



FINDINGS AND RECOMMENDATIONS: June 2016

REF: 205

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 to HM Revenue & Customs (HMRC) for a role in their volume campaign 2066/15 as a “Tax Professional and Operational Delivery Higher Officer (HO/HEO) & Officer (O/EO) Caseworker”. At the time of the complaint he was a surplus member of HMRC staff.

He believes that he only achieved a relatively low score at interview because he was not able to introduce specific responses based on examples of prior experience into his answers, but had to answer hypothetical scenarios. He also believes his high score on the pre-interview test is out of kilter with this low score. He has also raised a concern about the time allocated to each question at interview. All issues raised by the complainant are considered below including some which are out of scope for the Commission's consideration.

METHODOLOGY OF THE INVESTIGATION

3. The Commission investigated the complaint through consideration of written evidence supplied.

4. The Commission considered the following evidence, in addition to the complainant's original correspondence:

- Further correspondence from the complainant
- Correspondence with Civil Service Resourcing (CSR) and HMRC
- Candidate Pack, FAQs document and advertisement
- Information and Guidance for Interviewers
- Interview records for candidates interviewed by the complainant's interview panel in East Kilbride (including the complainant's record)

5. Isabel Doherty and Jan Cameron were the decision-making Commissioners in this case.

SUMMARY OF THE EVIDENCE

6. This was a volume recruitment campaign run by CSR on behalf of HMRC, seeking to appoint to HO and O roles. HMRC decided that there would be no reserve list held for the HO grade but that candidates would be appointed in strict merit order, by location (only 1 preferred location per candidate) starting with HOs through to Os with remaining candidates forming an O reserve list.

7. Candidates were given the information about the application and interview process in the advert and the candidate pack and this is considered in more detail below. Candidates undertook an initial CSIST test¹. The interviews were to consist of "situational" type questions i.e. hypothetical, rather than the usual evidence based competence questions. Eight minutes would be set aside for each competence demonstration; the whole interview was expected to last 20 minutes.

¹ The purpose of the civil service initial sift test (CSIST) is to help the recruitment team sift out the people who are unsuitable for the position. It is usually used in large scale recruitment processes, for example graduate or administrative roles recruitment. The CSIST adds another element to an application form. In some cases, the CSIST will be just one of a [suite of aptitude tests](#), in others it may be a test on its own with the application form. There are four different types of CSIST, offered at level AA/ AO, EO, HEO, SEO. Each test contains scenarios and questions relevant to the job and grade.

8. The complainant applied for the role as a Guaranteed Interview Scheme (GIS) candidate and scored highly in the CSIST test. He applied for an interview in East Kilbride because of a previous grievance procedure and line management issues. He states that his location preference was Glasgow. He was interviewed in East Kilbride and his score was added to the Glasgow merit list (the list of candidates' scores ranked in order of merit). The scoring for Glasgow was: 21-18 for HO roles and 17 and under for O roles. There was no post interview moderation.

9. At interview the complainant scored **12**. This meant that he was unsuccessful in getting a HO role. He did not score highly enough to be appointed on an O role immediately, although he did score highly enough to go on the O reserve list.

10. The complaints raised are set out here:

Scenarios

11. The reason the complainant believes that he scored as he did is that he was not able to use prepared examples or responses based on examples of prior experience in his answers to the interview questions. The candidate pack states that scenarios will be given at interview and candidates will be expected to answer these.

12. He says that others were allowed to use experience in their responses and some correspondence from CSR alludes to this: "some candidates were not stopped when they began to answer based on their experience". An online blog has been set up showing experiences of candidates in this exercise, this has increased candidates' beliefs that there has been a lack of consistency throughout the campaign.

13. The complainant has mentioned another candidate, who he says had no restriction on what could be introduced at interview and who was appointed to a HO role. CSR/HMRC has said that they did "receive a few complaints about the interviewers not accepting real examples but very few compared to the size of the exercise".

Interview notes/feedback

14. The complainant has complained about the interview feedback that he has received. The guidance for interviewers suggests all candidates should have been given the same questions.

Interview timings

15. Timings for the interview are set out in the Interviewers' Guidance. The interview records do not state any timings. The complainant feels that he was not given his full time entitlement. One competency was assessed "by inference" he

says. However, the Commission cannot give a view on timings as we were not present at the interview.

CSIST and other interview scores

16. Before interview the complainant achieved a mark in the CSIST that was higher than 98% of other candidates. He contends that this means he should have scored more highly at interview. He also says he scored more highly in a previous interview.

GIS

17. The complainant applied as a GIS candidate. He did not request any reasonable adjustments and he did get an interview. He said he does not require adjustments to the physical environment. He mentions his “shock” at being told at interview that he could not introduce work experience examples as another reason for his poor scoring, together with the “confined nature” of the imaginary situations presented.

Vacancy holder

18. The complainant has complained about not being sure who the job vacancy holder was and the fact that this introduced a delay. HMRC has pointed out that a Single Point Of Contact was appointed to deal with the campaign.

CSR responses to complainant

19. Correspondence shows that CSR has been involved in answering the complainant’s queries. There has been a lot of correspondence from various different people to the complainant. He mentions a “heads up” about a complaint to CSR from the Commission and “CSR frustration”, as he puts it, and contradictory responses.

Appointments made other than on merit

20. The complainant says that, in this campaign, documents were lost and CSIST results were used to appoint people. However, HMRC has stated that this is not the case. He also mentions possible hearsay evidence that someone who had a similar CSIST score to him was awarded a score of 19 and appointed as HO just on the basis of this CSIST score.

Competency framework used

21. The complainant says that the competencies were scored as HEO/SEO roles. This is to be expected as it was a joint HEO/HO and EO/O campaign.

Out of scope issues

22. The complainant's surplus or redeployment status is not a matter within the Commission's remit. The Commission regulates recruitment into the Civil Service. It does not regulated departments' internal competitions or surplus/redeployment matters. In an external competition anyone who wishes can apply and appointment is made on merit.

23. Although, confusingly, the Candidate Pack FAQs does initially state that surplus candidates will have priority, it is followed by this clarification: "Surplus civil servants will retain priority over candidates applying externally. Existing civil servants, if they meet the criteria, can apply externally but will not take priority."

24. The complainant has mentioned the Civil Service Code of Conduct. This is not part of the Commission's remit and the complainant should pursue this through internal HR processes. He asks who is responsible for CSR. Again, this is not a matter for the Commission.

25. If the complainant believes that the Civil Service Code has been breached he must raise a Code complaint with the HMRC Nominated Officer before asking the Commission to consider this. As a general principle, HR matters are outside remit of the Code (see link attached to our website:

<http://civilservicecommission.independent.gov.uk/civil-service-code/>)

26. The complainant should raise his concerns about the handling of his personal data by CSR with the Information Commissioner if he wishes to pursue this. The Commission does not have the scope to investigate HR matters, for example some of the issues raised above, where Data Protection Act or other legal obligations have not been fulfilled as the complainant has suggested in his complaint to the Commission.

27. Name blind recruitment is not a requirement of the Recruitment Principles. In this case it appears that all candidates were treated the same in that their application forms were seen by interview panels. This is usual practice; anonymization would normally only take place at sift stage. The complainant specifically arranged an interview away from his place of work and there is no evidence that the panel was biased because any members knew his name. One document states that all the interviewer had was a list of names (to check that no one was known to interviewers) and the application forms.

FINDINGS AND RECOMMENDATIONS

The legal requirement²

Merit means the appointments of the best available person judged against the essential criteria for the role

Fair means there must be no bias in the assessment of candidates. Selection processes must be objective, impartial and applied consistently.

Open means potential candidates must be given reasonable access to information about the job and its requirements, and about the selection process.

28. The Commission is aware that volume exercises, especially those split across locations and with multiple panels will always bring the biggest risks of noncompliance or complaint.

Scenarios

29. The Candidate Pack states:

“At the interview we will provide scenarios and ask you questions linked to the two competences Making Effective Decisions and Collaborating and Partnering.

You will be assessed on your Leading and Communicating skills throughout the interview”.

Timings are given for the interview.

The pack goes on to explain the STAR (Situation, Task, Action, Result) system, which is well known to civil servants. Seeing this on its own, the complainant could have assumed that he could use his own experience in his interview. There is some language in the pack that suggests that own experience may be allowed, for example “answers to questions looking for examples” and “The following will help candidates provide evidence required for the interview, which will be based on scenarios that form part of the interview process”. Candidates need to “explain what it is they would do in the scenario”.

30. The first section of this sentence (referring to notes) would be well known to civil servants: “Candidates can bring, and refer to, trigger notes during the interview if they would find these helpful, but ‘scripted’ responses are not permitted as they will not answer the scenario based questions that candidates will be asked”. However, it is clear from the latter part of the sentence that scenario based questions will be asked. The Candidate Pack has to be read in its entirety.

31. The Interviewers’ information refers to “examples” and says “The majority of candidates will be external applicants so the examples given at interview, by the

² Recruitment Principles, April 2015

candidates, may not follow the civil service competency writing and STAR approach that you are more familiar with”.

32. The Interviewers’ Guidance mentions STAR and “questions asking for examples” and says: “The following will help panel members to draw out the necessary evidence from candidates”, “Be personal, i.e. talk about themselves” “Explain what they would do, how they would do it and why they would do it”. The set questions are explained as: “some of the evidence offered is unlikely to relate to HMRC, and may not be work related” “Candidates can offer evidence from any source, as long as it relates to them”. It reinforces this: “Candidates can bring, and refer to, trigger notes during the interview if they would find these helpful, but ‘scripted’ responses are not permitted.”

33. There are clearly problems of interpretation with all the guidance issued. The wording used could suggest that the candidate’s own experience could be used. However, the Candidate Pack is clear that scenarios will be used and the complainant had access to the Candidate Pack and to this information.

34. An email seen by the complainant and the Commission states that CSR/HMRC did “receive a few complaints about the interviewers not accepting real examples but very few compared to the size of the exercise”. However, it appears that there is no actual evidence, other than hearsay, that some candidates were allowed to introduce their own experiences, despite the CSR email (see paragraph 12) that suggests this was the case. CSR has told the Commission:

There is no hard evidence that I am aware of, only anecdotal candidate feedback saying there were comments that not all interviews were handled in the same manner. Candidates should have been stopped when answering using real life examples. I am aware that candidates were discussing their experienced via a student room forum and not all of that was accurately portrayed (eg I recall a posting saying "I was given a job without an interview")

HMRC has said this:

To provide consistency across panels and ensure all interviewers knew what was expected at the interviews, they were all invited to an upskilling session, run by the Lead Recruiter and her team where they went through the interviewer pack. Another measure put in place was those not skilled at interviewing were placed with a skilled interviewer.

When the forum was brought to our attention, the interview window had closed, but any issues we had during the interview window were dealt with at the time but discrepancies with interviewing wasn't one of them.

35. The information on the online blog is not credible evidence. We do not know who is posting on it and whether what is being posted is correct.

36. In this situation, there is no evidence that candidates were treated differently and **this is not a breach of the Recruitment Principles**. However, CSR should ensure that communication on these matters is accurate and circumspect.

Repeating, in an email, what appears to have been speculation, with no actual evidence to support it, has caused the complainant, understandably, to believe that candidates were treated inconsistently.

37. There is no evidence in the interview notes that we have seen for the candidates interviewed by the complainant's panel in East Kilbride that candidates were able to introduce evidence of their own experience.

38. However, HMRC should look at its guidance for future campaigns and ensure that there is no possible confusion of interpretation. It should also ensure that all interview panels are properly briefed on the format of interviews.

Interview notes/feedback

39. It seems likely that, looking at the complainant's interview record, the first lower O competency level may have been met but not the higher HO level. The comments do not appear particularly contradictory. The Commission cannot judge the complainant's performance, as we were not in the interview. Use of the word "evidence" in interview notes could be misleading, but there is no actual proof that candidates introduced their own experiences here. It appears that all candidates were asked the same questions and that the competences were tested as set out in the Candidate Pack. **There is no breach of the Recruitment Principles here.** However, good practice is that any alterations in notes (there were none in the complainant's record but some minor changes in other records) should be initialled. HMRC should ensure that panel chairs, whose responsibility it is to provide assurance that the process is compliant, are made aware of this.

40. One interview record (not the complainant's) does not have any written feedback for individual competences as all the others do, but just a general comment at the end. The other records do not have a general comment. Although there are scores for this candidate, this is not consistent with the other records and is bad practice. HMRC should ensure that panels are informed that this is not satisfactory.

Interview timings

41. Timings for the interview are set out in the Interviewers' Guidance. We have no evidence on timings for the complainant's interview and so we are not able to make any ruling on how long his interview lasted. The interview records seen do not state any timings and we do not require this. **There is no evidence that there was a breach of the Recruitment Principles.**

CSIST and other interview scores

42. The complainant's high CSIST score and previous higher interview scores do not automatically mean that he was able to perform to the same high level in this particular interview, and, indeed, this does not appear to have been the case. **This is not a breach of the Recruitment Principles.** On the day, other candidates performed to a higher level and were awarded higher marks.

GIS

43. Although the complainant says he was shocked when told that the interview would be scenario-based only, because he was not able to give evidence of prior experience, there is nothing to suggest that HMRC did not administer the GIS correctly here. Although he mentions his personal circumstances in his complaint, he did not request any reasonable adjustments for them. In any event, the GIS relates to obtaining an interview and he was interviewed.

Vacancy holder

44. There can be confusion and sometimes delay for candidates who make a complaint in campaigns where CSR is managing the campaign. However, the complainant was told that at Single Point of Contact was appointed, and he was able to pursue his complaint. **This is not a breach of the Recruitment Principles.**

CSR responses to complainant

45. Some of the emails seen by the Commission and the complainant show ill-judged correspondence and comments on the part of CSR and HMRC. In particular: "He seems to have us all running around in circles". The complainant is legally entitled to make Freedom of Information or Data Protection Act requests and to complain about the recruitment process. The complainant has questioned why CSR is involved in his requests, but this would be expected as CSR holds relevant information and is managing the campaign for HMRC. The Commission did give CSR a "heads up" about this complaint as we needed information from them; this is usual procedure. Whilst **not a breach of the Recruitment Principles**, CSR and HMRC should consider the tone and content of their emails when dealing with complaints. However, there is no evidence that the interview panel had access to any information about the complainant.

Appointments made other than on merit

46. The complainant alleges that, in this campaign, documents were lost and CSIST results were used to appoint. HMRC has said that this is not the case. The complainant mentions possible hearsay evidence that someone who had a similar CSIST score to him was awarded a score of 19 and appointed as HO. HMRC has stated that this has not happened.

47. The complainant has also taken one of the Commission's emails (released in his Data Protection Act request) as evidence to support his allegations. This email is not evidence that appointments had not been made on merit, but refers to various queries that the Commission was dealing with. **There is no evidence of a breach of the Recruitment Principles here.**

Competency framework used

48. Competences were scored as HEO/SEO. This is to be expected as the campaign was to recruit HEOs/HOs and EOs/Os. **This is not a breach of the Recruitment Principles.**

49. However this complaint has shown that there are areas of poor practice that should be addressed as follows:

- HMRC should ensure all future guidance for candidates and interview panels is explicit on whether experience can be used in interviews. Panels should be clearly briefed on the format of interviews.
- CSR and HMRC should consider the tone and content of their emails about complainants together with the accuracy of information given.
- HMRC should ensure that panel chairs are aware that alterations in interview documentation should be initialled and that such documentation should record information and feedback in a consistent manner for all candidates.

REQUEST FOR REVIEW

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

51. 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 or errors of factual interpretation in its decision making.

52. 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.

Isabel Doverty

Jan Cameron

Civil Service Commission
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