



RECRUITMENT PRINCIPLES

April 2018

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INTRODUCTION

1. Section 10 of the Constitutional Reform and Governance Act 2010¹ requires the selection of people for appointment to the Civil Service to be 'on merit on the basis of fair and open competition'. Section 11 requires the independent Civil Service Commission to produce 'Recruitment Principles', explaining and interpreting the requirement.
2. This document contains the Commission's *Recruitment Principles*, which:
 - explain the legal requirement for merit, fairness and open competition.
 - set out the rules and procedures which Government Departments² must follow in selecting people for appointment.
 - describe the circumstances in which the Commission may except appointments from the requirement to select on merit on the basis of fair and open competition.

THE LEGAL REQUIREMENT

3. The legal requirement is for selection for appointment to the Civil Service to be made on **merit** on the basis of **fair** and **open competition**. All three elements have to be met for the appointment to be lawful.
4. **Merit** means the appointment of the best available person judged against the published criteria for the role. No one should be appointed to a role unless they are competent to do it and the appointment must be offered to the person³ who would do it best.
5. **Fair** means there must be no bias in the assessment of candidates. Selection processes must be objective, impartial and applied consistently.
6. **Open competition** means that appointment opportunities must be advertised publicly. Potential candidates must be given reasonable access to information about the role and its requirements, and about the selection process. In open competitions anyone who wishes must be allowed to apply.

¹ Referred to as the 2010 Act in this document.

² References to 'Departments' throughout this document should be read as including Executive Agencies and all other organisations that employ civil servants and whose appointment practices are regulated by Chapter 1 of the 2010 Act. This includes the Scottish and Welsh Governments. References to 'Ministers' should be construed accordingly.

³ Or, in the case of bulk recruitment or the appointment of job-sharing partners, 'the people' who would do it best.

MEETING THE LEGAL REQUIREMENT

7. Departments are responsible for designing and delivering selection processes which meet the statutory requirement to select for appointment on the basis of fair and open competition.

8. There is no single 'right' process for all appointments; processes can and should vary and be proportionate to the nature of the appointment. The process must enable a panel to decide the relative merit of candidates against the skills and experience required: the following are the essential steps that must be followed in all cases.

The selection panel

9. A selection panel of two or more people must be set up to oversee the appointments process.

10. The panel must be chaired either by a civil servant or for the most senior competitions, by a Civil Service Commissioner (see paragraphs 50 to 57 below for when this is required).

11. The panel must ensure that candidates are impartially assessed against the published selection criteria at each stage of the process where assessment occurs and must take the final decision on which candidate or candidates are the most meritorious.

12. Panel members must declare any conflict of interest including prior knowledge of any applicant. It is for the appointing Department to decide, in accordance with its own rules of conduct, how to proceed where it appears that an actual or perceived conflict of interest may arise. A record must be kept of how any such conflicts were dealt with.

13. The Chair of the panel has the overall responsibility for ensuring that the selection process is compliant with the *Recruitment Principles*. Before a competition may proceed to advertising, the Chair must therefore approve the selection criteria, role description, panel membership, process to be followed, timetable, remuneration and other terms, and the advertising strategy, including how best to attract a strong and diverse field of applicants.

14. At the end of the process the Chair must produce a record which should briefly describe the outcome, the assessment stages and on what evidence the assessment of merit was made, the order of merit, and confirm that the selection process was conducted in accordance with the *Recruitment Principles*. The Chair may also wish to comment on the strength and diversity of the field of candidates.

15. If at any point the Chair believes the *Recruitment Principles* may be breached, they must pause the competition until this has been resolved, referring to the Commission if necessary.

Information about the role and the appointment process

16. Departments must provide all potential applicants with information about the nature and level of the role (including information about, or a link to, the *Civil Service Code*), the criteria against which they will be assessed, details of the selection process and the total remuneration available (salary, bonus, allowances etc).

17. Departments must follow the published selection process for all candidates, except where they are making a reasonable adjustment for a disabled candidate or where a genuine difficulty arises.⁴

18. Similar opportunities must be offered to all candidates to inform themselves about the role. For example, if some short-listed candidates have the opportunity to meet key people in the Department, then all short-listed candidates must be offered the same opportunity.

19. The media chosen to publicise appointment opportunities and the time allowed for advertising must be suitable for attracting a sufficiently strong and diverse field of applicants, taking account of the nature of the role and the relevant job market.

20. When search consultants are engaged to assist Departments in their selection for appointment, the requirements of the *Recruitment Principles* must be clearly communicated to them, including the importance of achieving a strong and diverse field of applicants.

21. Departments may choose to extend deadlines or accept late applications provided that they do so for all applicants and make any change to the deadline clear in any published material. But Departments are under no obligation to extend deadlines or accept late applications.

22. It must be made clear that the competition is being conducted in line with the *Recruitment Principles* and is being regulated by the Commission. Use of the Commission's logo/kitemark is strongly recommended. All potential applicants must be made aware of the arrangements for making a complaint (see paragraphs 67 to 72). This is a requirement of the 2010 Act.

23. A Department must not make an appointment under materially changed terms and conditions⁵ from those advertised.

24. If a Department needs to consider paying more than 20% above the advertised salary, they must obtain the approval of the Commission before making such an

⁴ For example if a panel member becomes unwell, or a deadline needs to be extended to secure a stronger field of candidates or if the panel decides to undertake a fuller assessment of a strong field of candidates in order to establish the merit order.

⁵ Terms and conditions, in this context, include the nature of the role and its duties.

offer. The Commission will assess whether this materially changes the terms of the post, to the extent that, had it been advertised at the higher salary originally, a wider and more meritorious field of candidates would be likely to have applied.

Assessing evidence

24. Selection processes must be objective, impartial and applied consistently. While this often involves an interview, it does not have to do so.
25. Each candidate must be assessed against the same advertised criteria. The evidence collected to assess candidates must be broadly equivalent in substance and depth, accepting that there may be some differences in the type of evidence available for internal and external candidates.
26. Where candidates are asked to meet individuals other than panel members during the competition, it must be made clear to them whether this is for briefing purposes or whether it is part of the assessment.
27. Candidates must be assessed on merit, and they should not be treated more or less advantageously because of their previous or current activities, affiliations, or the employment of their friends, partner or family members.
28. All appointees to the Civil Service must be able to comply with the *Civil Service Code* requirements of Honesty, Integrity, Objectivity and Impartiality.
29. Where a candidate has previously engaged in political activity, the selection panel must satisfy itself that the candidate understands the requirement to operate objectively and impartially if appointed and must record how this has been done. It is for the panel to decide the most appropriate and proportionate way to achieve this, taking into account the nature and seniority of the role.
30. Panel members must ensure that they are aware of their obligations under the Data Protection Act 1998 (or any successor or additional legislation) in relation to personal information obtained during the assessment process.

Taking the decision

31. Taking all the evidence into account, the panel must establish which candidates are appointable and place them in an order of merit.⁶ It will be rare for a candidate to meet all of the selection criteria exceptionally well; the most meritorious candidate will be the one who best meets the selection criteria.
32. Where the competition is for a single, or small number of roles, each candidate who is judged appointable must be ranked in a merit order. The candidate recommended for appointment must be the one placed first in order of merit by the selection panel. If the most meritorious candidate turns the appointment down, the

⁶ See paragraphs 44 to 49 for the respective roles of the Panel and the Prime Minister in Permanent Secretary appointments.

Department must then *either* offer the appointment, in merit order, to the other appointable candidates *or* close the competition without an appointment being made.

33. In a competition for a large number of roles (bulk recruitment), or in a rolling recruitment, the method used must ensure that no candidate is selected who did less well than another candidate who has not been selected; by the end of the competition all the roles must have been given to the most meritorious candidates.

Reserve lists

34. Where a competition identifies more appointable candidates than there are available vacancies, a Reserve List may be created for other similar roles in the Civil Service. This may be used for up to 12 months to fill the same role or other similar roles with closely matching essential criteria without further testing of merit.

35. For competitions chaired by a Commissioner (see paragraphs 50 to 57 below), the Commission's approval is required to make appointments using the Reserve List.

APPRENTICES AND FIXED-TERM APPOINTMENTS

36. Departments may appoint apprentices on merit through a fair and open competition.

37. Where apprentices are not appointed on merit on the basis of a fair and open competition their appointment will be under the appropriate Exception allowed in the *Recruitment Principles* (see Annex A).

38. Whenever practical, staff brought into the Civil Service on fixed-term appointments should be selected on merit on the basis of fair and open competition. Where the urgency of the need or the short duration of the role makes this impractical or disproportionate, they may be brought in using Exception 1 (see Annex A). Where they have highly specialist skills, Departments may bring them in using Exception 4.

THE INVOLVEMENT OF MINISTERS

39. Where the relevant Minister has an interest in an appointment, the Chair of the panel must ensure that the Minister is consulted on and agrees the final role and person specification and the terms of advertisement. The Minister should also agree the composition of the selection panel, in particular to ensure that there is sufficient external challenge from outside the Civil Service.

40. The Minister may ask to be kept in touch with the progress of the competition throughout. Any views the Minister may have about the expertise, experience and skills of the candidates must be conveyed to the selection panel.

41. The Minister may meet each of the shortlisted candidates, to discuss his or her priorities and the candidates' approach to the role, and feed back to the panel views

on any issues the Minister wants the panel to test at interview. Meetings between the Minister and candidates must be attended by a representative of the Civil Service Commission.

41. The Minister may not be a member of a selection panel and may not add or remove candidates from a competition.

42. The panel must assess the merits of the candidates using the best possible evidence and testing any issues raised by the Minister. The panel must recommend the best candidate for appointment.

43. If not satisfied with the panel's recommendation the Minister may ask the panel to reconsider, setting out the reasons. The panel may revise its order of merit; the reason for this must be recorded, and the panel must obtain the approval of the Board of the Commission before any appointment can be made.

Permanent Secretary competitions

44. This section of the *Recruitment Principles* applies to the appointment of all posts at Permanent Secretary grade (SCS Pay Band 4).⁷ The requirements of paragraph 39 to 41 (but not 42 and 43) apply equally to such appointments. In addition:

- Permanent Secretary competitions must be chaired by the First Civil Service Commissioner (or nominee), who will be responsible for ensuring that Ministers, including the Prime Minister, are fully involved in competitions in which they have an interest and that their views are relayed to the panel, and taken into account.
- The relevant Minister must be involved at each stage and be able to raise any concerns about the selection process, or about candidates, with the First Commissioner.
- The Prime Minister must be kept informed about progress and have the opportunity to feed in views.

45. The panel must assess the merits of the candidates using the best possible evidence and testing any issues raised by the Minister or the Prime Minister. This should include assessing whether the candidates can work effectively with the Minister and fulfil the role of Principal Accounting Officer.

46. The panel must decide which candidates are appointable, i.e. which candidates meet the published criteria for the role and would, in the panel's judgement, do the job well. It is for the panel alone to make this judgement. The names of the appointable candidates should then be put forward to the Prime Minister⁸ in a panel

⁷ Except the National Statistician/Permanent Secretary at the Office for National Statistics.

⁸ In cases where the Prime Minister is not, in statute, the appointing authority, the report will go to, and the final selection will be made by, the appointing Minister. This means, for example, that for the appointment of the Head of the Diplomatic Service or the Director of Public Prosecutions, the report

report from the First Civil Service Commissioner summarising the selection process and the panel's assessment of the candidates.

47. The Prime Minister⁸ must take the final selection decision from the appointable candidates, in consultation with the Head of the Civil Service and the First Civil Service Commissioner. As required by the 2010 Act, the selection decision must be made on merit, assessed against the published criteria for the role. Before making the final selection, the Prime Minister⁸ may meet the appointable candidates. If (s)he does so, (s)he must meet all the appointable candidates and must do so with the First Civil Service Commissioner (or nominee) present.

Appointments within the Devolved Administrations

48. For appointments in the Scottish or Welsh Governments, this section applies as if references to the Prime Minister were references to the relevant First Minister.

Appointments under a coalition

49. In the context of a coalition, references to the Prime Minister or First Minister should be read in the context of any relevant agreement between the coalition parties, including about the roles of minority party leaders within the coalition.

COMPETITIONS CHAIRED BY CIVIL SERVICE COMMISSIONERS

50. Civil Service Commissioners must chair all competitions for posts at SCS Pay Band 4 (Permanent Secretary) and SCS Pay Band 3 (Director General) level. This requirement applies both to open (external) competitions and to Civil Service-wide (internal) competitions.⁹

51. Commissioners will normally also chair competitions for open (external) competitions at SCS Pay Band 2 (Director) level. Departments must contact the Commission before beginning such a competition and the Commission will confirm whether it will be necessary for a Commissioner to chair the competition.

52. The Commission may also decide that a Commissioner must chair any other open (external) competition, taking into account, among other factors, the results of any compliance monitoring audit and the assessed risk rating for a particular Department or area of work.

53. The Commissioner is a substantive member of the panel and will play a full part in the panel's deliberations. As chair of the panel, he or she will be responsible for approving the terms of the competition, including the advertising strategy, with the aim of attracting a strong and diverse field of applicants (paragraph 13). The

will be sent, respectively, to the Secretary of State for Foreign Affairs or the Attorney General, who will be responsible for making the final selection.

⁹ Under the Senior Appointments Protocol.

Commissioner will produce the panel report at the end of the competition (paragraph 14).

54. The Commissioner will also have responsibility for ensuring that Ministers are fully involved in the competitions in which they have an interest, and that their views are relayed to, and taken account of by, the panel (paragraphs 39 to 49).

55. As the representative of the Commission, the Commissioner will be able to advise the panel on how to devise a flexible process, designed to identify the best candidate for the role from a strong and diverse field assessed against the essential criteria for the role.

56. The Commissioner's panel report authorising the appointment is required before any appointment can be made. The panel report will describe the selection process and provide a detailed consideration of the short-listed candidates. The Commissioner may also comment on other aspects of the competition; particularly the strength and diversity of the field of candidates; the efforts that were made to secure applications from currently underrepresented groups; and, the success or otherwise of these efforts, and possible lessons to be learned.

57. Allocation of competitions to individual Commissioners is at the discretion of the Commission.

SPECIAL ADVISERS

58. Under the 2010 Act, Special Advisers may not exercise any power in relation to the management of any part of the Civil Service. They may therefore not be involved in the recruitment of civil servants.

EXCEPTIONS

59. Under section 12 of the 2010 Act, the Commission has the power to except a selection from the requirement to appoint on merit on the basis of a fair and open competition. This must either be justified by the needs of the Civil Service or be necessary to enable the Civil Service to participate in a government employment initiative.

60. The permitted Exceptions, and the delegated authority for departments to apply Exceptions without reference to the Commission, are described at Annex A.

61. Departments must be able to justify why, in any particular appointment, it has not been possible to select someone on merit through a fair and open competition. They will be required to report on their use of Exceptions in the annual compliance statement (see paragraph 65) and their use of Exceptions may be subject to audit.

Exceptions requiring the Commission's approval

62. The Civil Service Commission's prior approval is required, in every case:

- for any appointment by Exception at Senior Civil Service Pay Band 2 or above or at any grade on a salary at or above the SCS Pay Band 2 minimum, pro rata.¹⁰
- for any extension or variation of any fixed-term appointment previously agreed by the Commission at Senior Civil Service Pay Band 2 or above or on a salary at or above the SCS Pay Band 2 minimum.¹⁰
- for the use of an Exception within 12 months of an earlier Exception for the same individual (but not for former civil servants appointed under the terms of Exception 5).
- for any fixed-term appointment by Exception, or Exceptions, in excess of two years.

63. Where the Commission considers there is a risk the *Recruitment Principles* may be breached it may additionally require a Department to seek the Commission's prior approval for other appointments by Exception.

COMPLIANCE

64. Overall responsibility for complying with these *Recruitment Principles*, including the use of Exceptions, rests with the Civil Service Head of each Department (usually the Permanent Secretary, or Chief Executive).

65. The Commission may require the Head of Department to produce an annual statement of compliance. It may also audit the Department's compliance. Departments must retain, for a minimum of two years, sufficient information on their recruitment to provide evidence that they have complied, and must provide the Commission with any information it reasonably requires.

66. The Commission may require Departments to change their recruitment procedures and it may publish details of those departments who breach these *Recruitment Principles*.

COMPLAINTS

67. The 2010 Act provides that any individual may complain to the Commission that the requirement for selection for appointment on merit on the basis of fair and open competition has not been met; or that any other aspect of the *Recruitment Principles* has not been complied with.

68. The Commission can only accept complaints about:

- open (external) competitions (all grades).

¹⁰ £88,000 as at March 2018

- Civil Service-wide (internal) competitions (SCS Pay Band 3 and above only).

69. It cannot accept complaints about Civil Service wide (internal) competitions to posts at or below SCS Pay Band 2 (Director).

70. Complaints must first be raised with the recruiting Department, which is responsible for having effective complaints handling procedures. If, after investigation by the Department, the complainant remains dissatisfied they may bring their complaint to the Commission.

71. Complaints should be lodged with the Commission within 12 months of the closing date for applications, but the Commission will consider complaints lodged out of time in exceptional circumstances. Where the Department has not completed its investigation within 6 months of receiving the complaint, the Commission may consider taking the complaint at that stage.

72. Recruiting Departments are responsible for making all applicants aware of their right to complain and referring them to the Commission's complaints procedures.

MORE INFORMATION

More information is available on the Commission's website:

civilservicecommission.independent.gov.uk

You can email us: info@csc.gov.uk

You can telephone us: 020 7271 0831

You can write to us: **Civil Service Commission**
Room G/8
1 Horse Guards Road
London
SW1A 2HQ

ANNEX A: EXCEPTIONS

72. Exceptions, by definition, are exceptional.

73. The law requires that selection for appointment to the Civil Service must be made on **merit** on the basis of **fair** and **open competition**. The Commission may only except¹¹ appointments from this requirement where it believes this is justified by the needs of the Civil Service or is necessary to enable the Civil Service to participate in a government employment initiative.

74. Temporary appointments or apprenticeships made on merit on the basis of fair and open competition are not Exceptions.

75. The Civil Service Commission's prior approval is required, in every case:

- for any appointment by Exception at Senior Civil Service Pay Band 2 or above or at any grade on a salary at or above the SCS Pay Band 2 minimum, pro rata.¹²
- for any extension or variation of any fixed-term appointment previously agreed by the Commission at Senior Civil Service Pay Band 2 or above or on a salary at or above the SCS Pay Band 2 minimum.

76. Except as set out above, Departments may apply (at the point at which an appointment is made) the numbered Exceptions listed in this Annex.

Exception 1: Temporary appointments

77. Where either the urgency of the need or the short duration of the role make a full competition impracticable or disproportionate, Departments may appoint an individual for up to a maximum of two years, to provide managers with the flexibility to meet the short-term needs of the Civil Service.

78. Any proposal to extend a fixed-term appointment made by Exception (this Exception and any other relevant Exception) beyond a total of two years requires the prior approval of the Commission.

79. Any proposal to appoint an individual by Exception on a fixed-term appointment within 12 months of an earlier fixed-term appointment by Exception (this Exception and any other relevant Exception) requires the prior approval of the Commission.

¹¹ "Exceptions" refers to exceptions to the requirement for appointment on merit on the basis of a fair and open competition.

¹² £88,000 as at March 2018

80. See also Exception 10.

Exception 2: Support for government employment programmes

81. The Commission has agreed with the Government a number of programmes to provide fixed-term appointments within the Civil Service for individuals whose circumstances and previous life chances make it difficult for them to compete for appointments on merit on the basis of fair and open competition without further work experience and/or training opportunities.

82. Departments may appoint individuals for up to two years under the terms of one of the agreed programmes.

83. A list of the currently accredited programmes is available from the Commission.

84. Any proposal to extend a fixed-term appointment made by Exception (this Exception and any other relevant Exception) beyond a total of two years requires the prior approval of the Commission.

85. See also Exception 10.

Exception 3: Secondments

86. Departments may make inward secondments from outside the Civil Service of up to two years.

87. Any proposal for a longer secondment at the outset, or to extend the appointment beyond two years, or to appoint an individual on a secondment within 12 months of an earlier secondment, or fixed-term appointment under another Exception, requires the prior approval of the Commission.

88. Any appointment by exception at Senior Civil Service Pay Band 2 or above, or at any grade on a salary at or above the SCS Pay Band 2 minimum, pro rata, requires the prior agreement of the Commission. The Commission's agreement is required irrespective of whether some, or all, of the secondee's salary is being paid by his/her permanent employer.

Exception 4: Highly specialist skills

89. Departments may appoint people with highly specialist skills that are not readily available within the Civil Service for up to two years where a full open competition is judged to be unlikely to secure suitable appointees within the required timescale.

Exception 5: Former civil servants

90. Former civil servants¹³ who were previously appointed on merit on the basis of fair and open competition¹⁴ may be re-appointed (to a permanent or fixed-term appointment) within a maximum of five years of leaving the Civil Service.

91. They must meet the essential selection criteria for the new role and the new role must be at their previous substantive Pay Band, or lower. Former civil servants may not be brought back at a higher grade than the substantive grade they were on when they left.

Exception 6: Interchange with the Northern Ireland Civil Service

92. Appointments to the Northern Ireland Civil Service are regulated by the Northern Ireland Civil Service Commissioners.

93. Northern Ireland civil servants who were originally appointed on merit through fair and open competition may freely transfer to posts in UK Government Departments.

Exception 7: Transfers of staff from other public bodies

94. Staff may join the Civil Service from other public bodies (e.g. non-Departmental public bodies, the staff in the Houses of Parliament etc.) where the organisation is currently accredited by the Commission.¹⁵

Exception 8: Transfers of organisations into the Civil Service – non-TUPE¹⁶

95. An organisation, or team, or a function, including its staff, may transfer into the Civil Service to enable Departments to gain or retain the expertise of its staff under the Cabinet Office Statement of Practice.¹⁷

¹³ This includes former members of the Northern Ireland Civil Service.

¹⁴ Including those converted to permanency under the terms of Exception 10.

¹⁵ Accreditation is awarded by the Civil Service Commission to NDPBs and similar bodies whose recruitment policies are consistent with the Recruitment Principles. The Commission may audit the recruitment practices of accredited bodies and accreditation must be renewed every three years.

¹⁶ For transfers to which the Transfer of Undertakings (Protection of Employment) Regulations apply, see exception 9.

¹⁷ Cabinet Office Statement of Practice on Staff Transfers in the Public Sector 2000 (COSOP) at <http://www.civilservice.gov.uk/about/resources/employment-practice/codes-of-practice>

Exception 9: Transfers of organisations into the Civil Service – TUPE

96. Where the Transfer of Undertakings (Protection of Employment) Regulations 2006 ('TUPE') apply to the transfer of an organisation or team, or a function, and its staff into the Civil Service; Departments should record these appointments under this Exception.

Please note: TUPE contains an automatic right of transfer; there is no discretion for the Department or the Commission in cases where TUPE applies.

Exception 10: Conversion to permanency of suitable candidates appointed under Exceptions 1 and 2

97. Where Departments have made appointments under Exception 1 at administrative and industrial grades (AA and AO), they may make those individuals permanent after 12 months of the original appointment.

98. Where Departments have made appointments under Exceptions 2 at administrative and industrial grades (AA and AO) and at EO, they may make those individuals permanent after 12 months of the original appointment.

99. In both cases (i.e. appointments made under Exception 1 or Exception 2) decisions on permanency must be on the basis of a fair and merit-based process, approved in advance by the Commission, and subject to its audit.

Exceptional approvals

100. The Commission may, in exceptional circumstances, except certain other appointments or classes of appointment from the requirement for selection on merit on the basis of fair and open competition, where it believes this is justified by the needs of the Civil Service.

Exceptions after the appointment has been made

101. The Commission may, in exceptional circumstances, approve an individual's appointment after it has been made, if the appointment would otherwise have been unlawful.

102. Only the Commission has this power to approve such an appointment, irrespective of the grade level of the post.

103. Any such approval would not rectify the Department's original breach of the *Recruitment Principles* for compliance or audit purposes.