

The Lottery Forum's
Independent Complaint Review Service
provided by Verita

**A stage-three review into a complaint made by Mr Chris Coppock
against the Arts Council of Wales**

A report for the Arts Council of Wales

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1. Introduction

1.1 This is the report of an independent review of a complaint made by Mr Coppock, an applicant for the Arts Council of Wales' (ACoW) arts associate programme. It relates to the Arts Council of Wales' selection of arts associates in 2019, the process that was followed, and the criteria used to choose successful candidates.

1.2 The main purpose of the ACoW is to develop and support the arts in Wales and to distribute funding to them. The funding is provided to the ACoW by the Welsh government and the National Lottery.

1.3 In 2018 the ACoW developed a new strategy called '*for the benefit of all*' which prioritises strengthening the capability and resilience of the arts sector, and promotes equalities as the foundation to reach more widely across all communities in Wales.

1.4 Following this new strategy, the ACoW decided they needed to appoint a cohort of arts associates to collaborate on a range of projects. Their purpose would be to provide experience, knowledge and a range of perspectives.

1.5 Mr Coppock applied to be an arts associate and was invited to attend one of two selection workshops. He attended the workshop in Swansea on the 22 January 2019. On 15 March an email was sent to Mr Coppock explaining that the deliberations as part of the selection process were being extended from March to the end of April.

1.6 On 23 May Mr Coppock was emailed by a group arts email address apologising for the delay in communication, and saying:

“Over the next year we will be looking at gradually phasing in the use of Associates in different areas and will be contacting individuals as appropriate. For those of you that we don't contact in the coming months regarding working with us as an Associate, we hope you're happy for us to keep your information on file”

This was the last communication from the ACoW to Mr Coppock about his application.

1.7 Mr Coppock learnt that 47 arts associates had been appointed by the ACoW by visiting their website. He was not chosen as an arts associate at this time.

1.8 On 25 October 2019 Mr Coppock complained to the ACoW about the selection process. He has said that:

- due process was not observed in the selection process, and
- Arts Council of Wales’ communications throughout the selection process has fallen short of accepted and reasonable norms.

1.9 On the 14 November 2019 Mr Coppock escalated his complaint from stage one to stage two of the complaints process. On 4 December 2019 Mr Coppock requested that his complaint be reviewed by the independent complaints reviewer.

1.10 Verita accepted the complaint for independent review on 17 December 2019. The terms of reference were finalised on 5 February 2020.

Chronology

1.11 We have set out a chronology below to outline the main dates of the application process.

Date	Action
20 December 2018	ACoW deadline for applications for new ‘arts associates’
22 January 2019	Selection workshop, Swansea
23 January 2019	Selection workshop, Wrexham
25 January 2019	Email from Branwen Dickson thanking applicants for their attendance, asking for CVs (if not already provided), and any travel expense receipts.
15 March 2019	Email from Branwen Dickson explaining that the deliberation process is being extended from March to the end of April.
23 May 2019	Email from Kath Davies (from a group arts associate email address). Apology for delay. Explaining that the selection of associates is a phased process over the coming year, and that if

	You are not called on in the next coming months then they would like to keep applicants' information on file.
25 October 2019	Mr Coppock complains by emailing the chief executive of the Arts Council of Wales.
6 November 2019	Chief executive of the Arts Council of Wales responds to Mr Coppock by email.
14 November 2019	Mr Coppock replies to the Arts Council of Wales' response by letter.
25 November 2019	Chief executive of the Arts Council of Wales writes a letter in reply to Mr Coppock's response.
4 December 2019	Mr Coppock requests that his complaint is taken to the independent complaints review service.
17 December 2019	Verita accepted the complaint for independent review.
5 February 2020	Terms of reference agreed.

2. Terms of reference

Complaint by Mr Chris Coppock against the Arts Council of Wales

Terms of reference

To review whether the Arts Council of Wales (ACoW) followed a fair process in the recruitment and appointment of arts associates.

The review will specifically focus on:

- Whether the ACoW have provided full responses to the concerns raised by the complainant;
- Whether the ACoW's processes for recruiting arts associates is fair and appropriate;
- Whether the ACoW's assessment approach promoted equal opportunity for all candidates.

It is not the responsibility of the Independent Complaint Review Service to comment on whether any particular application should have been successful, only to review whether the ACoW correctly followed appropriate policies and procedures, applied them in a consistent and transparent way, and treated the applicant politely, fairly and without discrimination.

20 January 2020

3. Approach and structure

3.1 This section sets out how Verita approached the review of the complaint and describes the structure of the report.

Approach

3.2 The review was undertaken in private. Verita wrote to Mr Coppock (the complainant), and the ACoW to confirm our understanding of the complaint and Verita's remit. Verita asked the ACoW questions which they responded to over the phone; their answers were agreed via email. We requested and were provided with documentation about the selection process from Mr Coppock, and documentation of the decisions made by ACoW. A summary of the documents reviewed is detailed in appendix A.

3.3 Verita established a chronology of events and correspondence which is detailed in the introduction of this report, and set out to examine the questions raised by Mr Coppock.

3.4 Both Mr Coppock and the ACoW had the opportunity to comment on this report while it was in draft form as part of our factual accuracy process. They did not receive any conclusions or findings at this stage.

3.5 In evaluating the evidence, we considered whether the ACoW's assessment and decision-making processes, or the way it applied them, were fair in the selection and appointment of arts associates.

Structure

3.6 The report begins with an executive summary (section 4) and then comprises the following sections:

- Section 5 describes the selection process that the ACoW followed to assess and appoint arts associates in 2019
- Section 6 sets out the way ACoW carried out this selection process

- Section 7 details how the process was applied in practice
- Section 8 describes the complaint made by Mr Coppock and the responses that were provided from the Arts Council of Wales
- Section 9 gives our findings, conclusions and recommendations.

4. Executive summary

4.1 In 2018 the ACoW decided they needed to appoint a cohort of arts associates to collaborate on a range of projects. Mr Coppock applied to be an arts associate but was not ultimately successful. He complained that the selection process was unfair and that communication from ACoW was poor.

The selection process for arts associates

4.2 The ACoW told us that, as arts associates were to be used on an ad hoc basis, the selection process differed from one that they would use for the recruitment of permanent staff. Therefore, ACoW adopted the Public Procurement Process (PPR).

4.3 The PPR process has 11 steps which can be grouped into the following sections:

- a) Scope - identify what is required for the role
- b) Criteria - create evaluation criteria in which to fairly judge applicants
- c) Advertising - how and where the organisation should publicise the call for interest
- d) Evaluation - review and evaluate the responses using the pre-agreed evaluation criteria
- e) Communication of outcomes - inform the successful and unsuccessful applicants
- f) Beginning work - successful candidates start their role.

The selection of arts associates

4.4 The Arts Council of Wales issued a call for expressions of interest for arts associates in the autumn of 2018.

4.5 152 people submitted an expression of interest by the 20 December deadline to become an arts associate. The ACoW undertook an 'initial sifting' exercise led by the director of arts and assisted by other arts council colleagues. This sifting exercise meant that 92 of the 152 applicants were selected to be invited to the next stage, attending a selection workshop either on the 22 or 23 of January 2020.

4.6 The 92 successful candidates were asked to select one topic from the ACoW's ongoing consultation on the future direction of Lottery Funding and prepare to speak about how their experience in the arts would be transferable to the role of arts associates.

4.7 Given the geographical distance between the 2 workshops, not all staff were involved in both workshops (although the director of arts attended both).

4.8 Having a different group of staff at each workshop means that the judgement of candidates could have been inconsistent. Clear selection criteria are particularly important when candidates are being assessed by different members of staff. This ensures that all staff are aware of what the arts council are looking for in their candidates, and will prevent subjective bias.

4.9 47 people were initially selected as arts associates. The ACoW told us that they planned to phase in any additional arts associates that were needed over the course of the year.

4.10 The first cohort of successful applicants from this process were as follows:

- 31 of the 92 candidates who attended the January workshops were subsequently selected to become arts associates
- 12 individuals who were appointed as arts associates were unable to attend either of the two selection workshop sessions.
- ACoW specifically approached four additional people who did not submit an expression of interest by the December deadline. These four people did not attend either selection workshop but subsequently became arts associates.

4.11 It is understandable that the ACoW wanted to give applicants who were unable to attend the workshops a further chance to become arts associates. However, candidates who were unable to attend the workshops should have been asked to attend another session at a more suitable time. The fact that 12 candidates who became arts associates did not go through the selection process outlined in the arts associate advertisement undermines the process and was unfair to the other applicants.

4.12 In the advertisement for the role of arts associates, ACoW did not say that they may need to depart from their process in order to meet their requirements. As above, this undermined the process.

How the Arts Council of Wales applied their process

Scope

4.13 The ACoW's invitation to applicants set out how to express interest in the role and gave five points on the type of people they would be looking for. It did not specify what experience was needed for the role or include a person specification.

4.14 Although the onboarding of arts associates was not a recruitment exercise, the PPR clearly says to create a scope, and to outline the minimum standards and qualifications that are required to fill the role. The broad list that explained the 'types' of person that would be recruited was insufficient and meant that applicants were unclear of the requirements, and how they would be judged against other candidates.

Criteria

4.15 The ACoW told us they did not create evaluation criteria for the initial shortlisting of applicants. They told us that this was "*in consideration that that [arts associates] would be contracted on an ad hoc basis rather than employed*".

4.16 It is understandable that the ACoW wanted applicants to express themselves in their own way. However, this does not mean that criteria could not have been created or applied on such applications. The failure to create criteria goes against the ACoW procurement handbook and does not promote equal opportunities.

Advertising

4.17 The ACoW followed the PPR when advertising the opportunity. They distributed it across relevant platforms such as sell2wales and set a closing date for applicants. They waited until the closing date before selecting applicants for the next stage.

Evaluation

4.18 We asked the ACoW how they decided which candidates were to be invited to the selection workshops and subsequently chosen to become associates. We asked if they used a clear set of criteria for these stages of the process. They told us that shortlisting was based on staff discussions and what they felt were the gaps in areas of expertise.

4.19 We asked for more details of the criteria that underlay these decisions. ACoW were not able to provide us with any written criteria which were used. Additionally, there do not appear to be any written records of the outcomes of the evaluations that were made.

4.20 The absence of any criteria to shortlist applicants creates a process that is potentially unfair and biased. Applicants were judged on the opinions of a range of different staff. This meant that applicants could not be fairly compared with others.

4.21 It is important to set out person specification, requirements and criteria in every selection process in order to fully assess each candidates' compatibility with the role. Having criteria would have enabled ACoW to identify any gaps in the cohort of applicants, to then take steps to fill the gaps, if necessary.

4.22 The lack of clear criteria means that some applicants for this round of the arts associate programme could have been disadvantaged.

Communication of outcomes

4.23 Communication between the ACoW and all arts associate applicants was delayed. While there was one email on 15 March 2019 that explained there would be a delay, there should have been further communication to say that they would not meet the revised deadline.

4.24 Additionally, the outcome email for unsuccessful applicants on 23 May was not clear. Applicants were left to decipher whether this meant they were unsuccessful, or if they were to be chosen in the coming year. This message could have been made clearer with different wording. Furthermore, it would have been reasonable to tell unsuccessful applicants that the ACoW had selected a cohort of associates.

Mr Coppock's complaint and how it was handled by ACoW

4.25 On the 25 October 2019 Mr Coppock complained to the ACoW about the selection process. He sent an email to the chief executive of ACoW setting out his opinions about the process and communication he received. He said that:

- due process was not observed in the selection process, and
- Arts Council of Wales' communications throughout the selection process has fallen short of accepted and reasonable norms.

Was due process observed?

4.26 The ACoW did respond to many of Mr Coppock's questions and points in his complaint letters throughout stage one and two of this process. However, the ACoW did not explain its process clearly. This point was therefore not responded to in full.

Communication

4.27 ACoW's communication with Mr Coppock through the complaints process was good. The responses from the Arts Council of Wales acknowledged that there was a lack of communication within the selection process. However, the response failed to outline the what criteria were used in order to assess the candidates fairly, or what actions were being taken to improve communication with future applicants.

Overall conclusion

4.28 The Arts Council of Wales' selection process for arts associates did not follow the process outlined in their procurement handbook. The Arts Council of Wales did not create clear criteria on which to assess candidates fairly or justify departing from the process in order to fill gaps in expertise. While arts associates are not permanent employees, they deserve to be assessed fairly. In failing to have objective criteria, the selection process for arts associates did not promote an equal opportunity to all candidates.

4.29 The communication to applicants was delayed. When it did come it was not clear for the applicants who were not successful. Although the Arts Council of Wales acknowledged this, and their response to Mr Coppock's complaint was generally

acceptable, the response could have been clearer when setting out what communication improvements they were implementing in the future.

Recommendations

R1 ACoW should ensure they follow their own processes by defining clear criteria to be used in order to fairly assess candidates for all roles.

R2 ACoW should ensure that communication is timely and clear.

5. The selection process of arts associates

5.1 This section describes the selection of arts associates, the application process and decision-making processes used by the ACoW.

Process for recruiting associates

5.2 We asked the ACoW what process and policy they followed in the selection of arts associates. We were told that as the associates were to be used on an ad hoc basis, this selection process differed from that of the recruitment of permanent staff. Therefore, the ACoW adopted the Public Procurement Process (PPR).

5.3 The ACoW followed guidance from their procurement handbook. The handbook sets out eleven steps to be followed by those responsible for the procurement of arts associates.

5.4 The following is an extract of the PPR from the handbook:

“3.4 CREATING A POOL/RESERVOIR/PRE-APPROVED/SELECT LIST OF SUPPLIERS FOR A TOTAL VALUE COMING UNDER THE EU THRESHOLDS

From time to time Arts Council of Wales will create something called a pool/reservoir/pre-approved /select list of suppliers of services with specific expertise - let's call it a List. This list will be created and managed centrally...

To create a List:

- 1. Decide what the scope of your List will be i.e. what services you will be asking suppliers to supply, the basis on which you will select suppliers to your List, what minimum standards or qualifications you will expect them to have in order to be able to be on your List and how you will evaluate that and the pricing structure you will expect to apply.*
- 2. Create a specification, evaluation criteria an invitation to apply and conditions of contract.*

3. *Advertise the List in sell2wales and in any relevant trade journal and give a maximum time period (set a closing date) for interested suppliers to respond.*
4. *Make the invitation to apply etc. available to anyone who expresses an interest.*
5. *Wait until the closing date.*
6. *Keep all responses secure and leave them unopened until the time and date mentioned in your invitation.*
7. *Open all responses at the same time, preferably with two people present and make a note on file of who was present and keep a list of all responses received.*
8. *Evaluate the responses using the evaluation criteria you set out in the invitation.*
9. *Let the suppliers who didn't meet your criteria know that they are not on the List*
10. *Let the winning suppliers know that they are on the List.*
11. *Each piece of work you order will be subject to the terms and conditions you sent out with the invitation."*

5.5 The 11 steps can be grouped into the following sections:

- g) Scope
- h) Criteria
- i) Advertising
- j) Evaluation
- k) Communication of outcomes
- l) Beginning work

5.6 We have detailed what is required in each section below.

a) *Scope*

5.7 This step is to identify what is required for the role, by the people who are being appointed. Staff are required to decide on what they will be asking for, and what qualifications or standards are needed for the function.

b) Criteria

5.8 The second step in the process details how staff are required to create evaluation criteria in which to fairly judge applicants. The criteria are to be included in the advertisement and any further particulars sent to interested parties.

c) Advertising

5.9 Advertising the function is covered in steps 3 - 7 of this process and details how and where the organisation should publicise the roles which they will select candidates for.

d) Evaluation

5.10 Step 8 covers the evaluation of submissions and decision making. This is where staff review and evaluate the responses using the evaluation criteria that was set out in the advertisement.

e) Communication of outcomes

5.11 Step 9 and 10 of this process is to inform the successful and unsuccessful applicants of their outcome from their application.

f) Beginning work

5.12 The final step, step 11, is where the successful candidates start their role.

5.13 In the next section we outline how the ACoW selected arts associates. In section 7 we review how these 11 steps were applied by the ACoW.

6. The selection of arts associates

6.1 This section sets out how ACoW recruited arts associates in 2019.

Advertisement

6.2 The Arts Council of Wales issued a call for expressions of interest for arts associates in the autumn of 2018. The objective was to create a pool of individuals they could call on to assist and provide additional knowledge and expertise across a range of activities in driving forward the objectives of the *'for the benefit of all'* strategy.

6.3 The advertisement said why the ACoW was hiring new associates, explained that the role would involve activities such as participation in development groups, workshops and grant funding decisions, and detailed how to apply. The full advertisement *'Seeking people to join as arts associates'* is at appendix B.

6.4 The arts associate programme and request for applicants was advertised through open platforms including the national procurement service framework, Sell2Wales, and on the council's social media platforms and in newsletters. An ACoW announcement from the ACoW's arts director, which was published alongside the advertisement for arts associates, explained:

"We are creating a new way people can get involved in this work. These will be important years for shaping the contribution the arts are making in contemporary Wales, and we are seeking expertise from the sector to inform and challenge this process."

6.5 The advertisement explained that the overall time commitment could be *"up to 10 days in a calendar year on average"* and gave brief details on how remuneration and expenses would be paid.

6.6 The details on the requirements for successful arts associates were set out within the *'introduction and practical matters'* section of in the advertisement, it said:

“We need to collaborate with people with experience and challenging imaginations and perspectives.... Critically for the ambitions of 'For the Benefit of All' to be realised we need the makeup [of] our Associates to be diverse and activist in outlook.

We need to assure we have Arts Associates who can advance our work supporting Welsh language culture.

We will be looking to have a geographical spread of Associates throughout Wales.”

6.7 Interested applicants were encouraged to send an expression of interest by 20 December 2018 to a group email address.

6.8 The advertisement said that a series of selection workshops will be programmed in the New Year to finalise invitations to individuals to become an Arts Council of Wales arts associates.

6.9 The advertisement went on to say that expressions of interest could take many forms. The details for applicants were as follows:

“You can make your expression of interest in a variety of ways at this stage. We need a short biography and a statement of interest in the role. This can take any form, written, spoken or filmed (maximum 500 words or 3 minutes spoken or filmed).”

Initial expressions of interest

6.10 152 people submitted an expression of interest by the 20 December deadline to become an arts associate. The ACoW undertook an ‘initial sifting’ exercise led by the director of arts and assisted by other arts council colleagues. This sifting exercise meant that 92 of the 152 applicants were selected to be invited to the next stage, attending a selection workshop.

6.11 Each of the 92 chosen candidates were invited to attend one of two selection workshops. The available dates were:

- 22 January 2019 - held in Swansea
- 23 January 2019 - held in Wrexham.

6.12 The ACoW told us that 42 applicants attended the Swansea workshop and 26 attended at Wrexham. Of the remaining 24 applicants, 12 people were unable to attend either workshop due to availability or illness. 12 people did not engage with the process further.

Selecting applicants from the expression of interest

6.13 We asked the Arts Council of Wales how they decided which applicants were to be invited to the selection workshops. We were told that:

“Selection was based on the Expressions of Interest that we’d received, including factors such as the range of skills and expertise the individual had outlined in their biography and how these may help meet one or more of the activities we had listed in the advert.

“Shortlisting of this nature at this stage in the process is a standard practice for both recruitment and procurement activities. As we had invited individuals to submit a biography and statement rather than answer specific questions we did not operate a defined scoring methodology for this initial assessment stage.”

6.14 We discuss the selection approach taken by the ACoW later in this report.

Selection workshops

6.15 The 92 successful candidates were invited to attend one of two selection workshops by email. They were asked to select one topic from the ACoW’s ongoing consultation on the future direction of Lottery Funding and prepare to speak about how their experience in the arts would be transferable to the role of arts associates.

6.16 Mr Coppock told us that the workshops took an informal approach. The day began with a brief introduction from the former arts director. This introduction detailed why the ACoW wanted to use arts associates and explained how the day would run.

6.17 The workshops were designed in cabaret style and applicants sat in groups. This was to encourage applicants to discuss ideas with other candidates. Mr Coppock told us that applicants could choose any table to sit at for the day.

6.18 One member of staff was allocated to each table and facilitated the discussion between candidates, prompting questions and activities for the group. We have been told that each member of staff stayed with the same group throughout the day. They were responsible for initiating group activities including discussions between the applicants on their own experience in the arts. The types of questions posed to each table included:

- What are the most important things you've done in relation to diversity?
- What was the last arts project you were involved in with an ethnic minority group?

6.19 At the end of the day each member of staff fed back to the ACoW staffing team for the next stage, this feedback was used for further consideration and decisions were made as a result of these discussions.

6.20 We asked the ACoW if the same staff were present at both workshops. We were told that the director of arts attended both sessions. However, given the geographical distance between the 2 workshops, not all staff were involved in both workshops and that *'instead, locally based staff assisted in each workshop'*.

Comment

Although there were some staff present at both workshops, having a different group of staff at each workshop meant that the judgement of candidates could have been inconsistent. Given that candidates are being assessed by different members of staff it would have been particularly important to have clear criteria to enable them to do so. This would have ensured that all staff were aware of what the arts council were looking for in their candidates, and would have helped to prevent subjective bias.

Selecting arts associates from the selection workshops

6.21 The Arts Council of Wales told us that the purpose of the workshops was to provide an opportunity to find individuals that would offer the supplementary skills that were needed in their cohort of arts associates. We were told:

“Through the creation of the cohort of Arts Associates we were seeking individuals who would offer supplementary skills and expertise to our Arts Council officers, the workshops were designed to provide an opportunity of exploring these issues. We considered participants’ understanding of our agenda, the specific skills that they would bring and their ability to work positively and constructively in a team.”

6.22 Following the two selection workshops, further shortlisting was undertaken by the director of arts, assisted by other arts council colleagues, through a series of internal meetings in April and May 2019 leading to the decision to appoint 47 people.

Successful applicants

6.23 47 people were initially selected as arts associates. The ACoW told us that they planned to phase in any additional arts associates that were needed over the course of the year.

6.24 The first cohort of successful applicants from this process were as follows:

- 31 of the 92 candidates who attended the January workshops were subsequently selected to become arts associates
- 12 individuals who were appointed as arts associates were unable to attend either of the two selection workshop sessions.
- ACoW specifically approached four additional people who did not submit an expression of interest by the December deadline. These four people did not attend either selection workshop but subsequently became arts associates.

6.25 In correspondence to the complainant throughout this complaints review, the ACoW explained how 12 people who were unable to attend either of the two workshops were then recruited to become arts associates. They said:

“In our judgement, these individuals presented a strong case for inclusion through their Expression of Interest, especially where their inclusion in Arts Associates addressed important gaps.

In hindsight, holding workshops on consecutive days may have been an unhelpful impediment to anyone either out of the country or engaged in other work.”

Comment

It is understandable that the ACoW gave applicants who were unable to attend the workshops a further chance to become arts associates. The reflection that it was unhelpful to hold both workshops on consecutive days seems reasonable. However, candidates who were unable to attend the workshops should have been asked to attend another session at a more suitable time. The fact that 12 candidates who became arts associates did not go through the selection process outlined in the arts associate advertisement undermines the process, and is unfair to the other applicants.

6.26 The Arts Council of Wales explained why four further people, who did not apply to become an arts associate, were subsequently appointed onto the programme. The ACoW said:

“This was to address specific gaps in expertise, location or language that were not sufficiently addressed through the Expressions of Interest that we initially received.”

6.27 The ACoW departed from their outlined process to fill experience ‘gaps’ in the group of applicants. We discuss the requirement gaps later in this report.

Comment

In the advertisement for the role of arts associates, the ACoW did not say that they may need to depart from their established process in order to meet their requirements for a full group of associates. As above, this undermines the ACoW process.

7. How the Arts Council of Wales applied their processes

7.1 This section discusses ACoW's process for selecting associates and discusses whether that process was followed.

Step 1: scope

7.2 The ACoW's PPR process says that selection should begin with the organisation in question identifying what services are required, and what minimum standards and qualifications are needed from applicants:

1. *Decide what the scope of your List will be i.e. what services you will be asking suppliers to supply, the basis on which you will select suppliers to your List, what minimum standards or qualifications you will expect them to have in order to be able to be on your List and how you will evaluate that and the pricing structure you will expect to apply.*

7.3 The advertisement for arts associates included five points that detailed the requirements from their applicants:

- We need to collaborate with people with experience and challenging imaginations and perspectives.
- Critically for the ambitions of 'For the Benefit of All' to be realised we need the make up our associates to be diverse and activist in outlook.
- We need to assure we have arts associates who can advance our work supporting Welsh language culture.
- We will be looking to have a geographical spread of associates throughout Wales.
- We will need some Associates who are experienced in international working and can offer particular expertise to our Cymru Yn Fenis Wales in Venice Advisory Committee and potential occasional project management of international arts activity.

7.4 The invitation to apply set out how to express interest in the role and gave five points on the type of people they would be looking for. It did not specify what experience was needed for the role or include a person specification.

The ACoW told us that they did not create a person specification because:

‘This was not a recruitment exercise as for staff so there is no role description or person specification per se. However our call out did detail the types of skills we were looking for.’

Comment

Although the onboarding of arts associates was not a recruitment exercise, the PPR clearly says to create a scope, and to outline the minimum standards and qualifications that are required to fill the role. The broad list of requirements in the advertisement that explained the ‘types’ of person that would be recruited was insufficient and meant that applicants were unclear of the requirements, and how they would be judged against other candidates.

Step 2: creating specification and evaluation criteria

7.5 The purpose of the first step was to outline the requirements of the role. It leads on to step two, creating specification and evaluation criteria:

2. Create a specification, evaluation criteria an invitation to apply and conditions of contract.

7.6 We asked the ACoW what criteria they used to assess candidates against these requirements. They told us that the first stage did not have a defined scoring mechanism and the second stage, the workshops, also didn’t have a defined scoring approach as there were no specific questions. They told us:

“As we had invited individuals to submit a biography and statement rather than answer specific questions we did not operate a defined scoring methodology for this initial assessment stage.

“We did not use a defined scoring approach as we had not asked a series of specific questions that required individual responses. Instead we went for a more open approach that allowed individuals to express and present themselves in their chosen way.”

7.7 The ACoW told us they did not create evaluation criteria for shortlisting applicants. They told us that this was *“in consideration that that [arts associates] would be contracted on an ad hoc basis rather than employed”*.

Comment

It is understandable that the ACoW wanted applicants to express themselves in their chosen way. However, this does not mean that criteria cannot be created, or applied on such applications. Not creating criteria because arts associates are not employees goes against the ACoW procurement handbook and does not promote equal opportunities.

R1 The Arts Council of Wales should ensure they follow their own processes by defining clear criteria to be used in order to fairly assess candidates for all roles.

Step 3 to 7: advertisement, and applications

7.8 Steps three to seven of the process detail the advertisement of the call for applications, and providing the time for applicants to respond before shortlisting any expressions of interest:

- 3. Advertise the List in sell2wales and in any relevant trade journal and give a maximum time period (set a closing date) for interested suppliers to respond.***
- 4. Make the invitation to apply etc. available to anyone who expresses an interest.***

5. *Wait until the closing date.*
6. *Keep all responses secure and leave them unopened until the time and date mentioned in your invitation.*
7. *Open all responses at the same time, preferably with two people present and make a note on file of who was present and keep a list of all responses received.*

7.9 The ACoW followed steps three to seven by advertising the opportunity across relevant platforms such as sell2wales and set a closing date for applicants. They waited until the closing date before selecting applicants for the next stage.

Step 8: evaluating candidates

7.10 Stage eight in the ACoW's process sets out how to evaluate applicants using the pre-agreed criteria from the earlier stage, stage two, of the selection process:

“8. Evaluate the responses using the evaluation criteria you set out in the invitation.”

7.11 The selection process therefore relies on evaluating candidates against pre-agreed criteria.

7.12 We asked the ACoW how they decided which candidates were to be shortlisted for the selection workshops and subsequently chosen to become associates. We asked if they used a clear set of criteria.

7.13 They told us in the workshops, for example, one element of the decision-making process was for staff to note how individuals acted within their group and how they participated in discussion.

7.14 Shortlisting was based on staff discussions and what they felt the gaps in areas of expertise were. These 'gaps' that were needed, were not formalised in the process.

7.15 We asked for more details of the criteria that underlay these decisions. ACoW were not able to provide us with any written criteria which were used. Additionally, there do not appear to be any written records of the outcomes of the evaluations that were made.

Comment

The absence of any criteria to shortlist applicants creates a process that is unfair and potentially biased. Applicants were judged on the opinion of a range of different staff which meant that applicants could not be fairly scored against others.

It is important to set out person specification, requirements and criteria in every onboarding exercise, in order to fully assess each candidates' compatibility with the role. By having criteria, the ACoW would have been able to fairly acknowledge any gaps in the cohort of applicants, in order to depart from the process if necessary.

Some applicants for this round of the arts associate programme could have been disadvantaged due to the lack of criteria.

Step 9 and 10: communicating outcomes to applicants

7.16 Stage 9 and 10 of the process was to communicate the outcome of the process to all applicants. It says:

9. *Let the suppliers who didn't meet your criteria know that they are not on the List*
10. *Let the winning suppliers know that they are on the List.*

7.17 Part of the complaint from Mr Coppock about this process was the communication he received from the ACoW. We detail the communication between the ACoW and the applicants of the arts associate programme below.

Communicating the outcome of the process to applicants

7.18 On the 25 January 2019, after the workshops, all attendees were sent an email from the team co-ordinator on behalf of the ACoW. This email thanked the applicants for their attendance and asked them to submit their CV if they had not done so already. It also gave instructions on how to file expenses.

7.19 The next communication from the ACoW was on the 15 March 2019, again from the team co-ordinator. This email thanked applicants again for their time in the process and explained that the selection process was taking longer than expected:

“We had hoped to conclude deliberations on Arts Associates and selection and groupings around themes of our future work by the beginning of March. We have decided to extend this whilst we begin to review and analyse the responses to our Lottery consultation which will further inform the role of the Arts Associates. This work will be completed by the end of April and we will get in touch with you at that point.”

7.20 The email also explained that the arts director, David Alston, had retired, and that this work would now be taken forward by the director of arts funding services, Kath Davies.

7.21 On the 23 May 2019 the next correspondence was sent. Two emails, both from Kath Davis, were sent using a group ACoW email address.

7.22 One email was sent to successful applicants and explained that they had been accepted onto the programme. The email to successful candidates said:

“I am pleased to say you have been identified as a match with some of the specific areas of work at present, and we will be contacting you in the coming weeks to draw on your experience and knowledge that particularly aligns with these specific areas of work”

7.23 A second email was sent to applicants who were not selected at this point, but that they may be called on over the coming year.

7.24 Mr Coppock was not successful. He received the second email which contained an apology for the delay in the process. It also said:

“Over the next year we will be looking at gradually phasing in the use of Associates in different areas and will be contacting individuals as appropriate. For those of you that we don’t contact in the coming months regarding working with us as an Associate, we hope you’re happy for us to keep your information on file.”

7.25 This email does not directly state that Mr Coppock was not successful. The email was the last correspondence that Mr Coppock received regarding his application to become an arts associate. He later found that 47 arts associates had been selected by visiting the Arts Council’s website.

Comment

Communication between the ACoW and all arts associate applicants was delayed. While there was one email on 15 March 2019 that explained there would be a delay, there should have been further communication to say that they would not meet the revised deadline.

Additionally, the outcome email for unsuccessful applicants on 23 May was not clear. Applicants were left to decipher whether this meant they were unsuccessful, or if they were to be chosen in the coming year. This message could have been made clearer . Furthermore, it would have been reasonable to communicate to unsuccessful applicants that the ACoW had selected a cohort of arts associates, but that they had not been successful.

R2 ACoW should ensure that communication is timely and clear.

The group email address

7.26 The ACoW created a group email address for the selection of arts associates. The email address was: artsassociates@arts.wales

7.27 During the complaints process, Mr Coppock told the ACoW that he felt the use of this group email to be “generic” and “disrespectful”. He felt that communication should have been personalised.

7.28 The CEO of the Arts Council of Wales initially responded to Mr Coppock, as part of stage one of the complaints process, by saying “*we did, I’m afraid, use standardised communication when a more personal approach might have been better*”.

7.29 In a subsequent letter to Mr Coppock at stage two in the complaints process, the CEO said:

“the generic email addresses is part of our standard practice when simultaneously issuing the same communication to a number of external individuals. This is to ensure we protect the personal email addresses of the individual recipients.”

7.30 ACoW have told us that this email address was created to “*to manage multiple email addresses without disclosure to third parties for DPA considerations and allow a team of officers to manage communication.*”

Comment

It is reasonable for the ACoW to create a group email address to communicate with a specific group of applicants. This ensures that they are compliant with GDPR and means they can manage responses and communication. However, the ACoW CEO should have communicated this to Mr Coppock at stage one. The message changed throughout the complaint correspondence. This led to a loss in trust from Mr Coppock.

Step 11: begin work

7.31 Step 11 is taken after successful applicants have been appointed:

11. Each piece of work you order will be subject to the terms and conditions you sent out with the invitation.”

7.32 After the successful applicants had been enrolled as arts associates, they were moved on to the final stage of the process, starting their work with the Arts Council of Wales.

8. Mr Coppock's complaint and the responses provided by the Arts Council of Wales

8.1 This section details Mr Coppock's complaint and the responses from the Arts Council of Wales.

Mr Coppock's complaint

8.2 On 25 October 2019 Mr Coppock complained to the ACoW about the selection process. He sent an email to the chief executive of ACoW setting out his opinions about the process and communication he received throughout. He said that:

- due process was not observed in the selection process, and
- Arts Council of Wales' communications throughout the selection process has fallen short of accepted and reasonable norms.

8.3 Mr Coppock wrote that he felt the communication throughout the process was unreasonably delayed and impersonal.

8.4 Mr Coppock also questioned how, if due process was followed, a number of successful arts associates who did not attend the workshops, as well as some who did not apply at all, were selected as arts associates.

8.5 Additional details of the nature of the arts associate contract were discussed in the complaint correspondence, such as the length of the contract. These details were not included in the invitation or application pack.

8.6 The chief executive responded to the initial complaint on the 6 November 2019. Subsequent emails and letters were then exchanged discussing Mr Coppock's complaint, and the responses provided by the Arts Council of Wales. We have provided a timeline of the communication surrounding this complaint in the introduction of this report.

Arts Council of Wales' response to Mr Coppock's complaint

8.7 The ACoW responded to Mr Coppock's complaint as follows.

Communication within the process

8.8 The Arts Council of Wales acknowledged that the communication in this process was not as good as it could have been. The chief executive explained:

"it's clear that the Arts Associates process was not managed to the high standard of administration that we'd usually expect. Managing the Arts Associates was the responsibility of our previous Director of Arts, David Alston, and since his departure there have been a number of responsibilities that have had to be re-assigned across the remaining team. In the case of the Arts Associates, the transfer should have been more smoothly managed. This isn't an excuse, but an explanation. Nevertheless, you highlight a number of shortcomings in the process that should have been avoided."

8.9 The ACoW apologised and said that they will review how they communicate to applicants in the future:

"I am afraid that I must agree with your complaint that these matters were not handled to standard of administration that one should normally expect from us. I regret any distress that we might have caused and offer my sincere apology...I am grateful to you for bringing these matters to my attention, and your concerns about our process will enable us to identify and introduce the necessary improvements."

8.10 We have asked the ACoW what improvements they have made, or plan to implement, since this complaint. They told us that they have made a number of improvements since January 2020. The list of improvements provided by the ACoW include:

- Developed guidance for current arts associates.

- Introducing surveys for arts associates and arts council officers engaged in grant decision meetings, for feedback
- Involving arts associates in other areas of their work such as sector development group meetings
- Improvement of data protection responsibilities.

8.11 The list of improvements provided to us, including the developed guidance for arts associates was detailed and clear. The guidance includes detailed information on the recruitment of arts associates, when the recruitment rounds will take place and the criteria that will be used to score candidates. It also has a section on communication and what should be expected from both arts associates and the ACoW. This will be helpful for current arts associates.

Comment

Communication within the complaints process between the ACoW and Mr Coppock was generally good. It could have been improved by specifically outlining the improvements in communication which the CEO referred to.

The improvements made by the ACoW listed above are beneficial for existing, new or aspiring arts associates.

Due process in the selection process

8.12 The response letter from the Arts Council of Wales, dated the 25 November, states that they could have been clearer with the selection criteria used to assess candidates. However, the response failed to outline what criteria were used in order to assess the candidates fairly.

8.13 The ACoW's response said:

“The role of the Arts Associates is to support our officers in the effective delivery of our work. We’re looking for Associates with skills that are relevant to our

policy priorities. However, we're also looking for Associates who are a good 'fit' with our officer team as it's important for us to supplement the skills of our in-house team with a wider range of expertise. The workshops were designed to provide a practical opportunity of exploring these issues. We considered participants' understanding of our agenda, the specific skills that they would bring and their ability to work positively and constructively in a team. Assessing such things are, inevitably, matters of officer judgement, but we believe that it was made clear from the outset that not everyone attending the workshop would become an Associate."

8.14 The arts council's responses to Mr Coppock did not identify clear criteria that were used for the selection process.

Comment

The ACoW did respond to many of Mr Coppock's questions and points in his complaint letters throughout stage one and two of this process. However, the ACoW did not explain its process clearly. This point was therefore not responded to in full.

9. Findings, conclusions and recommendations

9.1 This section sets out our findings and conclusions. It considers whether the Arts Council of Wales followed a fair process in the recruitment and appointment of arts associates.

ACoW's process and assessment approach for recruiting arts associates

9.2 We have reviewed the process of selecting arts associates that was used by the ACoW against the guidance in the procurement handbook.

9.3 We considered every stage in the selection process from the advertisement, the initial expressions of interest, the section workshops and how the ACoW selected successful applicants.

9.4 We reviewed how the ACoW departed from their process to select additional arts associates that they required, even though they did not have a defined list of what they were looking for from their candidates.

Finding

F1 We find the ACoW did not follow their own process outlined in their procurement handbook. They did not create person specification, a list of minimum requirements or criteria in order to fairly assess candidates. Additionally, they departed from the process that they had set out to select candidates that filled 'gaps' in their expertise, even though they did not have a list of the expertise that they were looking for. We find that this was unfair and did not promote equal opportunity for all candidates.

ACoW's responses to the concerns raised by the complainant

9.5 We considered the communication emails between the ACoW and the arts associate applicants.

9.6 We also reviewed the communication letters between ACoW and Mr Coppock as part of the complaints process and whether the responses were made in full. We reviewed the responses to the complaint about poor communication. We also reviewed the response to the complaint regarding the selection process.

Finding

F2 We find that the communication between ACoW and Mr Coppock during the complaints process mostly addressed his questions and concerns in turn. The responses from the Arts Council of Wales acknowledged that there was a lack of communication within the selection process. However, the response failed to outline what criteria were used in order to assess the candidates fairly, or what actions were being taken to improve communication with future applicants.

Overall conclusion

9.7 The selection process for arts associates went against the process outlined in ACoW's procurement handbook. The Arts Council of Wales did not create clear criteria on which to assess candidates fairly. Nor did it provide a justification for departing from its process in order to fill gaps in expertise. While arts associates are not permanent employees, they deserve to be assessed fairly. In failing to have objective criteria, the selection process for arts associates did not give an equal opportunity to all candidates.

9.8 The communication to applicants was delayed, and the communication to applicants who were not successful could have been clearer. This was acknowledged in the communication between ACoW and Mr Coppock in the complaint correspondence. The response to Mr Coppock surrounding communication could have been clearer when defining what communication improvements the ACoW were implementing in the future.

Recommendations

R1 The Arts Council of Wales should ensure they follow their own processes by defining clear criteria to be used in order to fairly assess candidates for all roles.

R2 ACoW should ensure that communication is timely and clear

Appendix A

Documents considered during the investigation

Below is a list of documentation we considered as part of this investigation. We also spoke to the complainant and the Arts Council of Wales over the phone.

- Initial complaint - 25 October 2019
- Formal complaint response to stage one of the complaints process - 6 November 2019
- Stage two complaint letter from Mr Coppock - 14 November 2019
- Stage two response letter from ACoW to Mr Coppock - 25 November 2019
- Complaint letter from Mr Coppock requesting escalation to ICR - 4 December 2019
- Emails containing complaint letters and correspondence between ACoW and Mr Coppock
- Mr Coppock's CV
- Mr Coppock's expression of interest
- Mr Coppock's workshop notes
- Arts Council of Wales is seeking arts associates
- Seeking people to join as arts associates
- Kath Davies email 23 May 2019 to successful candidates
- Procurement handbook policies and procedures

Seeking people to join as arts associate - advertisement for role

Below is the announcement used to advertise for the role of arts associate



Arts Council of Wales is seeking people to join as Arts Associates

Do you believe the arts can change lives?

Do you believe they should be available to all?

[For the Benefit of All](#) sets out the ambitions of Arts Council of Wales through to 2023.

We are creating a new way people can get involved in this work. These will be important years for shaping the contribution the arts are making in contemporary Wales, and we are seeking expertise from the sector to inform and challenge this process.

Arts Council of Wales has specialist officers who provide knowledge and expertise in the arts, but the arts never stand still and we recognise that to supplement our knowledge and inform our thinking, we need to collaborate with people with experience and challenging imaginations and perspectives. Often this will come from a variety of artists themselves lending their experience and expertise or from people involved in communities or areas of work where the arts are developing their role. Critically for the ambitions of *For the Benefit of All* to be realised we need the make up our Associates to be diverse and activist in outlook.

Your Role as an Arts Associate of the Arts Council of Wales

- You would be participating in our various Sector Development Groups devoted to art forms and to ways of working in the arts.
- You could be involved in Grant Decision Groups in the way we have had artists and other creative professionals participating in our Creative Wales programme. We are currently consulting on future approaches to our work via [National Lottery Funding](#)
- Widening engagement is a significant priority for the Council. We would be seeking Arts Associates' participation in how we will achieve greater reach through communities where access to the arts can be more developed and our equalities and inclusivity agenda strengthened.
- We will want our Arts Associates to participate in workshop or conference activity and our programme of Sgwrs/ Creative Conversations.
- Occasionally we will use Arts Associates in conjunction with internal Task and Finish Groups addressing particular issues for the development of the arts providing advice to officers and Council.
- We want this to be an engaging involvement with us and the organisations we fund and develop. Our Sector Development Groups may identify particular engagement we would want an Arts Associate to take up with one or more organisations in the various sectors.
- We will need some Associates who are experienced in international working and can offer particular expertise to our Cymru Yn Fenis Wales in Venice Advisory Committee and potential occasional project management of international arts activity.

Some practical matters

Remuneration for half day or whole day sessions involving Arts Associates will be based pro rata on a £300 day (£150 per half day) fee. Some activities will only attract expenses (such as attendance at Annual Conferences or more general regionally based Sgwrs or Creative Conversations.) Our travel and subsistence policy and allowances are based on Welsh Government rates and will be available to selected Associates).

We need to assure we have Arts Associates who can advance our work supporting Welsh language culture.

We will be looking to have a geographical spread of Associates throughout Wales.

Overall time commitment could be up to 10 days in a calendar year on average.

You will still be able to apply for other work offered by Arts Council of Wales during this period. Being an Arts Associate will not disqualify you from applying individually or being part of an organisation applying for an Arts Council grant.

Interested?

You can make your **expression of interest** in a variety of ways at this stage. We need a short biography and a statement of interest in the role. This can take any form, written, spoken or filmed) (maximum 500 words or 3 minutes spoken or filmed.)

A series of selection workshops will be programmed in the New Year to finalise invitations to individuals to become an Arts Council of Wales Arts Associate - 22 January (in Swansea) 23rd January (in Wrexham).

Expressions of interest should be submitted to artsassociates@arts.wales or post marked Arts Associates, Arts Council of Wales, Bute Place, Cardiff CF10 5AL
By 20th December 2018

Nawr Yr Arwr / Now The Hero, Brangwyn Hall, Swansea (image: Warren Orchard)

