

**JANUARY 2018**

## **DECISION NOTICE: PUBLIC BODY APPOINTMENT PROCESS, EQUALITIES AND HUMAN RIGHTS COMMISSION**

### **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, verbal and electronic evidence supplied by the complainant and the Department for Education.

### **OUTLINE OF COMPLAINT**

4. The complainant applied to the position of Commissioner with the Equalities and Human Rights Commission. The complainant declared autism, and requested a reasonable adjustment in order to submit the application.
5. The complainant's concern was that adequate provision was not offered by the Department to assist with the application

### **CONSIDERATION**

6. The complainant approached the Commissioner on the grounds that the campaign conducted by the Department for Education did not meet the principles of 'openness' and 'fairness' as defined in the Government's Governance Code 2016. The complainant asserts he was prevented from applying for the role due to his disability.
7. The complainant requested to dictate the application to a scribe, as he has issues with providing written or recorded evidence.
8. The Commissioner has seen evidence that DFE first agreed to an application made by way of scribe, if the arrangement was made by the complainant, something which the complainant was unable to do. This was followed by an



- offer to submit a recording of the application, again this did not suit the complainant for personal reasons particular to his disability.
9. The DFE then offered an appointment with a scribe. The complainant was unable to make the appointment.
  10. DFE maintains that reasonable steps were taken to accommodate the complainant's requests, however the complainant disagreed and made a formal complaint.
  11. The matter was then passed to the Government Equality Office (GEO), as sponsors of EHRC, who provided a written response to the complainant on 30 November 2017.
  12. In the first instance, the response letter from GEO supports the department's view that reasonable steps were taken to enable an application to be made. The response goes further to explain that advice was taken from the National Institute for Health and Care Excellence (NICE), the Office of Disabilities at the Department for Work and Pensions (ODI), and DWP Access to Work; and that it is unusual to provide a scribe in order for an application to be made.
  13. The complainant has since pointed out that a scribe was provided by at least one of the organisations to facilitate an application.

## **DECISION**

14. The Commissioner has noted that attempts were made to provide the complainant with several ways of applying for this vacancy. In forming a decision, the Commissioner's office sought advice from the Office of Disability who explained that there is considerable cost associated with providing a scribe, cost which departments often cannot meet. In this case, DFE took steps to provide the complainant with the opportunity to apply, with a scribe, however the complainant was not able to make this appointment. Whilst this is disappointing, particularly to the complainant, the opportunity was presented. In this respect, the Commissioner has not been able to uphold the complaint.
15. However, the Commissioner has concerns about comments made in the final response provided by GEO, and has sought to address those separately.
16. The complainant has asked for the opportunity to discuss his requirements with the Department for Education, to bring about better awareness of autism.

**Peter Riddell**

Commissioner for Public Appointments