

## Recruitment & Promotion

The legal basis for the civil service, and public employment more generally, is usually found in some combination of the Labor Law and a specific Civil Service Law, coupled with appropriate by-laws and regulations. The challenge in devising these legal instruments is to provide a robust foundation for ensuring that the merit principles of professionalism, independence, integrity, political impartiality, transparency, and service to the public are translated into practice – but without undue rigidity.

### The merit principle

The merit principle in the civil service entails the appointment of the best person for any given job, made through recruitment or promotion based on explicit merit rules that are publicly understood and can be challenged if a breach is suspected. Merit appointments seem to improve bureaucratic capability. A merit-based system is in direct contrast to one based on patronage.

Merit systems can be broadly divided into "career systems" and "position-based systems." In career systems, the objective is to ensure that initial entry to the civil service is based on the knowledge of the candidates, generally as indicated by a relevant university degree or academic credentials. Subsequent mobility and promotion allow movement within the civil service. In position-based systems the emphasis is placed on selecting the best-suited candidate for each position to be filled, whether by external recruitment or via internal promotion or mobility.

There is some convergence between career and position-based systems. For example in Spain, civil servants are recruited through the classical entry examination (oposición), or by application followed by an interview with an ad hoc commission (concurso). A combination (concurso-oposición) provides for an entry examination, with successful candidates then being scrutinized in relation to the needs of a particular job.

Personnel rules are also distinguished according to the degree to which they are centralized. The UK, France, and more recently Sweden are centralized in that common arrangements apply across all agencies even if an increasing proportion of the recruitment takes place locally. This is in contrast to decentralized recruitment systems such as those found in the USA, Germany, Denmark, and Norway. Again, increasing delegation is leading to some convergence.

### Merit criteria

The essence of merit criteria is that they are specified and contestable – failure to appoint a candidate can be appealed and reviewed against explicit specifications for the position.

Closed career systems make appointments through promotion from within the civil service. Position-based systems allow more open access, with lateral entry relatively common. Merit criteria in both systems can include academic qualifications. In Belgium there are five categories of required educational attainment, down to primary level for blue-collar staff. An annex to the civil service law stipulates eligible degrees for specific occupations. To apply for a "general qualification" post, applicants can have any type of university degree, while "specific qualification" posts require a particular degree (in economics, engineering, law, etc.). Career systems can accompany this with criteria that specify seniority or length of time in other posts.

Position-based systems are less likely to include criteria based on academic qualifications, but certainly can. In Sweden, for example there are minimum educational requirements for certain occupations (like judge and police officer), but the Public Employment Act specifies that priority be given to skills.

### **Limitations to merit**

In a pure merit system all public appointments, from top to bottom, would be made following a competition based on merit rules. However, no administration operates a pure merit system. Typical exceptions are:

- Elected officials. Firstly and obviously, some officials are elected, not appointed.
- Political appointments. Those elected officials may hand-pick some political advisers.
- affirmative action. Several administrations have used recruitment / hiring practices to speed up the advance of members of a disadvantaged group, such as women or certain ethnic minorities.
- Internal appointments and transfers. Most administrations have restricted certain promotion posts to existing staff in order to minimize transaction costs and to provide career development opportunities.

The arrangements to ensure that pure political appointments are constrained vary across the OECD. In the United States, the numbers are constrained by a simple formula – 10% of all senior executive service appointments (approximately 800) and specified positions at the "executive schedule" level (approximately a further 550). In the UK, numbers are constrained by custom and practice that dictate that "very few" politically appointed advisers are feasible. In France, numbers are limited by hard constraints in the budgets available to ministers to hire within their cabinets (ministerial advisers) and the Prime Minister specifies the numbers of officials that can be hired within those cabinets. In Germany, there are no pure political appointments. In Sweden, there is an agreement between both major political parties on the numbers of purely political appointees.

In most of the OECD countries, political appointments tend to be concentrated at upper levels of management, or among "sensitive" posts (the secretarial staff of a minister, for example). This contrasts with the reality of parts of the developing world, where political affiliation may be the primary selection criteria for posts throughout the organizational hierarchy. The trend, however, is towards an administrative career based on merit. Civil service laws that require merit-based selection and promotion have been approved or are under discussion in a number of countries, including Bolivia, Nicaragua, and Ecuador.

In any country, even if the numbers of political appointees are small, the risks remain that this small total might be used for patronage rather than policy reasons. Little is known about how individual politicians are constrained to ensure that pure political appointments serve overall government objectives. One interesting example is Sweden where political appointees are guaranteed salaries for 2 years after dismissal. Norwegian political appointees are treated similarly, although the guaranteed allowance continues only for 2 or 3 months. The effect of these arrangements is to prevent any ministerial appointment from being interpreted as a purely personal patronage position.

### **Appointment methods**

Merit-based selection can be through a system of university-style competitive examination (as in Pakistan and Korea), or by scrutinizing educational qualifications (as in Singapore). Such methods are fair and command public

confidence, but they define the best person for any given job as the one that does well in examinations. One recent analysis found a very weak correlation between academic qualifications and job performance. Many OECD countries are using sophisticated commercially produced selection tests.

Closed career systems (Belgium, France, and Japan are the clearest examples in the OECD) make appointments through promotion from within the civil service. Position-based systems (e.g. Nordic countries, Commonwealth OECD countries, USA) allow more open access to positions. But although position-based systems allow lateral entry this rarely implies openness towards recruitment to mid- and top-level managerial positions from outside government. There remains a strong bias against such recruitment in most countries, although some have seen more lateral mobility within government, possibly as a consequence of more centralized regulation of the recruitment procedure.

**Merit-based recruitment arrangements draw from eight key elements:**

- a job analysis leading to a written statement of duties (the job description) and the knowledge and skills which the jobholder will need (the person specification)
- an advertisement disseminated to eligible groups, including a summary of the job analysis
- a standard application form
- a scoring scheme based on the person specification
- a short-listing procedure to reduce applications, if necessary, to a manageable number
- a final selection procedure based, again, on the person specification, and including a panel interview
- an appointment procedure based on the scoring scheme
- notification of results to both successful and unsuccessful candidates

**Tenure**

To varying degrees, civil servants generally have greater protection from dismissal than private sector employees. The logical foundation on which tenured employment in the civil service has rested has three elements:

- although responsive to the government, in some sense civil servants serve the state and must have longer-term concerns than those of government
- long-term career paths encourage discipline within work, as any risk of losing a secure employment future is a serious threat
- long-term career paths encourage discipline and good community behavior more generally, as they publicly associate a civil servant with his or her job and so make them concerned to safeguard their reputation

It follows from this logic that remuneration is for the position rather than for performance. The strongest expression of this is to be found in the German pay policy for established civil servants (Beamte). For this group, pay is not traditionally regarded as remuneration for work performed or for performance of function, but as a means of livelihood linked to office. Remuneration is intended to enable Beamte to give full commitment to their duty of service to the state and to live at an appropriate standard for their rank. Good performance follows from their sense of duty and not from their pay.

Increasingly, however, fixed term employment contracts are being used to define terms of employment, pay arrangements and to specify performance requirements. Despite uncertain evidence concerning its effectiveness,

performance-related pay is ever more common. Fixed term employment contracts are particularly common for senior positions (Director General, Permanent Secretary or Agency Head). Fixed term contracts were originally introduced to endow the senior civil service with more flexibility. In its more recent form, which has been quite common in the OECD-countries, fixed term contracts also link pay to managerial performance. But again there is uncertain evidence as to the effectiveness of these schemes.

In transition to merit-based personnel rules, creating tenure can be wholesale or piecemeal. Tenure can be awarded to all existing public servants who have held a particular job for a certain number of years, or who have been a public employee for a certain amount of time. In Bolivia, planned reforms will offer tenure to anyone in the same post for 5+ years, or anyone in public employment for 10+ years. In Brazil, a transitory amendment to the 1988 Constitution achieved the same result (popularly known as the "happiness train" – *trem de alegria*). On a piecemeal basis, tenure can be awarded to specific groups. In the USA, under the Pendleton Act of 1883, public employees were blanketed in based on job category, at the discretion of the executive.

### **Promotion, discipline, and dismissal**

The application of merit criteria can be enforced by a standing independent commission (UK and most Commonwealth countries, USA, Japan) or by committees drawn from other senior civil servants (Belgium). Standing independent commissions can be constitutionally protected (Singapore, Trinidad and Tobago, Jamaica) or established under ordinary law (Japan, US, UK).

During the past century, most industrialized countries have created a professional, merit-based civil service system and have consolidated the regulation and supervision of public personnel management through formal institutional arrangements. Traditionally, this has entailed a delicate relationship between three key organizational actors: the independent commission, the central personnel office, and line agencies. Unlike the independent commission, the central personnel office is part of the executive and accountable to the government (i.e., not independent). It takes responsibility for personnel management activities that are not carried out by the commission. Generally, these activities include position creation and classification, staff training and professional development, determination of terms and conditions of employment, and formulation of disciplinary codes, salaries and benefits. The degree of personnel management responsibilities assumed by line agencies depends on how centralized the overall system is. At a minimum, line agencies initiate selection processes, make requests for salary increases, etc. At the other extreme, all human resource functions including hiring and pay can be fully devolved to line agencies, as in New Zealand.

### **Managing hybrid appointments**

Many countries have a significant number of hybrid appointments in which merit, defined by meeting explicit and contestable criteria, is accompanied by subjective political judgments. By contrast with "pure" political appointments, in which serving members of the government make hiring and firing decisions, in hybrid appointments merit is a necessary but insufficient condition for appointment. Hybrid appointments require careful management.

Hybrid appointments are generally at upper management levels. The Canadian system for appointing Deputy Ministers (equivalent to Permanent Secretaries or Secretaries General) exemplifies the process. These appointments are made by the Prime Minister and have no security, appointments (and dismissals) being made "at the pleasure" of

the Crown. These appointments are not purely political because it would be inconceivable (and a source of public outrage) for the PM to make an appointment disregarding the advice of the Clerk to the Privy Council (Cabinet Secretary). The Clerk's office has a highly scientific approach for identifying the competency profiles necessary for specific posts and for assessing candidates. Nevertheless, candidates proposed by the Clerk's office must be appointed by the Prime Minister, acting on behalf of cabinet, and using purely political criteria. In the event of a dismissal, tradition and convention dictate that a comparable position be found or that a voluntary retirement package be arranged.

There are two problems to be solved in hybrid appointments:

- attracting the best, given that merit is not a sufficient criteria for appointment and so the best might be deterred by the threat of apparently arbitrary political dismissal
- balancing two conflicting sets of recruitment criteria

The most common solution is a "pool system" which places the candidate in a pool upon satisfying the merit criteria. Those in the pool are then available for subsequent political selection. In France, pool management is undertaken by providing a job guarantee in the career civil service to all discretionary appointees, so that their dismissal will be effectively cushioned. In Germany, the approximately 140 most senior positions are all hybrid appointments effectively managed under a pool system. Appointments to these senior positions automatically lapse on a change of government, with an option for the incoming government to reappoint them. Civil servants who are dismissed from a hybrid position are then retained in the pool as "ruhestand" (resting). They receive an allowance but not a pension on the basis that they may be reappointed at any time.

In hybrid appointments, merit criteria are generally considered first, with the resulting shortlist being offered for political determination. Under the pool system used in Belgium, access to the pool is determined by a university degree and passing a civil service examination. Subsequently, a political selection is made from the pool. Traditionally, hybrid appointees in Belgium have enjoyed tenure, which affords them protection from arbitrary dismissal, though this has begun to change in recent years. In the UK, a senior selection committee makes recommendations on the appointment of permanent secretaries to the Prime Minister through the Cabinet Secretary. The recommendations take into account the views (but not the veto) of the relevant Minister. The PM is the only politician to have the right of final selection.

## Recommended readings

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