



FINDINGS AND RECOMMENDATIONS:

October 2017

REF: 527

RECRUITMENT PRINCIPLES COMPLAINT TO THE CIVIL SERVICE COMMISSION

FINDINGS OF THE INVESTIGATION

AUTHORITY

1. The Constitutional Reform & Governance Act 2010 outlines the functions of the Civil Service Commission. One of the functions concerns the investigation of complaints made by any person that a selection for appointment has been made in contravention of the legal requirement that selection for appointment to the Civil Service must be on merit on the basis of a fair and open competition.

The Act says:

13 (3) The Commission –

May determine steps that must be taken by a person before making a complaint (and those steps must be taken accordingly);

b) Must determine procedures for the making of complaints and for the investigation and consideration of complaints by the Commission;

c) After considering a complaint, may make recommendations about how the matter should be resolved.

OUTLINE OF THE COMPLAINT

2. The complainant applied for the Civil Service Fast Stream. However, he was unsuccessful at Fast Stream final assessment stage and was offered a role through the Direct Appointment Scheme.

3. The complainant believes HMRC breached the Recruitment Principles for the following reasons:

- The provisional role HMRC offered was different from the formal role offered.
- HMRC failed to inform him of the change in roles.

METHODOLOGY OF THE INVESTIGATION

4. The Commission investigated the complaint through consideration of written evidence supplied. The Commission considered the following evidence, in addition to the complainant's original correspondence:

- Supporting campaign documents.
- Correspondence to and from Department and complainant.
- Correspondence to and from Civil Service Resourcing.
- Correspondence to and from Department.

Sarah Laessig and Rosie Glazebrook were the decision-making Commissioners in this case.

SUMMARY OF THE EVIDENCE

5. The complainant originally applied for the Civil Service Fast Stream. Civil Service Recruitment (CSR) ran the campaign. However, he was unsuccessful at Fast Stream final assessment stage and was offered a role on the Direct Appointment Scheme (DAS).

6. DAS is offered to candidates who have just missed the Fast Stream pass mark and are offered roles at a lower grade. These roles are not advertised at stage 4 (external campaigns), or open to non-DAS candidates.

7. CSR contacted the complainant with the opportunity of a role via DAS. The complainant accepted and registered his interest in a finance position. The complainant was then contacted by HMRC Recruitment Team, informing him that they would like to make a provisional offer of a Tax Professional Caseworker/Manager role. The complainant accepted the HMRC provisional offer.

8. Subsequently, HMRC made a formal offer of a Band O Officer post, Business: Risk & Intelligence Service. This differed from the provisional offer of a Tax Professional Caseworker/Manager. The complainant emailed HMRC accepting

the formal offer. After starting the role, the complainant lodged a complaint with CSR, stating that he had been misled by HMRC as the formal offer was different from the provisional offer. HMRC stated that the reason for the change in role was a change in business demand, meaning that an urgent demand arose in the Risk and Intelligence Service.

9. The complainant was not content with the response from HMRC and lodged a formal complaint with the Civil Service Commission.

FINDINGS AND RECOMMENDATIONS

Did HMRC breach the Recruitment Principles by formally offering the complainant a different role from that at provisional offer stage?

10. The Complainant considers the process was not fair, as HMRC should not have changed the initial provisional offer (Tax Professional Caseworker/Manager) role to that of Risk and Intelligence Service (RIS) role.
11. HMRC replied that the provisional offer was 'the generic role of Tax Profession or Manager'. However, the provisional offer letter stated that: 'some areas of the business had a requirement for operational delivery roles.' It was decided to offer these new roles, which differed from those in the provisional offer, to DAS candidates. HMRC stated that they did this because it was advised a 'provisional offer is not legally binding.' HMRC is arguing that the nature of the offer may change according to the requirements of the business.
12. The Complainant believes that HMRC and CSR should have informed him that the nature of the role offered had changed.
13. HMRC admit there was an oversight in not informing him of the change in roles, which it apologised for. It believed he was given the correct information in the formal offer letter.
14. While accepting that HMRC should have informed the complainant it was formally offering a different role, it is difficult to understand how he failed to see that the formal offer was clearly different from the provisional offer. It states in the formal offer: 'If you have any queries concerning this offer, please contact.'
15. However, the Formal Job offer does not contain information about the nature of the role; it simply states: 'Business: Risk & Intelligence Service.'

16. HMRC did supply information in the 'Mainstream Civil Service Opportunities: Frequently Asked Questions' (FAQs). It states: 'we are unable to accommodate candidate preferences and it is unlikely that we'll be able to offer you more than one post, should you choose to decline an offer.' This information was sent to The Complainant when he was offered a post under DAS.
17. The information was clearly set out in FAQs and the complainant should have known that there was no guarantee that a department would be able to accommodate his expectation of being offered a post that met his request/preference.
18. In the Civil Service Fast Stream & Early Talent invitation to candidates to join DAS, it states: 'You would be invited to meet representatives of the department to discuss the post on offer and to determine whether you would fit with the organisation.' It appears this did not happen and communication was only via email, with no discussion of the role on offer.
19. HMRC failed to communicate clearly to the candidate the change of roles. However, appointments under DAS are not part of the formal recruitment process. In the offer to join DAS, it states that: 'there would be no further recruitment process.' Therefore, any offer of a post is not part of a formal recruitment process.
20. HMRC apologised for failing to inform the complainant with the diligence due to a DAS candidate. It has also assured the complainant that information will be 'incorporated into future campaigns to afford candidates a better understanding of the role being offered to them via the DAS.'
21. The change in role from provisional to formal offer does not breach the CSC Recruitment Principles.

This is not a breach of the Recruitment Principles.

Recommendations.

- HMRC should ensure any changes in the nature of roles, from provisional to formal, are made clear to all candidates.
- Civil Service Fast Stream & Early Talent DAS Leads should ensure that departments offering posts under DAS, give candidates full details about the nature/role of the post, so they can reach an informed decision whether to accept the post.

- Civil Service Fast Stream & Early Talent DAS Leads should ensure that its advice to departments on their dealings with DAS candidates is followed.

REQUEST FOR REVIEW

1. There is no mechanism for appealing against the decision of the Civil Service Commission in a Civil Service recruitment complaint case.
2. The Commission will, however, consider representations from complainants, or those complained against, for review of the Commission's decision and recommendations that suggest that it has made factual errors in its decision making.
3. The Commission will not normally accept a request to review its decision or recommendations if the request is received more than 20 working days after the date of its findings.

Sarah Laessig
Rosie Glazebrook

Civil Service Commission
October 2017