



An Coimisiún  
um Cheapacháin  
Seirbhíse Poiblí  
Commission  
for Public Service  
Appointments

## **Report on Eligibility Criteria for Promotion of Staff in Civil Service**

**July 2011**

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## Introduction

One of the core functions of the Commission for Public Service Appointments is to safeguard standards of best practice in recruitment and selection processes to positions in the organisations within its remit. This role is primarily fulfilled through its audit function to ensure that the standards established in the Codes of Practice are upheld and that, where applicable, licence holders are adhering to the terms and conditions of their recruitment licences. The Commission also investigates complaints where breaches in its Codes of Practice have been alleged.

In addition to its audit and complaint investigation functions the Commission has a number of other responsibilities under the Public Service Management (Recruitment and Appointments) Act 2004 (the Act). Under Section 17 of the Act the Commission may carry out an assessment of recruitment practices in any public service body or class of public service bodies within its remit and make a recommendation to the Minister.

Between December 2010 and January 2011 the Commission received 4 complaints from members of the Professional and Technical Staff within the Civil Service alleging that their respective Departments and Offices were breaching the Commission's Codes of Practice by confining appointments processes for promotion to those in general Civil Service Administrative Grades. Each complainant highlighted that the Commission's Code of Practice requires Office Holders to ensure that the eligibility criteria for its appointments process are not unduly restrictive and reflect only what is necessary to perform the duties of a position.

In responding to the allegations, one of the Office Holders advised that, under Section 58 of the Act, the Minister for Finance is responsible for the eligibility criteria and without a direction from the Department of Finance (now Department of Public Expenditure and Reform), they were precluded from unilaterally changing the criteria agreed centrally with representative bodies. The Office Holder advised that it was generally positively disposed towards cross streaming and that it had in the past sought to reach an agreement with the Staff Representative Bodies within the office. However such an agreement had not proven possible and the Office Holder had no option but to confine its internal appointment processes to those in the eligible administrative grades.

The Act also requires that the Commission establishes Codes of Practice that must be followed by Public Service bodies within its remit for recruitment and selection and for internal promotions. Section 24 (1) of the Act provides that the Commission's Codes of Practice shall include requirements relating to (a) knowledge and ability to enter on the discharge of the duties of the post concerned; (b) suitability on the grounds of character; and (c) suitability in all other relevant respects for appointment to the post concerned.

The Commission's Code of Practice states:-

“Requirements are not unduly restrictive and reflect what is necessary to perform the duties of the position”

and

“terms and conditions, eligibility criteria and the use of the Irish Language are agreed with the appropriate Minister at the outset, in accordance with the requirements of the job and/or any statutory requirements”.

Following its examination of the four complaints the Commission concluded that the eligibility criteria employed were restrictive and did not reflect what is necessary to perform the duties of the position and, as such, they are contrary to its Code of Practice. However the Commission also recognised that under Section 58 of the Act, it is the responsibility of the Minister for Finance (and not the Office Holder) to establish the eligibility criteria.

In view of the ambiguity with regard to responsibility for meeting the requirements of the Code when establishing eligibility criteria for promotions in the Civil Service, the Commission decided to conduct an assessment into whether the criteria employed for internal civil service appointment processes meet best recruitment practice and make a report to the Minister for Public Expenditure and Reform on the matter.

The Commission would like to thank the personnel in the Human Resource Units in each of the Departments/Offices who took the time to complete and return the survey forms.

## Assessment Methodology

The Commission carried out this assessment by surveying Offices and Departments with a view to:-

- understanding of the numbers of Professional and Technical grades across the Civil Service,
- determining whether Offices and Departments were considering staff in these Professional and Technical Staff in promotions to general administrative positions and vice versa,
- ascertaining Departments and Offices disposition to the cross-streaming of promotion opportunities and
- learning what Departments and Offices considered were the impediments to or drivers for cross-streaming.

A copy of the survey form is included at Appendix 1 and a list of respondents at Appendix 2.

Clarification on responses was sought and received from a number of Departments/Offices.

## Survey Findings

1. 27 Department and Offices responded to the Survey of whom 23 advised that they had a mix of Administrative and Professional and Technical Staff.

Some Offices with a high proportion of specialist staff (eg Office of the Attorney General, Chief State Solicitors Office, State Laboratory, Office of the Comptroller and Auditor General) advised that their senior positions comprise almost exclusively specialist roles requiring professional qualifications and, as they have few if any staff in administrative grades at a senior level, cross-streaming internal promotions is not a major issue for them. These Offices were generally of the view that the expertise required to perform their senior roles rest with those with the relevant professional qualifications and experience and that Civil Servants in the administrative grades generally do not possess the relevant qualifications.

2. Of the 23 Departments/Offices who have Professional and Technical Staff in addition to Administrative Staff
  - i. 19 advised that they do not operate cross-streaming for any internal promotions.
  - ii. 4 advised that they operate cross streaming for some internal promotions. (A number of Departments/Offices reported that their senior Professional and Technical staff members are circulated with TLAC<sup>1</sup> level appointments but have not been included in this category as these processes are managed externally to the Office/Department.)
  - iii. No Departments/Offices operate cross-streaming for all of its internal promotions.
3. Based on the comments included on the survey form, 10 Departments/Offices were positively disposed towards the idea of cross-streaming internal promotion competitions.

Among the reasons put forward were:-

- Cross-streaming internal promotions will support efforts to introduce multi-disciplinary teamwork and enhanced cross stream reporting initiatives in line with the intentions set out in the Public Service Agreement (Croke Park Agreement). Such an approach has the potential to provide greater mobility between grades, increased redeployment options and more integrated reporting structures.
- Cross streaming promotions is consistent with the aims of the Department's Croke Park action plan.
- The Department wishes its promotions to be inclusive of its entire staff.

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<sup>1</sup> The Top Level Appointments Committee (TLAC) select candidates for appointment to positions at Secretary General and Assistant Secretary level across the Civil Service

Five Departments were, on balance, opposed to cross-streaming their internal promotion competitions.

Among the reasons put forward were

- the present arrangements provided for career progression opportunities for Administrative staff as well as Professional and Technical staff,
- a number of Departments/Offices expressed concerns that they would have difficulties replacing Professional and Technical expertise if staff in these positions were promoted into Administrative positions particularly in view of the constraints imposed by the present moratorium on recruitment,
- in setting the terms and conditions associated with some Professional and Technical positions (including their basic pay and policy around the awarding of increments) account has been taken of the present delineations and the more limited promotion opportunities available to these staff,
- determining which Administrative grade is equivalent to a Professional and Technical position is not always straight forward and goes beyond looking at the associated pay scales

A number of other Departments/Offices had not arrived at a definitive position and noted that cross-streaming had not been raised by their staff representative bodies.

4. Among the Departments/Offices who were positively disposed toward cross-streaming their internal promotions, the vast majority believed that they could not change the current arrangements without either central agreement with the relevant staff representative bodies or a direction from the Department of Public Expenditure and Reform.

Some Departments referred to Department of Finance Circular 11/2007 on confined competitions for appointment to posts at Principal Officer in the Civil Service and inferred that this circular inhibited moves to cross-stream promotions. One Department reported that while it had, up until recently, cross-streamed most of its internal promotions, one of the staff representative bodies had begun balloting its members with a view to persuading the Department to confine promotions in line with the criteria set down in Finance Circular 11/2007.

Other Departments/Offices mentioned that the functions of their own Professional and Technical staff were somewhat confined by directions from the relevant professional bodies which in turn inhibits any efforts it might consider taking to cross-stream promotions.

## Commission's Response to the Survey

Under the Public Service Management (Recruitment and Appointments) Act 2004, the Commission for Public Service Appointments is charged with establishing standards of probity, merit, equity and fairness for appointments to public service bodies within its remit. The Commission believes that the public interest is best served when those appointed to fill public service positions are selected from the broadest available candidate pool following a merit based competitive appointments process.

The Commission is of the view that eligibility criteria for positions in the public service should only reflect the duties and responsibilities of the role. As such the criteria should support the appointments process by focussing on candidates with the knowledge, skills, experience and attributes relevant to the position and exclude only those who could not realistically be expected to perform the role to a satisfactory standard.

The Commission welcomes the trend towards more openly advertised appointment processes for positions in the Civil Service and believes that this will serve to broaden the talent pool available to those charged with selecting candidates for vital public service posts. While the Commission recognises that confining some processes to staff serving within organisations can help to increase staff loyalty and commitment, promote career progression and serves to incentivise staff development, generally speaking, it has a difficulty with restrictive practices that serve to limit the opportunities for a public service body to appoint the most suitable candidates.

In its Codes of Practice, the Commission sets out that the eligibility criteria for positions must not be overly restrictive and must reflect only what is necessary to perform the duties of the position. The Commission notes that the Civil Service employs professionally qualified Economists, Accountants, Solicitors, Barristers, Valuers, Architects, Statisticians, Psychologists, and Engineers to name but a few and many of these employees are prevented from applying for the majority of the promotion outlets available to their colleagues in equivalent (or almost equivalent) administrative grades within the organisation. Equally, the Commission is conscious that many Civil Servants in Administrative Grades have professional qualifications but are prevented from applying for promotion to Professional and Technical positions as they are working in what is deemed to be an ineligible grade.

Apart from its concern that the criteria used at the very least appear unfair to the individuals concerned, the Commission also believes that by restricting these candidate pools, Departments and Offices are potentially missing out on the opportunity to appoint the a more suitable candidate for the job. Ultimately, the Commission is concerned about the subsequent impact this might have on organisational performance and the delivery of public services.

The survey highlights that many Civil Service Offices and Departments favour the removal of demarcations between the Professional and Technical Staff and Administrative Grades. Some Departments/Offices are of the view that this will facilitate greater mobility, more flexible work arrangements and improved integration.

The Commission notes the concerns expressed by a number of Departments/Offices that scarce expertise may be lost if Professional and Technical staff are promoted out of their current positions. The Commission considers that these concerns are a tacit admission that at least some staff in the Professional and Technical Grades have highly transferable skills and are likely to succeed in appointments processes in competitions with their administrative colleagues. The Commission recognises that the Departments/Offices concerned will be challenged by this and will need to consider its succession planning strategies to address the risk of an increase in turnover of its Professional and Technical staff.

While its primary concern is the selection of the best candidate for the job, the Commission is of the view that removing the barriers and enhancing the career prospects for members of the Professional and Technical staff will make the basic grade more attractive and would serve to attract greater numbers of potentially suitable applicants if and when these positions become vacant.

Finally the Commission notes that most Departments/Offices who favour cross-streaming promotions are unable or reluctant to pursue this policy without a central agreement and/or an explicit direction from the Department of Public Expenditure and Reform.

The Department of Public Expenditure and Reform advised that, while the management side at central level have in the past sought agreement for cross-stream eligibility for competitions, this has not been forthcoming from the Staff Side. Accordingly the central position is that there is no agreement to cross-stream eligibility. This does not prevent office holders from seeking such agreement at local level. The Department is conscious that some Offices/Departments unsuccessfully sought to persuade staff bodies to agree to cross streaming promotions in the past.

The Commission is of the view that cross-streaming of promotions will involve the removal of unnecessarily restrictive selection criteria and that the Department of Public Expenditure and Reform should advise staff representative bodies that its approval for future promotions will be contingent upon their acceptance of the removal of these restrictions.

## **Commission's Recommendations**

### Recommendation to the Minister

The Commission recommends that, in establishing eligibility criteria for promotions to positions in the Civil Service, the Minister for Public Expenditure and Reform removes any criteria that may prevent Civil Servants with the requisite knowledge, skills, experience and attributes from applying for these positions.

The Commission asks the Minister for Public Expenditure and Reform to consider that, where his Department's approval for promotions within the Civil Service is required, that this approval is made conditional on the opening of these promotions to those in the Office/Department (or within the Civil Service in the case of inter-departmental promotions) with the requisite knowledge, skills, experience and attributes to perform the duties of the position and not exclude anyone on the basis of their professional, technical and administrative background.

## **Appendix 1 – List of Departments/Offices who completed the survey:-**

1. Department of Agriculture, Fisheries and Food
2. Office of the Attorney General
3. Office of the Comptroller and Auditor General
4. Department of Communications, Energy and Natural Resources
5. Courts Service
6. Central Statistics Office
7. Office of the Chief State Solicitor
8. Department of Defence
9. Office of the Director of Public Prosecutions
10. Department of Foreign Affairs
11. Garda Síochána Ombudsman Commission
12. Irish Prison Service
13. Department of Justice and Equality
14. National Council for Special Education
15. House of the Oireachtas Service
16. Office of the Ombudsman
17. Office of Public Works
18. The Property Registration Authority
19. The President's Office
20. Office of the Revenue Commissioners
21. The State Laboratory
22. Department of an Taoiseach
23. Valuation Office
24. Department of Education and Skills
25. Department of Transport
26. Legal Aid Board
27. Public Appointments Service



3. Please advise if the arrangements set out in 2c and 2e above will apply for all future promotion processes for these grades.

4. If “cross streaming” is, in general, not permitted for internal promotions, please advise if one or more of the following apply:

(i) It is the view of the Office/Department that the Office/Department is best served by retaining the separation between Professional and Technical Staff on the one hand and General Service staff on the other.

If this is the Office/Department's position, please set out the rationale for the position.

(ii) The Department/Office favours cross streaming promotions, has sought the agreement of staff representative bodies locally on cross streaming but has failed to achieve an agreement

(iii) The Department/Office favours cross streaming promotions but will not proceed on this without a central agreement and explicit direction from Department of Finance (y/n)

5. Please include details of any successful attempts to introduce cross stream promotions. If you have had some positions opened up in this manner please provide a brief description how this came about and any effect this will have on the future filling of these positions.