



## **FINDINGS AND RECOMMENDATIONS:**

**June 2017**

**REF: 475**

## **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 was unsuccessful after interview for the role of Higher Executive Officer (HEO), Media Manager and Editor, at the Registers of Scotland (RoS). The complainant believes RoS breached the recruitment process for the following reasons:

- despite being the best candidate, he was not offered the post;
- the conduct of the Head of Corporate Communications, was biased against him for personal reasons during the recruitment process.

## **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:

- Original advert and other supporting campaign documents.
- Correspondence to and from Department and complainant.
- Correspondence to and from Department.
- Interview score sheets.

Jan Cameron and Jonathan Baume were the decision-making Commissioners in this case.

## **SUMMARY OF THE EVIDENCE**

4. The complainant originally joined RoS in August 2016 as a HEO Media Manager and Editor, on a rolling contract basis via a recruitment agency. In November 2016, the role was advertised externally as a permanent post. The complainant applied for the role and was interviewed in February 2017. The following week the complainant was informed he had been unsuccessful at interview.
5. The complainant wrote to RoS Head of HR lodging a complaint about the process, as he believed RoS had breached the recruitment process because despite being the best candidate (based on the scoring system), he was not offered the post. Also, the chair of the interview panel was biased during the recruitment process.
6. RoS wrote to the complainant addressing his complaint. RoS explained that while he was the highest scoring candidate during the interview process, the recruiting manager determined that none of the candidates demonstrated the required standard for the post and consequently no offer was made.

## **FINDINGS AND RECOMMENDATIONS**

Was the candidate treated unfairly because he was not offered the post, despite being the best candidate?

7. The complainant believed the chair of the interview panel assessed him on a criterion, which was not advertised in the Job Specification. However, RoS stated the panel chair's decision not to appoint you any candidate, was based upon the overall performance at the assessment centre'. The assessment centre consisted of a competency based interview and exercise involving writing a press release on a fictional scenario. All candidates were assessed against the same criteria at both assessment and interview.
8. There is no corroborative evidence to support the complainant's contention that the chair of the panel took into consideration the complainant's performance as an agency worker, in reaching her decision not to appoint him. However, the chair and RoS confirmed that in her feedback to the complainant, she did refer to his 'role as a contractor' but only by way of 'context', as the complainant had raised the issue.
9. RoS confirmed that while the complainant scored above the set benchmark, the chair and other panel member agreed that none of the candidates had the correct skillset needed. Therefore, it was decided that the campaign would be paused and re-advertised. The Recruitment Principles do not require a panel to make an appointment after a competition.

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

Was the conduct of the chair of the interview panel, biased against the complainant?

10. The interview score sheets and notes examined, showed all candidates were assessed against the same criteria. There is no corroborative evidence of bias against the complainant.
11. However, RoS recruitment team confirmed that the chair of the panel and the other interview panel member, failed to disclose a conflict of interest regarding prior knowledge of the complainant.
12. RoS stated they considered there was no conflict of interest declared or recorded because complainant was 'not a relative or close friend of either panel member, nor was he an internal candidate.'
13. The conduct of the interview panel members during the recruitment process did not adhere to the Civil Service Commission Recruitment Principles, (paragraph 11) as they failed to record the conflict of interest.

**This is a breach of Recruitment Principles.**

**Recommendations.**

- RoS should ensure all hiring managers and interview panel members are aware of their duty to properly declare and record any conflict of interest and how they were dealt with. RoS should note the wording in paragraph 11 of the Recruitment Principles.
- Sift panel and interview panel members should ensure that candidates' scores accurately reflect their attainment, at sift and interview stages.
- Recruiting managers should be reminded of their duty to abide by the Recruitment Principles, when conducting the recruitment process.
- Job advertisements should be worded to accurately reflect what specific knowledge and skills candidates will be required to demonstrate.
- The chair of panel needs to ensure that if any candidate/s meet the minimum requirements, but at the moderation meeting are subsequently deemed not to be suitable, then the panel should revise the final overall scores, as well as providing a clear narrative for the reasons for not appointing.

**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.

Jan Cameron  
Jonathan Baume  
Civil Service Commission  
June 2017