



FINDINGS AND RECOMMENDATIONS: February 2017

REF: 298

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, an existing civil servant, applied for a HMRC role advertised as campaign 2119/15. The campaign was administered for HMRC by Civil Service Resourcing (CSR).

3. His complaint relates to the fact that his provisional job offer was withdrawn because he had not provided evidence of his English and Maths GCSEs. He believes a Human Resources (HR) online printout should suffice as evidence of these qualifications and that CSR should have been aware of his qualifications. In the alternative, he believes that his military and other qualifications should be taken into account and regarded as “equivalent” to the required qualifications and that his experience of investigations should have been taken into consideration.

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:

- The job advertisement
- CSR Vacancy Holder Guidance
- Correspondence with CSR.

5. Kathryn Bishop and Sarah Laessig were the decision-making Commissioners in this case.

SUMMARY OF THE EVIDENCE

6. The complainant applied for the Executive Officer grade role of Investigation Officer or Intelligence Officer. The campaign advertised 350 posts at various locations.

7. The advert states that: “All applicants must have 5 GCSE A-C (including Maths and English) and 2 A levels, equivalent, or higher in any subject. For more information about qualifications and their equivalency please consult WWW.GOV.UK or the Scottish Credit and Qualification framework; scqu.org.uk”.

8. Throughout the process, various emails were issued to candidates via WCN (the online application system) as follows:

- i. 07/10/15 - as part of invitation to interview all candidates were informed "Please bring with you evidence of your educational/vocational qualifications if specified in the vacancy advert"
- ii. 08/10/15 - confirmation of interview ""Please bring with you evidence of your educational qualifications as specified in the Vacancy Advert - 2 GCSE'S including English Language or equivalent." It seems that this was subsequently altered, and another message sent out to clarify that the educational requirements were 5 GCSEs A-C including Maths and English and 2 A levels.
- iii. 12/10/15 " you have been unable to book an interview because you do not hold the Certificates to confirm the Educational requirements you should apply for duplicate certificates from <https://www.gov.uk/replacement-exam->

certificate/who-to-contact. Due to the delay in receiving duplicates you should book and attend your interview in the meantime, and submit the certificates when you receive them. Any offer of post will be conditional upon us receiving the certificates before you take up duty".

iv. 16/11/15 "Further to the message dated 12th October regarding duplicate qualification documents. Candidates should be aware that the deadline to provide any outstanding qualification certificates is the 20th November. Any candidates who have incomplete candidate packs after this date will be withdrawn from the selection process". An extension until 20/12/15 was granted to candidates who advised they were having difficulty in obtaining copies.

9. The complainant attended interview where he stated he provided his qualifications, which he believed exceeded the requirements. He did not submit his O levels (including, he says, Maths and English), as he assumed CSR would have access to his Civil Service profile where he stated these qualifications were verified.

10. The complainant was not appointed to the role immediately, but was instead placed on the reserve list and contacted in April 2016 with a provisional offer. Pre-employment checks were commenced at this stage. He later noticed, in June, that this offer had been withdrawn. He was told, following a complaint, that he had not provided his Maths and English qualifications. It was stated that his military and other qualifications were not equivalent to Maths and English GCSEs.

11. The advert for the role refers to HMRC looking for people with "investigative ability". The complainant says that he has this. He also refers to the dismissal of his military qualifications and his equivalent status. He mentions Civil Service Jobs guidelines on qualifications and alludes to a "change of story" from CSR and the fact that a provisional offer was made to him.

FINDINGS AND RECOMMENDATIONS

12. CSR has confirmed that all applicants were required to produce qualifications and that qualifications checks were carried out on all candidates. As set out in paragraph 8 (iii), applicants were told on 12 October that any offer of post would be conditional upon CSR receiving the qualifications certificates before candidates took up duty. This was then followed up with the information set out in paragraph 8 (iv). The information given to candidates that they would be withdrawn from the process if candidate packs were incomplete, was not in fact what actually happened. Given the statement to candidates set out in paragraph 8 (iv) above that incomplete candidate packs would cause a candidate to be withdrawn from the process, it is understandable that the complainant believed, by provisional offer stage, that his qualifications had been accepted.

13. In fact, CSR did not check qualifications until provisional offer stage. This is very late in the process and because the checks were after the issue of provisional offers, it was possible, as in this case, for offers to candidates to be withdrawn following qualifications checks after they had been given a provisional offer. CSR explained that it was at HMRC's request that it gave a deadline for qualifications but that it only carried out checks on qualifications at provisional offer stage. Originally, HMRC had not envisaged having to take candidates from the reserve list, but this did subsequently prove necessary. CSR has confirmed that qualifications are now checked earlier in the process, before provisional offer stage.

14. In this case, CSR states that all candidates have been treated in the same manner in that they were withdrawn at provisional offer stage, or as would happen now, before provisional offer.

15. The complainant said that his HR online departmental profile would have stated that he had the Maths and English qualifications that were missing. He says he handed these in at HM Forces recruiting office in 1988 and he did not get the certificates back, but that they were verified in 2002 and were transferred from his military documentation. He says he explained this at interview.

16. It does not appear that the complainant checked whether his HR printout was with CSR as he says he assumed was the case. It was held on an internal departmental HR online system and CSR would not have had access to this nor would CSR have assumed that he would meet the qualification requirements. The complainant's department has confirmed that the online profile is from the employee self-service area of the system and thus information can be uploaded there by the employee. There is no reason to believe that the information listed is not correct, but the qualifications could have been added later. As such the department could not be certain that they were the qualifications presented and verified when the complainant was appointed. On this basis, CSR upheld its original decision to withdraw him.

17. The complainant believes that although the qualifications equivalents he provided were non-specific they clearly demonstrated and exceeded, the standard of learning required for the post. On this basis he did not obtain any copies of his Maths and English qualifications. He has qualifications from NEBOSH, The National Examination Board in Occupational Safety and Health. CSR states that NEBOSH is equivalent to some of the qualification requirements, but there was no evidence that it could find of any GCSE Maths or English entry criteria for NEBOSH courses. The complainant also mentions that his military rank is equivalent to gaining an NVQ-4 qualification, and mentions a TDC (Training and Development Certificate in Training and Investigation) qualification. CSR stated that this was equivalent to some of the requirements, but again, is not a Maths or English qualification.

18. The complainant suggested that "equivalent", as set out in the advert relating to qualifications, refers to any qualification, but it seems clear that Maths and English were required whatever other qualifications the candidates had. Although the complainant says he has O levels in these subjects, and there is no reason to doubt this, he did not request replacement certificates as set out in paragraph 8(iii) giving the www.gov.uk replacement certificates link. In this external campaign, the onus was on all candidates, whether they were existing civil servants or not, to produce

qualifications evidence. The timeline of emails set out at paragraph 8 is clear that the qualifications should be produced.

19. The complainant has mentioned that the reasons that CSR gave for his removal from the process changed over time. It is true that there are changes in what is said, but this could be seen as fuller explanations being provided over the course of his complaint. The lack of Maths and English qualification evidence remained a constant.

20. He also raised a point about Civil Service Jobs guidelines on qualifications. CSR confirmed that this guidance is general guidance to vacancy holders when they wish qualifications to be part of the recruitment process. It was for HMRC to decide whether or not qualifications were required for these posts.

21. In addition, the complainant has suggested that he has investigative experience and that this was equivalent to the required qualifications. The way the advert reads does not suggest this, but is instead referring to the equivalent qualifications listed on the www.gov.uk website. There does not appear to be a requirement in the advert to have investigations experience although “individuals who possess an investigative ability” are referenced in the job description. This is not listed as a requirement or criterion and the complainant said in his original complaint that there is no clearly stated essential criteria for the post. While the complainant’s years of criminal investigations experience are clearly relevant, this experience did not negate the need for the relevant qualifications to be produced.

22. Although the complainant believes that his qualifications exceed what is required, there were many prompts to produce documents; despite these prompts, he failed to do this for his Maths and English qualifications. There is no evidence that his other qualifications contain the relevant English and Maths components.

23. CSR stated that all candidates who did not meet the entry level requirements were withdrawn. The complainant did not provide his Maths and English qualifications as required and therefore **there is no breach of the Recruitment Principles in this case.**

24. However, it was poor practice on CSR’s part not to inform candidates that the procedure had changed and that, in fact, qualifications would only be checked at provisional offer stage. This may well have led the complainant to believe that his documentation was in order. It is understandable, given this lack of communication, that he was upset about receiving a provisional offer, only to have it withdrawn later.

CSR should confirm to the Commission:

- that it will improve its communications with candidates in future and inform them of any changes to procedure and
- that it now checks qualifications before provisional offers are issued.

REQUEST FOR REVIEW

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

26. 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.

27. 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
February 2017