



FINDINGS AND RECOMMENDATIONS: January 2018

REF: 567

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, and was interviewed for, the role of HR adviser with the Crown Office and Procurator Fiscal Service in May 2017 but was not successful at interview. She decided to make a complaint having seen the interview feedback form that was made available to her. She says that the panel did not

assess her in relation to the full list of essential criteria that were published in the recruitment pack for the role. She states that she was only asked questions in relation to four core competences and not the further six essential criteria which meant that she was unable to demonstrate fully that she met these criteria. She also complained about the word limit on the application form.

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.
- The complainant's completed application form.
- The letter from the Department to the complainant detailing their consideration of her complaint, with their findings.
- The COPFS guide to competency based recruitment.
- The complainant's interview rating form and those of other candidates.

4. Andrew Flanagan and Kevin Woods were the decision-making Commissioners in this case.

SUMMARY OF THE EVIDENCE

5. The complainant states that she was only asked questions in relation to the four core competences and not the further six essential criteria. The complainant points out that the invitation to interview letter stated that candidates would be assessed against four core competences and that this was confirmed at the start of the interview. The four competences that were assessed were Leading and Communicating, Collaborating and Partnering, Delivering at Pace, and Making Effective Decisions.

6. The complainant also states that the application form did not allow sufficient opportunity or space to demonstrate in any meaningful detail, possession of the six essential criteria. She has calculated that only forty words were allowed for each of these (as this section formed part of an additional information section) whilst two hundred and fifty words were allowed for each of the core competences. Additionally, candidates were told to limit description of their work experience to the past three years. The complainant says that this discriminates against candidates who might, for example, recently have taken a career break of a spell of maternity / paternity leave and is therefore unfair.

7. The complainant made a complaint to the Department and this was investigated. The complaint referenced paragraphs 10, 20 and 25 of the Recruitment Principles and can be summarised as follows:

- Candidates must be impartially assessed against published essential criteria (competencies skills and experience) at each stage of the process.
- Evidence collected to assess candidates must be broadly equivalent in substance and depth.
- Taking all evidence into account the panel must establish which candidates are appointable and place them in order of merit.

8. The Department, having fully investigated the complainant's concerns, wrote to her with its conclusions in June 2017. It did not uphold her complaint. In considering her concerns, it took account of information from the Chair and members of the Board on how the Board was conducted, the terms of the advertisement for the post, the application form, the sift record, the Board report, the candidate rating form and interview questions, and its own recruitment guidance procedures.

9. In its letter of response to the complainant, the Department points out that several of the essential criteria listed were also integral to the competences selected. The Board confirmed that questions used at interview were designed to test the competences and allow candidates to use examples that were relevant to the essential criteria. This was consistent with the guidance given to candidates in the guide to competency based selection, in particular where it states 'you will be asked competency based questions and you will be expected to talk about how you actually tackled a real problem. The questions will relate to competencies and essential criteria stated in the advert, therefore the key is to prepare examples from your career that you would be required to show in your new job'.

10. The Department also made clear that all candidates were asked if they had anything further to add at the end of the interview process and that this gave them the opportunity to provide any further information that they may have considered to be relevant if they had not had the opportunity to provide it in answering the competency based questions.

11. The Department, in considering the complainant's concerns, acknowledged that it was not clear from the candidate rating form that she had requested sight of, that the essential criteria were incorporated in the assessment, as only the competences were listed. This was discussed with the Board Chair, who confirmed that the Board had taken account of evidence in respect of essential criteria.

12. The Department confirmed also to the complainant that the same information was provided to all applicants and all that candidates were asked the same questions.

13. In respect of the complainant's concern that being asked to limit employment history on the application form to the last three years discriminates against some candidates, the Department points out that 'information on employment history is not used to score the applications'

FINDINGS AND RECOMMENDATIONS

Have the Recruitment Principles been breached because of the assertion that the essential criteria were not taken into account?

14. The application pack, clearly states 'The above competencies form the key essential criteria for this post, along with....and then goes on to list the additional six essential criteria.

15. The application pack, given to all candidates included the COPFS Guide to Competency Based Selection. This sets out to candidates, the methodology of the competency based recruitment process adopted by the Civil Service. This guide states:

16. 'All questions for candidates will be designed to test suitability based on the knowledge, skills and understanding of the candidate in relation to the requirements of the role and the competencies associated with the vacancy. The candidates should then provide specific examples to demonstrate how they have met the competencies required'.

And goes on to say...

17. 'You will be asked competency based questions and you will be expected to talk about how you actually tackled a real problem. The questions will relate to competencies and essential criteria stated in the advert, therefore the key is to prepare examples from your career that highlight the various skills that you would be required to show in your new job. You should also be prepared to answer questions about any desirable criteria which is stated within the advert'.

18. The competency based system of assessment that is adopted for all recruitment across the Civil Service is very clear that all stages of the recruitment process will assess candidates on the stated competencies. At the interview stage this will involve the candidate providing examples that demonstrate these competencies. These examples should be presented in such a way that demonstrates suitability for the post and draws together other criteria that are required for the post, including those listed in the job advert.

19. The complainant acknowledges that the Department has explained to her that the essential criteria were looked for at interview from the answers that were provided in the examples that demonstrated each of the four core competencies. However she then goes on to say:

20. 'This was simply not the case since it was made perfectly clear at the beginning of the interview by one of the panel members that the interview would only assess the four core competencies. If the other criteria were being systematically assessed too, then this would have been made clear and would also be reflected in the rating form'.

21. Under the competency based system, the competency questions are designed to test suitability based on the knowledge, skills and understanding of the candidate in relation to the requirements of the role and the competencies associated with the vacancy. This includes any stated criteria, essential or otherwise, associated with the vacancy. This was stated quite clearly in the COPFS Guide to Competency Based Assessment.

22. The complainant states that the rating form should have made clear that the essential criteria had been assessed. The Department, in its response to the complainant, acknowledge that it was not clear that they were incorporated in the assessment but confirms that they were. COPFS has apologised to the complainant that this was not informative enough.

23. The Civil Service wide competency based system for recruitment is used across all Departments to recruit all pay grades for entry into the Civil Service. This system of assessment is made clear throughout the recruitment process to all candidates, both internal and external. In this case, whilst the application form could have been clearer that assessment of essential criteria would be addressed by the competency based questions at interview, the COPFS Guide to competency Based Recruitment, was at least, explicit on this point.

This is not a breach of the Recruitment Principles

Have the Recruitment Principles been breached because of the word limit imposed?

24. The complainant's assertion that only forty words were allowed to demonstrate each of the six essential criteria was based on a total word limit of 250 to demonstrate each competence, including the additional information section. The key factor however is that the treatment of all candidates was the same and the Commission has assured itself of this through an examination of the documentation. An assurance has been given by the Department that the criteria were assessed at interview.

This is not a breach of the Recruitment Principles.

Have the Recruitment Principles been breached because the application form asked for three years of employment history.

25. On the matter of the application form for the vacancy only asking candidates for the last three years of employment history, the complainant states that this directly discriminates against candidates who may have taken career breaks or periods of maternity / paternity leave. In response to this, the Department stated that 'information on employment history is not used to score applications'. In addition, the form does state that candidates can note if they have any gaps in their

employment or academic history over the last three years. However, the inclusion of a three year limit may have deterred applicants and the department should address this by amending its wording on the application form. However, all candidates were treated consistently, and, on balance, **this is not a breach of the Recruitment Principles.**

RECOMMENDATIONS

26. The Commission recommends that

- **COPFS changes its application forms to remove the restriction on candidates providing employment details limited to a fixed time frame.**
- **COPFS should make it clear on its records when essential criteria are assessed as part of the recruitment process.**

REQUEST FOR REVIEW

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

28. 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.

29. 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
Kevin Woods**

**Civil Service Commission
January 2018**