



FINDINGS AND RECOMMENDATIONS:

April 2017

REF: 364

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

1. The complainant applied for a post at Ministry of Defence, Defence

Equipment and Support (MOD, DE&S). He was unsuccessful because at pre-employment check stage he was told that his experience, as required in the essential job criteria, was not appropriate Civil Service clerical experience and the provisional offer was being withdrawn. The complainant has requested a formal apology for the distress that DE&S has caused him; a formal offer of a position and that the DE&S recruitment process be reviewed so that other candidates do not suffer from what he believes to be the unfair application of the recruitment criteria.

METHODOLOGY OF THE INVESTIGATION

2. 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:

- Original advert and other supporting campaign documents;
- Correspondence to and from DE&S and complainant;
- Correspondence to and from DE&S and Civil Service Commission;
- Interview scores.

Andrew Flanagan and Jan Cameron were the decision-making Commissioners in this case.

SUMMARY OF THE EVIDENCE

3. The complainant applied for an externally advertised role at DE&S as an Administrative Officer (AO), Supply Chain Management Support. It was advertised on CS Jobs and administered by the DE&S Resourcing Team. The essential criteria for the role was Grade entry qualifications of 5 GCSEs at Grade C or above, or equivalent, or NVQ Business Administration Level 2, or suitable Civil Service clerical experience.
4. He was successful at interview and provisionally offered a role in July 2016 but subsequently failed to pass pre-employment checks, as he did not meet the essential qualifications criteria. This resulted in the provisional offer being withdrawn in September 2016.
5. The complainant wrote to DE&S recruitment team, questioning their decision to withdraw the offer of employment and asking for a review, as he believed that DE&S had not complied with the Recruitment Principles.
6. After reviewing the complainant's case, DE&S wrote to the complainant informing him that his application had been unsuccessful because he had not

passed the pre-employment checks, as he had not met the essential qualifications criteria.

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7. DE&S confirmed that while completing the online application, the complainant had selected 'yes' to the question: 'Do you hold the grade entry qualifications of this job as stated above?' By selecting 'yes', DE&S automatically assumed the complainant had the required qualifications.
8. In fact, the complainant should have selected the 'similar equivalent held' box. By doing this, he would have been required to list his equivalent qualifications in the correct section of the online application. This would have allowed DE&S recruitment team to assess his application correctly and reject his application before the interview stage.
9. Following interview, at which the complainant was successful, he was made a provisional offer of employment. This provisional offer was subject to the successful completion of pre-employment checks. When carrying out the preemployment checks, DE&S realised that the complainant's previous Civil Service experience did not meet the standard that DE&S considered acceptable, in lieu of academic qualifications. He had not been a civil servant for over 28 years and his previous role had been of an industrial rather than of a clerical nature. DE&S makes a clear distinction between the skills necessary for industrial and clerical roles. It would have been possible for the complainant to contact DE&S to ensure he had the relevant clerical skills before he applied, but he did not do this.
10. DE&S stated that the main reason for the complainant failing the preemployment checks was that his experience did not fulfil the 'suitable Civil Service clerical experience' criteria set out in the advertisement. Clerical practices have changed significantly in the intervening time period and thus, the experience he wished to present as an alternative to academic qualifications was outdated.
11. The complainant believes age discrimination was a factor in the decision to withdraw the offer. DE&S stated that it would be unlawful to discriminate against the complainant because of his age. However, if 'suitable clerical experience' is asked for, it is reasonable to expect up-to-date experience. The complainant was rejected not only because his experience did not meet the criteria, but also because it was not current. Therefore, he did not meet the grade entry

requirements. Age discrimination is not within the Civil Service Commission remit.

12. DE&S further stated that: 'the criteria is applied consistently across the DE&S and so we are unable to change the decision as to do so would not meet the fair and open principles we are by law, bound.' DE&S explained that, had the nature of his previous experience been fully understood, his application would have been rejected and he would not have been invited for interview.
13. DE&S explained that the number of applications received means that they cannot check or confirm qualifications and experience details until after a candidate has been successful at interview. Effectively, when assessing applications, panels have to take candidates' responses on trust. This may not be good practice, but it is a practice followed because of limited recruitment resources. However, it is understandable that under these circumstances, the complainant believed that because he had received a provisional offer, his qualifications/experience had been accepted as in order.
14. DE&S stated that the candidates who, following pre-employment checks, had continued to formal offer had met both the minimum success criteria at interview and satisfactorily provided evidence of meeting the grade entry requirements. If other candidates had been in a similar position to the complainant, they would have been treated similarly and their offers would have been withdrawn.
15. There is no evidence that DE&S has applied the selection process unfairly and inconsistently in assessing the complainant's application. The complainant's experience was in the industrial sector, not in the clerical sector. It was reasonable for DE&S to expect more recent experience than that gained nearly thirty years ago at a time before widespread use of electronic devices and processes in the workplace.

There is no breach of the Recruitment Principles.

Recommendations.

16. Although we have not found any breaches of the Recruitment Principles in this case, the Commission would recommend that:
 - DE&S should provide candidates with specific and clear information regarding what qualifications are acceptable. It would be preferable for DE&S to state for example, the timeframe within which this experience should have been gained, such as 'within the last 5 years'.

- 'DE&S should review the time and sequence in which they carry out preemployment and qualification checks. In this case, it took over two months to discover the candidate did not have the correct qualifications, and if the qualification checks had been carried out at sift stage or the start of preemployment checks the candidate could have been informed much sooner that he did not meet the requirements.
- DE&S should ensure their provisional offer letters clearly state that any offer will not be final until all the checks are complete.

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.

Andrew Flanagan

Jan Cameron

Civil Service Commission

April 2017