



FINDINGS AND RECOMMENDATIONS: May 2016

REF: 244

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

1. The complainant applied for a role which was part of an external recruitment exercise at HMRC. The complainant felt that the legal requirement of fairness had not been met in his case due to the way his application was progressed by the hiring department compared to other candidates.

METHODOLOGY OF THE INVESTIGATION

2. The Commission investigated the complaint through consideration of written evidence supplied by the complainant. Angela Sarkis and Jan Cameron were the decision-making Commissioners in this case.

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

- Original vacancy details
- Civil Service Resourcing data

SUMMARY OF THE EVIDENCE

4. The complainant applied for a role at HMRC. The complainant is an existing civil servant but applied as an external candidate for the vacancy. The recruitment campaign was administered by Civil Service Resourcing (CSR) on behalf of HMRC, seeking to appoint to 240 Executive Officer roles. The campaign was launched on 14 December with a closing date of 28 December 2015. A total of 1987 applications were received for this campaign.

5. Candidates were given the following information in the advert and the candidate pack about online testing-

- If, after submission of an application form the appropriate criteria has been met, candidates will be invited to sit the CSIST online test¹
- Following the CSIST test candidates will be asked to complete Numerical and Verbal Reasoning Tests
- Workstyle questionnaire
- All tests to be completed by 28 December 2015

¹ The civil service initial sift test (CSIST) is usually used in large scale recruitment processes, for example graduate or administrative roles recruitment. The CSIST adds another element to an 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.

6. Once an application form had been submitted an email was sent to the candidate acknowledging receipt stating “*Access your application centre to view progress of your application*”. In this portal the candidate could view their application through the process stages, as well as emails from CSR staff either asking for information or advising on the latest status, but there is no accompanying guidance to assist with terminology or examples of status alerts.

7. On 18 December, after initial application, the status screen for the complainant showed numerous updates. There is a reference to the CSIST test score, this was a banked score² from a previous application that had been transferred to the current campaign and there is also an entry relating to a numeracy test score.

8. The next entry on the status screen is on 21 December where the status is changed to show “*change to invite to test type 1*” (this is the verbal reasoning test). Usually a notification email is sent to the candidate, then a link to take the test is included in the application centre entry. In this case an email was not sent.

9. On 4 January 2016 the complainant was notified by email that as he had not completed the online tests by **17.00 on 31 December** his application was withdrawn from the process.

10. The complainant asked CSR for an explanation of why his application had been withdrawn. He received a reply explaining that as he had tried to bank a previous **numeracy** test and this was not allowed, he had therefore been invited, on 21 December, to retake the test. This was not completed **before 28 December 2015** so his application was withdrawn.

11. He then made a complaint to CSR. The response he received stated that *an automated link, not an email, “invite to take online test”* was sent to complainant’s application centre and that the invitation to take the test would have been visible when he logged into this site.

11. The Customer Service Team then took up the complaint as he was dissatisfied with the responses he had already received. CSR explained to the complainant that there had been a technical issue with the automated system and an email was **not** sent to all candidates inviting them to take the Kenexa³ test. Candidates therefore would only have seen a change in their application status if they had logged in to their application centre.

12. It was explained that “*...of the small number of candidates who did not receive the email link, the majority still completed the Kenexa test after visiting their CS Jobs account*”. In addition, it was the view of the HMRC Workforce Management team that the complainant had “*fair opportunity to take the Kenexa test*” and he had received an email when initially making an

² CSIST test scores can be banked for 6 months

³ KENEXA is the company contracted to manage the verbal and numerical reasoning tests on behalf of CSR/HMRC

application to “access your application centre to view the progress of your application”.

13. It is apparent that the complainant had been given incorrect information by CSR staff. He did have a banked score for CSIST which was transferred, and he had successfully taken the **numeracy** test for this campaign- he had not tried to bank a numeracy score from a previous campaign. The email he should have received was an invitation to take the **verbal** reasoning test.

14. On 01/01/2016 the KENEXA online tests were removed from the CS jobs system due to an upgrade which made them incompatible with the CSR platform. That meant that KENEXA tests were not available from 01/01/2016 and therefore anyone who experienced any problems undertaking the test could not re-sit after the deadline had passed.

15. The investigation into this matter has found that 11 related complaints had been received by CSR. All were given the same response i.e. that they should have looked in the application centre and not relied on an email prompt. There were no recorded incidents of technical down time at CSR, the missing email prompt issue is purely the result of an administrative error. Examination of the electronic records by the CS Jobs Support team for this campaign confirm that in fact **no** candidates were sent an email prompting them to take the verbal reasoning test rather than **some** as reported to the complainant.

FINDINGS AND RECOMMENDATIONS

The legal requirement⁴

The legal requirement is for selection for appointment to the Civil Service to be made on merit on the basis of fair and open competition. All three elements have to be met for the appointment to be lawful

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.

16. HMRC stated in their interview pack that candidates should view progress of their application form through the application centre link.

⁴ Recruitment Principles, April 2015

- **Was complainant treated less fairly because he had to view the status of his application through the application centre?** This was explained in the application acknowledgment and is the now the standard procedure for vacancies advertised through Civil Service Resourcing, so all candidates would have received the same information. There is not a breach of the Recruitment Principles.
- **Was it reasonable for HMRC to take the view that candidates should access their application centre to track progress instead of relying on any personal email contact?** The guidance in the candidate pack and the details in the acknowledgement email could have been much clearer. If HMRC want to rely on candidates accessing their application centre as the default position when issues such as this arise, or official errors occur, then the candidate's responsibilities should be in the candidate pack. The current text reads as a helpful aide rather than a "must do". This is poor practice but not a breach of the Recruitment Principles.
- **Was it reasonable for HMRC to rely on a candidate's ability to navigate their way around the application centre without accompanying guidance?** It would be a far more "user friendly" process if candidate guidance was provided once an application form was submitted. An assumption of capability by CSR/HMRC for first time external applicants is not a realistic starting point. This is poor practice but not a breach of the Recruitment Principles.

17. The closing date for completion of the tests was 28 December 2015.

- **Was complainant disadvantaged because the time between changing his status for test invite and closing date (21-28 Dec) was during peak holiday time ?** The whole campaign was run within a very short timetable and at a particularly popular time for holidays. This period is notoriously difficult for candidates and it is poor practice on the part of the hiring organisation but it is not unfair. However the complainant stated he was working until 24 December and would therefore have had time to take the verbal test before finishing for his Christmas leave. CSR staff were working throughout the Christmas period so the complainant may have received a response if he had raised a query anything during this time. There is no breach of the Recruitment Principles.

18. Due to an administrative oversight email prompts were not sent to candidates alongside notifications in their application centre asking them to sit a numerical reasoning test.

- **Was complainant disadvantaged because of the missing email?** All candidates received the same poor treatment, nobody received an email prompt. However, 1032 people progressed to the next stage of

the process in spite of not receiving the email, just by looking in their “application centre”; 268 applications were withdrawn for not completing the tests by the deadline date. The reply from CSR to the complainant is not helpful and is also inaccurate as it states that “... of *the small number of candidates who did not receive the email link...*” This gives an impression that the complainant was part of a small minority who were disadvantaged, whereas actually nobody received the email. There is no breach of the Recruitment Principles.

- **Was complainant disadvantaged by having a banked CSIST score compared to others who were sitting the CSIST for the first time?** The complainant was not disadvantaged, nobody received the email prompting them to take the verbal reasoning tests once they had a CSIST score, and it was irrelevant how the candidates had got to this stage. There is no breach of the Recruitment Principles.

19. The KENEXA tests were removed from the CS jobs system on 1 January 2016 after an upgrade within their business, the result was that the format could not be supported by CSR. This meant that candidates could not re-sit the tests after this date.

- **Was the candidate disadvantaged because by the time the candidate was aware he had missed the deadline there was no alternative test to progress his application?** This is poor practice by HMRC, the deadlines dates are extremely tight up to the test expiry date (in addition to the peak leave period) and there appeared to be no “what if” strategy for cases of official error such as this one. HMRC/CSR could have planned to launch this campaign earlier so that there was more time available before the Kenexa tests were removed but it is not a breach of the Recruitment Principles.

20. This candidate applied for the role under the GIS scheme.

- **Was complainant disadvantaged because he was not able to progress his application under the scheme?** There is no evidence to suggest that even if the candidate had been able to sit the verbal reasoning tests that he would have been guaranteed an interview under GIS as there was a further sift process to be undertaken. He may have achieved a minimum score that would mean he would have been invited for interview but the element of the verbal reasoning test would not have been an isolated factor in consideration. There is no breach of the Recruitment Principles.
- **Was the complainant disadvantaged because he was not given any reasonable adjustments as a GIS candidate?** Reasonable adjustments are outside the scope of the Recruitment Principles. There is no breach of the Recruitment Principles.

Other matters arising from this case

21. The Commission has seen evidence that indicates poor practice and mistakes being made both within CSR and HMRC in this particular campaign. Candidates may, with good reason, believe that they are not being treated in a consistent manner and this gives a sense of a lack of transparency.

Recommendation

22. **On balance, the commission should conclude that there has not been a breach of the Recruitment Principles in relation to fairness.** The only mitigation for not concluding a breach has occurred is the fact that all candidates were treated poorly, the complainant was disadvantaged but others were not advantaged.

23. HMRC should review the handling of volume recruitment campaigns, guidance to candidates and oversight of associated risks-

- CSR staff have given contradictory and factually incorrect information to the candidate relating to the closing date for online tests and the reason the candidate's application was withdrawn, to be compounded by a lack of an alternative strategy to rectify the official errors that took place.
- Reliance on a position that the onus should always be on the candidate for their application process is not a strong one taking into account the weak drafting of the current candidate pack- this includes the lack of guidance for terms and definitions used in the CSR candidate application centre.
- The advertising period and lack of any ability to continue this campaign after 31 December, when the online test contract expired, was very short sighted.

24. HMRC should provide a report to the Commission, by end of **June 2016**, covering the problems identified in this complaint. HMRC should set out the steps they have taken to rectify the issues for any similar future exercises.

REQUEST FOR REVIEW

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

25. 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.

26. 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.

Angela Sarkis
Jan Cameron

Civil Service Commission
May 2016