



RECRUITMENT PROCEDURE

INTRODUCTION

Background

- 1.1 The recruitment process can be the first experience an individual has of the Comhairle. It is therefore important that the experience is as positive as possible so applicants are:
 - ◆ left with a positive image of the Comhairle, as they may be future customers or employees, and
 - ◆ given a clear understanding of the Comhairle, its aims and objectives.
- 1.2 The recruitment process must ensure that the quality of candidate desired is delivered. It must reduce the risk of bad selection, which can, in turn harm competitiveness and be expensive. The time taken to recruit staff is the time required to make any important investment decision. It is important that the recruitment process is given the priority it deserves.

Aims of Procedure

- 2.1 The aims of this procedure are to:
 - ◆ highlight the key points of best practice in recruitment
 - ◆ promote high standards
 - ◆ specify the corporate procedure to be adopted throughout the Comhairle

Scope of Procedure

- 3.1 This procedure covers all recruitment carried out by the Comhairle for vacancies occurring within the Comhairle. There are variations for two categories of users. These are appointments covered by Standing Orders and appointments covered by School Board Legislation.
- 3.2 Variations occur principally in two areas. These are where the vacancy has to be placed and the composition of the Shortlisting and Appointments Panel. However, the general principles specified in this procedure in relation to good personnel practice should be followed at all times.

Equal Opportunities

- 4.1 The Comhairle implements a policy of equal opportunity in relation to employment and to this end states that there will be no discrimination on grounds of race, colour, religion, sex, marital status or disability in any sphere of the Comhairle's employment.

- 4.2 The Comhairle will ensure that all panel members involved in all employment recruitment are trained to the appropriate standard and that the Comhairle holds evidence of competency of all recruiters.

- 4.3 The Comhairle aims to eliminate any bias from its recruitment and selection process and ensure that recruitment is based on evidence with no unverified assumptions. The process will be fair and free from bias, consistent and based on the ability of the applicant to perform to the predetermined standard.
- 4.4 The Comhairle aims to ensure that all recruiters are free from personal prejudice and are objective, adhering to professional standards.
- 4.5 The aim of equal opportunities is that the workforce of the Comhairle should represent the nature and variety of the local community, including women returning after a break, those with disabilities, young people starting out on careers, older workers with experience or workers from the ethnic minority communities.
- 4.6 All appointments must be made on the basis of merit.

Confidentiality

- 5.1 Candidates apply to the Comhairle in confidence and all persons involved in the recruitment process must respect the degree of confidentiality this process requires.

THE VACANCY

Release of Post

- 6.1 When a vacancy arises the Head of Service must consider:-
- (i) whether the vacant post is still required on the basis of straightforward replacement,
 - (ii) whether there has been a reduction in workload to the extent that the post can be deleted/hours reduced, and
 - (iii) whether the nature of the current workload suggest the requirement for an alternative to the vacant post.
- 6.2 Any variations to the established post must be detailed on the Release of Post Form. The Release of Post Form must include an accurate job description and person specification. How to prepare a job description is detailed on Page 6 and how to prepare a person specification is detailed on pages 7 - 9.
- 6.3 The release of post procedure cannot deal with any grading issues. A proposed change in grade must be dealt with under the relevant Job Evaluation process.
- 6.4 Forms for completion in relation to the release of post can be obtained from the Personnel and Training Section.
- 6.5 Completed Release of Post forms including job description and person specification must be returned to the Personnel and Training Section who will refer to the Chief Executive for a decision. The Chief Executive will not release a post if an appropriate and accurate job description and person specification has not been produced.

Key Contractual Terms

- 7.1 At the time when the vacancy has arisen any key contractual terms must be decided. This includes fixed term contract, standby payments, telephone allowances, eligibility to participate in the Assisted Car Purchase Scheme and such like.
- 7.2 However, as regards the Essential Car User Allowance, only posts which have registered an annual mileage in excess of 2500 miles will be considered as an Essential Car User. The analysis of a post's mileage history is available to Managers on request from the Payroll Manager. A post not fulfilling these requirements but where postholder is a car user, will be automatically released as an Authorised Casual Car User.
- 7.3 Application of a probationary period will be imposed on applicants only when the National Scheme of Conditions of Service permits it.

Establishing the Recruiting Panel

- 8.1 The recruiting panel should be established at the point where the Release of Post Form is finalised. The people involved in the development of the job

description and person specification should be the same people who take the final decision at the conclusion of the selection process.

8.2 The composition and make up of the selection panel is crucial.

- 8.3 The Recruiting Panel should consist of:
- (i) Chair. This person is responsible for the smooth running of the interview process. This includes the physical environment, arranging suitable date for interview, duration of interviews, the comfort levels and the administrative arrangements such as considering running selection tests, and collecting of references. The Chair will also deal with any inappropriate questions.
 - (ii) Recruiters. There should be at least one Recruiter.
 - (iii) Personnel Representative. A personnel representative may be present at interviews.
- 8.4 All panel members must be trained and have reached the **competency standard laid down**. There must be relevant work based experience within the panel and the panel must include the line manager.
- 8.5 There must never be less than 2 persons interviewing and no more than 4 panel members (exceptions are appointments in accordance with Standing Orders and School Board Legislation). Candidates may feel intimidated by large panels and lines of communication may well be affected. The Panel should have a diverse make-up as regards age and gender. A gender balance is desirable in all cases.
- 8.6 However, the size of the panel will be determined by the nature and grade of the post, although more than 4 recruiters for a general appointment (i.e. not an appointment under Standing Orders or School Board Legislation) is uneconomical and therefore disallowed.
- 8.7 Training for all panel members is mandatory, including panels constituted under School Board Legislation and Standing Orders.

Job Description and Person Specification

- 9.1 Details on how to prepare a job description are outlined on Page 6 and a person specification on Page 7.
- 9.2 The job description and person specification are key documents in recruitment and selection. The job description summarises the results of an analysis of the purpose, duties and responsibilities of a post. It must be clear, reasonably concise and a fair representation of the post. When updating and altering a job description, care must be taken as the salary grades may be affected.
- 9.3 The person specification is the profile of the ideal person for the post. The person specification lists knowledge, skills and abilities, and experience/qualification. It sets out the criteria on which selection will be based and made. The person specification;
- ◆ helps focus and structure thinking on the sort of person to fill a vacancy
 - ◆ sets targets and a framework for the whole interviewing process
 - ◆ provides a written record and a reference point for common agreement

- 9.4 The format of the person specification has a place for both the essential and desirable criteria. The requirements must be what is really necessary to do the job and not a reflection of traditional practices. The education and training aspects must not exceed the minimum standards and the criteria must be justified.

Career Grades

- 10.1 Career Grades provide alternative routes to promotion. The selection of candidates into career grade posts is covered by the Recruitment Procedure. However, Heads of Service who wish to consider establishing a career grade post must follow the 'Establishment of Post' Procedure - available from the Management Services Officer, Corporate Services Department **or** may in some cases make amendments through the Release of Post Procedure.

GUIDELINES FOR WRITING JOB DESCRIPTIONS

11.1 It is important that all relevant parts of the job description are completed.

Job Purpose

12.1 This part of the job description is a summary of what the job intends to achieve, the scope, the service provided and to whom. If the job has one main purpose this should be described in one or two sentences. Some jobs have two or three separate areas of work and it will be necessary to list them separately. If there are more than three main areas in consideration try to summarise them in this part of the form. Then make sure they are all reflected in the duties and responsibilities section of the job description.

12.2 It will probably be helpful in drafting this part to think about other related jobs and consider what distinguishes this job from those around it. If the main purpose is difficult to define try the duties and responsibilities part first and then come back to the job purpose.

Main Duties And Responsibilities

13.1 It is not necessary to list every job activity which might possibly occur in the job. It is important to identify the range of work involved and to ensure that no activity is omitted which would illustrate the full scope of the post.

13.2 To complete the duties and responsibilities part, think first about what the postholder will spend most time doing. Put that first and carry on in this way. It is helpful to list the duties in order of the most time consuming tasks first. However, if this approach is inappropriate for the particular job, start with the most important things. In other words, what must always be done if all else fails. If the job breaks down into different areas of work, then group the duties and responsibilities under separate headings.

13.3 It should not be necessary to provide detail of how the activities are undertaken. However, the duties should give concrete expression to:-

- the extent or limitation of the post's authority, of availability of, or access to, guidance and advice and should illustrate the effects of systems or other lines of authority; and
- the range of skills required within the job.

13.4 Try to avoid the use of jargon or words which an outsider would not understand. The use of standard professional or technical terms, however, is perfectly in order. Avoid words which are open to many different interpretations, such as "liaise".

13.5 The form is a guide to the length of the job description. If too much is written initially it should be summarised. Leave out anything which only happens once or twice a year unless it is a significant, or a long complicated task. As a general rule there should be no more than twenty items and many jobs can be summarised in less.

GUIDELINES FOR WRITING PERSON SPECIFICATION

14.1 The person specification lists the knowledge, skills and abilities, education/training and experience which are necessary to do a job effectively. To be included each criterion must be able to be justified in terms of the duties of the job. The person specification is the key tool in recruitment and selection. It forms the basis for the job advertisement. Parts of it are used as a basis for shortlisting and it is used to structure the interviews and then decide when to select and reject. If it is prepared and used properly it will improve the reliability and consistency of decisions and enable the panel to justify them if there is a complaint.

BASIC PRINCIPLES

Criteria Must Be Job Related

15.1 The person specification must be based on what is necessary for safe and effective performance of the job. Use the job description to judge exactly what knowledge, skills, abilities, education/training and experience are essential or desirable. Determine what the job-holder needs to know, or be able to do, to perform well in each of the main duties.

Essential Or Desirable

16.1 Within a job different duties carry greater or lesser importance. This is reflected in the person specification by using essential and desirable criteria. Essential criteria would be what an applicant **must have** on appointment. Education and experience are always in this category. Desirable criteria are necessary but could be learned or developed after appointment. For example, the ability to use a word processor and spreadsheet to a particular standard might be deemed essential. Ability to use specific software such as Word and Excel could be desirable. (This is only an example. There may be jobs where both skills were essential.)

16.2 This method of using essential and desirable criteria helps to shortlist when there are large numbers of applicants. A panel member shortlists first against essential criteria. If this still leaves too large a pool, a second sift can be done using desirable criteria. Only do this if too many applicants remain who all meet the essential criteria. Applicants who do not match the essential criteria cannot be shortlisted or appointed.

Criteria Should Be Reasonable

17.1 Make sure the criteria are set at the right level for the job. If a particular skill is asked for, it should fit the duties of the job.

Criteria Must Not Be Directly Or Indirectly Discriminatory

18.1 Indirect discrimination occurs if some groups are less able to meet a job requirement because of their race or sex, and the job requirement is not justifiable. For example, if it is insisted that applicants must have a record of continuous employment since leaving school, the process would exclude more women than men.

Criteria Must Be About Skills, Not Personality

- 19.1 Avoid using terms which describe personality rather than behaviour. Terms such as “flexible”, “motivated” and “ambitious” are open to different interpretations. It is better to use words that describe behaviour or actions, and to describe them as precisely as possible.

Criteria Must Be Able To Be Assessed

- 20.1 Only use criteria that can be assessed - this may be from the application form, interview or through a selection test. If a valid test cannot be thought of then assistance should be sought or omit the criteria.

THE STRUCTURE OF THE PERSON SPECIFICATION

- 21.1 The form divides into several sections. Every section does not need to be completed if it is not relevant to the job you are filling. An explanation of each section and how to use it follows:-

Knowledge

- 22.1 Use this section to ask for knowledge which is central to performing the job. Sometimes applicants may have gained such knowledge through a formal qualification or experience but this must not be assumed. Applicants may have knowledge they have never had to use in a job before, so it may not be obvious that they have it.

Skills and Abilities

- 23.1 This section will probably be the largest. It contains the skills and abilities needed to carry out the duties of the job. The criteria must be clear and unambiguous. Common examples of ambiguous criteria are literacy, numeracy, organisational skills. Requirements need to be clarified thus:-

Criteria	Clarification Required
Literacy	Define level required, e.g. in order to write standard letters, write detailed policy/committee reports.
Numeracy, familiar with maths	Define level required by duties, e.g. to calculate weekly time sheets or monitor a departmental budget.
Organisational skills	For what purpose and what level of responsibility.

- 23.2. Avoid repeating the statements of the job description with "ability to" in front. Simply quoting the job description will not specify the skills, abilities, etc. the person needs to do the job.

Education/Experience

- 24.1 Education includes vocational, professional or academic training leading to qualifications which are relevant to particular jobs. However, unless there is a legal requirement to have a particular qualification always substitute the qualification with experience. This is to make sure that applicants are not unfairly excluded who have relevant experience but no formal qualifications. Terms such as "relevant qualifications" should not be used. If job related qualifications are required the minimum requirements should normally be specified.

24.2 When asking for experience, be as precise as possible. State what experience, and at what level, is required, but be reasonable. Applicants may have gained relevant, transferable skills outside local government, through voluntary work, or at home. Avoid using years as a way to measure experience, e.g. 4 years experience of using personal computers. The **quality** of experience can be more accurately measured by testing the areas of experience the applicant would have been expected to have gained, e.g. experience of using personal computers involving:-

- inputting data
- using word processor/spread sheets
- merging information

Other Factors

25.1 In the majority of cases this section will not be relevant. It should only be used to highlight issues, such as a licence or HGV licence requirement, requirement to work unsocial hours. It may include the physical demands of the job such as lifting, working in confined spaces, climbing ladders. Great care needs to be taken to ensure that these factors are strictly necessary for the job and not unjustifiably restricting disabled people from applying.

25.2 When preparing the criteria for the Person Specification you must also identify how each criteria is to be assessed. Each criteria should be assessed using evidence gained from one or more of the following:-

- the application forms
- the interview, or
- a selection test

ADVERTISING AND ATTRACTING CANDIDATES

Advertisements

- 26.1 The cost of advertising is met from the General Recruitment Budget within the Personnel Cost Centre or from employing departments. The General Recruitment Budget will pay for first advertisements in one national publication and two local publications - The Stornoway Gazette and The West Highland Free Press. Posts will be published on the internal intranet.
- 26.2 Any readvertisements must be paid for by the employing department.
- 26.3 In respect of advertisements paid from the General Recruitment Budget the Personnel Section reserves the right to;
- ◆ limit the words published
 - ◆ amend the copy
 - ◆ choose the national publication which the Personnel Staff deem most appropriate and cost effective
- 26.4 For all recruitment advertising the Personnel Section reserves the right to amend any copy or refuse to place any copy which does not adhere to the corporate style. No recruitment Advertisements can be placed into a media publication without the authority of the Personnel Staff.
- 26.5 The corporate style for job advertisements includes the following features:-
- ◆ Logo/CNES
 - ◆ Job Title (Heading)
 - ◆ Salary (Heading)
 - ◆ Department (Text)
 - ◆ Indication of Hours (Text)
 - ◆ Location (Text)
 - ◆ Brief Description of Duties (Text)
 - ◆ Application Details (Text)
 - ◆ Closing Date
- 26.6 The Personnel Staff will write advertisements on request and will amend copy sent by employing departments to follow the corporate style and to ensure the advert is economical in terms of text.
- 26.7 The deadline for Personnel Staff receiving copy for advertisements is 11.00am on the Monday of the week of publication in the local papers. The first copy deadline for the press is 5.00pm on the Monday and advertisements must be composited before then.
- 26.8 Copy advertisements received after 11.00am on Monday cannot be guaranteed to be placed in that week. Advertisements will not be placed solely in the Stornoway Gazette, which has a later copy deadline, even if

employing departments have made prior arrangements with the Stornoway Gazette.

- 26.9 The Job Centre is automatically notified of vacancies in the Comhairle after 5.00pm on Monday on the week of publication.
- 26.10 Advertisements are also placed on the Comhairle's Internet Site.
- 26.11 For national media, the copy deadlines may be earlier than the local media but the target is to publish advertisements in all locations in the same week. This must be borne in mind when considering a fortnightly or monthly publication.
- 26.12 Advice on copy deadlines can be sought from Personnel Staff, who will check with the Advertising Agency under contract to the Comhairle.
- 26.13 All posts must be formally advertised - either internally or externally. Chief Officer posts must be advertised nationally and teaching posts advertised in accordance with School Board Legislation. The closing date in an advert is normally 2 weeks after publication.
- 26.14 Apart from compulsory redeployment circumstances, internal recruitment is discouraged on the basis of equal opportunities where the principle of equality of access to all posts for all who are interested is fundamental.

Application Forms and Related Forms

- 27.1 When a person makes contact with the Comhairle, a set of forms is sent out for completion. There is only one kind of application form to be completed but it is accompanied by an Equal Opportunities Monitoring Form. A job description and person specification is sent with all enquiries, with an Acknowledgement Slip, Reasons for Not Proceeding Form and Guidance Notes for completing an application form
- 27.2 In general, for mainland enquiries, an information pack is sent with the following enclosures:-
- ◆ Application Form
 - ◆ Equal Opportunities Monitoring Form
 - ◆ Job Description
 - ◆ Person Specification
 - ◆ Acknowledgement Slip
 - ◆ Guidance Notes For Making An Application For Employment
 - ◆ 'Reasons For Not Proceeding With Application' Form/Prepaid Envelope
 - ◆ Mission Statement
 - ◆ 'A Guide to Comhairle nan Eilean Siar'
 - ◆ Property Guide
 - ◆ 'Western Isles Fact File'
- 27.3 Further information about the job, department, location, etc. can be sent out at this stage if the information is supplied by the employing department.
- 27.3 Detailed below is a table indicating the forms sent out, who has access to them and at what stage completion is requested.

Form

Issued

Access

Application Form	To Enquirer	Personnel Staff Recruiting Panel	and
Equal Opportunities Monitoring Form	To Enquirer	Personnel Staff	
Criminal Convictions Declaration Form	To Shortlisted applicants or 'child access' designated posts	Personnel Staff Recruiting Panel	and
Medical Questionnaire	To Shortlisted applicants	Personnel Staff Medical Adviser	and
References	Referees	Personnel Staff Recruiting Panel	and

Use of External Consultants

- 28.1 In exceptional circumstances external consultants may be appointed to run a recruitment campaign to fill a specified vacancy. In these circumstances, external consultants are required to follow the recruitment procedure laid down by the Comhairle. Arrangements for the use of external consultants must be processed by Personnel Staff.

Unsolicited Applications

- 29.1 The Comhairle receives throughout its departments unsolicited applications in the form of letters and CVs. The standard practice is for these unsolicited applications to be forwarded to the Personnel Staff who will respond indicating whether or not a suitable vacancy exists at present and if not where Advertisements are published.

Named Person in Advert

- 30.1 It may be that in some instances a named person appears in an advertisement to answer any informal queries. In this case, the person must make sure he/she is available while the advertisement is running.
- 30.2 The named person in the advertisement must not, however, be a member of the recruiting panel. This is because, as the first point of contact, some subjective filtering of applicants may take place as the sex and accent of the enquirer will be disclosed.

Briefing Sessions

- 31.1 Depending on the level of the post it may be useful to hold briefing sessions for all candidates invited for interview (including internal applicants). No one involved in the selection decision itself should take part in the briefing sessions.
- 31.2 The purpose of the briefing session is to give all shortlisted candidates an opportunity to find out more about the Comhairle and the post he/she is applying for.
- 31.3 Any information revealed by candidates about themselves should not be relayed back to the selectors and used by them as part of the Selection process.
- 31.4 A briefing session is an opportunity to promote the Comhairle as an employer.

SHORTLISTING

Shortlisting Form

- 32.1 Shortlisting should be carried out by the panel members who will conduct the interview. The shortlisting criteria are based on the person specification. The criteria are listed as being Essential and/or Desirable.
- 32.2 The Essential criteria are assessed first and only if there are too many candidates satisfying the essential criteria (i.e. more than 5), should the desirable criteria be sought.
- 32.3 The criteria should be ranked as follows:-
- A Meets criteria
 - B Partially meets criteria
 - C Does not meet criteria
 - D Not tested
- Do not use numerical scores at this stage as it does not provide an objective analysis for feedback for unsuccessful candidates.
- 32.4 The Shortlisting Panel will be provided with one form from the Personnel Staff which matches the Person Specification. This form should be completed by the Chair of the Interviewing Panel and returned to the Personnel Staff within 2 weeks of the stated closing date.
- 32.5 The Personnel Section reserves the right to refuse to process any shortlists where the shortlisting does not follow a fair and equitable process.
- 32.6 Applicants have statutory rights in accordance with the relevant legislation to be treated fairly. The recruitment procedure takes into consideration all relevant legislation and the Comhairle's Equal Opportunities Policy.
- 32.7 Common problems experienced at this stage include:
- ◆ no suitable candidate,
 - ◆ only one applicant, and
 - ◆ high volume of response
- 32.8 Advice is available from the Personnel Staff.

Unacceptable/Acceptable Reasons for Shortlisting

- 33.1 Unacceptable Reasons for Rejection at Shortlisting are:
- ◆ Age, Comhairle accepts applicants between the ages of 16 to 64
 - ◆ Gender, unless a Genuine Occupational Qualification is declared
 - ◆ Marital Status, this is irrelevant to the process
 - ◆ Ethnic or national origin, this is irrelevant to the process
 - ◆ Religion, this is irrelevant to the process

- ◆ Disability, any applicant meeting the minimum requirements of the Person Specification will be given an interview. It is unacceptable to discriminate against the disabled
- ◆ Union Membership
- ◆ Personal Information
- ◆ Criminal Conviction, unless it is relevant to the post applied for
- ◆ Health

33.2 Acceptable Reasons for Rejection at Shortlisting Stage are:

- ◆ Not meeting Person Specification
- ◆ Over 65
- ◆ Previously dismissed by the Comhairle
- ◆ Late Application
- ◆ Criminal Conviction (if relevant for the post applied for)

Administrative Arrangements

34.1 For administrative purposes at least 2 weeks notice must be given to Personnel Staff in order to process a shortlist for interview. This is important especially for mainland applicants as the Comhairle has to bear the burden of increased travel costs due to no travel concessions being available under 2 weeks. Also requests for references at short notice create a bad impression of the Comhairle to outside bodies.

34.2 When shortlisting employing departments must remember that the general interview expense budget will only fund 4 candidates. Additional costs must be borne by the employing department.

34.3 The Personnel Staff reserve the right to refuse to process any shortlists if less than 2 weeks notice is given. For School Board Appointments and Appointments under Standing Orders, if arrangements are made with less than 2 weeks notice, the employing department may be charged the increased costs of interview expenses.

34.4 For a post placed locally in the Stornoway Gazette and West Highland Free Press, it is anticipated that recruitment will take place within that area. Therefore no interview expenses or relocation costs will be paid to a candidate applying from outwith the geographical area of the Comhairle. This is due to economic constraints, although the Comhairle welcomes applications from outwith the area for any post. These applications will be treated without bias, irrespective of the financial bar. However, should a mainland applicant be invited for interview, the non-payment of expenses will be made clear in the letter inviting the candidate for interview.

Selection Testing

35.1 The traditional method of selecting candidates by an unstructured interview is one of the least reliable. Structured interviews as outlined by this procedure are much more reliable but a combination of methods is the most reliable way of testing candidates' abilities and helping the panel to select the best person for the job. When properly used, objective tests and work

samples are accurate predictors of job success. The person specification will help decide the methods that are to be used to select candidates.

- 35.2 The Chair of the Recruiting Panel may choose to use a selection test but all tests must be agreed and validated by a qualified tester. Personnel staff will advise.

Using Tests

- 36.1 Tests and job related exercises are an important way of testing applicants' ability. There is a need to plan and score them carefully to ensure they test what is intended. The panel must be careful not to introduce culture or gender bias, or to disadvantage disabled applicants.

Types of Test

- 37.1 Two types of tests are used for selection purposes. These are simulations, or job related tests, and psychometric tests.
- 37.2 In a simulation a task is set which mirrors one in the real job. It might be a test of typing, shorthand or calculations, and the content would be similar to the content of the job. A written report, presentation or case study analysis are other examples of this kind of test. In these examples, too, the content would be matched.
- 37.3 Psychometric tests test abilities such as numeracy, verbal reasoning, clerical skills, or aptitudes and attitudes. These tests have some advantages over tests designed in-house. Experts write them, and then test them for reliability and validity. They test skills, so do not depend on any knowledge of the job. They have rules about their administration, so comparisons of results of applicants who sit the test on different days can be made. Trained and qualified testers must run and score these tests.

How to Plan a Test

- 38.1 Be clear which criteria are to be assessed through the tests. Then make sure it is these which are measured. For example, if it is intended to use a presentation to assess presentation skills, then do not take account of the content. If it is used to assess knowledge, ignore the presentation. Give applicants time to familiarise themselves with tools or equipment. Ensure the test does not need knowledge of the Comhairle's procedures. Take care the test does not need writing skills far beyond those needed for the job.
- 38.2 Agree in advance how the test will be assessed, and how the scores will tie into the overall applicant assessment. Think about whether the test needs revision or adaptation for disabled applicants.

Giving the Test

- 39.1 Applicants will be informed in advance that they will have to take a test, and what form it will take. Depending on the type of test an example of the test may need to be sent to applicants.
- 39.2 Ensure the conditions, content and time are standardised for the test and the instructions are clear. Allow for nerves, especially for people who are unused to tests. It is important that bias is not introduced. For example, giving a test at short notice, i.e. at the informal stage, can seriously disadvantage an applicant who has travelled some distance to be interviewed. The Panel should also be sensitive to the burden that they may be placing on candidates by asking them to prepare written papers or presentations for their interview. A test which requires a high level of

communication skills should not be set when this is not a requirement for the job.

Gaelic

- 40.1 The Gaelic Policy states that the Recruitment Process must have regard to the capacity of the service to be delivered in Gaelic.
- 40.2 The requirement to speak Gaelic should be assessed as a genuine need for the post if it is advertised on that basis. However, as part of the Gaelic Policy, the Comhairle will endeavour to raise the awareness and standard of Gaelic in the workplace.
- 40.3 To overcome any perceived bias, all successful candidates will be encouraged to improve their knowledge of Gaelic through a variety of techniques, e.g. tutoring, CD-ROM programme, etc.

INTERVIEW AND SELECTION PROCESS

Interviewing Skills

- 41.1 Although they remain the most commonly used selection technique, interviews have a very poor predictive ability if conducted by untrained individuals in an unstructured way. To have any value they should:
- ◆ always be conducted by trained individuals;
 - ◆ be structured to follow a previously agreed set of questions mirroring the person specification and job description, and follow-up questions asked when necessary;
 - ◆ allow the candidates the opportunity to ask questions
- 41.2 The Chair of the Recruiting Panel should ensure all questions asked are free from bias. Questions should generally be open questions with closed questioning used to agree matters of fact. Questions should be asked consistently.
- 41.3 The Chair of the Interviewing Panel will decide on the length of the interview and the location of the interview room. He/she will determine the interview plan, i.e. the individual areas for questioning, the sequence and structure of the questions, the assessment and the decision making arrangements.

Scoring System

- 42.1 All recruiters are provided with a recruitment pack which will include copy application forms, job description, person specification and score sheet. Score sheets are to be completed individually although some scores can be agreed collectively such as qualifications.
- 42.2 The Recruiting Panel also have to agree whether or not to use a weighting system. Weightings are agreed to the characteristics as follows:-
- x 1 - basic score, with no premium
 - x 1.5 - more important than basic requirement but moderate premium
 - x 2 - highest rated premium weighting for most important characteristics
- 42.3 Recruiters should vote according to the score recorded by each individual. However, the appointment may be reached through consensus but any variation in recommendation for appointment from the recruiters' score must be detailed on the reverse side of the score sheets. Any supplementary sheets completed during the interview should be forwarded to the Personnel Section.
- 42.4 All score sheets are kept by the Personnel Staff for 6 months, which is the maximum period in which a claim can be lodged against the Comhairle.

Use of References

- 43.1 For all reference requests, a job description and person specification is sent to the referee. References can either be of a work-based nature or a

personal nature. Applicants are advised of the procedure for sending for references on the application form.

- 43.2 When the references are received, they are held in the first instance with the Personnel Staff. The Chair of the Interviewing Panel should make arrangements to collect the references prior to the interview.
- 43.3 References should not be regarded as automatically enjoying confidential status. References received by the Comhairle are not exempt from the subject access provisions of the Data Protection Act 1998. References issued by the Comhairle are exempt from the Subject Access Provisions of the Data Protection Act. However, this exemption does not apply once the reference is in the hands of the person or organisation to whom the reference has been given.
- 43.4 References should only be considered after the interviews have taken place. They should be used only to confirm what applicants have said and not as part of the selection. This is because the quality and reliability of references is variable.
- 43.5 If there are contra indicators in a reference, a number of courses of action is available:-
- ◆ contact the referee for clarification at an early stage, making notes of any contact
 - ◆ ignore the comments and discount the referee
 - ◆ rely on selection procedure assessments
- 43.6 If an appointment is not to be confirmed due to unsatisfactory references, the Panel must ensure that the decision is fair and reasonable and based on justifiable grounds.
- 43.7 Written references are preferable to verbal references. If a verbal reference is submitted for consideration, written confirmation must be sought.
- 43.8 An appointment should not be made unless 2 references have been considered and accepted by the Recruiting Panel.
- 43.9 The reference requests have been designed so that former employers are not asked to supply subjective opinion as to an applicant's likely future performance. Such data is unreliable and can be misleading.

Selection

- 44.1 When the selection is made, it is the responsibility of the Chair of the Interviewing Panel to:
- ◆ inform both successful and unsuccessful candidates verbally
 - ◆ return the appropriate paperwork i.e.
 - completed returns sheet
 - interview packs
 - references

to the Personnel Staff as soon as the applicants have been notified

- ◆ ensure expense claim forms are distributed, as appropriate

44.2 The Personnel Staff will issue a Contract of Employment to the successful applicant and letter confirming an unsuccessful interview to the remaining interviewees.

Feedback

45.1 An unsuccessful candidate may wish to be appraised of the reason(s) for not being offered the post applied for. This may be because he/she;

- ◆ may feel unfairly treated
- ◆ may feel the interview went well for them and do not understand why he/she was not appointed
- ◆ may wish to know how to improve his/her performance

45.2 The Chair must co-ordinate feedback at all stages from shortlisting to interview. A copy of the feedback provided by either the Chair or Personnel Staff from the information provided, should be lodged on the Personnel recruitment file. A note of any verbal feedback given should also be placed on the Personnel recruitment file.

45.3 Feedback to candidates should always relate to the person specification requirements and indicate if the candidate presented his/her traits to match the specified criteria.

Police Screening

46.1 For posts designated under the Child Access legislation, Disclosure Scotland checks will be carried out by the Personnel Staff.

46.2 The results of a Disclosure Scotland check will be notified to the Chair of the Interviewing Panel, as in these circumstances, confirmation of appointment is on the basis of a satisfactory check.

Medical Screening

47.1 A question regarding health is on both the application form and contained within the work based reference request letter.

47.2 However, confirmation of all appointments is on the basis of satisfactory completion of a medical questionnaire, which is routinely monitored by the Comhairle's.

47.3 Successful candidates may or may not have to attend for a medical examination. This is at the discretion of the Comhairle's Occupational Health Nurse.

Complaints Procedure

48.1 An applicant can exercise his/her right to complain about the recruitment process by writing to the Personnel and Training Manager. Each complaint

will be investigated and a written reply issued to the complainant as soon as possible.

- 48.2 If the complaint involved a member of the Personnel Staff, the Director of Corporate Services will investigate.
- 48.3 This procedure is in addition to the right of any user of the Comhairle's services under the Comhairle's Complaints Procedure.

MONITORING ARRANGEMENTS

Monitoring Reports

- 49.1 The recruitment process contains a number of stages which require to be monitored. Monitoring the recruitment procedure will be the responsibility of the Personnel Staff.
- 49.2 The following aspects require monitoring;
- ◆ Equal Opportunities
 - ◆ Media Analysis, in relation to usage and cost
 - ◆ Cost per Department of each recruitment exercise
- 49.3 In relation to equal opportunities, the monitoring form completed by all applicants will be filed in a separate system from the main application form.
- 49.4 Applicants are asked on the monitoring report to indicate to which recruitment source they responded. This information will be collated so that the Personnel Staff will have access immediately to information for responses to Advertisements. Given that this information will be available, Personnel Staff will refuse to fund an advertisement in a national newspaper for which past evidence indicated a poor response rate.

Use of Advertising Agency

- 50.1 An Advertising Agency is used, under Contract to the Comhairle, to place advertisements nationally. It is the responsibility of Personnel Staff to ensure that the contract is put out to tender each 3 years or the agency is asked to submit evidence each 3 years that they are still providing Best Value.

Authority to Intervene

- 51.1 All recruitment carried out by the Comhairle to recruit employees of the Comhairle must follow the recruitment procedure. This includes appointments made under Standing Orders and School Board Legislation, with the only exemption being the composition of the Appointments Panel.
- 51.2 If a recruitment operation is not carried out in accordance with the Recruitment Procedure, the Personnel Staff will:
- 1) refuse to process inappropriate paperwork, and
 - 2) report persistent breaches of the Recruitment Procedure in a monitoring report to Human Resources Sub Committee
- 51.3 The aim of the Recruitment Procedure is to provide a Code of Best Practice in the field of Recruitment. To ensure that it is kept up to date, the procedure will be kept under constant review, with an annual comprehensive check. Any necessary amendments will be reported to Human Resources Sub Committee through the monitoring report.

COMPLETION OF RECRUITMENT PROCESS

Need for FIN Forms

- 52.1 Once a candidate has accepted the offer of employment with the Comhairle, a number of steps must be taken to ensure that the new employee enters onto the Comhairle's internal systems. The first step is the completion of the appropriate FIN form.
- 52.2 Choice of FIN forms is detailed below.

Form	Purpose
FIN 1	For all new starts who are not existing Comhairle employees and the offer of employment is not of a casual nature.
FIN 3	For a change in contracted terms of an existing member of staff.
FIN 4	For a casual worker. A casual worker is one who is employed on an 'as and when needed basis' at the discretion of the authorised manager, with no guarantee of future work or specific hours, and who can legitimately refuse offers of work. The number of hours worked, and over what period, is not relevant.

- 52.3 Further advice is available on the actual completion of the forms. Please contact Personnel Staff or Payroll Staff for a leaflet.

Identification Card

- 53.1 An identification card is provided to most new employees of the Comhairle. The identification card comprises a photograph of the employee with name and post details. On the back of the card is a magnetic strip which is used to encode information for access security. For office based workers, a code is punched through the card for use in the machines which run the flexible working system. Arrangements must be made with the Personnel Staff for an identification card to be produced.

Induction

- 54.1 Well planned induction enables new employees to become fully operational quickly. Induction should include:
- ◆ completion of employment documentation
 - ◆ specification and discussion of any training
 - ◆ explanation of the domestic arrangements of the workplace
 - ◆ making arrangements for identification cards, and access security as appropriate
 - ◆ explanation of the department's people-management practices
 - ◆ assistance to adapt to the job and gain an understanding of reporting relationships
- 54.2 The responsibility for ensuring that an induction programme is carried out in the workplace on the first day at work of a new start is that of the Line

Manager. The Workplace Induction Booklet is issued with the Contract of Employment.

RECRUITMENT OF TEMPORARY/CASUAL WORKERS

Definition of Temporary/Casual

55.1 The category into which an employee is placed is dependent on the nature of the contractual relationship. The three basic categories are:

- ◆ permanent
- ◆ temporary
- ◆ casual

55.2 The difference between permanent and temporary is the length of time for which the contract is based. However, casual staff can be defined as 'one who is employed on an as and when needed basis, at the discretion of the authorised manager, with no guarantee of future work or specific hours, and who can legitimately refuse offers of work'.

55.3 The definition of which category an employee fits into is very important as it affects such employment conditions as entry into the Superannuation Scheme and employment protection rights. Basically, if an employee is not formally ceased by the Comhairle but remains on 'standby', he/she will accumulate employment protection rights.

55.4 Once it is established that the need for an employee is of a temporary/casual nature, an application for release of post must be made. The Chief Executive may only release a temporary post under delegated powers for the following reasons:-

- ◆ appointment of a temporary employee for a period not exceeding 3 months in the case of temporary absences from work of a permanent employee
- ◆ to appoint a temporary employee for a period not exceeding 40 weeks in the case of an absence from work of a permanent employee taking maternity leave
- ◆ to appoint a temporary employee for a period not exceeding 3 months to meet the increased requirements of seasonal or other cyclical workloads
- ◆ to appoint an employee for a period not exceeding 3 months in the case of a vacancy arising within a department's establishment

55.5 Departments can only proceed to obtaining a 'Temp' once the appropriate consent has been obtained. The exemptions where a Release of Post form has not to be completed are casual/relief for:-

- ◆ Cleaners
- ◆ Leisure Attendants
- ◆ DSO Operatives
- ◆ Staff in Residential Homes
- ◆ Home Helps
- ◆ Teachers (supply)
- ◆ School Auxiliaries

- 55.6 However, the length of the contract must stay within the boundaries specified by delegated powers and the Recruitment Procedure must be adhered to during selection.
- 55.7 Where any requirement for temporary/casual staff which falls outwith the delegated powers, consent must be obtained from either Personnel Sub Committee or Education Sub Committee.

Use of Temporary/Casual Relief Pool

- 56.1 The Comhairle holds a number of files for relief staff, i.e. Relief Clerical/Secretarial, Relief DSO, Relief Social Work staff, Supply Teachers. In order to ensure equal opportunities in employment the existence of these relief pools must be published along with the facility for members of the public to apply for acceptance onto relief lists.
- 56.2 Applications for all relief work will be put out to general advert on a regular basis. The lists must be advertised at least once each 3 years. The Equal Opportunities Monitoring form will be held separately from the general application.
- 56.3 Interviewing for relief staff will follow the same procedures as for other workers.

Teachers

57.1 Supply Teachers

Supply Teachers are those whose details are kept by the Comhairle and who make themselves available to work as and when they are offered work by the authority. They have no obligation to accept the work and have no contractual entitlements other than pay. Supply teachers normally work in single days or less, blocks of days for a maximum of 4 weeks' continuous work.

57.2 Temporary Teachers

Temporary Teachers are those employed in longer term temporary positions, such as cover for maternity leave or long-term sickness absence, Head Teacher Relief or those employed for a specific task such as posts funded through the Early Intervention provisions. They are entitled to the terms and conditions contained in the Yellow Book (Teachers Scheme of Conditions of Service) for temporary staff.

57.3 Permanent Teachers

Permanent Teachers are those employed on permanent contracts, with full entitlement to contractual benefits.

CHECKING ARRANGEMENTS

Criminal Convictions

- 58.1 On the main application form applicants are asked to declare whether or not they have any criminal convictions. This information is not subject to further checking except in the circumstances where the post has access to children and/or vulnerable adults. Disclosure requirements are detailed at the Release of Post stage – either basic, standard or enhanced disclosure.
- 58.2 For posts with access to children and/or vulnerable adults, applicants are asked to complete, at the Offer of Appointment stage, a Disclosure Form. Any relevant information will be made available to the proposed Line Manager.
- 58.3 The Disclosure Application of the successful applicant is sent to Disclosure Scotland Office by the Personnel Staff. Confirmation of offer of appointment for access to children and/or vulnerable adults is subject to the Disclosure Certificate.
- 58.4 Certificates received from Disclosure Scotland are held by the Personnel Staff and entered into a Register. The Register and Certificates are subject to inspection by Disclosure Scotland and the Comhairle may be fined if, upon inspection, the guidelines are not adhered to.

Medical Screening

- 59.1 A question on health is asked on the main application form. In addition, specific questions on the applicant's actual sickness record are asked in the character reference letter.
- 59.2 In addition, all shortlisted applicants will be asked to complete a medical questionnaire. The Comhairle's *Occupational Health Nurse* will screen forms which indicate any health issues and there will also be random checking of applicants who complete the form.
- 59.3 The offer of employment is based on appropriate levels of fitness for the post in question.

Validation of Qualifications

- 60.1 Applicants will be asked at interview stage to bring evidence of any qualifications detailed on the application form to the interview. The Chair of the Interviewing Panel should check the qualifications and arrange for a photocopy of the qualifications of the successful candidate to be forwarded to the Personnel Staff.

Validation of Authority to Work in the UK

- 61.1 Applicants will be asked at interview to bring along a document which will display their National Insurance Number. The documents asked for are a P45, Payslip, National Insurance Card, Passport or Birth Certificate. The relevant document should be checked by the Chair of the Interviewing Panel.

Gaelic Policy

- 62.1 The policy of the Comhairle is to improve the level of Gaelic of all its employees. A training programme is currently being devised to target as many employees as possible. Training needs as relates to Gaelic should be discussed at Induction, with the appropriate expenditure allocated from departmental training budgets.

Hours of Work

- 63.1 The Conditions of Service determine that employees must not be offered work in excess of 37 hours per week. Applicants already provide details on their application forms regarding Comhairle jobs they hold, but the Shortleeting Panel should note this so they do not appoint over the limit.

Age of Applicant

- 64.1 At the present time it is the Policy of the Comhairle not to recruit applicants over the age of 65. If the Panel feels this Policy may be breached contact must be made with the Personnel Staff who will advise on this matter.

LEGISLATION AND CODES OF PRACTICE

Race Equality

- 65.1 Discrimination on racial grounds is made unlawful by the Race Relations Act 1976. Its provisions are similar to those relating to Sex Discrimination in the Sex Discrimination Act 1975.
- 65.2 Discrimination may take place in any one of three ways: direct discrimination, indirect discrimination and discrimination by way of victimisation.
- 65.3 'Racial Grounds' are defined in Race Relations Act, section 3 (1) as any of the following grounds: colour, race, nationality or ethnic or national origins.
- 65.4 Discrimination is on racial grounds if the substantial or effective, though not necessarily the sole or intended, reason for the discriminatory treatment was the person's race, colour or ethnic origin.
- 65.5 Ethnic origins means a group which is a segment of the population distinguished from others by a sufficient combination of shared customs, beliefs, traditions and characteristics derived from a common or presumed common past, even if not drawn from what in biological terms is a common racial stock.
- 65.6 Examples of members of a racial group are:-
Sikhs, Gypsies (i.e. those belonging to the Romany race), Scots and English, Black people (as defined by colour rather than ethnic origin).
- 65.7 Examples of people who are not a racial group are:-
Rastafarians, Mupuries (from Kashmir).
- 65.8 The language factor alone cannot be decisive. Thus Scots are not divided into two racial groups according to whether or not they are Gaelic speaking.
- 65.9 An employer is prohibited from discriminating on grounds of race at every stage of employment. The Act covers the arrangements made in advertising, selection (including shortlisting and interviewing), terms of employment, access to promotion training, transfer or any other benefits, facilities or services.
- 65.10 Direct racial discrimination takes place when a person of a particular racial group is treated less favourably than a person of another racial group is (or would be) in the same or similar circumstances.
- 65.11 Indirect racial discrimination consists of applying a requirement or condition which, whether intentional or not, adversely affects a considerably larger proportion of one racial group than another, and cannot be justified on non-racial grounds.
- 65.12 Victimisation occurs when a person is treated less favourably than others are, or would be under the same circumstances, because that person has brought proceedings previously under the Race Relations Act, made a

complaint or allegation of discrimination, acted as a witness, given information in connection with proceedings or intends to do so, or done anything under or by reference to the Act.

SEX DISCRIMINATION

- 66.1 Discrimination on grounds of sex or marital status is made unlawful by the Sex Discrimination Act 1975. Although the provisions of the Act are worded in terms of sex discrimination against women, they should be read as applying equally to the treatment of men (with the exception of the special treatment afforded to women in connection with pregnancy or childbirth).
- 66.2 Discrimination may take place in three ways; direct discrimination, indirect discrimination and victimisation.
- 66.3 In deciding whether discrimination has taken place the position of the person allegedly discriminated against will be compared to that of a person of similar skill and qualification. Like must be compared with like. The intention and motive of the alleged discriminator is irrelevant.
- 66.4 Direct discrimination occurs where a woman is treated less favourably than a man, or a married person is treated less favourably than a single person. In order to establish that discrimination has taken place, it is not sufficient to show that certain treatment is different, it must be shown to be less favourable. However, acts of positive discrimination are unlawful under UK law.
- 66.5 Unfavourable treatment of a woman because she is pregnant will usually constitute sex discrimination.
- 66.6 Indirect discrimination occurs if an employer applies a requirement or condition to a woman or to a married person which he/she also applies to a man or an unmarried person but which is such that:
- a) the proportion of women or married persons who are able to comply with it is considerably smaller than the proportion of men and unmarried persons;
 - b) the employer cannot show it to be justified irrespective of the sex or marital status of the person to whom it is applied, and which is to her, or that person's, detriment because she or he cannot comply with it.
- 66.7 Conditions or requirements which result in the less favourable treatment of part-time employees are frequently found indirectly to discriminate against women. Historically, the predominance of women in the part-time sector has been assumed to be related to the fact that they have traditionally been expected to be the providers of home care to young children.
- 66.8 If any employer treats any person less favourably than others because that person threatens to bring proceedings, to give evidence or information, to take any action or make any allegation concerning the employer with reference to Sex Discrimination Act 1975 or Equal Pay Act 1970, or has already done any of these things, then the employer is guilty of discrimination by victimisation.
- 66.9 Sex Discrimination Act 1975 forbids discrimination at every stage of employment, advertising vacancies, engagement of employees, promotion and other opportunities, dismissal.

66.10 An advertisement must not show any intention to discriminate unlawfully. Both the publisher and the advertiser, who cause a discriminatory advertisement to be printed, are guilty of an unlawful act.

66.11 Use of a job description with a sexual connotation such as 'waiter', 'salesgirl', 'postman' or 'stewardess' will be taken to indicate an intention to discriminate unless the advertisement contains an indication to the contrary. Therefore, either a new word, such as 'salesperson', will have to be used or a disclaimer such as 'applications are invited from men and women' will have to be inserted.

66.12 An employer may not discriminate directly or indirectly;

- a) in the arrangements he/she makes for the purpose of determining who should be offered employment, or
- b) in the terms on which he/she offers employment, or
- c) by refusing or deliberately omitting to offer employment.

66.13 Under Section 7 of the Sex Discrimination Act 1975, discrimination on the grounds of sex by an employer in recruiting for a job (or in providing opportunities for promotion, transfer, training) will not be unlawful where a person's sex is a Genuine Occupational Qualification (GOQ) for the job.

66.14 A person's sex is a genuine occupational qualification for a job in the following cases:-

- (i) where the essential nature of the job calls for a man (or woman) for reasons of physiology (excluding physical strength or stamina)
- (ii) when considerations of decency or privacy require the job to be held by a man (or woman)
- (iii) where the job is likely to involve the holder of the job doing his work or living in a private home and needs to be held by a man (or woman) because objections might reasonably be taken to allowing a woman (or man);
 - the degree of physical or social contact with a person living in the home, or
 - the knowledge of intimate details such as a person's life

There are other instances which would not apply to the Comhairle's workforce.

DISABILITY DISCRIMINATION

- 67.1 The Disability Discrimination Act 1995 (DDA) deals with the employment provisions of disabled persons.
- 67.2 A person has a disability for the purposes of DDA if he/she has a physical or mental impairment which has a substantial and long term adverse effect on his/her ability to carry out normal day-to-day activities. A mental impairment includes impairment resulting from or consisting of a clinically well-recognised mental illness. The effect of an impairment is a long term effect if it has lasted at least 12 months or if it is likely to last at least that long, or if it is likely to last for the rest of the affected persons' life, or if it is likely to recur in remission.
- 67.3 An impairment is to be taken to affect the ability to carry out normal day-to-day activities only if it affects one of the following:-
- a) mobility
 - b) manual dexterity
 - c) physical co-ordination
 - d) continence
 - e) the ability to lift carry or otherwise move everyday objects
 - f) speech, hearing or eyesight
 - g) memory or ability to concentrate, learn or understand, or
 - h) perception of the risk of physical danger
- 67.4 Addiction to alcohol, nicotine or any other substance (except where the addiction originally resulted from the administration of medically prescribed drugs) is to be treated as not amounting to an impairment for the purposes of DDA.
- 67.5 Chronic Fatigue Syndrome ('ME'), Asthma, Epilepsy, Post Traumatic Stress Disorder, Ureteric Colic and Depression being treated by Prozac have all been held by employment tribunals to be conditions capable of amounting to a disability within the meaning of DDA.
- 67.6 Discrimination by an employer may take place in one of three ways; direct discrimination, discrimination by way of the employer's failure to comply with the duty made adjustments, and discrimination by way of victimisation.
- 67.7 Direct discrimination is when an employer discriminates against a disabled person if, for a reason which relates to the disabled person's disability, he/she treats him/her less favourably than he/she treats or would treat others to whom that reason does not or would not apply, and the employer cannot show that such treatment is justified.
- 67.8 An employer has to take such steps as are reasonable to prevent any arrangements made by him or on his behalf, or any physical features of the employer's premises from placing a disabled applicant or employee at a substantial disadvantage compared to those applicants or employees who are not disabled.
- 67.9 In order to comply with his duty not to place a disabled applicant or employee at a substantial disadvantage, an employer may have to:

- a) make adjustments to premises (e.g. widening a doorway or relocating light switches);
- b) allocate some of the disabled person's duties to another person;
- c) transfer him/her to fill an existing vacancy;
- d) alter his/her working hours (e.g. allowing the disabled person to work flexible hours to enable additional breaks to overcome fatigue arising from the disability);
- e) assign him/her to a different place of work;
- f) allow him/her to be absent during working hours for rehabilitation, assessment or treatment;
- g) give him/her (or arrange for him/her to be given) training, e.g. (training in the use of particular pieces of equipment unique to the disabled person, or training appropriate for all employees, but which needs to be longer or slightly different for the disabled person because of the disability);
- h) acquire or modify equipment (e.g. adapted keyboards or telephones. Note that there is no requirement to provide or modify equipment for personal purposes unconnected with work);
- i) modify instructions or reference manuals (e.g. producing instructions in Braille);
- j) modify procedures for testing or assessment (e.g. allowing a person with restricted manual dexterity to give oral, rather than written responses to a test);
- k) provide a reader or interpreter; or
- l) provide supervision (e.g. for someone whose disability leads to uncertainty or lack of confidence).

67.10 The provisions for victimisation is very similar to the provisions in the Sex Discrimination Act and the Race Relations Act.

67.11 The Act prohibits discrimination by an employer against a disabled person at every stage of employment.

67.12 All employees of a local authority must be appointed only on merit (Local Government & Housing Act 1989, S.7). This applies to disabled applicants as well, although the authority will remain under a duty to make reasonable adjustments in order to remove any substantial disadvantage suffered by the disabled applicant in the recruitment process.

The Disability Symbol

68.1 In 1990 the Employment Service introduced the disability symbol. In 1992 employers adopting it were asked to implement five commitments. These were to:

- ◆ interview all applicants with disabilities who meet the minimum criteria for job vacancies
- ◆ ask disabled employees what can be done to develop and use their abilities

- ◆ ensure employees becoming disabled remain in employment
- ◆ ensure key employees develop an awareness of disability
- ◆ review their achievements annually, planning improvements and informing employees about progress and future plans

AGE DISCRIMINATION

- 69.1 The Comhairle operates a policy whereby all employees attaining the age of 65 years must retire.
- 69.2 However, the Comhairle opposes any age discrimination during recruitment whereby an applicant is discriminated against due to his/her age, which hinders the proper consideration of an individual's talents, skills, abilities, potential and experience.
- 69.3 To this purpose, dates of birth are only used for monitoring purposes and post appointment administration.
- 69.4 Monitoring of age profiles of applicants will take place during the monitoring procedures and the results reported back to Human Resources Sub Committee.

LOCAL GOVERNMENT & HOUSING ACT 1989

- 70.1 Restrictions are contained in the Local Government & Housing Act 1989 which affect the political activities of certain groups of paid Officers of the Comhairle.
- 70.2 Officers in this group, which excludes Teachers and Head Teachers, are Politically Restricted Officers. This means that existing Officers, or newly appointed Officers, falling into one or more of these groups are not able to:-
- ◆ be a candidate, or prospective candidate for election as an MP, MSP or MEP
 - ◆ act as an election agent
 - ◆ hold office in a political party
 - ◆ canvass at elections on behalf of a political party
 - ◆ speak or write in public in a manner which appears to be designed to affect public support for a political party

REHABILITATION OF OFFENDERS ACT 1974

- 71.1 Any person who has been convicted of a criminal offence in the past not involving a sentence of more than 2 years' imprisonment and who has since been of good conduct for a specified period of time (the Rehabilitation Period) relating to the severity of his/her sentence, is treated for most purposes as if the offence, or conviction, has never occurred.
- 71.2 If a person is sentenced to more than 2 years in prison, his/her conviction can never become spent. There is no rehabilitation period.
- 71.3 However, the conviction of a person who has completed a rehabilitation period is regarded as spent and therefore there is no need for such a person to disclose to the Comhairle any information about his/her spent conviction.
- 71.4 For certain occupations, the above provisions relating to non-disclosure of spent convictions do not apply. This is categorised as employment which is concerned in the provision of accommodation, care, leisure and recreational facilities, schooling, social services, supervision or training to persons under 18 years, where the holder of the post would have access to such minors in the normal course of his/her duties, or if the duties are carried out wholly or partly on the premises where such provision takes place.
- 71.5 On the application form, an applicant for a non-child/vulnerable adult access post is asked whether he/she has any criminal convictions, a negative answer may mean;
- (i) that he/she has no previous convictions
 - (ii) that he/she has convictions but they are spent
 - (iii) that he/she has convictions which are not spent and he/she is not telling the truth
- 71.6 If the Comhairle subsequently discovers, after engaging the applicant, that he/she has previous convictions;
- a) if these are not spent, the Comhairle may consider the applicant for dismissal if such a dismissal would be fair in all the circumstances
 - or*
 - b) if these are spent, the Comhairle may not take any action, unless there are other reasons which justify it in doing so.
- 71.7 If the applicant reveals at an interview that he/she has previous convictions;
- (i) if the convictions are spent, they do not form a good reason for refusing the applicant the job, and
 - (ii) if they are not spent, they form good grounds for refusing the applicant the job.
- 71.8 Any agreement or arrangement that an applicant must reveal past convictions is ineffective so far as spent convictions are concerned.

APPOINTMENTS MADE UNDER STANDING ORDERS

72.1

OFFICER	APPOINTING BODY	SHORTLEETING BODY
Chief Executive	Council	Policy and Resources Committee
Director of Corporate Services Director of Finance	Council	Convener, Vice-Convener and Vice-Chairman of Policy and Resources Committee (or nominees)
Director for Sustainable Communities	Council	Convener, Vice-Convener and Chairmen of Environmental Services and Development Services Committees (or nominees)
Director of Technical Services	Council	Convener, Vice-Convener and Chairmen of Transportation, Housing and Environmental Services Committees (or nominees)
Director of Education	Council	Convener, Vice-Convener and Chairmen of Education and Arts and Leisure Committees (or nominees)
Director of Housing	Council	Convener, Vice-Convener, Chairman of Housing Committee (or nominees)
Director of Social Work	Council	Convener, Vice-Convener and Chairman of Social Work Committee (or nominees)
Depute Director, Finance	Policy and Resources Committee	Convener, Vice-Convener and Vice-Chairman of Policy and Resources Committee (or nominees)
Depute Director, Social Work	Policy and Resources Committee	Convener, Vice-Convener and Chairman of Social Work Committee (or nominees)
Depute Director, Technical Services	Policy and Resources Committee	Convener, Vice-Convener and Chairmen of, Environmental Services and Transportation Committees (or nominees)
Depute Director - Leisure Services, Sustainable Communities	Policy and Resources Committee	Convener, Vice-Convener and Chairman of Arts and Leisure Committee (or nominees)
Head of External Strategy	Policy and Resources Committee	Convener, Vice-Convener, Vice-Chairman of Policy and Resources Committee and Chairman of Development Services Committee (or nominees)
Assistant Directors	Panel of 5 from Policy and Resources Committee drawn by the Director of Corporate Services	Convener, Vice-Convener and Chairman of relevant service Committee (or nominees)

APPOINTMENTS MADE UNDER SCHOOL BOARD LEGISLATION

72.2

SCHOOLS WITH SCHOOL BOARD		
OFFICER	APPOINTING BODY	SHORT-LEETING
Head Teacher	School Board Appointments Committee of six including three elected members drawn from Comhairle nan Eilean Siar (including local member for the school) and three members nominated by the School Board.	Single Stage: Director of Education, in consultation with and taking account of the views of the School Board.
Depute Head Teacher Assistant Head Teacher	School Board Appointments Committee of five including two elected members drawn from Comhairle nan Eilean Siar (including local member for the school), two members nominated by the School Board and the Head Teacher.	Single Stage: delegated authority for Director of Education, in consultation with Head Teacher, to shortleet.
SCHOOLS WITHOUT SCHOOL BOARD		
Head Teacher	Panel of six elected members of the Comhairle, including the local member for the school.	Director of Education.
Depute Head Teacher Assistant Head Teacher	Panel of four elected members of the Comhairle, including the local member for the school, plus the Head Teacher.	Director of Education in consultation with the Head Teacher.
In all cases of appointments of Head Teachers, Depute Head Teachers or Assistant Head Teachers the Committee makes recommendation to Director of Education who makes the decision on appointment under delegated powers.		

EMPLOYMENT REFERENCES

- 73.1 During the course of their employment a number of officers are expected to give references for employees and/or past employees.
- 73.2 When references are given by an officer on behalf of an employee or former employee, he/she has obligations to both the subject of the reference as well as the recipient.
- 73.3 There is no obligation on an employer to provide a reference for an existing or former employee except in certain areas regarding financial services or where the provision of an agreed reference is part of the settlement.
- 73.4 An employee or former employee may seek redress against the author of a misleading reference under one or more headings. These are as follows:-

(a) Negligence

An employer owes the subject of a reference a duty of care in the preparation and supply of a reference. Employers are also under a duty to provide a reference that is 'true, accurate and fair', although the reference should not give an unfair or misleading overall impression, it does not have to be 'full and comprehensive'. The writer of a reference must also exercise reasonable care and skill in ascertaining the factual information on which the reference is based and in expressing opinions about the subject of the reference.

(b) Discrimination

Where a reference is refused to an employee who has previously raised a grievance alleging discrimination (on grounds of sex, race or disability), the employer may find himself liable under either the Sex Discrimination Act, the Race Relations Act or Disability Discrimination Act.

(c) Defamation/Malicious Falsehood

It is difficult to succeed in a claim for either defamation or malicious falsehood against the author of a reference. In defamation cases a referee will have the protection of the defence of 'qualified privilege'. This gives the referee protection from liability for untrue statements provided he or she holds an honest belief in the accuracy of the statements contained therein. The protection of qualified privilege can only be challenged if the person defamed can prove that the referee acted out of malice. The balance of proof in cases of malice is high. Similar difficulties of proof arise in cases of malicious falsehood.

(d) Breach of Contract/Constructive Dismissal

References which refer to complaints about the employee and which have not been revealed may give rise to a claim of breach of contract and/or unfair constructive dismissal. Providing a misleading or unfair reference may amount to a breach of contract. A deliberate failure to provide a reference to an employee may also constitute a breach of the implied term.

(e) Data Protection

The Data Protection Act 1998, which came into force on 1 March 2000, gives an employee (from 24 October 2000) access to all information – whether stored electronically or manually – held about them. Under the Act all information held must be accurate, up to date, secure and not held longer than necessary. An employee can apply to have any information held about them corrected or erased if that information is inaccurate.

(f) Unfair Dismissal

Employers may feel compelled to provide a favourable reference for an employee who has been dismissed. Such a reference may be required as a means of making the employee's exit easier, or because it is part of a settlement reached with the employee. Caution should always be exercised in such cases. If the employee subsequently challenges the reasons for dismissal in an employment tribunal the employer may find themselves in difficulty. For example, an employer could not argue convincingly that an employee had been dismissed on grounds of incompetence if this reason was not consistent with statements to the contrary contained in a reference written about the employee.

(g) Oral or Telephone Requests for References

Where references are required urgently they may be sought during the course of a telephone discussion. However, providing references about an employee over the phone should be avoided. If the person seeking the reference is not known to the referee then he or she should ask for a workplace telephone number and call that person back to confirm his/her position in the organisation and whether the person is authorised to obtaining a reference. Referees who are asked for a telephone reference have the right to refuse to answer specific questions asked and they should always make a file note of the questions asked and the answers given. It is advisable for referees to follow up in writing a reference given by telephone.

73.5 This guidance will be included in the Recruitment Policy and the full Policy can be found on the Intranet.