

AUGUST 2018

DECISION NOTICE: PUBLIC BODY APPOINTMENT PROCESS, AUTHORITY MEMBERS TO THE S4C AUTHORITY

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 Department of Culture, Media and Sport (DCMS).

OUTLINE OF COMPLAINT

4. The complainant applied for an authority member position with S4C. The complaint raised with DCMS was that the criteria used at the sifting stage did not match the essential criteria listed in the candidate pack. Specifically, that they were not invited to interview because they lacked experience at board level, but that differed from the essential criteria in the candidate pack.

CONSIDERATION

5. The complainant applied for a position as a board member with S4C. The complainant was informed in writing that the application had not been successful, and requested feedback from DCMS. The response provided explained that the experience presented by the complainant was at an operational level, rather than at board level.

6. The complainant cited the wording in the candidate pack, which sought 'the ability to work at board level' rather than 'experience' of working at board level, and considers the assessment of the application was not consistent with criteria published in the candidate pack, nor with the Government's aspiration to attract candidates for public appointments from a wide and diverse field. The complainant considers this to be discriminatory to candidates from a 'non executive' background. The complaint was brought to the Commissioner on these grounds.
7. In forming a decision, the Commissioner reviewed all of the following relevant documentation:
 - Advert and Candidate pack
 - Comments on candidates by Ministers
 - Longlist note with details of those candidates sifted through to the next stage, with panel comments (if applicable)
 - Shortlist note with details of candidates invited to interview, including comments from panel
 - Submissions to ministers at all stages

DECISION

8. When considering complaints, the Commissioner is not supplied with individual applications in order to reassess applications, this is part of the decision making process and is the responsibility of the assessment panel. In this case, the Commissioner considered the panel membership appropriate for this appointment. DCMS had taken steps to ensure that the S4C and the Welsh Government were involved from the outset, to involve the contribution of key stakeholders.
9. At all stages, Ministers were provided with an update of the appointments process, by way of with clear submissions. Ministers commented on the strength of some candidates over others, this was in agreement with the assessment panel.
10. In reviewing this case, the Commissioner noted the list of essential criteria detailed in the job advert and candidate pack. Listed is 'The ability to work at board level and an understanding of the distinction between the role of the executive and the board overseeing it'.
11. The Commissioner has also noted that the essential criteria also included 'An understanding of the key challenges facing S4C public service broadcasting, digital media providers and the wider media and creative industries in Wales'.

12. The evidence shows that 31 applications for this role were received, the field was particularly strong, with a number of candidates able to provide evidence of experience and ability against all the published criteria, not just board level ability.
13. The evidence also demonstrates that the sifting process was conducted consistently and robustly against the published criteria. Those shortlisted were done so on merit.

Decision

14. In light of the evidence presented, the Commissioner has not upheld this complaint. The Commissioner has given due consideration to the complainant's concern that opportunity should be provided to those candidates who can demonstrate ability, especially when, as in this case, the vacancy has offered that opportunity. However the assessment of candidates is relative to the field a vacancy attracts. In this case, DCMS was presented with a strong field of candidates and made an assessment of the relative merits of the skills and ability demonstrated by each candidate against all the relevant criteria.
15. The Commissioner does ask that feedback given to candidates is considered carefully and welcomes any initiatives to develop board level skills through other means, such as shadowing and mentoring.

Peter Riddell

Commissioner for Public Appointments