

SEPTEMBER 2017

DECISION NOTICE: PUBLIC BODY APPOINTMENT PROCESS, INDEPENDENT MEMBER OF A NHS WALES HEALTH BOARD

AUTHORITY

1. The Governance Code on Public Appointments dated December 2016 states that the Commissioner for Public Appointments should consider complaints made about a public appointments process.
2. Complaints should be raised with the appointing department in the first instance, which is responsible for having effective complaints handling procedures, for making applicants aware of their right to complain and for referring them to the Commissioner's complaints procedures. If, after investigation by the department, the complainant remains dissatisfied, they may bring their complaint to the Commissioner for Public Appointments.

METHODOLOGY

3. The Commissioner investigated the complaint through consideration of written and electronic evidence supplied by the complainant and the Welsh Government.

OUTLINE OF COMPLAINT

4. The complainant applied for appointment as an Independent Member of a NHS Wales Health Board. The complainant raised various issues about the recruitment process. His main concern was with regard to the basis on which he was sifted. He believes he was not treated fairly, as his application was sifted on the basis of a criterion (holding non-executive level experience) which was not in the advertised person specification.

CONSIDERATION

5. In the initial complaint the complainant highlighted that non-executive level (NED) experience was not listed as a requirement for the role in the person specification, however lack of this experience was given as one of the main reasons for not shortlisting him for interview.



6. Recruitment to public appointments should be open and transparent. Having looked at the person specification the Commissioner decided that, in this case, as the person specification was not explicit that NED experience was a requirement for the role, applicants should not have been sifted on this criterion.
7. The Commissioner confirmed that the process was fair in that all applicants were sifted and considered on the basis of holding or not holding NED level experience. However, the complaint had highlighted a **breach of the Governance Code** in relation to the requirement to consider applicants on the basis of the published selection criteria.
8. In the complainant's case however, the issue of NED experience was not a decisive factor as he was assessed as not fulfilling the selection criteria more generally.
9. The complainant also raised concerns regarding the experience of those invited to interview. The Commissioner advised that it is for the panel to decide on the merits of each candidate at the sift stage, and not something that he was able to comment on.
10. The complainant was concerned about the time it took the Welsh Government to respond to his complaint. The Welsh Government acknowledged it took longer than normal to address the complaint, and noted that they would be reviewing their internal process to ensure that candidates receive feedback in a timely manner and are notified of any delays.
11. The complainant asked the Commissioner why a blind sift did not take place. The Commissioner confirmed that there is no requirement under the Governance Code for a blind sift to take place.

DECISION

12. There **is a breach** of the Governance Code in relation to the requirement to consider applicants on the basis of the published selection criteria. However, this was not decisive in the complainant's case as he was assessed as not fulfilling the criteria more generally.

Peter Riddell

Commissioner for Public Appointments