



FINDINGS AND RECOMMENDATIONS: March 2016

REF: 195

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 a G7 post at Health & Safety Laboratories (HSL) under the Guaranteed Interview Scheme. He declared a disability (dyspraxia) and believes he was treated unfairly before and during the interview process. The complainant feels he was disadvantaged by the way the interview was structured and the fact that he was not given the interview questions in advance. The complainant believes that the legal requirements of fairness for recruitment into the Civil Service have not been met in his case.

METHODOLOGY OF THE INVESTIGATION

3. The Commission investigated the complaint through consideration of written evidence supplied by the complainant. Kathryn Bishop and Sarah Laessig were the decision-making Commissioners in this case.

4. The Commission considered the following evidence, in addition to the complainant's original correspondence:

- Original vacancy details and complainant's CV
- A timeline of all communication HSL had with complainant relating to his application
- The "invite to interview" document sent to the complainant
- Interview scores for all candidates

SUMMARY OF THE EVIDENCE

5. The complainant applied at stage 4 for the G7 vacancy at HSL which was advertised on CS jobs.

6. In August 2015 the complainant contacted the HR department of HSL advising that he wanted to apply for the vacancy but suffers from dyspraxia and finds websites difficult to use. He asked if he could apply for the post with his CV rather than a completed application form. The HR team, in accordance with the details in the job pack, offered the application form in an alternative format- a word document and offline process.

8. After further communication from the complainant highlighting his lack of printing capability, an inability to complete any forms, and request for reasonable adjustments the HR team agreed to accept just the CV as his full application.

9. The complainant was invited for interview. There was further interaction between HR team and complainant relating to interview timing and the interview format. The hiring manager took the decision to speak to the complainant before the interview to make sure any reasonable adjustments were put in place if needed and ensure the process was understood. At this point a misunderstanding appears to have taken

place in relation to information that was being sent out from HSL to complainant. The complainant states he was told that the hiring manager would send him the actual questions for the interview. The hiring manager stated that he advised the complainant that the interview would be based around the competencies and requirements as set out in the job specification, (which had already been sent out by the HR team) but he would try to resend it again for reference purposes. Other business priorities escalated and he didn't resend it, leading to the complainant's view that he was deficient in his preparation.

10. The complainant was interviewed in November 2015. At the start of the interview the panel, taking account of Mr Mallon's disability, explained that although 45 mins had been set aside for each candidate it would not be a problem if more time was needed. The interview process consisted entirely of competency based questions, there was no requirement for any candidate to make a presentation or have any written testing. Two other candidates were also interviewed but the process was not concluded until beginning of December. The complainant scored 21 at interview stage ("moderate demonstration" on the grading system), of the other two candidates one scored more than 21, the other scored less.

FINDINGS AND RECOMMENDATIONS

The legal requirement¹

The legal requirement is for selection for appointment to the Civil Service to be made on merit on the basis of fair and open competition. All three elements have to be met for the appointment to be lawful

Merit means the appointments of the best available person judged against the essential criteria for the role

Fair means there must be no bias in the assessment of candidates. Selection processes must be objective, impartial and applied consistently.

Open means potential candidates must be given reasonable access to information about the job and its requirements, and about the selection process.

11. HSL have stated in their interview pack that alternative formats could be considered and tried to do this by offering an off line application. Because the complainant was still encountering difficulties HSL made a reasonable adjustment and sifted on the basis of the CV only.

- **Were other candidates treated less fairly or was it fair to make the necessary reasonable adjustment for the complainant's disorder?**

The use of reasonable adjustments is **not** a requirement of the Recruitment Principles. However, other candidates were not treated less fairly and it was proportionate to make the necessary adjustment for the complainant.

¹ Recruitment Principles, April 2015

12. On the evidence reviewed it is clear that HSL took all steps to ensure that the complainant was not disadvantaged during the process, including researching his medical condition with which they were not familiar. The complainant required a large amount of intervention by the HR team to get to the interview stage. He was given, on more than one occasion, all the necessary guidance and explanatory material required.

13. The “hands on” approach to the candidate prior to interview unfortunately exacerbated the complainant’s sense of unfairness. He was the only candidate who received a call from the hiring manager prior to interview but there has been some confusion about the content of that conversation. The HR team in HSL are very clear it would be unacceptable (and a breach of the Recruitment Principles) to give the interview questions to the candidate in advance and the hiring manager has stated that this is something he would not have contemplated for any candidate. However, an external candidate may not have been aware that this is not an acceptable procedure.

- **Was complainant treated unfairly because HSL did not give him the interview questions in advance?**

No, it would have been unfair to other candidates and a breach of the Recruitment Principles to give him this information.

14. The complainant did not receive the lowest score out of the 3 candidates that were interviewed, in fact one other was significantly lower, but he was not the most meritorious.

16. The commission has concluded that there is no breach of the fairness requirements in the Recruitment Principles.

18. However HSL should review its handling of GIS requests, use of alternative formats and requests for reasonable adjustments so that any future decisions, such as the ones in this case, are based on an agreed policy rather than a case by case decision.

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 or errors of factual interpretation 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.

Kathryn Bishop

Sarah Laessig

Civil Service Commission
March 2016