



**FINDINGS AND RECOMMENDATIONS:**

**March 2017**

**REF: 324**

**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**

2. The complainant applied for a post as a Senior Executive Officer (SEO) Non-Domestic Rating Chartered Surveyor for the Valuation Office Agency (VOA), which is sponsored by HM Revenue and Customs.
3. The complainant states:
  - VOA has 'blacklisted' her because of historical factors arising from her previous employment with the VOA.
  - She is concerned this 'blacklisting' may operate across the Civil Service and she will be unable to obtain a position with any department/agency.
  - VOA have retained personal data relating to her, which is unnecessary and ultimately influenced her recent application.
  - The job application form only asked for employment details for the previous five years. However, she believes information was used, which relates to events during her previous employment with VOA, which goes beyond the five-year limit.

## **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:
  - Original advert and other supporting campaign documents.
  - Correspondence to and from VOA and complainant.
  - Correspondence to and from Civil Service Resourcing.
  - Correspondence to and from VOA.
  - Sift score sheets.

Ian Watmore and Kathryn Bishop were the decision-making Commissioners in this case.

## **SUMMARY OF THE EVIDENCE**

5. The complainant had previously worked for VOA from 1990 to January 2006. VOA granted the complainant's request for Voluntary Early Departure and an arbitration agreement was reached in December 2005.
6. In early 2012, the complainant sought re-employment with the VOA. She applied for an external competition and was invited to interview. On 29 March 2012, VOA withdrew this invitation stating that they automatically reviewed the reasons for former employees leaving and that in her case,

*'there was a significant and irreparable breakdown of the employer/employee relationship leading up to your departure, we would be unable to offer you a post on any basis, even if you were successful at interview.'*

7. In October 2015, the complainant wrote to VOA to see if there were any posts available. She alleges she was told VOA had blacklisted her.
8. In October 2015 VOA Chief People Officer (CPO), replied stating VOA did not 'blacklist' anyone and applications were treated fairly and on merit. However, she reiterated that the complainant would not be considered for employment, for the reasons given in VOA's letter of 2012, when the invite to interview was withdrawn.
9. From October 2015 to September 2016, there was further correspondence between the complainant and members of staff at VOA. VOA made it clear that the complainant was not 'blacklisted' across the Civil Service but confirmed she would not be considered for re-employment by VOA.
10. In November 2015, the complainant applied for a post as SEO Non-Domestic Rating Chartered Surveyor at VOA. Her application was rejected at sift stage.
11. In August 2016, the complainant contacted the Civil Service Commission (CSC), raising a recruitment complaint against VOA. She said CSC explained she must first officially complain to the recruiting department concerned. If, once the complaint had been investigated by the department, she remained dissatisfied she could refer the matter to CSC.
12. In September 2016, VOA emailed the complainant informing her that any outstanding complaint should now be directed to CSC. CSC confirmed to the complainant that her complaint was in scope and would be investigated.

## **FINDINGS AND RECOMMENDATIONS**

Did VOA retain information on the complainant, which would adversely affect her possible re-employment by other Civil Service departments?

13. In July 2016, VOA's HR department emailed the complainant and stated that the only personal information that would be provided to other departments related to employment references and was restricted 'solely to the date of employment, capacity of employment and a brief description of the duties / role undertaken. References are *'based on verifiable facts, not opinion.'*

14. VOA HR also stated that while they had *'inadvertently retained material for which is has no legitimate use'* relating to the complainant's previous employment, this material would be deleted.
15. The issue of retention of documents is not within the remit of CSC. If the complainant has a complaint about the use/retention of her personal data, she should pursue this with the Information Commissioner.

**There is no breach of the Recruitment Principles.**

Was the complainant treated unfairly at sift stage, because of her previous employment history with VOA?

16. The complainant believed VOA looked beyond a 5-year employment history and alleges the online application form required candidates to include information beyond 5 years. It is not clear how the complainant came by this idea, as there is no evidence to support the contention that the VOA set a time-limited employment history requirement. The employment history section in the online application allowed the complainant to submit as little or as much employment history as they chose.
17. The pre-sift was carried out by CSR using the same criteria for all candidates, which included the complainant. These results were then sent to the VOA hiring manager to carry out a full sift.
18. VOA HR states the complainant was rejected at sift stage, on the evidence that she presented in her competencies. *'the complainant could not be re-appointed on merit to the agency as the best available person judged against these examples of essential criteria.'*
19. However, VOA's Head of Employee Relations and People Operations (HERPO) states that the complainant's previous employment record, as well as her competencies, were taken into account when she was rejected. HERPO states the complainant's previous record *'in whole or part, resulted in her application being rejected.'* HERPO goes on to state it is not in the public interest in terms of time and money, to interview the complainant *'when there is no prospect of [her] returning to the employment of the VOA.'*
20. HERPO states that legal advice given to VOA in these cases is privileged and arbitration agreements are destroyed after 7 years and therefore the complainant's agreement has been destroyed.

21. VOA brought forward the pre-employment checks and rejected the complaint at sift stage, because of the issues surrounding the complainant's employment history with VOA.

22. There is no breach of the Recruitment Principles in this case because of the particular circumstances, which meant that this candidate would ultimately fail pre-employment checks whatever the outcome of the sift.

**There is no breach to the Recruitment Principles.**

Has the complainant been 'blacklisted' from applying for posts at VOA and for posts across the Civil Service?

23. The Chief People Officer (CPO) at VOA denies any 'blacklisting' exists but states: *'any application received from the complainant would, nevertheless, be declined...'*

24. Regarding a bar on the complainant applying for other posts, the CPO stated clearly that there were no restrictions on the complainant's ability to apply for other posts in the Civil Service. References would be factual and objective (see also paragraph 13). There is no evidence to suggest the complainant has been 'blacklisted' from applying for posts across the Civil Service.

**There is no breach of the Recruitment Principles.**

**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.

Kathryn Bishop

Civil Service Commission

March 2017