets out these limitations in detail.

## **Complaints to the National Assembly for Wales**

5.6 As a general rule, all complaints must be dealt with first by the Public Appointments Unit/ NHS Appointments Unit. Therefore, providing it is appropriate, any complaints made directly to the Commissioner about Welsh Ministerial appointments will be redirected to Public Appointments Unit/ NHS Appointments Unit. If a complainant is dissatisfied with the final response they may then ask the Commissioner to consider initiating an investigation.

5.7 It is therefore essential for Public Appointments Unit/ NHS Appointments Unit to have effective systems in place for handling complaints.

5.8 Public Appointments Unit, in liaison with sponsor divisions and NHS Appointments Unit, will keep a full record of all correspondence and any relevant documentation, such as minutes of meetings and notes of telephone conversations. These must be available for audit if required.

5.9 For the purpose of recording in the annual report, OCPA must be notified of the precise number and the broad details of complaints that Public Appointments Unit/ NHS Appointments Unit has received over the relevant period.

## **Complaints to the Commissioner**

5.10 If the Commissioner has agreed to investigate a complaint, it will be dealt with in one of two ways. OCPA may carry out the investigation alone or, in exceptional circumstances, may seek the assistance of the independent auditors. The procedures followed will be fundamentally similar in either case, but for clarity are set out individually and in full below.

## **Complaints investigated by OCPA**

### **Initial action**

5.11 Once the decision to investigate a complaint is taken OCPA will:

- a) send a 'statement of complaint' to the complainant. This will:

- set out the issues that fall within the Commissioner's remit and make it clear that these are the only features of the complaint that will be dealt with;
  - make clear the extent of the Commissioner's remedial powers in the event that the complaint is upheld;
  - say that OCPA has approached Public Appointments Unit/ NHS Appointments Unit on this basis and when OCPA expects to receive a reply; and
  - what the next stage will be (see paragraph 5.12).
- b) write to Public Appointments Unit/ NHS Appointments Unit:
- setting out the complaint;
  - listing the issues to which the Public Appointments Unit/ NHS Appointments Unit is expected to respond; and
  - setting a deadline for that response. Public Appointments Unit/ NHS Appointments Unit will be asked to notify OCPA immediately if it feels that this deadline cannot be met.

## **Factual accuracy timeline**

5.12 Once a reply has been received from the Public Appointments Unit/ NHS Appointments Unit, where relevant, OCPA will produce a **factual accuracy timeline**, annotated with all the relevant factual information. This will be sent out simultaneously to the complainant and the Public Appointments Unit/ NHS Appointments Unit and both will be invited to comment on the accuracy and completeness of the record within 15 working days. At the same time they will also be informed that the Commissioner would normally expect to notify them of her findings within 15 working days of their **mutual agreement** on the factual accuracy timeline.



5.13 Disagreements between the parties will be resolved as speedily as possible. All telephone conversations will be documented and both parties' final agreement will be required in written form.

### **Reporting the Commissioner's findings**

5.14 The Commissioner's findings will be communicated to both the complainant and the Public Appointments Unit/ NHS Appointments Unit in the form of individual letters setting out:

- the key conclusions and the reasons behind them; and
- any action that the Commissioner intends to take or recommends Public Appointments Unit/ NHS Appointments Unit should take in the light of the investigation.

### **Ongoing complaints**

5.15 It is possible that the complainant may not be content with the outcome and/or the way that the investigation was handled. These two areas are entirely separate and, accordingly, will be treated differently:

- **OCPA will not** enter into protracted discussion with the complainant about the outcome of the investigation; and
- **OCPA will not reopen** the investigation unless relevant new evidence comes to light.
- However, OCPA **will** clarify points raised in relation to the Commissioner's reply, and respond to questions raised about the way the complaint has been handled.

5.16 If the complainant remains dissatisfied, a **final** letter will be sent to them making it clear that this is the case and setting out the courses of action open thereafter. It will also be made clear that this recourse only applies to the way in which a complaint was handled, or the service received from OCPA, and **not to the outcome of the investigation**.

## Complaints involving OCPA's independent auditors

5.17 OCPA recognises that some complaints are particularly complex and/or require specialist skills. However, prior to the final decision to use the auditors, OCPA will speak to the complainant to clarify the issues within the complaint and to ensure that it qualifies for exceptional treatment. Thereafter:

### Terms of reference

5.18 OCPA will produce tightly drafted Terms of Reference prior to the start of the investigation. These will:

- set out the complaint;
- set out the key issues to be investigated;
- describe the work to be performed; and
- outline a timetable for the investigation and reporting.

5.19 The Terms of Reference will be for **internal use only**. OCPA will draw up a 'statement of complaint', based on the terms of reference and outlining the issues. This will be sent to both the complainant and the department.

### Reporting

5.20 The **auditors** will then draw up a **factual accuracy timeline**. This will relate strictly to matters of 'who did what and when', and does not include matters of judgement. This procedure will help to speed up the process and will afford demonstrably fair and equal treatment to both complainant and Public Appointments Unit/ NHS Appointments Unit.

5.21 OCPA, **not** the independent auditors, will **manage** the process of agreeing factual accuracy.

- The auditors will draw up a factual accuracy timeline, which will be sent to OCPA;

- OCPA will send this out to both complainant and Public Appointments Unit/ NHS Appointments Unit, at what will effectively be the draft report stage. The complainant and Public Appointments Unit/ NHS Appointments Unit will be invited to comment on the accuracy and completeness of the record within 15 working days.

5.22 Once the factual accuracy has been agreed, the draft conclusions should be discussed and agreed with Ministers.

#### **The final report to the complainant**

5.23 The guiding principle here is that, whilst both the complainant and the Public Appointments Unit/ NHS Appointments Unit are justified in challenging the factual accuracies in a case, it is not for them to judge the Commissioner's conclusions based on the agreed facts.

5.24 The auditors' report is for the Commissioner only. The Commissioner's formal response to the complainant will draw heavily on the auditor's report. It will be in the form of a letter setting out the key conclusions of the investigation and any subsequent action that OCPA intends to take. This will include the Commissioner's recommendations to Public Appointments Unit/ NHS Appointments Unit on the action it should take.

#### **What should Ministers receive?**

5.26 The appropriate Minister will receive a letter from the Commissioner. This letter will set out the findings and the reasons behind them. It will draw extensively on the conclusions in the auditors' report.

## **Chapter 6: Statistics and information**

6.1 Detailed information is required for inclusion in the Commissioner's annual report at the end of the financial year. Public Appointments Unit will be consulted in advance of any change to this requirement.

6.2 The information relates to **new appointments made between 1 April and 31 March**. Statistics are divided into 'Chair' or 'Member' categories. For the purpose of this exercise deputy chairs are included as members. In relation to these categories the information required is as follows:

- number of appointments made
- gender\*
- ethnic minority\*
- age
- disability
- political activity by party (includes details about levels of political activity)
- number of reappointments
- whether the appointee holds more than one appointment.

\*In addition, these categories are divided into remuneration bands.

6.3 Although OCPA will not routinely collect the information, for the purpose of audit and possible complaint, Public Appointments Unit/ NHS Appointments Unit will also record:

- the source of an appointee; and
- any recorded potential conflict of interest.

### **Independent assessors**

6.4 For audit purposes, Public Appointments Unit will record the same information for independent assessors as for appointees.

### **Advertisements and press releases**

6.5 Copies of all advertisements and press releases must be kept on file for audit purposes where necessary.

## Annex A: Independent scrutiny of public appointments

### Quality assurance measures

#### Introduction

A.1 The preceding chapters set out the regulatory framework for ministerial appointments to public bodies. They describe the procedures and practices that the Commissioner requires in order to ensure a fair, open and transparent system that commands the confidence of the public as well as Assembly Members, Parliament and Ministers themselves. Rigorous adherence to the principle of independent scrutiny is an essential element in sustaining that confidence. The purpose of this Annex is to support and supplement the regulatory framework by setting out additional quality assurance measures to ensure the effectiveness of independent assessors.

A.2 The objectives of these measures are to ensure:

- that the function of independent scrutiny is carried out by assessors with the right skills and level of experience (**selection**);
- that they are sure about their role and are equipped to discharge their responsibilities effectively (**induction and training**);
- that the information and support they need is available to them from the Public Appointments Unit and from OCPA itself (**information**).

#### Selection of independent assessors

A.3 Those recruiting independent assessors, will seek to draw upon the services of a wide range of people capable of fulfilling the role. The principles and benefits of equality of opportunity and diversity apply as much to the selection of independent assessors as they do to the public appointments process as a whole. Moreover, a diverse pool of independent assessors will help to balance the membership of individual advisory and scrutiny panels.

A.4 Further essential elements of the quality assurance measures are as follows:

- Independent assessors must be selected against established criteria. Role and person specifications used by OCPA to describe the core elements are set out at Appendices I and II, respectively.
  - Those recruiting Independent Assessors will also wish to assure themselves of candidates' suitability. As a minimum, a senior official must meet individual independent assessors (designate) prior to their appointment, and the outcome of the meeting must be documented.

A.5 Public Appointments Unit is asked to pass contact details and short biographical resumes of those newly selected as independent assessors to the Commissioner's Office. This information will enable OCPA to register departmental appointees for its induction programme and add their names to its mailing list of independent assessors.

### **Induction of new independent assessors**

A.6 This will comprise two elements: an **induction package** (which will be sent out immediately on notification to each new independent assessor) and an **induction seminar** (which will be arranged by OCPA and take place periodically, as required).

A.7 The **induction package** will comprise:

- An appointment letter, from the Commissioner which also offers new assessors an early opportunity to meet OCPA staff at an induction seminar;
- a copy of the Commissioner for Public Appointments' Code of Practice;
- OCPA's handbook for independent assessors containing written guidance on their role and responsibilities and practical advice on how to discharge these effectively;
- an equal opportunities and diversity resource pack.

A.8 The **induction seminars** for new assessors are designed to reinforce the written guidance and focus on particular aspects. A sample programme for the induction seminars appears at Appendix III. Public Appointments Unit will provide a venue to enable these seminars to take place in Wales and will be responsible for funding travel and subsistence for participants.

A.9 Generally speaking, no new independent assessor should take an active part in an appointments competition until they have attended an induction seminar. Exceptionally though, where Public Appointments Unit can demonstrate it is unnecessary, and the individual is content, a dispensation can be arranged with OCPA.

### **Information for independent assessors**

A.11 Strengthening the Commissioner's links with independent assessors is an important aspect of the quality assurance measures. The *Sentinel*, the newsletter for independent assessors will, in future, be sent out direct from OCPA and OCPA's regular seminars will continue to provide the opportunity for independent assessors to meet, share experiences and keep abreast of new developments, for example relevant legislation.



## **Appendix I: Independent assessor: role specification**

### **Title**

Independent Assessor of the Public Appointments Process

### **Objectives**

- To assist ministers in the task of making effective public appointments that command public confidence;
- To provide an assurance that the appointment process has conformed with the principles and practice set out in the Code of Practice issued by the Commissioner for Public Appointments; and in particular
- To be able to provide an assurance that appointments have been made on merit after a fair, open and transparent process.

### **Main duties**

- To play a full and active part at appropriate stages in the appointment process in order to provide an assurance that the procedures employed by the National Assembly for Wales comply with the Commissioner for Public Appointments' Code of Practice;
- When required, to act as a member of an advisory or scrutiny panel to review the documented procedures relating to the selection of candidates before recommendations is put to ministers. When part of a scrutiny panel an independent assessor may also be involved in shortlisting and interviewing candidates;
- Whenever necessary, to raise concerns about any shortcomings in the process with the selection panel, responsible officials, or the Commissioner as appropriate.

## **Appendix II: Independent assessor: skills, knowledge and experience**

As an independent assessor, your role is to assist ministers in the task of making effective public appointments that command public confidence and, in particular, to provide an assurance that the appointment process has conformed with the principles and practice set out in the Code of Practice issued by the Commissioner for Public Appointments.

To fulfil that role effectively you will already have some familiarity with recruitment processes and selection techniques. You may have gained this knowledge through experience in a variety of fields – perhaps by profession, though relevant knowledge and skills acquired through non-traditional employment patterns are equally valued and formal qualifications are not a requirement. If you have experience as a committee member, if you can work effectively as a member of a team, if you have experience of management or of decision making in other areas, you may be able to put that to good use as an independent assessor. Previous knowledge of Public Appointment procedures, though useful, is not a requirement: any existing knowledge will be supplemented through OCPA training and briefings organised by Public Appointments Unit.

You will be a good communicator, able to receive and interpret information, and to make reasoned judgements on the relative merits of candidates for appointment on the basis of agreed selection criteria. You will be able to advance your opinions convincingly whilst being flexible enough to acknowledge when others' views carry greater force. You will be able to bring common sense to bear on sometimes difficult issues and deal with them sensitively.

Above all, you will have the public interest at heart and you will not be afraid to speak up if you feel that the principles underpinning the Commissioner's Code of Practice are being compromised.

## **Appendix III: Sample OCPA induction training for independent assessors**

### **PROGRAMME**

#### ***Tea/Coffee***

- 1. Welcome and introduction – The Nolan Principles and the Commissioner for Public Appointments Code of Practice**
- 2. The Role of the Independent Assessor**  
– including training organised by Public Appointments Unit
- 3. Participating in the Appointments Process**  
– including mentoring

#### **Lunch (1 hour)**

- 4. The Civil Service, Parliament and Public Bodies**
- 5. Data Protection Legislation**
- 6. Equal opportunities legislation and promoting diversity**
- 7. Closing remarks, coffee and informal chat**

## Annex B: Political activity question

All applicants for a public appointment should complete the question below.

This question is asked for two reasons:

- it enables the monitoring of political activity of candidates for a public appointment in so far as it is already in the public domain. Neither activity nor affiliation is a criterion for appointment (except where statute dictates specific representation);
- involvement in political activities enables individuals to gain and to demonstrate skills and experiences they may not otherwise have obtained. You may be asked about these if they are relevant to your application.

If you are successful, the information provided will be published with the announcement of your appointment.

*Please indicate which of the following activities you have undertaken during the past five years by ticking the appropriate box and by providing details of your involvement. Name the party or body for which you have been active. If you have been or are an Independent or have sought or obtained office as a representative of a particular interest group, you should state this. You should tick all relevant categories.*

- a. ☐ Obtained office as a Local Councillor, MP, MEP etc.  
☐ Stood as a candidate for one of the above offices  
☐ Spoken on behalf of a party or candidate
- b. ☐ Acted as a political agent  
☐ Held office such as Chair, Treasurer or Secretary of a local branch of a party  
☐ Canvassed on behalf of a party or helped at elections  
☐ Undertaken any other political activity which you consider relevant
- c. ☐ Made a recordable donation to a political party<sup>1</sup>
- d. ☐ None of the above activities apply

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### Details of involvement:

<sup>1</sup> The Political Parties, Elections and Referendums Act 2000 requires the Electoral Commission to publish a register of recordable donations (donations from any individual totalling more than £5,000 in any calendar year, or more than £1,000 if made to a subsidiary accounting unit such as a constituency association, local branch, women's or youth organisation). These provisions became effective from 16 February 2001.

*Name of Party for which activity undertaken:*

NAME.....SIGNATURE.....

DATE.....

## ANNEX C

