

## Review and Updating of the Recruitment Principles: A Consultation

### INTRODUCTION

1. We are seeking comments on a revised version of the Civil Service Commission's *Recruitment Principles*, a draft of which is attached at Appendix A.<sup>1</sup> These are the principles which interpret the legal requirement that selection for appointment as a civil servant should be on merit on the basis of fair and open competition.
2. In this consultative document we:
  - explain in more detail what the *Recruitment Principles* are and why they are important;
  - describe why we think a revision is needed now; and
  - highlight the main issues for consultation.

### The Recruitment Principles

3. The Constitutional Reform and Governance Act 2010<sup>2</sup> established for the first time in primary legislation the legal requirement that selection for appointment to the Civil Service should be “on merit on the basis of fair and open competition”. It thus gave statutory underpinning – with all-party support – to the founding principle of the modern Civil Service: that appointment on merit is the best way to safeguard the Civil Service's quality and political impartiality.
4. The Act also put the Civil Service Commission on a statutory basis and gave it the job of interpreting and enforcing the requirement for merit, fairness and openness. Our *Recruitment Principles*, also a requirement of the 2010 Act, are central to the way we fulfill this role.
5. The *Recruitment Principles* contain the Commission's rules and procedures for meeting the legal requirement for selection for appointment on merit on the basis of fair and open competition. They are the main source document for Government Departments<sup>3</sup> which are seeking to recruit civil servants within the law. They explain merit, fairness and openness, set down the steps that must be followed when selecting people for appointment to the Civil Service and specify the circumstances in which appointments may be made by exception to the legal requirement.

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<sup>1</sup> A reminder of the *Recruitment Principles* currently in force is at Appendix B.

<sup>2</sup> Referred to as ‘the 2010 Act’ throughout this document.

<sup>3</sup> References to Departments throughout this document should be read as including all organisations that employ civil servants and whose appointment practices are regulated by Chapter 1 of the 2010 Act. This includes the Scottish and Welsh Governments.

## Consultation – why now?

6. The *Recruitment Principles* were introduced in April 2009, replacing a more detailed process-based Recruitment Code. Their introduction marked an important shift towards a principles-based approach to regulation, which was also reflected in the 2010 Act.

7. The *Recruitment Principles* have not been fully reviewed since their introduction.<sup>4</sup> We believe that there is now a need for some updating and clarification of the rules, in the light of experience and to take account of the recent developments in the Government's Civil Service Reform Programme, including those relating to the appointment of Heads of Department and the creation of Extended Ministerial Offices. This also provides an opportunity to simplify and streamline the existing framework of guidance that has developed to supplement the *Recruitment Principles*. We are pleased to have been able to streamline our guidance and rules, from five existing documents into a single one, and considerably shorter overall.<sup>5</sup>

8. The Commission's overall approach remains unchanged. We are committed to principles-based regulation and have aimed to keep the list of essential steps to the absolute minimum. Within this framework, it is the responsibility of Departments to develop their own approach to recruitment to suit their operational needs. The overall aim is to ensure that the best people with the right skills are selected from the strongest and most diverse fields possible. That is the ultimate test of successful recruitment.

9. We expect to publish our revised *Recruitment Principles* in late March 2014. This will allow Departments to apply the revised framework from the start of the 2014-15 reporting year.

## Civil Service Reform

10. The Government published a programme for Civil Service Reform in June 2012. At its heart is the aim of ensuring a highly-skilled, agile Civil Service capable of serving the government of the day with commitment and energy.

11. Our *Recruitment Principles* and our more general approach to recruitment support this aim. Indeed, appointment on merit is the best way of achieving the skilled Civil Service that is needed for the Civil Service of today and for the future. It is, purely and simply, about getting the best people for the job.

12. This consultation is an opportunity to focus on the fundamental issue of how, through all our recruitment practices, we can best strengthen the Civil Service's capacity to deliver successive governments' programmes effectively while remaining true to its core values set out in the 2010 Act: honesty, integrity, objectivity and impartiality.

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<sup>4</sup> Some minor amendments were made in 2012.

<sup>5</sup> When the new *Recruitment Principles* are introduced, following this consultation, we will formally revoke the existing guidance, including the Commission's guide to *Chairing Competitions* (which has become both out of date and unwieldy) and the *Aide Memoire* for panels chaired by Commissioners.

## ISSUES FOR CONSULTATION

13. We would welcome comments on the overall shape and clarity of the draft revised *Recruitment Principles* as a whole, and on any of the specific provisions. We would, however, particularly like to highlight the following:

### Clarity about the essential steps that must be followed

14. In the years since the *Recruitment Principles* were published, they have been supplemented by a series of additional pieces of guidance or supplementary procedural rules, introduced to address particular situations and needs. This includes the guidance on the appointment of Heads of Department (Permanent Secretaries), which we published in December 2012 and undertook to review 12 months on, and the new Exception relating to appointments to Extended Ministerial Offices, published in October 2013. This proliferation of guidance and rules does not help those recruiting to the Civil Service to be clear which are the essential requirements and which are intended only as helpful suggestions.

15. We also recognise that much of our existing published material is focused on recruitment to the most senior levels of the Civil Service, reflecting the fact that those are the appointments in which the Commission is most directly involved. However, we exist to regulate appointments to **all** levels of the Civil Service, and we recognise that it is often at more junior levels of recruitment that a clear statement of our requirements is most needed, because those recruiting do not have a Commissioner directly involved in their competitions.

16. We have tried in the revised *Recruitment Principles* (see paragraphs 7 to 28 of that document) to bring together in one place all the basic steps necessary to make an appointment on merit following a fair and open competition and to ensure that the document is relevant to recruitment at all levels of the Civil Service.

17. This includes being clear about the role of **the panel** and its chair (paragraphs 8 to 13), about the need to publish the **selection criteria for the role** (paragraph 14), about **how candidates are to be treated** to ensure a fair competition (paragraphs 19 to 27) and about how and when Departments can use **reserve lists** to fill future vacancies (paragraph 28). None of these requirements are new – but for the first time they are set out explicitly in one place.

### *Questions for consultation: essential steps*

18. We would welcome your views:

- **Are the essential steps set out clearly?**
- **Is there anything missing?**
- **Is there anything that is superfluous?**
- **Is there anything that could be made less onerous without compromising the legal requirement?**

## Exceptions to the Legal Requirement

19. The number of appointments made by exception to the statutory requirement for appointment on merit on the basis of fair and open competition is a source of concern for the Commission. There is confusion about when exceptions can be used and about what defines an exception. There is a growing tendency for Departments to recruit by exception for anything unusual or out of the ordinary.

20. Our aim in revising the exceptions set out in the *Recruitment Principles* is to make clear that exceptions must, by definition, be exceptional. The legal requirement – appointment on merit, following fair and open competition – must be the norm. In the narrow range of circumstances when the legal requirement cannot be met, we want to ensure that Departments are clear about when and with what authority they can make appointments by exception.

21. As well as reordering and simplifying the existing exceptions, there are a number of changes:

### *Conversion to permanency at administrative and industrial grades*<sup>6</sup> (Exception 10)

22. In the current *Recruitment Principles* there is a facility to convert certain short term appointments (made other than on merit on the basis of fair and open competition) to permanent employment through a process approved by the Commission. This allows Departments that have brought in temporary staff at administrative and industrial grades to retain those staff, rather than having to run a competition to recruit them a second time.

23. At the moment, this facility exists only for people brought in through the short-term appointments exception. We are proposing that the ability to convert to permanency should also be available for staff recruited on temporary contracts when they are on a Government programme to assist the unemployed or to promote the employment of people with disabilities.

24. We are also proposing to remove the need for the Commission to approve the conversion process on a case-by-case basis. The proposal is that the Department will have delegated authority to apply the process outlined in the new exception 10 if it wishes to convert staff to permanency at administrative or industrial grades.

### *Temporary appointments* (Exception 1)

25. The current *Recruitment Principles* include two separate exceptions<sup>7</sup> allowing Departments to make appointments by exception either “to provide managers with the flexibility to meet short-term needs” or “to allow highly specialised people to be brought in without a competition for a particular one-off job on the basis that such a process would be a mere formality”.

<sup>6</sup> Posts at ‘Level 1’ on the 2013 Civil Service Competency Framework, equivalent to AA or AO grades.

<sup>7</sup> Exceptions 1 and 3 in the 2012 *Recruitment Principles*.

26. The exception for 'specialist' appointees is rarely used; most of the cases that the Commission sees relate to short-term appointments. We therefore consider that it is better to have a single exception that relates to all temporary appointments, whether that is for the injection of specialist skills or simply to fill a short-term gap. This simplifies recording for Departments, while still affording them the flexibility to appoint specialists or generalists through this route.

27. A number of Departments have been confused by the wording of these exceptions; they believe either that any short-term appointment must be made by exception (i.e. that a competition is never possible) or that any short-term appointment must be classified as an exception irrespective of whether the individual was selected on merit following a fair and open competition, but simply for a fixed term.

28. It is normally possible to fill short-term vacancies on merit following a fair and open competition. Where that is possible, it must happen. And where Departments have held a proper competition to select individuals, those individuals have been appointed in line with the statutory requirement – they do not count as 'exceptions'.

29. It is only where it is *not* possible to run a full fair and open competition – either because of the urgency of the requirement or because of the extreme short-term nature of the post – that Departments need to consider using the exception for temporary appointments.

#### *Extended Ministerial Offices (Exception 4)*

30. As part of its *Civil Service Reform: One Year On* report, published in July 2013, the Government announced that it intended to establish Extended Ministerial Offices (EMOs), which would be staffed by a mix of civil servants, special advisers and external policy experts (recruited as civil servants) who had been personally selected by the Minister.

31. In response to this, in October 2013 the Commission introduced a new exception to provide a framework to ensure that, in making appointments to EMOs, there remains a clear distinction between civil servants – who must be able to operate impartially and objectively – and special advisers. That new exception is now incorporated into the main *Recruitment Principles* as exception 4.

32. The Commission does not propose to alter the text of the EMO exception as part of the current review of the *Recruitment Principles*. We have made clear that we want to look at the first year of operation of this exception before considering further change. Any comments made in relation to EMOs in the current consultation will feed into our assessment in autumn 2014.

### *Delegation to Departments*

33. The current Recruitment Principles give Departments the delegated power to apply exceptions for all roles at Senior Civil Service (SCS) Pay Band 1 and below. For roles in SCS Pay Band 2 and above, Departments need the prior approval of the Commission to use an exception. However, SCS pay bands are very wide: for example, the top of SCS Pay Band 1 (deputy director) is well above the floor of SCS Pay Band 3 (director general). This allows Departments to make appointments which are designated as being SCS pay band 1, but which are paid at a rate that could be associated with an SCS Pay Band 2 or 3 appointment.

34. To address this anomaly, the Commission is proposing (*paragraph 59 of the draft Recruitment Principles*) that the delegation to Departments for the use of exceptions should be for posts below SCS Pay Band 2, where the salary is below the SCS Pay Band 2 minimum (currently £84,000).

### *Questions for consultation: exceptions*

35. We would welcome comment on the revised set of exceptions:

- **Are they clearly and unambiguously expressed?**
- **Are the circumstances they set out the right ones on which to make an exception to the statutory requirement?**

### **Civil Service Code**

36. The impartiality of the Civil Service, and its ability to support the Government of the day whatever its political hue, is one of the hallmarks of the UK's constitutional framework.

37. It has been a requirement of all civil servants' terms and conditions since 1995 that they must discharge their duties in accordance with the values outlined in the Civil Service Code: **honesty, integrity, impartiality and objectivity**. This requirement was given statutory force by the 2010 Act. Special advisers are also required to observe the Civil Service Code but, in recognition of their need to provide political support to their Ministers, the requirements of the Code for impartiality and objectivity do not apply to special advisers.

38. We are clear that previous political activity is not, in itself, a barrier to appointment to the Civil Service. What matters is whether the candidate would be able, if appointed, to work within the requirements of the Code. It is important that these are properly tested so that the public and, particularly, Ministers can have confidence that the Civil Service will always be able to serve the government of the day. There is an important role for the panel in testing this capacity as part of the selection process.

39. The revised *Recruitment Principles* therefore include a provision (paragraph 23) that the selection panel must satisfy itself that any candidate who has recently been involved in political activity will, if appointed, be able to comply with the Civil Service Code's requirements, specifically those that related to impartiality and objectivity. It

will be for each panel to assess what is the most appropriate and proportionate way of achieving this for each competition and candidate, but we will require records to be kept to demonstrate how this has been assessed.

*Questions for consultation: Civil Service Code*

40. We would welcome comment on the new provision on previous political activity:

- **Is it clearly expressed?**
- **Does it capture the right issues in the right way?**
- **Is it practicable and workable?**

**Head of Department appointments<sup>8</sup>**

41. The Government proposed in the Civil Service Reform Plan in 2012 that for Head of Department appointments Secretaries of State should be able to choose from a list of appointable candidates, as assessed by an independent panel. They argued that Secretaries of State need to be confident in the senior civil servant with whom they will effectively share leadership of the Department, and that, if the Secretary of State is to be held accountable for the Department's effectiveness, he or she must have the decisive say in selecting the civil servant who is appointed to head it.

42. In the progress report, "Civil Service Reform: One Year On" the Government repeated these arguments, but with the important new proposal that the Prime Minister, rather than the individual Secretary of State, should exercise the final choice.

43. The Commission accepts that Heads of Department are in a special relationship with their Secretary of State, different from that of any other civil servant. It is highly desirable, therefore, that the Secretary of State should be closely involved in the appointment process. However, that has to be within a framework which ensures that merit remains the basis for selection: this is not only because it is the legal requirement in the 2010 Act, but also because appointment on merit is fundamental to the impartial Civil Service which is a key pillar of the British system of government.

44. In our view – and that of our predecessor Commissions – merit is best assessed by a process which has independent oversight, is objective and evidence-based. The risk in the Government's proposal is that it could lead to a Secretary of State substituting his or her personal view of merit for the outcome of an

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<sup>8</sup> In this context, the term 'Head of Department' refers *both* to the most senior civil servant in a Department of State for which there is a Cabinet Minister in charge *and* to the most senior civil servant in the Scottish or Welsh Governments.

The term 'Secretary of State' refers (in the UK Government) to the Cabinet Minister in charge of the Department or (in the Scottish or Welsh Governments) to the relevant First Minister or the Cabinet Secretary (Scotland) or Cabinet Minister (Wales) to whom the First Minister has delegated responsibility for this matter.

References to the Prime Minister should, in the context of appointments in the Scottish or Welsh Government, be read as references to the relevant First Minister.

independent, objective assessment process. We doubt whether that is compatible with the legal requirement and it risks candidates being seen to be appointed on the basis of personal or political patronage.

45. We agree, however, that there should be special provisions in the Recruitment Principles to ensure that Ministers are fully involved in each stage of the selection process for Heads of Department, while always protecting the principle of appointment on merit. We are, therefore, putting forward for consultation two alternative propositions for inclusion in the text.

46. The first would put into the Recruitment Principles the new guidance which the Commission published a year ago in response to the Government's original proposition. This set out in detail how Ministers should be involved in the process for appointing Heads of Departments. It includes for the first time a provision enabling a panel to seek a Secretary of State's view on candidates of equal merit after final interviews and before it reached a final decision on the recommended candidate. This was designed to provide extra flexibility to involve a Secretary of State where there were two candidates of equivalent merit, between whom the panel was having difficulty making a choice.

47. We agreed with the Government that we would review that provision after a year. There have been only two Heads of Department competitions in the past year, in neither of which the new provision has been tested. Nevertheless, we think that it could be incorporated in the Recruitment Principles without further delay to provide some pragmatic flexibility at the end of the appointment process. Paragraphs 46 to 49 of the draft Recruitment Principles show how this could be done.

48. The second option is a variation on the first. It responds to some criticism that the new procedure introduced in 2012 increases the procedural complexity and leaves it unclear how much Ministerial influence can be exercised at the final stage. Some have argued to us that it enables Ministers to be offered, and exercise, de facto choice but behind the scenes.

49. In this second option, therefore, we are clear about the extent of Ministerial involvement. Where a panel assesses two or more candidates to be of equivalent merit (i.e. assessed by the panel as within the same marking band), it may put those candidates to the Prime Minister for decision. He should then make the final decision, which must still be made on merit, in consultation with the Secretary of State and Head of the Civil Service. In such cases the power for the Minister to ask the panel to reconsider is no longer needed and is therefore removed. Paragraphs 50 to 54 of the draft Recruitment Principles show how this second option would be incorporated in the text.

50. For the first time this provides an element of choice for the Prime Minister. But since this would only be possible where the Panel concluded that candidates were of equivalent merit, the principle of merit is protected. As an added protection, the First Commissioner, as Chair of the panel, retains the power to override the decision to put more than one candidate to the Prime Minister, in particular where he believes there is a danger of the merit or impartiality principles being put at risk.



51. Both versions of the text respond to the “Civil Service: One Year On” report by enabling the Prime Minister, rather than the Secretary of State, to be the key decision taker. The 2010 Act gives the Prime Minister the legal power to appoint or not appoint a recommended candidate.<sup>9</sup> It is a matter for the Government, not the Commission, to decide whether he exercises that power himself or delegates it to the Secretary of State. It is important, however, that this does not create a two-tier structure involving the Secretary of State and the Prime Minister in turn. Our proposition is that the panel should make its recommendations direct to the Prime Minister, who should consult the relevant Secretary of State as appropriate.

52. We would welcome comment on these proposals for Head of Department appointments (paragraphs 46 to 54):

- **What is the right approach?**
- **Are there alternatives that would meet the same objectives?**
- **Are the proposals, as described, clear and unambiguous?**
- **Do these contain the right balance of safeguards and flexibilities?**

### Miscellaneous minor clarifications and amendments

53. In addition to the issues raised already, there are some additional clarifications and amendments made in the revised *Recruitment Principles*:

- **Apprentices** Because Departments have sometimes been in doubt about this, the revised text makes clear that apprentices can be made permanent at the end of their apprenticeship, provided that they were originally recruited to their apprenticeship on merit following a fair and open competition. There is no need for Departments to go through another competition to ‘re-recruit’ their existing apprentices.
- **Accredited NDPBs** At the moment, Non-Departmental Public Bodies (NDPBs) can apply to the Commission for accreditation, to confirm that their recruitment policies are consistent with the *Recruitment Principles*. The revised text explains that, as part of this process, the Commission may audit accredited NDPBs’ recruitment policies and processes.
- **Complaints** The revised text clarifies the Commission’s power to hear complaints about Civil Service recruitment processes.
- **TUPE** The new *Recruitment Principles* clarify how Departments should deal with individuals who are covered by the Transfer of Undertaking (Protection of Employment) Regulations 2006 (‘TUPE’). Such individuals have an automatic right to transfer; their appointments should be recorded under new exception 9.

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<sup>9</sup> The Prime Minister has delegated this power to the First Ministers of Scotland and Wales, in respect of appointments to the Civil Service serving, respectively, the Scottish and Welsh Governments.

## HOW TO RESPOND

54. This is a public consultation. The Civil Service Commission would welcome views from all those with an interest in the regulation of Civil Service recruitment, both on the specific questions posed in this document and on other aspects of the draft *Recruitment Principles*.

55. Responses should be sent to:

[info@csc.gsi.gov.uk](mailto:info@csc.gsi.gov.uk)

or, by post to

Civil Service Commission  
G/8  
1 Horse Guards Road  
London  
SW1A 2HQ

to arrive **by 24 February 2013**.

We intend to publish all responses to this consultation. **If you do not want your response to be disclosed or attributed** please say so in your response.

**APPENDIX A**

**DRAFT NEW RECRUITMENT PRINCIPLES 2014**



# **RECRUITMENT PRINCIPLES 2014**

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## **INTRODUCTION**

1. Section 10 of the Constitutional Reform and Governance Act 2010<sup>10</sup> requires the selection of people for appointment as civil servants to be “on merit on the basis of fair and open competition”. Section 11 requires the independent Civil Service Commission to produce “Recruitment Principles”, explaining and interpreting the requirement.
2. This document contains the Commission’s Recruitment Principles, which:
  - explain the legal requirement for merit, fairness and openness;
  - set out the rules and procedures which Government Departments<sup>11</sup> must follow in selecting people for appointment; and
  - describe the circumstances in which the Commission may except appointments from the requirement for merit, fairness and openness.

## **THE LEGAL REQUIREMENT**

3. The legal requirement is for selection for appointment to the Civil Service to be made on **merit** on the basis of **fair** and **open** competition. All three elements have to be met for the appointment to be lawful.
4. **Merit** means the appointment of the best available person judged against the essential criteria for the role. No one should be appointed to a job unless they are competent to do it and the job must be offered to the person<sup>12</sup> who would do it best.
5. **Fair** means there must be no bias in the assessment of candidates. Selection processes must be objective, impartial and applied consistently.
6. **Open** means that job opportunities must be advertised publicly. Potential candidates must be given reasonable access to information about the job and its requirements, and about the selection process. In open competitions anyone who wishes must be allowed to apply.

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<sup>10</sup> Referred to as the 2010 Act in this document.

<sup>11</sup> References to ‘Departments’ throughout this document should be read as including Executive Agencies and all other organisations that employ civil servants and whose appointment practices are regulated by Chapter 1 of the 2010 Act. This includes the Scottish and Welsh Governments. References to ‘Ministers’ should be construed accordingly.

<sup>12</sup> Or, in the case of bulk recruitment or the appointment of job-sharing partners, ‘the people’ who would do it best.

## **MEETING THE LEGAL REQUIREMENT**

7. Departments are responsible for designing and delivering appointment processes which meet this requirement. There is no single “right” process for all appointments; processes can and should vary and be proportionate to the nature of the appointment. The process must enable a panel to decide the relative merit of candidates against the skills and experience required. The following are the essential steps that must be followed in all cases.

### **The panel**

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

9. The panel must be chaired either by a civil servant from the Department or, for the most senior competitions, by a Civil Service Commissioner (see paragraphs 29 to 35 below for when this is required).

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

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

12. The chair of the panel has the overall responsibility for ensuring that the selection process is compliant with the Recruitment Principles. Before a competition may proceed, the chair must therefore approve the essential criteria, job description, panel membership, process to be followed, timetable, remuneration and other terms, and the advertising strategy.

13. At the end of the process the chair must sign off a report which should briefly describe the assessment stages and on what evidence the assessment of merit was made, the order of merit and confirm that the appointment process was conducted in accordance with the Recruitment Principles. If at any point the chair believes the Recruitment Principles may be breached (s)he must pause the competition until this has been resolved.

## Information about the role and the appointment process

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

15. Departments must follow the published selection process for all candidates, except where they are making a reasonable adjustment for a disabled candidate or where a genuine difficulty arises.<sup>13</sup> Similar opportunities must be given to all candidates to inform themselves about the role (for example, if some short-listed candidates have the opportunity to meet key people in the Department, all short-listed candidates must be given the same opportunity).

16. The media chosen to publicise job opportunities and the time allowed for advertising must be suitable for attracting a sufficiently strong and diverse field of applicants, taking account of the nature of the role and the relevant job market. Departments may choose to extend deadlines or accept late applications provided that they do so for all applicants and make any change to the deadline clear in any published material. But Departments are under no obligation to extend deadlines or accept late applications.

17. It must be made clear that the competition is being conducted in line with the *Recruitment Principles* and is being regulated by the Commission. All potential applicants must be made aware of the arrangements for making a complaint (see paragraphs 64 to 68). The Commission's logo/kitemark must be displayed on any advertisement or information pack.

18. A Department must not make an appointment under materially changed terms and conditions<sup>14</sup> from those advertised. If a Department needs to consider paying more than 20% above the advertised salary, they must obtain the approval of the Commission before making such an offer so that the Commission can assess whether this materially changes the terms of the post, to the extent that, had it been advertised at the higher salary originally, a wider and more meritorious field of candidates might have applied.

## Assessing evidence

19. Selection processes must be objective, impartial and applied consistently. While this often involves an interview, it does not have to do so.

20. Each candidate must be assessed against the same essential criteria. The evidence collected to assess candidates must be broadly equivalent in substance

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<sup>13</sup> For example if a panel member becomes unwell, or a deadline needs to be extended to secure a stronger field of candidates or if the panel decides to undertake a fuller assessment of a strong field of candidates in order to establish the merit order.

<sup>14</sup> Terms and conditions, in this context, include the nature of the role and its duties.

and depth, accepting that there may be some differences in the type of evidence available for internal and external candidates.

21. Where candidates are asked to meet individuals other than panel members during the competition, it must be made clear to them whether this is purely for briefing purposes or whether it is part of the assessment.

22. Candidates must be assessed on merit, and they should not be treated more or less advantageously because of their previous or current activities, affiliations, or the employment of their friends, partner or family members.

23. All appointees to the Civil Service must comply with the Civil Service Code; the panel must therefore be satisfied that candidates' ability to do so has been properly tested as part of the selection process. Where a candidate has previously engaged in political activity, the panel must satisfy itself that the candidate will, if appointed, comply with the Civil Service Code requirement for impartiality and objectivity. It must record in the panel report that it has done so.

24. Panel members must ensure that they are aware of their obligations under the Data Protection Act 1998 in relation to personal information obtained during the assessment process.

### **Taking the decision**

25. Taking all the evidence into account, the panel must establish which candidates are appointable and place them in an order of merit. It will be rare for a candidate to meet all of the essential criteria exceptionally well; the most meritorious candidates will be the one who best meets the essential criteria.

26. Where the competition is for a single, or small number of posts, each candidate who is judged appointable must be ranked in a merit order. The candidate recommended for appointment must be the one placed first in order of merit by the selection panel. If the most meritorious candidate turns the job down, it may then be offered in merit order to any other appointable candidates.

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

### **Reserve lists**

28. Where a competition identifies more appointable candidates than there are available vacancies a reserve list may be created. This may be used for up to 12 months to fill the same role or other similar roles with the same essential criteria without further testing of merit. For competitions chaired by a Commissioner (see paragraphs 29 to 35 below), the Commission's approval is required to make appointments using the reserve list.



## **COMPETITIONS CHAIRED BY CIVIL SERVICE COMMISSIONERS**<sup>15</sup>

29. Civil Service Commissioners must chair all competitions for posts at Permanent Secretary and SCS Pay Band 3 (Director General) level. This requirement applies both to open (external) competitions and to internal/Civil Service-wide competitions.<sup>16</sup>

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

31. The Commission may also decide that a Commissioner should chair competitions for open (external) competitions at other levels, or for particular types of role, taking into account, among other factors, the results of any compliance monitoring audit and the assessed risk rating for a particular Department or area of work.

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

33. As chair, the Commissioner is a full member of the panel and will play a full part in the panel's deliberations. This includes approving all of the elements of the selection criteria and process (as required by paragraph 12 above) and producing a panel report (as required by paragraph 13).

34. Competitions chaired by Commissioners will be scored using the Commission's published marking frame.

35. The Commissioner's panel report authorising the appointment is required before any appointment can be made.

## **THE INVOLVEMENT OF MINISTERS**

36. Where a Minister has an interest in an appointment, the Minister must be consulted at the outset to agree the terms on which the post is to be advertised, the job and person specifications, and the essential criteria for selection, including the composition of the selection panel.

37. The Minister may require the Department to keep him or her in touch with the progress of the competition throughout, including being provided information about the expertise, experience and skills of the candidates. Any views the Minister may have about the balance of expertise, experience and skills required for the post must be conveyed to the selection panel.

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<sup>15</sup> References to Civil Service Commissioners include persons nominated by the Commission for the purpose of chairing a particular competition.

<sup>16</sup> under the Senior Appointments Protocol.

38. Ministers may not be members of a selection panel and they may not add or remove candidates from a competition.

39. The Minister may brief each of the shortlisted candidates and feed back to the panel his or her views on any issues he/she wants the panel to test at final interview. Briefings by Ministers must be attended by a representative of the Civil Service Commission.

40. Except in the appointments of Heads of Department (see paragraphs 41 to 55 below), if a Minister does not feel able to approve the selection panel's recommended candidate, (s)he may refer the decision back to the panel with the Minister's reasons. The panel must decide whether the Minister's reasons cause it to revise the order of merit. If the panel decides to revise its order of merit, it must refer the case with its reasons to the Board of the Commission for its approval before any appointment can be made.

### **Head of Department competitions<sup>17</sup>**

41. Special arrangements apply to the appointments of Heads of Departments reflecting the need for them to have close and effective working relationships with their Secretary of State and to fulfil effectively the role of Principal Accounting Officer.

42. Head of Department competitions are chaired by the First Civil Service Commissioner.<sup>18</sup> The First Commissioner will ensure the Secretary of State is involved; will offer to meet the Secretary of State at each key stage; and will be available at any point if the Secretary of State has concerns about the selection process or candidates.

43. The Secretary of State must:

- be consulted at the outset by the Head of the Civil Service on the nature of the job, the skills required, and the best way of attracting a strong field.
- agree the final job description and person specification, and the terms of the advertisement.

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<sup>17</sup> In this section of the *Recruitment Principles*, the term 'Head of Department' refers *both* to the most senior civil servant in a Department of State for which there is a Cabinet Minister in charge *and* to the most senior civil servant in the Scottish or Welsh Governments.

The term 'Secretary of State' refers (in the UK Government) to the Cabinet Minister in charge of the Department or (in the Scottish or Welsh Governments) to the relevant First Minister or the Cabinet Secretary (Scotland) or Cabinet Minister (Wales) to whom the First Minister has delegated responsibility for this matter.

References to the Prime Minister should, in the context of appointments in the Scottish or Welsh Government, be read as references to the relevant First Minister.

<sup>18</sup> References to the First Civil Service Commissioner include persons nominated by the Commission for the purpose of chairing a particular Head of Department competition.

- agree with the First Civil Service Commissioner the composition of the panel, in particular to ensure that there is sufficient external challenge from outside the Civil Service.

44. The Secretary of State may meet each of the short listed candidates, to discuss his or her priorities and the candidate's approach to the role; and feedback to the panel any strengths and weaknesses to probe at final interview. Briefings by the Secretary of State must be attended by a representative of the Civil Service Commission.

45. The Prime Minister must be kept informed of the progress of the selection process.

### **[OPTION ONE]**

46. The panel must assess the merits of the candidates using the best possible evidence and testing any issues raised by the Secretary of State. It must then recommend the best candidate for appointment to the Prime Minister.

47. Where the panel is uncertain about the merit order of the leading candidates, it may, before making its recommendation, seek further evidence about which of the candidates' skill sets most closely matches the needs of the department and the Civil Service. With the agreement of the First Civil Service Commissioner, this will include further consultation with the Secretary of State and the Head of the Civil Service and, exceptionally, meetings between them and the leading candidates.

48. The panel must then make its recommendation, taking account of all the available evidence, in a report from the First Commissioner to the Prime Minister. That report will record how the Secretary of State's views have been taken into account.

49. If the Prime Minister is not satisfied that the panel has recommended the best candidate, (s)he may ask the panel to reconsider, setting out the reasons. The panel may revise its merit order; the reasons for this must be recorded, and the panel must obtain the approval of the Board of the Civil Service Commission for the revision.

### **[OPTION TWO]**

50. The panel must assess the merit of the candidates, using the best possible evidence and testing any issues raised by the Secretary of State.

51. The panel must first decide whether one candidate is more meritorious than the others. Where that is the case, the panel must recommend that candidate to the Prime Minister for appointment.

52. With the agreement of the First Civil Service Commissioner, the panel may decide to put more than one appointable candidate to the Prime Minister for consideration, where it assesses those candidates to be of equivalent merit (i.e. marked in the same band under the Commission's published marking frame).

53. The Prime Minister must take his or her final decision in consultation with the relevant Secretary of State and the Head of the Civil Service, and is required by the 2010 Act to make the selection on merit.<sup>19</sup> Before doing so (s)he may meet the recommended candidates with the First Civil Service Commissioner, or his/her nominee, present.

54. Before the appointment is made the First Civil Service Commissioner must confirm that (s)he is satisfied that the process has been compliant with these Recruitment Principles at each stage.

## **SPECIAL ADVISERS**

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

## **EXCEPTIONS**

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

57. The permitted exceptions are described at Annex A.

58. Departments must be able to justify why, in any particular appointment, it has not been possible to select someone on merit through a fair and open competition. They will be required to report on their use of exceptions in the annual compliance statement (see paragraph 62) and their use of exceptions may be subject to audit.

### **Exceptions reserved to the Commission**

59. The Civil Service Commission's prior approval is required:

- for any appointment by exception at Senior Civil Service Pay Band 2 or above or on a salary above the SCS Pay Band 2 minimum;<sup>20</sup> or
- (*in the case of an appointment to an Extended Ministerial Office under Exception 4*) for the appointment as a civil servant of any individual who has, within the past five years, worked for the Minister (or a party colleague) or the Minister's political party.

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<sup>19</sup> In the case of competitions in the Scottish or Welsh Governments, the First Minister must take his or her decision in consultation with the Head of the Civil Service.

<sup>20</sup> £84,000 as at January 2013

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

## **COMPLIANCE**

61. Overall responsibility for complying with these Recruitment Principles, including the use of exceptions, rests with the Civil Service Head of each Department.

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

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

## **COMPLAINTS**

64. Any individual may complain to the Commission that the requirement for selection for appointment on merit on the basis of fair and open competition has not been met. Any individual may complain to the Commission that any other aspect of the Recruitment Principles has not been complied with.

65. The Commission can only accept complaints about:

- open (external) competitions (all grades)
- internal or Civil Service-wide competitions (SCS Pay Band 3 and above only).

It cannot accept complaints about Civil Service Wide/Internal Competitions to posts at or below SCS Pay Band 2 (Director).

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

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

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

### **MORE INFORMATION**

More information is available on the Commission's website:

[civilservicecommission.independent.gov.uk](http://civilservicecommission.independent.gov.uk)

You can email us:

[info@csc.gsi.gov.uk](mailto:info@csc.gsi.gov.uk)

You can telephone us:

020 7271 0831

You can write to us:

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London  
SW1A 2HQ

## **ANNEX A – EXCEPTIONS**

The law requires that selection for appointment to the Civil Service must be made on **merit** on the basis of **fair** and **open** competition. Exceptions may **only** be used where a fair and open competition based on merit would not be in the best interests of the Civil Service. Exceptions, by definition, are exceptional.

The Civil Service Commission's prior approval is required:

- for any appointment by exception at Senior Civil Service Pay Band 2 or above or on a salary above the SCS Pay Band 2 minimum,<sup>21</sup> or
- *(in the case of an appointment to an Extended Ministerial Office under Exception 4)* for the appointment as a civil servant of any individual who has, within the past five years, worked for the Minister (or a party colleague) or the Minister's political party.

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

### Exception 1      Temporary appointments

Where either the urgency of the need or the short duration of the role make a full competition impracticable or disproportionate, Departments may appoint an individual for up to a maximum of two years, to provide managers with the flexibility to meet the short-term and specialist needs of the Civil Service. Any proposal to extend an appointment made under this exception beyond two years requires the prior approval of the Civil Service Commission.

A long term role must not be filled using a series of temporary exceptions for the same individual (repeated exceptions) nor by a series of exceptions for different individuals (rolling exceptions). Lack of certainty about future funding, for example, is not in itself a reason to fill a role by exception rather than on merit on the basis of fair and open competition.

### Exception 2      Support for government employment programmes

Departments may appoint, for up to a maximum of two years, individuals who are either eligible for support under government programmes to assist the unemployed or who are in a government scheme to promote the employment of disabled people.<sup>22</sup> Departments may also offer sponsored internships for disabled people under this exception. Any proposal to extend an appointment made under this exception beyond two years requires the prior approval of the Civil Service Commission.

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<sup>21</sup> £84,000 as at January 2013

<sup>22</sup> Entitled "Work Choice" as at January 2013.

Exception 3            Secondments

Departments may make secondments of up to two years between the Civil Service and other employers. Any proposal for a longer secondment at the outset, or to extend the appointment beyond two years, or to appoint an individual on a second secondment within 12 months of an earlier secondment, requires the prior approval of the Commission.

Exception 4            Extended Ministerial Offices (EMOs)

This exception applies where:

- the Prime Minister<sup>23</sup> has agreed that a Minister may establish an EMO; and
- individuals are to be appointed to that office as civil servants from outside the Civil Service either without a fair and open competition or where a Minister is involved personally in the selection of those individuals.

It is the only exception which may be used for appointment to EMOs. An individual may be appointed as a civil servant in an EMO for a single non-renewable term of up to five years, if he or she:

- is appointed to a specific role or post within the EMO, the purpose of which is to provide support to a Minister; and
- brings particular experience, expertise or knowledge that is not currently available within the Civil Service; and
- can fully meet the requirements in the Civil Service Code, including specifically the requirements to carry out their duties with political impartiality and objectivity; and
- is appointed under the Department's normal pay arrangements for civil servants and is managed by another civil servant.

Anyone appointed under this exception may not transfer to another Civil Service role or post outside that EMO without first going through an externally advertised competition and being appointed on merit through a fair and open process.

Before the appointment is made, the Accounting Officer must be satisfied that it meets the requirements of this exception. He or she must also, as part of the annual compliance statement to the Commission, confirm that the role and the individual are still needed and the individual continues to operate in line with the Civil Service Code requirements regarding impartiality and objectivity.

Exception 5            Former civil servants

Former civil servants<sup>24</sup> who were previously appointed on merit through fair and open competition<sup>25</sup> may be re-appointed (to a permanent or fixed term appointment)

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<sup>23</sup> Or, as the case may be, the First Minister of Scotland or the First Minister of Wales.

<sup>24</sup> This includes former members of the Northern Ireland Civil Service.



within a maximum of five years of leaving the Civil Service, provided that they meet the essential selection criteria for the new post and that the new post is at their previous substantive Pay Band (or lower).

Exception 6                      Interchange with the Northern Ireland Civil Service

Appointments to the Northern Ireland Civil Service are regulated by the Northern Ireland Civil Service Commissioners. Northern Ireland civil servants who were originally appointed on merit through fair and open competition may freely transfer to posts in UK Government Departments.

Exception 7                      Transfers of staff from other public bodies

Staff may transfer from other public bodies (e.g. non-Departmental public bodies, the staff in the Houses of Parliament etc.) where the organisation is currently accredited by the Commission.<sup>26</sup>

Exception 8                      Transfers of organisations into the Civil Service – non-TUPE<sup>27</sup>

An organisation, including its staff, may transfer into the Civil Service to enable Departments to gain or retain the expertise of its staff under the Cabinet Office Statement of Practice.<sup>28</sup>

Exception 9                      Transfers of organisations into the Civil Service – TUPE

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

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

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<sup>25</sup> Including those converted to permanency (by exception) at AO or AA level – see exception 10.

<sup>26</sup> Accreditation is awarded by the Civil Service Commission to NDPBs and similar bodies whose recruitment policies comply with the Recruitment Principles. The Commission may audit the recruitment practices of accredited bodies and accreditation must be renewed every three years.

<sup>27</sup> For transfers to which the Transfer of Undertakings (Protection of Employment) Regulations apply, see exception 9.

<sup>28</sup> Cabinet Office Statement of Practice on Staff Transfers in the Public Sector 2000 (COSOP) at <http://www.civilservice.gov.uk/about/resources/employment-practice/codes-of-practice>

**Exception 10**      **Conversion to permanency – administrative & industrial grades**<sup>29</sup>

Where Departments have made appointments under exception 1 or 2 at administrative and industrial grades, they may make those individuals permanent after 12 months of the original appointment. Decisions on permanency must be on the basis of a fair and merit-based process, where the individuals compete with permanent staff within that Department at the same and more junior grades.

***Exceptional approvals***

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

***Exceptions after the appointment has been made***

The Commission may, in exceptional circumstances, approve an individual's appointment after it has been made, if the appointment would otherwise have been unlawful. Only the Commission has this power to approve such an appointment, irrespective of the grade level of the post. Any such approval would not rectify the Department's original breach of the Recruitment Principles for compliance or audit purposes.

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<sup>29</sup> Posts at 'Level 1' of the 2013 Civil Service Competency Framework, equivalent to grades AA & AO.

### Exceptions – quick summary of conditions

The law requires appointment to be on merit, following fair and open competition. Exceptions are, by definition, exceptional.

Exception		Max duration	Prior approval from the Civil Service Commission required?	Renewable?
New No.	Old No.			
<b>1</b>	<sup>1, 3</sup>	2 years	For posts at PB2, PB3 or Permanent Secretary <b>OR</b> where the salary exceeds the PB2 minimum	With Commission's approval
<b>2</b>	<sup>1, 8</sup>			
<b>3</b>	<sup>4</sup>			
<b>4</b>	<sup>9</sup>	5 years	For posts at PB2, PB3 or Permanent Secretary <b>OR</b> where the salary exceeds the PB2 minimum <b>OR</b> (at any grade) where the individual has worked for the Minister or their political party in the previous five years	No
<b>5</b>	<sup>5</sup>	Permanent	For posts at PB2, PB3 or Permanent Secretary <b>OR</b> where the salary exceeds the PB2 minimum	Not applicable
<b>6</b>	<sup>7</sup>			
<b>7</b>	<sup>7</sup>			
<b>8</b>	<sup>6</sup>			
<b>9</b>	<sup>6</sup>	Permanent	No	Not applicable
<b>10</b>	<sup>2</sup>			

**APPENDIX B**

**CURRENT RECRUITMENT PRINCIPLES (April 2012)**



# RECRUITMENT PRINCIPLES

1. Section 10 of the Constitutional Reform and Governance Act 2010 requires selection for appointment to the Civil Service to be on merit on the basis of fair and open competition (“the requirement”) and section 11 of that Act requires that the Civil Service Commission (“the Commission”) publishes Recruitment Principles to be applied for the purposes of the requirement. This document sets out those Recruitment Principles.

- **Merit** - means the appointment of the best available person: no one should be appointed to a job unless they are competent to do it and the job must be offered to the person who would do it best.
- **Fair** - means there is no bias in the assessment of candidates. Selection processes must be objective, impartial and applied consistently.
- **Open** - means that job opportunities must be advertised publicly and potential candidates given reasonable access to information about the job and its requirements, and about the selection process.

### **Role of the Commission**

2. The role of the Commission in recruitment is to maintain the requirement that appointments to the Civil Service are on merit on the basis of fair and open competition. Annex A provides more detail on how the Commission interprets the requirement.

3. The approval of the Commission is required for appointments to the posts listed at Annex B. The Commission will decide whether and how it will participate in the selection processes for such posts. Usually this will take the form of a Civil Service Commissioner overseeing the appointments process and chairing the selection panel.

4. The Commission excepts certain appointments from the requirement of appointment on merit on the basis of fair and open competition. These are described at Annex C.

### **Departments and agencies’ responsibilities**

5. Departments and agencies must comply with the requirement of appointment on merit on the basis of fair and open competition and these Recruitment Principles, including Annexes A, B and C. Overall responsibility for doing so rests with the Permanent Secretary or Chief Executive of each department or agency.

## **Ensuring compliance**

6. The Commission will undertake regular audits of the recruitment policies and practices of departments and agencies in order to ensure compliance with the requirement of appointment on merit on the basis of fair and open competition and these Recruitment Principles. Departments and agencies must therefore retain sufficient information on their recruitment (including on the use of exceptions under Annex C) to provide evidence that they have complied with the requirement and these Principles. This information must be kept for a minimum of two years. The Commission will report publicly on departmental and agency capability and compliance, including examples of poor and good performance, and best practice.

7. Any individual may complain to the Commission that the requirement of appointment on merit on the basis of fair and open competition and these Recruitment Principles have not been met. Complaints should first be raised with the recruiting department or agency, which is responsible for having effective complaints handling procedures. If, after investigation by the department or agency, the complainant remains dissatisfied they may bring their complaint to the Commission. Complaints should be lodged with the Commission within 12 months of the recruitment, but the Commission will consider complaints lodged out of time in exceptional circumstances. Recruiting departments and agencies are responsible for making all applicants aware of their right to complain and referring them to the Commission's complaints procedures.

## **Further Information**

8. Further information and contact details can be found on the Commission's website: <http://civilservicecommission.independent.gov.uk>

## Annex A

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

This Annex, which departments and agencies must follow, explains in more detail how the Commission interprets the requirement of appointment on merit on the basis of fair and open competition. The Commission does not seek to set out the recruitment policies and practices that departments and agencies must follow: when auditing, though, it will look to see if those policies and practices comply with the requirement and these Recruitment Principles.

**Merit - means the appointment of the best available person: no one should be appointed to a job unless they are competent to do it and the job must be offered to the person who would do it best.**

- If several candidates are competent, the job must be offered to the person who would do it best. It will be rare for a candidate to meet all of the selection criteria exceptionally well; the most meritorious candidate will be the one who is best at the job's critical elements.
- In competitions for a single job, the best candidate must be offered the job. If he or she turns it down, it can then be offered to the other appointable candidates in merit order.
- When a department or agency is running a campaign to recruit a large number of staff, it may be impractical to wait until the end of the competition and offer jobs in a strict merit order. Departments and agencies may offer jobs out of strict merit order, but in doing so must ensure that the individuals appointed are clearly towards the top of the likely merit list. Candidates who are likely to be further down the list or borderline will have to wait until the end of the process before an appointment can be confirmed. This is to ensure that the most meritorious candidates will be appointed by the end of the competition.

**Fair – means there is no bias in the assessment of candidates. Selection processes must be objective, impartial and applied consistently.**

- This does not necessarily mean treating everyone exactly the same; rather it is about applying the same general criteria of assessment to everyone while taking account of the different experience and expertise that candidates bring.
- For the avoidance of doubt, departments and agencies can accommodate the needs of disabled applicants by following the requirement to make reasonable adjustments; they may also use the Guaranteed Interview Scheme or the Two Ticks “positive about disability” scheme to encourage disabled applicants if they wish.

**Open - means that job opportunities must be advertised publicly and potential candidates given reasonable access to information about the job and its requirements, and about the selection process.**

- The media chosen to advertise job opportunities must be suitable for attracting a diverse field of strong potential candidates. Jobs can be advertised in newspapers or job centres, or on the Civil Service or on departmental and other internet sites.
- Advertisements can be job specific or for a number of jobs or for a rolling recruitment programme. Under such a programme, jobs may be advertised continuously and candidates assessed at intervals for particular vacancies.
- Alternatively, expressions of interest may be sought for future vacancies and used to form a competition between the candidates when the vacancy arises.

### **Decisions on appointments**

For the majority of posts, decisions on appointments will be taken by permanent civil servants.

However, Ministers may need to give final approval to the most senior appointments. Where a Minister has an interest in an appointment, it is important that they are consulted at the outset to agree the terms on which the post is to be advertised, the job and person specifications, and the criteria for selection, including the composition of the selection panel.

Departments and agencies should then ensure that the Minister is kept in touch with the progress of the competition throughout, including being provided information about the expertise, experience and skills of the candidates. Any further views the Minister may have about the balance of expertise, experience and skills required for the post should be conveyed to the selection panel. For the most senior posts the Minister may wish to brief the Civil Service Commissioner chairing the selection



panel, who may then invite the Minister to brief the selection panel and/or each of the shortlisted candidates.

The candidate recommended for appointment must be the one placed first in order of merit by the selection panel. Where a Minister does not feel able to approve the selection panel's recommended candidate, the matter must be referred back to the panel with the Minister's reasons. The panel must decide whether the Minister's observations cause it to revise the order of merit, and if it does so, it must refer the case with its reasons to the Commission for its approval.

### **Use of recruitment agencies and search consultants**

Where recruitment agencies and/or search consultants are used, the department or agency must satisfy itself that the final recommendations arise from a proper application of the requirement of appointment on merit on the basis of fair and open competition and these Recruitment Principles.

## POSTS REQUIRING THE COMMISSION'S APPROVAL

### ***Open Competitions*** (for which non civil servants may apply)

The approval of the Commission is required for appointments to the Civil Service, following an open (external) competition, to the following posts:

- Permanent Secretary
- SCS Pay Band 3
- SCS Pay Band 2

### ***Civil Service Wide/Internal Competitions*** (for which only civil servants may apply)

The approval of the Commission is also required<sup>30</sup> for appointments following an internal (existing civil servants only) competition, to the following posts.

- Permanent Secretary
- Pay Band 3.

(The approval of the Commission is not required for Pay Band 2 internal Competitions).

In addition the Commission may agree with a department or agency that its approval is needed for other specific appointments.

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<sup>30</sup> As set out in the "Senior Appointments Protocol" agreed between the Civil Service Senior Leadership Committee and the Commission and available at <http://civilservicecommission.independent.gov.uk>

## EXCEPTIONS TO SELECTION FOR APPOINTMENTS ON MERIT ON THE BASIS OF A FAIR AND OPEN COMPETITION

The Commission excepts certain appointments from the requirement of appointment on the basis of fair and open competition where it believes this is justified by the needs of the Civil Service or to enable the Civil Service to participate in a government employment initiative that major employers have been asked to participate in.

**Departments and Executive Agencies of departments may apply (at the point at which an appointment is made) the exceptions listed below for staff below SCS Pay Band 2.** The Commission's specific approval is however required for the use of these exceptions for appointments to the Civil Service at Permanent Secretary and SCS paybands 3 and 2.

The exceptions are:

- 1. Short term appointments up to maximum of two years** to provide managers with the flexibility to meet short-term needs, and to enable departments to appoint individuals who are eligible for support under government programmes to assist the unemployed. Any proposal to extend an appointment made under this exception beyond two years requires the approval of the Civil Service Commission.
- 2. Permanent appointments to administrative (i.e. old style AA and AO) and industrial grades** of individuals who have been appointed through exception 1 at or after 12 months of that appointment on the basis of a fair and objective process approved by the Commission and subject to its audit.
- 3. Appointments of individuals with highly specialised skills and experience for up to two years** to allow highly specialised people to be brought in without a competition for a particular one-off job on the basis that such a process would be a mere formality. Any proposal for a longer appointment at the outset or to extend an appointment made under this exception beyond two years requires the approval of the Civil Service Commission.
- 4. Secondments of up to two years** to facilitate interchange between the Civil Service and other employers. Any proposal for a longer secondment at the outset, or to extend the appointment beyond two years requires the approval of the Commission.
- 5. Re-appointment of former civil servants** to enable an individual who was previously a civil servant, within a maximum of the last five years, by virtue of an appointment on merit through fair and open competition or by a process approved by the Commission, and who meets the competences

required for the new post, to re-enter the Civil Service at their previous substantive (or a lower) payband.

**6. Transfer of an organisation into the Civil Service** to enable departments and agencies to gain or retain the expertise of its staff. (If the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) applies staff have an automatic right of transfer.)

**7. Transfers of individuals into the Civil Service** to enable departments and agencies to make use of their expertise. Transfers of staff from another Civil Service in the United Kingdom may take place freely provided they were appointed on merit through fair and open competition. Transfers of staff from other public bodies (e.g. non-departmental public bodies) need the approval of the Commission if the organisation is not currently accredited<sup>31</sup> by the Commission.

**8. The recruitment of disabled people** who are in a government scheme to promote the employment of disabled people (currently entitled “Work Choice”) or to sponsor internships for disabled people.

The Commission may also, in exceptional circumstances, agree with a department or agency to except certain other appointments from the requirement for selection on merit on the basis of fair and open competition, where it believes this is justified by the needs of the Civil Service.

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<sup>31</sup> Accreditation is awarded by the Civil Service Commission to NDPBs whose recruitment policies comply with the Recruitment Principles and accreditation must be renewed every three years.

How to contact the Civil Service Commission:

**Civil Service Commission**

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SW1A 2HQ

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