

## O'Connell Brian

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**From:** Brendan O'Connor  
**Sent:** 09 May 2011 12:20  
**To:** fitandproper  
**Subject:** Response to Consultation Paper 51

Dear Sirs,

We understand the task you are attempting to cover.

Three issues come to mind;

Your Paper makes no reference to an appeals process.

1. Given that you are dealing with a person's livelihood, and that fact that there may be personality issues between regulator and regulatee following a dispute, it seems unreasonable not to offer a third party appeals process.
2. Given that the regulatees are attempting to run a business, it seems unfair on the employer and employee that the regulator is unwilling to offer a firm timetable for the approval process for new employees. Under Section 2 3(e) firms ensure that only suitable individuals will be appointed to a PCF, there should be a one week turnaround for application approvals.
3. There needs to be better clarity in the document between the function and the person holding the position. For example, see Section 7-38 "where we consider it necessary, we may conduct an interview with PCFs before deciding on whether or not to approve an application." If PCF is defined as a "Pre-Approval Controlled Function", it is not possible to interview a function – it is either the "firm" who has proposed the individual to the function, or it is the person proposed by the firm to fill that position.

Conduct to be competent and capable.

- 3.2 (a) Has professional or other qualifications and capability ..... could exclude someone who has relevant experience by virtue of working in a particular area for many years and has not got professional or other qualifications. A better wording might be ....Has professional or other qualifications/experience and capability.....
- 3.2 (d) Asking an individual to be knowledgeable of the whole business of the regulated provider, is very broad by definition and counter to the 3.1 which states as it's objective that the definition relates to the relevant function.

Brendan O'Connor