

Check www.civilservicecommissioners.org for latest version



**CIVIL SERVICE
COMMISSIONERS'
RECRUITMENT
CODE**

5TH Edition – March 2004

Last Updated – April 2008

FOREWORD BY FIRST CIVIL SERVICE COMMISSIONER

Our role as Civil Service Commissioners is to contribute to the development of an effective and impartial Civil Service and to support its core values. We do this by making sure that appointments are made on merit and by hearing appeals under the Civil Service Code.

In relation to recruitment, one of our key functions is to publish a Recruitment Code which interprets the fundamental principle set out in the Civil Service and Diplomatic Service Orders in Council that selection for appointment must be made on merit on the basis of fair and open competition. Potential applicants for posts in the Civil Service must be able to learn about a vacancy and must be treated fairly throughout the selection process. The best person must then be chosen for the job. This Code also describes the special circumstances when appointments may be made other than through the application of this principle.

Although we are firm on upholding the principles in the Code, we want to encourage a flexible approach towards selection processes. The Code is more than a set of rules. This edition therefore includes guidance on the practical application of the recruitment principle. We hope departments and agencies will find the guidance an encouragement to innovation and experiment within the framework set by the Code.

Overall responsibility for ensuring that departments and agencies apply the Code rests with Permanent Secretaries and Chief Executives. They are required to confirm that they operate recruitment systems in line with the Code and that those systems are subject to internal check to ensure they are working effectively. For our part, we monitor departments and agencies regularly to provide additional assurance and, increasingly, as a means of sharing effective practice.

Please contact us if you would like to discuss any issues in relation to this Code. Details are given at para 1.7.

JANET PARASKEVA

CONTENTS

PART 1: GENERAL INTRODUCTION

- **AUTHORITY** **Para 1.1**
- **PURPOSE OF CODE** **Para 1.3**
- **INTERPRETATION** **Para 1.5**
- **COMPLAINTS** **Para 1.6**
- **ENQUIRIES** **Para 1.7**
- **ANNEX A – CIVIL SERVICE ORDER
IN COUNCIL 1995**

PART 2: APPLYING THE ORDER IN COUNCIL

- **SELECTION FOR APPOINTMENT ON MERIT ON THE
BASIS OF FAIR AND OPEN COMPETITION**
 - **The legal position** **Para 2.1**
 - **Background** **Para 2.3**
 - **Application** **Para 2.18**
- **APPOINTMENTS OTHER THAN THROUGH SELECTION
ON MERIT ON THE BASIS OF FAIR AND OPEN COMPETITION**
 - **The legal position** **Para 2.23**
 - **Background** **Para 2.26**
 - **Application** **Para 2.27**
 - **Short term appointments** **Para 2.28**
 - **Secondments** **Para 2.32**
 - **Re-appointments of former civil servants** **Para 2.33**
 - **Transfers into the Civil Service** **Para 2.34**
 - **Surplus acceptable candidates appointed to shortage posts** **Para 2.42**
 - **Exceptional arrangements reserved for the Commissioners** **Para 2.43**

- **ARRANGEMENTS FOR DISABLED PEOPLE**
 - The legal position Para 2.45
 - Background Para 2.46
 - Application Para 2.50
- **INVOLVEMENT OF MINISTERS** Para 2.52
- **RESPONSIBILITY FOR APPLYING THE RECRUITMENT CODE**
 - Overall responsibility Para 2.60
 - Using recruitment agencies Para 2.62
 - Accounting for recruitment decisions Para 2.63
- **INFORMATION TO BE PUBLISHED**
 - The legal position Para 2.67
 - Background Para 2.68
 - Application Para 2.69
- **MONITORING COMPLIANCE OF DEPARTMENTAL AND AGENCY POLICIES AND PRACTICES**
 - The legal position Para 2.70
 - Application Para 2.71
- **ANNEX A – SENIOR APPOINTMENTS REQUIRING THE COMMISSIONERS’ APPROVAL**
- **ANNEX B – PUBLIC BODIES**
- **ANNEX C – COMPLIANCE MONITORING IN PRACTICE**

PART 3: GUIDANCE ON SATISFYING THE COMMISSIONERS’ REQUIREMENTS IN RESPECT OF SELECTION FOR APPOINTMENT ON MERIT ON THE BASIS OF FAIR AND OPEN COMPETITION

- **Prospective candidates must be given equal and reasonable access to adequate information about the job and its requirements, and about the selection process** Para 3.2

Check www.civilservicecommissioners.org for latest version

- Applicants must be considered equally on merit at each stage of the selection process **Para 3.7**

- Selection must be based on relevant criteria applied consistently to all candidates **Para 3.8**

- Selection techniques must be objective and guard against bias **Para 3.10**

PART 1: GENERAL INTRODUCTION

AUTHORITY

1.1. Recruitment into the Civil Service is regulated by the Civil Service Order in Council 1995 (as amended) and the Diplomatic Service Order in Council 1991 (as amended). An informal consolidation of the Civil Service Order in Council 1995 which applies to the Home Civil Service is attached at Annex A. Similar provisions appear in the Diplomatic Service Order in Council 1991.

1.2. The Orders in Council require the Civil Service Commissioners to:

- maintain the principle of selection for appointment on merit on the basis of fair and open competition in recruitment to the Civil Service;
- prescribe and publish a recruitment code on the interpretation and application of the principle;
- incorporate in the code certain restricted circumstances in which exceptions to the principle can be made;
- approve appointments at the most senior levels in the Civil Service; and
- audit the recruitment systems of departments and agencies for compliance with the code.

In addition, the Commissioners are empowered by the Orders to require departments and agencies to publish information about their recruitment.

PURPOSE OF CODE

1.3 This document responds to the requirement for a Code to interpret the fundamental principle of selection for appointment on merit on the basis of fair and open competition including the circumstances when appointments may otherwise be made. It also provides information on how the Commissioners carry out the other requirements of their role as set out in the Orders in Council. It is in three parts:

- Part 1 contains a general introduction to the requirements of the Orders in Council;
- Part 2 contains the Commissioners' interpretation of the fundamental recruitment principle; the circumstances when appointments may be made other than through application of the recruitment principle; the extent to which ministers may be consulted about the selection process; the responsibility for applying the Code; the information to be published; and the arrangements for audit. **The requirements it places on departments and agencies are mandatory.**
- Part 3 contains guidance on how the recruitment principle can be applied in different circumstances. It is not mandatory and departments and agencies may develop alternative approaches as long as the recruitment principle is not compromised.

1.4 This Code is concerned only with the requirements of the Orders in Council. It is not a guide to everything required to carry out recruitment such as pre-appointment checks on nationality, health or qualifications, or the implications of employment law. It is for departments and agencies to handle the recruitment and subsequent employment of staff in a way that complies both with this Code and with employment law.

INTERPRETATION

1.5 In this Code, references to departments and agencies include the Scottish Executive and the National Assembly for Wales. The references to Ministers include Scottish Ministers and the First Secretary and Assembly Secretaries of the National Assembly for Wales.

COMPLAINTS

1.6 The Commissioners will consider complaints alleging that the mandatory requirements of this Code have been breached where the matter has been raised with the head of the department or agency concerned and the person making the complaint is not satisfied with the response. If the Commissioners find that there has been a breach, they will make recommendations to ensure compliance with the Code. **Departments must publicise this provision in recruitment advertisements and literature sent to prospective candidates** by including:

- the Commissioners' "Regulated by" logo in recruitment advertisements;
- the Commissioners' "Regulated by" logo and the following explanatory statement in information sent to prospective candidates:

"The Department's [Agency's] recruitment processes are underpinned by the principle of selection for appointment on merit on the basis of fair and open competition as outlined in the Civil Service Commissioners' Code which can be found at www.civilservicecommissioners.org. If you feel your application has not been treated in accordance with the Code and you wish to make a complaint, you should contact [name and address of contact point in department or agency] in the first instance. If you are not satisfied with the response you receive from the Department [Agency], you can contact the Office of the Civil Service Commissioners."

ENQUIRIES

1.7 Enquiries about this Code may be addressed to:

Barry Forrester
Office of the Civil Service Commissioners
35 Great Smith Street
LONDON SW1P 3BQ

Tel: 020 7276 2580
Fax: 020 7276 2606
Email: info@civilservicecommissioners.org

www.civilservicecommissioners.org

CIVIL SERVICE ORDER IN COUNCIL 1995

The following is an informal consolidation of the operative parts of the Civil Service Order in Council 1995 and the Civil Service (Amendment) Orders 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2005, 2007 and (No. 2) 2007. It should not be relied upon as an authentic text.

At the Court at Buckingham Palace

THE 15TH DAY OF MARCH 1995

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY
IN COUNCIL

WHEREAS by the Civil Service Order in Council 1991 (hereinafter referred to as "the principal Order") provision was made relating to the appointment of persons to situations in Her Majesty's Home Civil Service and for regulating the conduct of Her Majesty's Home Civil Service and the conditions of service therein:

AND WHEREAS by virtue of the Transfer of Functions (Treasury and Minister for the Civil Service) Order 1995, certain functions exercised by the Treasury were transferred to the Minister for the Civil Service:

AND WHEREAS it is expedient to make further provision for her Majesty's Home Civil Service in relation to the matters aforesaid:

NOW, THEREFORE, Her Majesty is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered as follows:

Definitions

1. In this Order, except where otherwise expressly provided,

"the Commissioners" means the persons for the time being appointed by Her Majesty in Council to be Her Majesty's Civil Service Commissioners for the purposes of this Order;

"audit" means any review carried out by or on behalf of the Commissioners of the recruitment practices and policies followed by appointing authorities in making an appointment;

"public service" means any civil service of the State (other than the Service), and any public authority, or non-governmental body or institution discharging public functions, which the Minister may from time to time determine to be a public service for the purposes of this Order;

"the Minister" means the Minister for the Civil Service;

"secondment" means a voluntary and temporary transfer from a permanent employer for a fixed period and which does not affect the employment status of the seconded employee;

"the Service" means Her Majesty's Home Civil Service;

“the Senior Civil Service” means that part of Her Majesty’s Home Civil Service whose members are classified by the Minister as members of the Senior Civil Service.¹

Selection on Merit

2. (1) Except as otherwise expressly provided by this Order, no person shall be appointed to a situation in the Service unless
 - (a) the selection for appointment is made on merit on the basis of fair and open competition; and
 - (b) the person appointed satisfies such qualifications as may be prescribed pursuant to Article 10(d).
- (2) Notwithstanding Article 2(1)(b), a person may be appointed in accordance with Schedule 2 to this Order.

Exemptions from Selection on Merit

3. (1) Article 2(1)(a) shall not apply to any situation where the holder is appointed directly by the Crown.
- (2) Article 2(1)(a) shall not apply to any situation where the holder is appointed directly by a Minister of the Crown
 - [(aa) with the approval of the Minister for the Civil Service and on terms incorporating conditions approved by him, and ²]
 - (a) for the purpose only of providing [assistance³] to any Minister, and
 - (b) for a period which cannot extend beyond the end of an Administration.
- [(3) This paragraph (3) of Article 3⁴ is revoked.¹⁶]
- [(4) Article 2(1)(a) shall not apply to any situation where the holder is appointed directly by a member of the Scottish Executive
 - (a) with the approval of the Minister and on terms incorporating conditions approved by him, and
 - (b) for the purpose only of providing [assistance³] to the member of the Scottish Executive, and
 - (c) for a period which cannot extend beyond the end of the term of office as member of the Scottish Executive of the person whom he is appointed to [assist³]

but no more than twelve situations may be held at any time by persons appointed by virtue of this paragraph.

- (5) Article 2(1)(a) shall not apply to any situation where the holder is appointed directly by the [First Minister for Wales or a Welsh Minister appointed under section 48 of the Government of Wales Act 2006¹⁵]

- (a) with the approval of the Minister and on terms incorporating conditions approved by him, and
- (b) for the purpose only of providing [assistance³] to the [First Minister for Wales or the Welsh Minister¹⁵], and
- (c) for a period which cannot extend beyond the end of the term of office as [First Minister for Wales or the Welsh Minister¹⁵] of the person whom he is appointed to [assist³] but no more than [six⁵] situations may be held at any time by persons appointed by virtue of this paragraph⁶].

Functions of the Commissioners

- 4. (1) The Commissioners shall maintain the principle of selection on merit on the basis of fair and open competition in relation to selection for appointment.
- (2) The Commissioners shall prescribe and publish a recruitment code on the interpretation and application by appointing authorities of the principle of selection on merit on the basis of fair and open competition, including the circumstances in which exceptions to that principle may be permitted in accordance with Articles 6 and 7 of this Order.
- (3) The Commissioners shall audit recruitment policies and practices within the Service to establish whether the recruitment code is being observed by the appointing authority.
- (4) The Commissioners may require appointing authorities to publish such summary information as may be specified relating to recruitment and the use by such authorities of permitted exceptions to the principle of selection on merit on the basis of fair and open competition.
- [5) The Commissioners may hear and determine appeals to them by a member of the Service under the Civil Service Code and for this purpose
 - (a) may regulate their own procedure; and
 - (b) may require the parties to any appeal or to any investigation occasioned by an appeal to provide such information and other assistance as the Commissioners shall think necessary or appropriate; and
 - (c) may make recommendations.⁷]

The Commissioners' Approval for Appointment

- [5. (1) Subject to Article 5(2) and Article 5(3), no appointment shall be made to any situation in the Service which is specified for the purposes of this paragraph in the recruitment code referred to in Article 4(2) without the written approval of the Commissioners, whose decision shall be final. Approval may be given conditionally or unconditionally.
- (2) The written approval of the Commissioners is not required under Article 5(1)
 - (a) for an appointment of less than 12 months,
 - (b) for an appointment on secondment of less than 24 months,

- (c) for an extension (or further extension) of an appointment referred to in Article 5(2)(a) or Article 5(2)(b) where the overall term of the appointment is less than 24 months, or
- (d) for an appointment referred to in Article 3.

(3) Where pursuant to Article 5(1) the Commissioners have given approval conditionally, the relevant appointing authority may make such appointment pursuant to Schedule 1 as appears to that appointing authority to be appropriate.^{8]}

Exceptions to Selection on Merit

6. (1) Subject to Article 6(2) the Commissioners may except an appointment from the requirements of Article 2(1)(a), either individually or by cases of a class or description, where the appointment falls within one or more of the following categories

- (a) where the total period of service does not exceed five years and the appointment is justified by the needs of the Service, [or by the need to relieve unemployment^{9 17]}
- (b) where the person is appointed on secondment;
- (c) where immediately before appointment the person is the holder of a situation to which he was appointed on secondment, or under which the period of service (continuous or otherwise) does not exceed five years, and the appointment would be on an exceptional basis;
- (d) where the person has previously held a situation in the Service to which appointment was made on merit on the basis of fair and open competition and is being considered for reinstatement or re-employment;
- (e) where the person holds a situation in a public service;
- (f) where the person is, or has recently been, employed on functions which have been or are being transferred to the Crown;
- (g) where the person has reached an appropriate standard in a fair and open competition for another situation without securing appointment and there is a demonstrable shortage of suitable candidates for the relevant situation.
- [(h) where the person is defined as being a disabled person or as having a disability by or under any enactment relating to the employment of disabled persons and the person is a participant in a government scheme to promote the employment of disabled persons.^{10]}.

(2) The Commissioners may except from the requirements of Article 2(1)(a) any appointment to a situation for which their approval is required by Article 5 where they are satisfied that

- (a) the person proposed for appointment is of proven distinction; or

- (b) that the person proposed for appointment has been assessed in fair and open competition with all other applicants for the situation, and that he is qualified to discharge all the duties of the situation effectively

and, in either case, that the appointment is justified for exceptional reasons relating to the needs of the Service.

Disabled People

- 7. Without prejudice to their powers under Article 6 the Commissioners may except an appointment from the requirements of Article 2(1)(a) where it appears to the relevant appointing authority that the person satisfies the relevant standard for entry into the Service and has been selected for appointment under arrangements which
 - (a) provide for such selection to be made on merit on the basis of fair and open competition, but
 - (b) include provision for encouragement and assistance in the process of selection (by way of guarantee of an interview or otherwise) to be given to any person who is defined as being a disabled person or as having a disability by or under any enactment relating to the employment of disabled persons.

Commissioners' Annual Report

- [8. (1) The Commissioners shall publish an annual report which shall include:
 - (a) summary information as to appointments requiring the Commissioners' approval under Article 5, including the number of persons appointed on the basis of each category of permitted exceptions identified in Article 6 and Article 7, and
 - (b) an account of the audit of recruitment policies and practices, and
 - (c) an account of the number of appeals made to them under the Civil Service Code together with summary information as to the nature of such appeals.
- (2) The Commissioners may from time to time make such other reports on appeals to them under the Civil Service Code as they think fit.^{11]}

Exercise of the Commissioners' Powers and Duties

- 9. (1) Any power or duty of the Commissioners under this Order may be exercised by
 - (a) the First Civil Service Commissioner, or such Commissioner as the First Civil Service Commissioner may authorise for that purpose; or
 - (b) any officer of the Commissioners authorised for that purpose by the Commissioners.

- (2) The Commissioners may from time to time and to such extent as they think fit authorise any person to perform
 - (a) any function under Article 4(3); or
 - (b) any of their functions relating to the selection and recruitment of persons prior to the exercise by them of their power of approval under Article 5; or
 - (c) any of their functions including the power of approval under Article 5 where the Commissioners have approved the arrangements for selection for particular appointments.

Functions of the Minister

10. The Minister may from time to time make regulations and give instructions
 - (a) providing for the number and grading of posts in the Service, the classification of all persons employed therein, their remuneration, expenses, allowances, holidays, hours of work, part-time and other working arrangements, retirement and redundancy, the reinstatement and re-employment of persons in the Service, the re-deployment of staff within the Service and the conditions of service of all persons employed in the Service;
 - (b) for controlling the conduct of the Service, [including the making and amendment of a Civil Service Code¹²];
 - (c) relating to the recruitment of persons to situations in the Service;
 - (d) prescribing the qualifications for appointment to situations in the Service including qualifications relating to age, knowledge, ability, professional attainment, aptitude, and potential.

Citation Etc

11.
 - (1) This Order may be cited at the Civil Service Order in Council 1995 and shall come into force on 1st May 1995.
 - (2) The principal Order is hereby revoked, except for Article 5 which is revoked with effect from 1 April 1996.
 - (3) Without prejudice to paragraph (4) below, nothing in the said revocation shall affect any instrument or other thing whatsoever made or done or having effect as if made or done under the principal Order, and every such instrument or thing shall continue in force and so far as it could have been made or done under this Order shall have effect as if made or done under this Order.
 - (4) The Interpretation Act 1978¹³ shall apply for the interpretation of this Order and of any regulations or orders made under this Order as it applies for the interpretation of an act of Parliament and the principal Order were an Act of Parliament thereby repealed.

[SCHEDULE 1¹⁴]

SCHEDULE 2 **Articles 2(2) and 5(2)**
APPOINTMENT BEFORE APPROPRIATE ENQUIRIES ARE
COMPLETED, AND APPOINTMENT WHERE CERTAIN
QUALIFICATIONS ARE NOT SATISFIED

1. (1) A person may be appointed to a situation in the Service where it appears to the relevant appointing authority that it is necessary that the appointment be made before appropriate enquiries are completed, and that there is no *prima facie* doubt that he satisfies all the prescribed qualifications and is otherwise suitable for appointment.

(2) It shall be a condition of any appointment made under this paragraph that the outcome of the appropriate enquiries is satisfactory, but termination of the appointment where the outcome of those enquiries is not satisfactory shall not preclude the person's further appointment in accordance with paragraph 2.
2. (1) A person may be appointed to a situation in the Service where it appears to the relevant appointing authority that, although otherwise suitable for appointment, he does not fully satisfy the prescribed qualification as to
 - (a) health or character, but that if appointed for a trial period of service he is likely within that period to satisfy such qualifications; or
 - (b) nationality, but that if appointed his employment would be under the authority of a certificate issued under section 1 of the Aliens Employment Act 1955; or
 - (c) knowledge, ability, professional attainment, aptitude or potential, but that if appointed for a trial period of service he is likely within that period to demonstrate that he is fully able to discharge the duties of the grade.
(2) An appointment may only be made pursuant to paragraph 2(1)(c) on an exceptional basis and where there is a shortage of qualified candidates for the situation.

(3) It shall be a condition of any appointment made for a trial period under this paragraph that, within a specified period not exceeding five years, the person demonstrates to the satisfaction of the relevant appointing authority that,
 - (a) in the case of an appointment under paragraph 2(1)(a), he satisfies the relevant qualifications; and
 - (b) in the case of appointment under paragraph 2(1)(c), he is fully able to discharge the duties of the grade.

¹ As amended by the Civil Service (Amendment) Order in Council 1996

² Inserted by the Civil Service (Amendment) Order in Council 1999

³ As amended by the Civil Service (Amendment) Order in Council 2005

⁴ As amended by the Civil Service (Amendment) Order in Council 1997

⁵ As amended by the Civil Service (Amendment) Order in Council 2000

⁶ Inserted by the Civil Service (Amendment) Order in Council 1999

⁷ Inserted by the Civil Service (Amendment) Order in Council 1995

⁸ As amended by the Civil Service (Amendment) Order in Council 2002

⁹ Inserted by the Civil Service (Amendment) Order in Council 1998

¹⁰ Inserted by the Civil Service (Amendment) Order in Council 2001

¹¹ As amended by the Civil Service (Amendment) Order in Council 1995

¹² Inserted by the Civil Service (Amendment) Order in Council 1995

¹³ 1978 c.30

¹⁴ Revoked by the Civil Service (Amendment) Order in Council 2002

Check www.civilservicecommissioners.org for latest version

¹⁵ As amended by the Civil Service (Amendment) Order in Council 2007

¹⁶ Paragraph (3) of Article 3 inserted by ⁴ is revoked by the Civil Service (Amendment)(No 2) Order in Council 2007

¹⁷ As amended by the Civil Service (Amendment) Order in Council 2008

PART 2: APPLYING THE ORDERS IN COUNCIL

SELECTION FOR APPOINTMENT ON MERIT ON THE BASIS OF FAIR AND OPEN COMPETITION

The legal position

2.1 In accordance with the Orders in Council everyone recruited into the Civil Service must be selected on merit on the basis of fair and open competition, apart from those appointed under the exemptions and exceptions specified in the Orders.

2.2 Under the Civil Service Order in Council the Commissioners specify those posts to which appointments may be made only with their specific approval. The Diplomatic Order in Council specifies those posts in a schedule.

Background

2.3 The principle that appointments must be made on merit on the basis of fair and open competition has been the basis of Civil Service recruitment policy for over a century. It underpins the maintenance of a Civil Service which is highly competent, politically impartial, has high standards of integrity and which avoids any form of unfair discrimination by:

- finding the best available person for the job;
- putting all appointments above suspicion of patronage. If friends, relations or business contacts comprise most of the applicants for a job, it is clearly not possible to defend the procedures used – even if the successful candidate is perfectly competent;
- ensuring that recruitment procedures reinforce the political impartiality of the Service.

2.4 “Merit” “fairness” and “openness” are broad concepts but are all intended to get the best person for the job from a field of applicants.

Merit

2.5 Selection on merit has two objectives: no one should be appointed to a job unless they are competent to do it; and if two or more people meet the criteria for appointment, the job should be offered to the person who would do it best. Selection on merit, therefore, means selecting the best available person for the job.

2.6 Merit is a relative not an abstract concept. It calls for a decision based on the circumstances at the time, not on theoretical circumstances. Merit depends on the context:

- The nature of the job. What is the purpose of the job over the next 3-5 years? Someone who is best at managing a start-up might not be best at running an organisation in more settled times.

Check www.civilservicecommissioners.org for latest version

- The length of the appointment. The best candidate in terms of doing the job over 3-5 years might not be the one who would do it best on day one.
- The job market. The best person available will depend in part on the attractiveness of other employment opportunities at the time.

2.7 Merit, then, is more than competence. But, before merit is decided, competence must be defined properly. The various competencies required in the job should be weighted according to their contribution towards the successful carrying out of the job. The most meritorious candidate will be the one who is best at the job's critical elements.

2.8 The practical steps to be taken are:

- establish the qualities, competencies, experience, etc, that are required for the job. Then list them in order of priority;
- decide which procedures for making the job known can be expected to allow the best available candidates to come forward for consideration;
- draw up procedures which will reliably determine suitability for the job on the basis of the criteria already established. The procedures must distinguish how candidates compare with each other in terms of merit;
- bring together a panel who are best placed to determine merit with regard to this job.

Fairness

2.9 Fairness means ensuring there is no bias in assessment of candidates at any stage of the selection process.

2.10 Fairness is to some extent an intuitive notion. To ensure that procedures are fair, it is important to look at the circumstances in the round. Account needs to be taken of the differences between people. Fairness does not simply mean treating everyone exactly the same – eg asking them identical questions.

2.11 To achieve fairness it is necessary to keep in mind what would amount to unfairness. In any context, there will be the possibility of doing something that might be perceived as an unfair procedure or unfair treatment of someone. Fairness is partly about avoiding this.

2.12 Fair competition means giving each person full opportunity to set out their suitability for the job and what they would bring to it. That in turn requires assessment procedures that avoid bias by being:

- objective and reliable indicators of future performance;
- unaffected by age, gender, gender identity (transgender), race, disability, sexual orientation, religion or belief, or other irrelevant considerations;
- relevant to the job;

- consistently applied.

2.13 Consistency does not necessarily mean using identical procedures for everyone. It is about applying the same general criteria of assessment to everyone in order to determine who is best able to do the job – in short, selection on merit.

Openness

2.14 Openness is about making Civil Service jobs accessible by ensuring that opportunities are made known and publicised. It also means that prospective applicants must be given equal and reasonable access to adequate information about the job and about the selection process.

2.15 Openness therefore means that individuals are not unfairly excluded. There could be a risk of that as a result of where the job is advertised and what is (or is not) said about it. Inappropriate eligibility conditions also infringe openness.

2.16 It is also about setting clear criteria for suitability and excluding unsuitable people. It is linked with fairness in making clear what people need to know in order to set out their suitability for the job and what they would bring to it. And openness is linked with merit in helping to ensure that suitable people apply.

2.17 In considering whether or not the competition is open, particular account needs to be taken of the following:

- Someone who might be interested in a job must have a reasonable opportunity to find out about it.
- Prospective applicants must be clear about what is on offer (the nature of the work, terms of appointment and remuneration) and what will demonstrate suitability.
- The process must help to encourage applications from suitable candidates.

Application

2.18 To apply the fundamental recruitment principle effectively, **departments and agencies must ensure that:**

- **prospective applicants are given equal and reasonable access to adequate information about the job and its requirements; and about the selection process;**
- **applicants are considered equally on merit at each stage of the selection process;**
- **selection is based on relevant criteria applied consistently to all the candidates;**
- **selection techniques are objective, reliable and guard against bias.**

2.19 **Departments and agencies may approve appointments made through the application of the fundamental recruitment principle to all posts except those at the most senior levels in the Civil Service and certain other specified posts, detailed at Annex A.** Appointments to these posts require the written approval of the Commissioners and separate guidance – ‘Civil Service Commissioners’ Guidance on Senior Recruitment’ - is available on the involvement of the Commissioners in such appointments.

2.20 Part-time appointments are subject to the same selection requirements as full-time appointments.

2.21 Guidance on the application of these requirements is set out in Part 3 of this Code. To

comply with Civil Service policy, equality of opportunity must apply throughout the recruitment process.

2.22 In certain circumstances, appointments other than by application of the fundamental recruitment principle are permitted. Details are set out in the following section.

APPOINTMENTS OTHER THAN THROUGH SELECTION ON MERIT ON THE BASIS OF FAIR AND OPEN COMPETITION

The legal position

2.23 The Orders in Council enable the Commissioners to permit some appointments other than by application of the fundamental principle of selection for appointment on merit on the basis of fair and open competition. The categories of appointments are:

- short term appointments (up to a maximum of five years), and their extension or conversion to permanency;
- secondments;
- re-appointment of former civil servants;
- transfers into the Civil Service;
- surplus acceptable candidates;

2.24 The Orders in Council also permit special arrangements for disabled people. These are set out in the next section.

2.25 Special adviser appointments and appointments made directly by the Crown are exempt from the recruitment principle. Accordingly they are not covered by this Code.

Background

2.26 The primary objective of permitting these forms of appointment is to provide flexibility where it is genuinely necessary to meet the needs of the Civil Service. The Commissioners also have regard to the responsibilities of the Civil Service as a good employer, for example by enabling

departments and agencies to participate in government programmes to relieve long term unemployment. Departments and agencies are, however, under no obligation to recruit using any of these forms of appointment and should apply the normal recruitment principle where that is practical and sensible. When the use of these appointments is constrained by time limits, the calculation of the period of appointment involved must take account of any previous Civil Service employment where there has not been a break in continuity of service.

Application

2.27 The appointments that may be made other than through application of the recruitment principle, the reasons why they are allowed and the criteria for their use are set out in the following paragraphs. Where appropriate, the provisions for extension or conversion to permanency are shown. The extent of any requirement for the Commissioners' specific approval is shown. **No exception to selection on merit on the basis of fair and open competition may be made outside the terms of these provisions without the approval of the Commissioners.**

Short-term appointments

Appointments of less than 12 months and their subsequent extension

2.28 The circumstances in which this category may be used are as follows:

- **Reason:** To give managers flexibility to meet genuine short-term needs sensibly and economically. Such need might arise from a wide range of circumstances. Examples include undertaking a short-term specific job, to fill in while somebody is on maternity leave or to fill a permanent post temporarily while a recruitment process is completed.
- **Criteria for use:** The requirement should be expected to last less than 12 months. If a longer appointment is considered a possibility, fair and open competition should be used at the outset.
- **Aggregating periods of service to calculate the total period of service:** In calculating the period of appointment, earlier periods of appointment to which this paragraph relates, whether with the same or another department, should be taken into account unless there has been a break in continuity of service. The aggregated service should not exceed 12 months. For example, someone should not be appointed for six months in one department and then without a break take up another appointment, either in the same department or a different department, of nine months.
- **Extension:** Appointments may subsequently be extended for a further period up to a maximum of 24 months for the overall term of the appointment. Such extensions should be considered only on an exceptional basis. The fact that uncertainty about the future overall work pattern continues is not sufficient reason. Extensions might be considered where, for example, the particular job or plan of work has taken a little longer than originally planned and a few more months will complete it.

In the case of aggregated appointments (see above) the provision exceptionally to extend an appointment beyond 12 months may be used only if a need subsequently arises to extend the

latest appointment in the aggregation. For instance, someone might legitimately have a six month appointment with one department, move without a break to another job, either in the same department or another department, on a five month appointment, and then have the latter appointment extended by a further three months as the task had taken longer than expected to complete. The provisions in this paragraph cannot be used to extend any contract of employment to a period of more than 24 months taking into account earlier periods of service where there has been no break in continuity of service.

- **Conversion to permanency:** There is no provision in the Code to extend appointments made under this exception beyond twenty-four months or to convert them to a permanent appointment.
- **Commissioners' specific approval:** Not required.

Recurrent short-term appointments of no more than six months in any twelve months for a period of less than four years.

2.29 The circumstances in which this category may be used are as follows:

- **Reason:** To provide flexibility if work patterns require staff for a series of short periods for a few weeks or months (for example, recurring temporary appointments and standby appointments).
- **Criteria for use:** Such appointments may be made without fair and open competition only where they are expected to last less than four years (including the breaks between periods of employment). If a longer-term need is expected, fair and open competition should be used at the outset.
- **Extension/conversion to permanency:** The Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 mean that extensions of such appointments beyond a total of four years may well have the effect of converting them to permanency. Extension or renewal of a fixed term contract should be avoided if there is a risk that the appointment will be convertible to a permanent one by application of the regulations. There may be occasions when it will be appropriate to convert to a permanent appointment, but these are expected to be rare.
- **Commissioners' specific approval:** The Commissioners' specific approval is required for appointments specified in Annex A that are for more than two years and at all levels for any appointment of four years or more.

Short-term appointments requiring a highly specialised mix of skills and experience

2.30 The circumstances in which this category may be used are as follows:

- **Reason:** To allow short-term highly specialised business needs to be met without the outlay of time and expenditure involved in an open competition on the grounds that such a process would be a formality.
- **Criteria for use:** The mix of skills and experience required is highly specialised, the foreseeable requirement is short-term (to a maximum of less than four years) and an open competition is unlikely to identify further suitable candidates. For longer-term appointments the appointee should be confirmed as the best available person for the job by a process of selection on merit on the basis of fair and open competition.
- **Extension/conversion to permanency:** The Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 mean that extensions of such appointments beyond a total of four years may well have the effect of converting to permanency. Extension or renewal of a fixed term contract should be avoided if there is a risk that the appointment will be convertible to a permanent one by application of the regulations. There may be occasions when it will be appropriate to convert to a permanent appointment, but these are expected to be rare.
- **Commissioners' specific approval:** The Commissioners' specific approval is required for the appointments specified in Annex A. It is required at all levels for any appointment of four years or more.

Short-term appointments restricted to the unemployed

2.31 The circumstances in which this category may be used are as follows:

- **Reason:** In interpreting the application of the fundamental recruitment principle in this Code, the Commissioners take account of the responsibilities of the Civil Service as a major employer. They recognise that some modification may be made to the principle of openness to help the unemployed through short-term Civil Service appointments which (with suitable training) will provide them with workplace skills. This provision allows departments and agencies to consider the unemployed as candidates for Civil Service jobs without competing against other candidates under fair and open competition.
- **Criteria for use:** The appointments are restricted to people eligible for support under government initiatives to assist the unemployed. They may be up to a maximum of 18 months. No more than 5% of the total number of appointments made by a department or agency at a particular level each year (a year being measured from 1 April) may comprise such appointments. Selection procedures must be demonstrably fair and based upon the requirements of the job. A subsequent appointment may be made but only after fair and open competition and selection on merit.
- **Extension/conversion to permanency:** There is no provision in this Code for extending appointments made under this arrangement beyond the 18 month maximum or for conversion to permanency.
- **Commissioners' specific approval:** Not required.

Secondments

2.32 The circumstances in which this category may be used are as follows:

- **Reason:** To encourage secondments into the Civil Service to promote the exchange of ideas and experience.
- **Criteria for use:** The appointment must be a voluntary transfer from the permanent employer, intended to be temporary (normally up to three years but not exceeding five years), and must not affect the employment status of the secondee. For secondments of more than 24 months, departments and agencies must take reasonable steps to establish a field of candidates. Departments and agencies should approach a number of organisations and invite them to nominate individuals for consideration. This may be waived if the secondment is part of an interchange programme or other exchange arrangement, or intended to foster contact with a particular body with which the department has, or is developing, links or the source of supply is very restricted. Secondees must be fully capable of undertaking effectively the duties of the job for which they are recruited, and departments and agencies should record how the suitability of the secondee has been assessed.
- **Extension/conversion to permanency:** Extension of secondments beyond five years or conversion to permanency (or to a short-term appointment) may be permitted only in exceptional circumstances. An exception may be made for short extensions beyond five years where there is a requirement to complete the work in hand. If conversion is to be considered, the secondee should be performing to a high standard and circumstances should have changed to make a contract or permanent appointment a significant advantage to the department or agency.
- **Commissioners' specific approval:** The Commissioners' specific approval is required for appointments specified in Annex A if they are to extend beyond two years. Their approval is required at all levels for extensions beyond five years (unless they are very short as described in the previous paragraph) and for conversion to a permanent, or short-term, appointment.

Re-appointments of former civil servants

2.33 The circumstances in which this category may be used are as follows:

- **Reason:** To enable departments and agencies to realise the investment they have made in the training and experience of an individual who has subsequently left them: for example, as part of a department's planned policy to assist the return of staff who have left for domestic reasons or when the individual has particularly valuable and relevant skills or experience to offer. (Note: re-appointment may take the form of reinstatement at the same level as that held on resignation, or re-employment at a higher or lower level. It may be on a permanent or a short-term basis.)
- **Criteria for use:** All individuals who are re-appointed under this arrangement must have been originally recruited by fair and open competition. They must meet the current competencies required for the level of work offered. In considering candidates, departments and agencies should have regard to the nature of the applicant's previous experience as a civil servant, and its relevance to the current job. They should consider carefully whether

Check www.civilservicecommissioners.org for latest version

more suitable candidates may be available. The applicant should be tested against others where this is practicable. If there are any doubts about an applicant's suitability, this exception should not be used. No individual has a right to re-appointment, except as provided in para. 1.7.2 of the Civil Service Management Code. The code is available at: <http://www.civilservice.gov.uk/publications/code/index.asp>

- **Commissioners' specific approval:** The Commissioners' specific approval is required only in the case of the appointments specified in Annex A.

Transfers into the Civil Service

2.34 Individuals may transfer into the Civil Service from other organisations in a variety of circumstances. The specific approval of the Commissioners is required only in respect of the appointments specified in Annex A, unless covered by TUPE.

Transfers of staff into the Civil Service on the transfer of an undertaking governed by the Transfer of Undertakings (Protection of Employment) Regulations (TUPE)

2.35 Under the provisions of TUPE such staff have an automatic right of transfer. The recruitment provisions of the Civil Service Order in Council and this Code are not relevant to these circumstances.

Transfers of staff into the Civil Service with their work in circumstances not governed by TUPE

2.36 If such circumstances arise, transfers of staff may be considered where it is in the interests of the Civil Service to retain their expertise.

Transfers of staff into the Civil Service without work from another public body or service

2.37 Transfers of staff between the Diplomatic Service, Home Civil Service and Northern Ireland Civil Service may take place freely, provided the individuals were recruited through fair and open competition.

2.38 Staff employed by public bodies are eligible to apply for posts in the Civil Service (through trawls from recruiting departments or outplacement from shrinking organisations) in order to accommodate staff surpluses and shortages, or individual cases of hardship, if they were:

- previously recruited into the Civil Service through fair and open competition and directly transferred to a public body from a permanent post in the Civil Service without a break in employment; or
- recruited direct into a body staffed exclusively by civil servants.

2.39 Under residual transfer arrangements, staff recruited direct into one of the bodies listed in Annex B before 1 September 1992, in accordance with the Civil Service recruitment rules in force at the time, may apply for Civil Service posts as in the previous paragraph. This is not open to staff recruited since 1 September 1992 direct by the public bodies in Annex B because the recruitment procedures of those bodies ceased to be subject to general Civil Service recruitment procedures and scrutiny by the Commissioners.

Check www.civilservicecommissioners.org for latest version

2.40 For other public services and bodies, advice must be sought from the Commissioners.

2.41 In all transfer cases, without or with work (unless governed by TUPE) selection and assessment procedures must assure the receiving department or agency that such staff are of the required standard.

Appointment of surplus acceptable candidates in a competition to shortage posts elsewhere

2.42 The circumstances in which this category may be used are as follows:

- **Reason:** From time to time departments and agencies may experience difficulties in filling certain posts because of tightness in the employment market or the scarcity of the relevant professional or specialist skills. Where such shortages exist, consideration should be given to advertising the prospects of alternative appointments in these areas when other posts are advertised. For example, where a department has repeatedly had a shortfall in suitably qualified candidates at one level, the possibility of such alternative opportunities might be mentioned in advertising posts at another level. Provided that candidates were assessed on merit against appropriate criteria for the alternative appointments, they could then be appointed to these other posts having met the requirements for selection on merit on the basis of fair and open competition. Cases may, however, arise where it was not anticipated that a suitable candidate for a shortage post would emerge from the competition, or the need arose after the competition had begun. In such a case it is possible to permit an applicant who reached a standard appropriate to the shortage post to be placed in it.
- **Criteria for use:** Posts may be considered 'shortage posts' when it is considered that there is no prospect of filling them with qualified candidates from within the Civil Service; and recent experience has shown that external competition has not brought forward acceptable candidates. Use of the advertising procedure described above should ensure that the use of this provision is rare.
- **Commissioners' specific approval:** The Commissioners' specific approval is required only in case of the appointments specified in Annex A.

Exceptional arrangements reserved for the Commissioners

2.43 The Commissioners alone may exercise discretion, solely in relation to the appointments in Annex A, in two further circumstances:

- permanent appointment (or one for more than four years) if justified for exceptional needs relating to the needs of the Service and the proven distinction of the person;
- appointment of a qualified candidate after fair and open competition but not in order of merit.

2.44 Use of both provisions is expected to be very rare and decisions would be taken collectively by the Commissioners and recorded in their annual report.

ARRANGEMENTS FOR DISABLED PEOPLE

The legal position

2.45 The Order in Council contains special provisions related to the recruitment of disabled people.

Background

2.46 The purpose of these provisions is to enable the Civil Service, with its responsibilities as a good employer, to offer encouragement and assistance to disabled applicants and promote disability equality.

2.47 The definition of a disabled person in the Disability Discrimination Act 1995 (DDA) (as amended in 2005) is as follows:

“a person has a disability for the purposes of the Act if he has a physical or mental impairment which has a substantial and long term adverse effect on his ability to carry out normal day-to-day activities”.

The definition of disability now includes cancer, HIV infection or multiple sclerosis, from the point of diagnosis. The disability must last or be expected to last for at least 12 months. The Act sets out a number of special provisions. One of which is for conditions which have a slight effect on day-to-day activities, but are expected to become substantial. The DDA 1995 (as amended in 2005) can be found at <http://www.opsi.gov.uk/>.

2.48 Eligibility for access to the provisions of the Act is based on self-declaration, i.e. the applicants must indicate that they have a disability.

2.49 Further information on guaranteeing interviews for disabled people and on using the Department for Work and Pensions’ disability symbol “Positive about Disabled People” is available from the Diversity Strategy Team in the Civil Service Capability Group of the Cabinet Office.

Application

Supported employment

2.50 The Commissioners allow departments and agencies to recruit disabled people who participate in a government scheme to promote their employment without open competition. The Commissioners recognise that disabled people in supported employment will often have difficulty in gaining employment through the normal competitive process. To require disabled people to go through open competition may unfairly disadvantage them. The Commissioners accept that departments and agencies should be able to employ people in the supported employment programme currently entitled “WORKSTEP”, should they wish to do so, without following the fundamental recruitment principle set out in this Code. In each case departments and agencies will need to satisfy themselves that arrangements can be made for employing the individual in departmental work. Further information on “WORKSTEP” can be found at: <http://www.direct.gov.uk/DisabledPeople/Employment/WorkSchemesAndProgrammes/fs/en>

Encouragement and assistance in the process of selection

2.51 Within the framework of selection on merit on the basis of fair and open competition, departments and agencies are encouraged to provide assistance in the process of selection of candidates with a disability which is not available to other applicants. For example, they may guarantee an interview, make reasonable adjustments at interview and/or an assessment centre, and, where appropriate, modify other selection arrangements used for non-disabled applicants in the same competition by substituting the use of short answer tests or competence-based recruitment criteria for educational qualifications.

INVOLVEMENT OF MINISTERS

2.52 Ministers may have a particular interest in appointments to certain posts. That interest must be accommodated within a system which selects on merit, is free from personal or political bias and ensures that appointments can last into future Administrations. **This section sets out the way in which Ministers may be involved in the selection and appointment processes. No procedures for determining selection additional to those in this Code may be used without the express approval of the Commissioners.**

2.53 If the post to be filled is one in which the Minister is interested, it is essential to agree with the Minister at the outset the terms on which the post is to be advertised, the job and person specifications and the criteria for selection. The composition of the selection board, and in particular the choice of external members, may also be agreed with the Minister against specified relevant criteria.

2.54 It is important that the department or agency ensures that it uses appropriate selection techniques to identify credible candidates. If search consultants are being used it may in some cases be helpful for them to see the Minister. The Minister should also be kept in touch with the progress of the competition throughout, including being provided with full information about the expertise, experience and skills of candidates on the long and short lists. The Minister cannot interview the candidates or express a preference among them. Any further views the Minister may have about the balance of the expertise, experience and skills required for the post should be conveyed to the selection panel.

2.55 The candidate recommended for appointment must be the one placed first in order of merit by the selection panel. It is perfectly acceptable for the Minister to meet the lead candidate before deciding to approve the appointment but only that candidate may normally be appointed unless he or she turns the job down, in which case the position may be offered to reserve candidates above the line in order of merit. The Minister cannot pick and choose among the candidates.

2.56 In a rare case, where, despite having been kept in touch throughout, the Minister does not feel able to appoint the lead candidate, he or she must refer the matter back to the selection panel with his or her reasons. If, in the light of this explanation and having reviewed the balance of the selection criteria, the panel is minded to revise the order of merit and recommend another candidate from amongst those previously considered appointable, it must refer the case to the Civil Service Commissioners for their collective approval.

2.57 The Commissioners may either approve the submission of an alternative candidate or take the view that the original order of merit should stand. If the latter, no appointment on merit other than that originally recommended by the panel can be made as a result of this competition. If a fresh competition is to be run, it will need to be advertised with a different job and/or specification and/or salary.

2.58 There is a limited provision under the Orders in Council that enables the Commissioners to approve, in exceptional circumstances, the appointment of a candidate selected under open competition but not first in order in merit. The Commissioners would need to be satisfied that there were valid and exceptional reasons relating to the needs of the Service for such approval to be given.

2.59 The Commissioners will record in their annual report the number of cases referred to them under paragraphs 2.56 – 2.58.

RESPONSIBILITY FOR APPLYING THE RECRUITMENT CODE

Overall responsibility

2.60 Overall responsibility for ensuring that recruitment is conducted in line with this Code rests with the Permanent Secretary or Chief Executive of each department or agency. They are required to confirm that they operate recruitment systems in line with this Code and that they are subject to internal check.

2.61 In exercising their powers of appointment, departments and agencies may decide at what level of seniority individual decisions are made. They may wish to operate more stringent internal delegations when appointing under the provisions of paragraphs 2.23 – 2.42 taking into account the particular need to be seen to guard against patronage or political partiality when departing from the fundamental recruitment principle.

Using recruitment agencies

2.62 Public or private sector recruitment agency or selection consultants may be used to assist in part or all of the selection process. It is nevertheless the responsibility of the department or agency to ensure that recruitment is carried out in accordance with the fundamental recruitment principle, and to be able to demonstrate that this has been done. **All vacancies must be advertised openly. The text of any advertisement or publicity must be approved by the department or agency concerned, as must the conduct of short-listing, and the monitoring procedures used. The department or agency responsible for the competition must satisfy itself that final selection recommendations arise from a proper application of the Code before approving any appointments.**

Accounting for recruitment decisions

2.63 Those running recruitment competitions must be able to demonstrate that they have complied with this Code. **Accordingly recruitment competitions must be fully recorded and the records must be retained for 12 months from the end of the competition.** Records may be in either paper or electronic form. The information retained should include the advertisement, application forms, sift criteria, any scoring mechanism used for sifting and selection, selection panel reports including the order of merit, campaign summary, statistics and any other relevant papers.

Taking account of the Data Protection Act 1998, anonymised data would be acceptable for the Commissioners' compliance monitoring process.

2.64 For fixed term appointments / short term contracts, evidence must be retained for the duration of the appointment so that the basis on which the post was publicised is known in the event of extension or wider deployment being considered.

2.65 As for all other recruitment decisions, where an appointment is made other than by application of the fundamental recruitment principle, the reasons need to be clearly recorded and the papers retained for compliance monitoring purposes.

2.66 Senior staff in each department or agency – and the consultants employed by the Civil Service Commissioners – will need to be satisfied that recruitment policies and practices comply with the Code. Departments and agencies are also required to publish information on their recruitment. The arrangements for publishing such information are set out in the following paragraphs.

INFORMATION TO BE PUBLISHED

The legal position

2.67 The Orders in Council authorise the Commissioners to require departments and agencies to publish summary information about their recruitment and the use of permitted exceptions to the principles of fair and open competition and selection on merit.

Background

2.68 The aim of the requirement is to make departments' and agencies' recruitment processes more transparent, in the same way as the annual reports made by the Civil Service Commissioners do for senior recruitment. The vehicle for publication is for departments and agencies to decide: they may wish to use their website, their annual reports or other annual public documents or they may choose to make the information available through a ministerial statement.

Application

2.69 The minimum information which must be published is set out below. Unless otherwise stated, the information must relate to all appointments including senior appointments subject to the Commissioners' approval. The requirements are:

- a statement that there are systems in place in the department or agency to ensure that recruitment is carried out in accordance with the Recruitment Code published by the Civil Service Commissioners and that those systems are subject to an annual independent internal check;
- to provide context for the items which follow, numbers appointed at each level (in terms which make sense for the department or agency concerned);

Check www.civilservicecommissioners.org for latest version

- the number of occasions on which appointments have been made other than through application of the fundamental recruitment principle divided into the following categories:
 - appointments of less than 12 months in respect of those posts specified in Annex A (there is no requirement for details to be published for other posts);
 - extensions up to a maximum of 24 months of appointments originally made for a period of less than 12 months (with reasons);
 - recurrent short term appointments;
 - short term appointments where highly specialised skills required;
 - appointments under government initiatives to assist the unemployed;
 - secondments;
 - extensions to secondments (with reasons);
 - re-appointments of former civil servants;
 - transfers of staff with their work (not under TUPE);
 - transfers of staff from other public services without work (unless from a public body staffed exclusively by civil servants);
 - appointments of surplus acceptable candidates to shortage posts;
 - appointments of disabled candidates under modified selection arrangements;
 - supported employment appointments;
 - any use of the exceptions reserved for the Commissioners (i.e. appointments on the basis of the proven distinction of the individual and appointments not in order of merit).
 - any appointments exceptionally approved by the Commissioners under the Orders in Council outside the terms of this Code.

MONITORING COMPLIANCE OF DEPARTMENTAL AND AGENCY RECRUITMENT POLICIES AND PRACTICES

The legal position

2.70 The Orders in Council require the Commissioners to audit recruitment policies and practices within the Service to establish whether this Code is being observed.

Application

2.71 Consultants monitor them on the Commissioners' behalf. **Departments and agencies must co-operate with those processes undertaken by or on behalf of the Commissioners.** Although

not mandatory, Annex C sets out for the assistance of departments and agencies the areas that the consultants will examine.

2.72 **In turn, departments and agencies must conduct their own independent checks of their recruitment systems each year for compliance with this Code.** Where recruitment is delegated internally to individual units, a sample of units should be covered each year depending on the nature and regularity of appointments. Where recruitment is not delegated internally, a proportion of appointments should be subject to independent check.

ANNEX A

APPOINTMENTS REQUIRING THE COMMISSIONERS' APPROVAL

SENIOR APPOINTMENTS

The approval of the Civil Service Commissioners is required for the following appointments and any subsequent extension (apart from appointments of less than 12 months, extensions of these appointments up to a maximum duration of 24 months, and secondments of up to 24 months):

- Permanent Secretary
- Appointments in Pay Band 2
- Appointments in Pay Band 3
- Senior Civil Service posts in government communication
- Chief Crown Prosecutor (London), Crown Prosecution Service
- Deputy Chief Executive, Office of Government Commerce
- Directing Actuary, Government Actuary's Office
- Government Actuary, Government Actuary's Department

PUBLIC BODIES

The following is a list of Public Bodies as at 1 September 1992 which employed some staff eligible to respond to interdepartmental trawls.

Royal Commissions etc

Commonwealth War Graves Commission
Countryside Commission (now part of Countryside Agency)
Meat and Livestock Commission
Monopolies and Mergers Commission (now Competition Commission)
Racial Equality, Commission for
Royal Commission on the Ancient and Historical Monuments of Scotland
Royal Commission on Ancient and Historical Monuments of Wales
Royal Commission on the Historical Monuments of England
Royal Commission on Historical Manuscripts
Rural Development Commission (now part of Countryside Agency)

Museums, Galleries and Libraries

British Library
British Museum
Imperial War Museum
National Army Museum
National Gallery
National Galleries of Scotland
National Library of Scotland
National Maritime Museum
National Museum of Science & Industry (Science Museum)
National Museum of Scotland
National Portrait Gallery
Natural History Museum
Royal Air Force Museum
Royal Armouries Museum
Tate Gallery
Victoria and Albert Museum
Wallace Collection

Research Councils

Agricultural and Food Research Council
(now part of Biotechnology and Biological Sciences Research Council)
Economic and Social Research Council
Natural Environment Research Council
Science and Engineering Research Council
(now part of Engineering and Physical Sciences Research Council and Particle Physics and Astronomy Research Council)

Public Boards and Authorities

Gaming Board for Great Britain
Northern Lighthouse Board
Police Complaints Authority
Trinity House (now Trinity House Lighthouse Service)

Others

Commonwealth Institutes, London and Edinburgh (now Commonwealth Institute)
Countryside Council for Wales
English Nature (Nature Conservancy Council for England)
The Historic Buildings and Monuments for England Commission (now English Heritage)
House of Commons
House of Lords
Metropolitan Police Office
National Curriculum Council
(now part of Qualifications Curriculum Authority)
Polytechnics and Colleges Funding Council
(now part of Higher Education Funding Council for England)
Royal Botanic Gardens, Kew
Schools Examinations and Assessment Council
(now part of Qualifications Curriculum Authority)
Scottish Natural Heritage
Scottish Sports Council
Universities Funding Council
(now part of Higher Education Funding Council for England)

COMPLIANCE MONITORING IN PRACTICE

1. The Commissioners' overall objective is to ensure that departments' and agencies' recruitment systems are designed and operated in accordance with the Civil Service Order in Council and the Commissioners' Recruitment Code. Consultants employed by the Commissioners may examine any part of departments' and agencies' recruitment systems, if necessary down to the details of an individual competition, to ensure that they are compliant with the Order in Council and the Recruitment Code. As part of the recruitment compliance monitoring process the consultants will want to ensure:

- that there is no scope for patronage;
- that departmental instructions and guidance, including guidance on the use of recruitment consultants, are consistent with the spirit and letter of the Commissioners' Recruitment Code and that a link to the Code itself is included;
- that the arrangements for issue of instructions and guidance ensure that they reach all those involved in recruitment;
- that all those involved in recruitment understand the Commissioners' requirements and that there is a rolling programme of training available to those serving on recruitment boards (including refresher training). The recruitment training should cover the departmental/agency policy on recruitment which should be reviewed to address lessons learnt from recent recruitment;
- that annual reports on recruitment are complete and that the data presented is valid;
- where recruitment is delegated to individual units, that a sample of departmental or agency recruitment units are covered by an internal monitoring programme each year, depending on the nature and regularity of recruitment competitions and the robustness of departmental systems. Where recruitment is not delegated, that a proportion is subjected to independent check;
- that action has been taken to correct any instances uncovered by internal monitoring where the Recruitment Code has not been followed and that any new developments in recruitment policy or practice, such as innovative selection procedures, are consistent with the Recruitment Code;
- that use of the appointments other than through application of the fundamental recruitment principle has been justified in accordance with Part 2 of the Recruitment Code and that levels of authority for use of such appointments are appropriate.

2. The approach to recruitment compliance monitoring emphasises the responsibility of departments and agencies for ensuring the Code's requirements are met. The key stages are as follows:

Stage 1

- Departments and agencies complete an annual self-assessment of their compliance with the Code including a description of the recruitment controls and checks they have in place. The self-assessment should also incorporate an action plan outlining remedial measures to be taken where weaknesses have been identified.
- This assessment includes factual information on the number of appointments made through open competition or other than by application of the fundamental recruitment principle, as required by paragraph 2.69 of the Code. In addition, departments and agencies may highlight examples of innovative approaches to recruitment which have been successfully employed. The self-assessment is supported by documentary evidence and underpinned by a compliance statement authorised by the department's permanent secretary or agency chief executive.

Stage 2

- The self-assessment and supporting documentation are reviewed on a risk basis by the consultants who assess the evidence and award a marking to indicate the level of risk. The main factor that the consultants will consider when determining whether or not an on-site compliance visit should be carried out will be any apparent weaknesses in current recruitment practices and internal controls.
- An on-site visit may also be carried out to investigate the development of good practice with the aim of producing a guide for wider distribution; or where an on-site check has not been carried out for a number of years.

Stage 3

- The consultants will begin an on-site visit with a discussion with the HR Director or nominated senior HR colleagues involved in the department/agency's recruitment policies and practices.
- The consultants examine documentation on recruitment carried out, including individual campaigns and reports on internal monitoring exercises. The consultants will view records of any external appointments made outside the normal requirement of selection on merit on the basis of fair and open competition. Information which cannot be obtained from the available documentation will be obtained through further discussion with relevant personnel. At the end of the visit, the consultant highlights the key findings and state their assessment of the overall level of risk..
- The duration of the visit will depend on the size of the department/agency, the amount of recruitment undertaken and issues arising during the visit but is not normally expected to last longer than a day.

Check www.civilservicecommissioners.org for latest version

- After the on-site compliance visit the consultants produce a report which will highlight areas of weakness and examples of good practice in recruitment and selection. The report will make recommendations which departments and agencies will be required to follow up. The emphasis will be to help departments and agencies meet the requirements of the Civil Service Order in Council and the Commissioners' Recruitment Code. The report will be issued in draft to departments and agencies for comments to ensure it accurately reflects what was discussed at the visit before being finalised.

PART 3: GUIDANCE ON SATISFYING THE COMMISSIONERS' REQUIREMENTS IN RESPECT OF SELECTION FOR APPOINTMENT ON MERIT ON THE BASIS OF FAIR AND OPEN COMPETITION

3.1 This part of the Code provides guidance on how each of the Commissioners' requirements set down in para 2.18 may satisfactorily be met. Whilst the requirements shown in bold are mandatory, the detailed guidance is not, and departments and agencies may develop and apply alternative approaches so long as the requirements themselves are not compromised. Some sections end with questions and answers designed to demonstrate some of the flexibilities available to departments and agencies.

PROSPECTIVE APPLICANTS MUST BE GIVEN EQUAL AND REASONABLE ACCESS TO ADEQUATE INFORMATION ABOUT THE JOB AND ITS REQUIREMENTS, AND ABOUT THE SELECTION PROCESS.

3.2 This requirement is intended to create a fair and open field of competition at the start of the selection process, and sustain it through to the final decision.

3.3 The advertisement and supporting literature should together contain whatever applicants need to know to give them a clear picture of the job and what is required to do it including:

- who the employer is;
- what the job involves;
- what the location and salary are (including any flexibility on the pay figure),
- whether the job is permanent or offered on the basis of a short-term contract;
- a brief description of the qualifications, skills, experience and personal qualities needed;
- the nature of the selection process.

Providing this information will help create a fair and open field and reduce the number of inappropriate applications.

3.4 If there is any possibility that a longer-term appointment may be available when a job is advertised as initially on a short-term basis, this should be stated in the advertisement. A longer term appointment whose possibility was not reflected in the advertisement should be offered only where the department or agency have satisfied themselves that the individual has performed to a high standard and that it is in the interests of the organisation to proceed in this way. Such a situation could arise, for example, where the individual has been successful in an internal trawl.

3.5 Where the job is clearly temporary or there is genuine uncertainty about work requirements staff may be recruited for periods of less than 12 months without fair and open competition – see para 2.28. But where the pattern of work can be planned for longer periods, wherever possible staff should be recruited through fair and open competition.

3.6 A reasonable opportunity should be given to prospective applicants to become aware of vacancies. They should be given a reasonable time within which to apply. For example, senior level appointments may require advertisement in the national or specialist press with a closing date of around 3 weeks. The most junior posts might be advertised in the local Jobcentre for a much shorter period. The closing date should be made plain and adhered to: it is not fair to close the list early because a lot of applications have already been received. Departments and Agencies wishing to extend a closing date, for example, to consider additional search candidates identified after the deadline must ensure that any other applications received after the published deadline are also considered.

Does an advertisement on the Internet meet the Commissioners' requirements?

In some circumstances, yes. The Commissioners accept that the use of short press advertisements which direct people to websites providing full details meets their requirements. They would also accept Internet-only advertising now for certain types of job eg website design and IT more generally, provided use was made of websites recognised for holding such vacancies.

Looking to the future, the Commissioners would expect to see greater use of the Internet. There are two issues: potential applicants' knowledge of recruitment sites and their access to them.

As an example, if one or more websites became well known as the place where senior vacancies were advertised, the Commissioners would be content that an advertisement there met the requirements of the Recruitment Code. The website would be regarded as the equivalent of the Sunday Times Appointments section, for example, in which SCS jobs are frequently advertised and is widely known to be the site where such jobs are likely to be advertised.

On access, the Commissioners have a concern that moving to Internet-only advertising at junior levels now might prejudice groups which do not have access to the technology or do not know how to use it. Progress here should accompany the Government's programme for bringing the UK online.

Can a closing date of 2 weeks be set for a vacancy in the Senior Civil Service?

Yes. The issue is to allow a reasonable time to enable individuals to find out more about the job and to apply, and what is reasonable will depend on the circumstances in each case. The 3-week period in para 3.6 is illustrative. If departments consider that a shorter period, for example 2 weeks, is long enough because information packs can be downloaded from a website and applications are made by email, the Commissioners would be content.

APPLICANTS MUST BE CONSIDERED EQUALLY ON MERIT AT EACH STAGE OF THE SELECTION PROCESS.

3.7 All applicants must be treated equally on merit at each stage of the selection process. An objective means of dealing with the problem of large numbers of applicants should be used. Throughout the selection procedure decisions based on the individual merit of the candidates should determine which ones progress to the next stage. And at the final stage acceptable candidates should be placed in order of merit and offered appointment in that order, unless there are sufficient vacancies to appoint all immediately.

SELECTION MUST BE BASED ON RELEVANT CRITERIA APPLIED CONSISTENTLY TO ALL THE CANDIDATES.

3.8 The purpose of setting criteria is to differentiate on a consistent and objective basis between candidates at each stage of the selection process. The criteria (including any eligibility requirements) should be relevant to the job. For example candidates should not be assessed against higher qualifications than are needed to do the job or be excluded from selection on grounds of over qualification. Nor should they be excluded from selection on grounds of age, birthplace or current residence. Using irrelevant criteria would distort fair and open competition; and could be held to be unlawful under equal opportunities legislation if it led to unfair discrimination.

3.9 Selection criteria should be established at the outset. They should be consistent with the experience, qualifications, skills and qualities specified in the advertisement. At each stage of the selection process, it is important to be consistent in assessing the candidates against the same criteria.

SELECTION TECHNIQUES MUST BE OBJECTIVE AND GUARD AGAINST BIAS.

3.10 Selection at all stages must be demonstrably fair and objective and unaffected by gender, race or other irrelevant considerations. Short listing and all selection decisions should be conducted by at least two people, and preferably more to guard against individual bias.

3.11 The choice of technique to be used at each stage of selection should be made with reference to the needs and requirements of the particular job. Sifting techniques, tests and exercises must be reputable, valid and good indicators of future performance. Those administering or interpreting psychometrically-based tests should be professionally trained.

3.12 Departments and agencies should provide training and guidance for assessors.

Can sequential 1 to 1 interviews be used as an alternative to panel interviews?

Yes. It is entirely consistent with the Recruitment Code to run a selection process which consists of a series of 1 to 1 interviews provided the final decision — which should be taken by at least two people — is based on the interviewers' assessments. There is no requirement that selection decisions be taken only after a panel interview.

The Commissioners recognise an increasing need for departments and agencies to market themselves to outside candidates and to explain the job and environment to them. Part of this process might be briefing sessions which take the form of 1 to 1 meetings or discussions between candidates and members of the top team. These sessions would not be part of the formal selection process but feedback may be given to the selection panel to assist them in determining possible topics/areas on which to probe candidates.

Can generic recruitment exercises be run on a rolling basis so that departments could respond to approaches from individuals without requiring them to wait until vacancies are advertised again?

Yes, provided that it is clear that the appointments are generic; that there has been open advertisement which included the prospect of later vacancies; and a common standard in taking selection decisions is applied. The requirements in the Recruitment Code can be met equally within a framework of continuous recruitment.

For example, one or more people who applied within such a framework after a block of appointments had been made could be considered for one or more forthcoming further vacancies by applying the same sift criteria and then if appropriate interviewing them against the same standards used. Those meeting the standards (this might be only one person) could then be appointed in merit order.

The Commissioners are happy to discuss details of particular proposals.

Can generic recruitment be run on a rolling basis across departmental boundaries, in effect providing a "pool" approach to recruitment?

Yes. This is similar to the previous item. The Commissioners see the main issue as one of inter-departmental organisation rather than the Commissioners' requirements. It would be a matter of departments working out the detailed procedures which met those requirements, as for pooling within a department. The Commissioners' requirements could be met by including wording in the advertisement along the lines of "similar vacancies may be available in other government departments".

The Commissioners are happy to discuss details of particular proposals.

Can the terms of appointment following fair and open competition — whether fixed term contract, secondment or permanent employment — be left open before the appointment is made, with subsequent changes to employment (renewal of contract, conversion of secondment to permanent appointment) at line managers' discretion?

Yes, provided that the range of possible terms of employment is made known when the appointment is originally advertised or in the accompanying information pack. The Commissioners consider that spelling out the possible terms at this stage should not be a practical problem. Provided this is done, the department has flexibility to make longer-term appointments as it wishes.

Can staff on short-term contracts following fair and open competition and advertised with the possibility of permanent appointment apply for internally advertised jobs?

Yes, as for the previous question. The Commissioners would see no difficulties with this, notwithstanding any restrictions that departments or agencies may themselves wish to apply.

Can the essential criteria in a job specification be used as the 'minimum' criteria under the Guaranteed Interview Scheme (DWP "Positive about Disabled People")?

Yes. Provided it is used consistently throughout the process.

Does this mean that candidates have to meet all of the essential criteria in order to meet the 'minimum criteria'?

Yes. An interview can be guaranteed to anyone with a disability whose application meets the essential criteria for the post. Therefore, the 'minimum criteria' means the essential competencies as set out in the advertisement or job specification for the post.