



FINDINGS AND RECOMMENDATIONS: March 2018

REF: 686

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 –*

a) 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, but was unsuccessful at sift for, the role of Head of Support Chain Information Services with Defence Equipment and Support at the Ministry of Defence in September 2017. This was an SCS PB1 role. The complainant states that he was assessed and sifted out against criteria not listed in

the advert, that the panel was constituted from individuals with insufficient IT experience and that a named individual was inappropriately assigned to the management of the assessment process. The complainant referred the matter to the Commission on appeal in February 2018.

METHODOLOGY OF THE INVESTIGATION

3. 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:

- The original job advertisement.
- Feedback from the Department to the complainant on his application.
- The letter from the Department to the complainant detailing their consideration of his complaint, with their findings.
- The sift pack detailing feedback on all candidates.
- Answers to questions put in emails to the Department from the Commission about the assessment process.

4. Sarah Laessig and Natalie Campbell were the decision making Commissioners.

SUMMARY OF THE EVIDENCE

5. The complainant applied for the role of Head of Support Chain Information Services with Defence Equipment and Support at the Ministry of Defence in October 2017. On October 5 he was notified that his application had been unsuccessful and that feedback was unavailable. The complainant requested information under the Data Protection Act (DPA) on his application and those of the other applicants. On 9 October, the Department responded stating that it was not possible to supply information on the other candidates but providing the complainant with the feedback on his application. This stated: *Strong IT background with knowledge of DE&S. CV demonstrated limited experience in wider support chain operations in defence/ICTS transformation. Strong candidate but not as strong in the above areas as those shortlisted.*

6. The complainant responded to the Department requesting further information under DPA about the sift process and the constitution of the panel and stating that: *the commentary below from the panel is not aligned to the four criteria you list, as it includes specific narrative in relation to Support Chain Operations in Defence, which if requested as a criteria, I could have demonstrated completely adequately.*

7. The complainant then submitted a formal complaint to the Department. There were four strands to the complaint:

- That the panel had insufficient experience in IT

- That he was assessed and sifted out against criteria not listed in the advert
- That the candidate selected for the role had less experience than the complainant
- That the Head of HR Business Partnering had inappropriately influenced the process

8. The Department investigated the complaint and reported their findings to the complainant on 6 December. The report of the investigation addressed the issue of the constitution of the panel and explained that the Head of HR Business Partnering, whom the complainant asserted had inappropriately influenced the process, had not actually been involved in the assessment of any of the candidates at sift. The report concluded that the panel took the final decision on which candidates were the most meritorious and concluded three individuals were successful at sift and that the complainant was one of six candidates who were not successful. The report did not appear to address however, the complainant's concerns when he stated *the commentary below from the panel is not aligned to the four criteria you list, as it includes specific narrative in relation to Support Chain Operations in Defence, which if requested as a criteria, I could have demonstrated completely adequately.*

9. The complainant referred the matter to the Commission on appeal in February 2018. The Commission explained to the complainant that the only aspect of his complaint that was in scope for consideration was that of the criteria used to assess him at sift and his allegation that he had been sifted out against criteria that was not listed in the job advert. . The Recruitment Principles require that a panel of at least two is set up to oversee the process. The panel chair must be a civil servant or Civil Service Commissioner. The Commission does not prescribe how a panel should be constituted; this is for the department to determine. Likewise, assessing a candidate's experience for a role is a matter that panel members should determine, as it is they who know best the needs of their business.

10. The essential criteria in the job advert were:

- Success in delivering a large scale transformation in particular in relation to modernising and rationalising IT/IS and/or portfolio and scheduling management
- A track record in stakeholder relationship management displaying an ability to engage across the business and with Industry;
- Experience of strategic thinking and planning operating at the board level with vision while inspiring key stakeholders;
- Strong leadership experience and track record of managing large teams within a range of comparably complex structure across either the private or public sector.

11. The Commission contacted the Department and asked the following questions of them:

- The sift summary states 'CV demonstrated limited experience in **wider support chain operations in defences/ICTS transformation**'. These words don't appear within the four essential criteria. Could you explain why they are

not included (or if the requirement for this experience is implied in some way, could you explain this to us please).

- Could you let us know if all of the candidates were assessed against **wider support chain operations in defences/ICTS transformation** at sift please.

11. In response the Department stated the following:

- The phrase **wider support chain operations in defences/ICTS transformation** is very high-level summary that refers to evidence across a couple of the essential criteria. I have broken it down below to provide some clarity –
- **Wider** support chain operations in **defences**. **Wider defence** summarises the requirement for experience ‘within a range of comparably complex structures across either the private or public sectors’ in essential criteria number 4.
- **Support Chain operations** has summarised the requirement for experience of ‘portfolio and scheduling management’ in the essential criteria number 1.
- **ICTS transformation** has summarised the requirement for experience of ‘large scale transformation’ and modernising and rationalising IT/IS’ in the essential criteria number 1.
- Yes all candidates were considered against the essential criteria in the same context that it was applied to the complainant.

FINDINGS AND RECOMMENDATIONS

Have the Recruitment Principles been breached by the complainant being assessed against criteria not listed in the job advert.

12.

13. The issue of ICTS transformation experience does seem to be covered in the essential criteria (*Success in delivering a large scale transformation in particular in relation to modernising and rationalising IT/IS*)

16. In relation to defence experience referred to in the complainant’s feedback - *limited experience in wider support chain operations in defence/ICTS transformation* – there is nothing in the essential criteria referring to the fact that the experience in this area needs to be in the field of defence. The Commission acknowledges that the job title is: ‘Head of Support Chain Operations’ and the fact that the role is a defence based one, goes some way to pointing towards the experience that would be looked for, but it still needs to be explicitly stated and it was not. **This is therefore a breach of the Recruitment Principles.**

17. In responding to the Commission’s question about whether all candidates were assessed against the same criteria, the Department responds that they were. There is no definitive evidence that this was not the case. However, the report of the sift of all candidates in the sift pack does not record that they were all assessed against *wider support chain operations in defence/ICTS*.

RECOMMENDATIONS

18. The Commission recommends that

- **DE&S ensures that all job applicants are made aware of the criteria that will be used to assess them by explicitly referring to them in job advertisements and applicant packs**
- **DE&S ensures that sift records show which criteria have been used to assess candidates.**

REQUEST FOR REVIEW

19. There is no mechanism for appealing against the decision of the Civil Service Commission in a Civil Service recruitment complaint case.

20. 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.

21. 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.

**Natalie Campbell
Sarah Laessig**

**Civil Service Commission
March 2018**