



## **FINDINGS AND RECOMMENDATIONS:**

**February 2017**

**REF: 344**

## **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**

The complainant applied for a Senior Civil Service (SCS) Pay Band 1 role at the Air Accidents Investigation Branch (AAIB). AAIB is a public body of The Department for Transport (DfT). The complainant considers:

- He met the competencies specified in the advertisement and considers that, judged objectively, the combination of his breadth of qualifications and depth of experience as a manager and leader is unrivalled by some of those who were selected for interview and at least equal to others.
- Members of the selection panel did not possess the necessary level of aviation knowledge or a sufficient understanding of the challenges the Chief Inspector of Air Accidents can expect, to make a sound assessment of the most suitable candidate/s.
- A stakeholder was involved in the process and there may have been a conflict of interest.
- He met the criteria for managing an autonomous organisation, with full accountability for its operational running, including budgetary and project management skills.

The complainant is also concerned that the successful candidate does not have the necessary experience and competence in civil aviation safety as stipulated in the advertisement.

The complainant requested that the selection process be run again.

## **METHODOLOGY OF THE INVESTIGATION**

2. 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 DfT and complainant.
- Correspondence to and from Civil Service Resourcing.
- Correspondence to and from DfT.
- Sift score sheets.
- Invitation to interview and stakeholder engagement exercise.
- Interview score sheets and chair panel report.
- Civil Aviation Regulations 1996.

Angela Sarkis and Isabel Doverty were the decision-making Commissioners in this case.

## **SUMMARY OF THE EVIDENCE**

3. The complainant applied for an externally advertised role at DfT. It was advertised on CS Jobs and administered by Civil Service Resourcing.

4. At the end of the campaign, and when a decision had been made on appointment, the complainant formally lodged a complaint with DfT about the recruitment process.
5. The complainant considers he met the competencies specified in the advert but some of the candidates selected for interview, did not have the breadth of qualifications or depth of experience that he did. The complainant is concerned that a criterion used at sift was not advertised. The successful candidate did not meet the eligibility requirements to become an Inspector of Air Accidents. The panel was not qualified to assess who was the most suitable candidate. A stakeholder was involved in the process and there may have been a conflict of interest.
6. The complainant argues that the successful candidate does not meet the legal requirements for a Chief Inspector, in accordance with the Civil Aviation Regulations and EU Regulations. He interprets the Civil Aviation Regulations as meaning that the Chief Inspector must be, or must meet the requirements to be, an Inspector of Air Accidents. The complainant believes that while the internal candidates were suitable, the successful external candidate does not meet the legal or recruitment requirements.
7. The complainant requested that the campaign be rerun.

## **FINDINGS AND RECOMMENDATIONS**

### Was the candidate fairly assessed at the sift stage?

8. The complainant's application had been sent to the incorrect email address and subsequently misplaced by CSR. However, CSR have confirmed his application was assessed and sifted against the same criteria. In the email, CSR sent to panel members, a full assessment of the complainant's application and the reasons why he should not progress to interview were clearly set out. CSR made it clear that the final decision rested with the panel. The comments in the email are comparable with those for other candidates on the original sift score sheet, used for the original sift. One panel member ranked the complainant as being similar to another candidate, who was also unsuccessful. All the panel members agreed that the complainant should not progress to interview stage.
9. The chair of the panel stated the complainant's application had been assessed 'on the same terms as all the other applications' and he had been unsuccessful on this occasion at sift. The chair of the panel provided feedback to the complainant and discussed their strengths and weaknesses.

10. Based on all of the evidence, the complainant's application was impartially and objectively assessed, in the same way as all other candidates. It is for the panel to decide who should progress on merit.

**This is not a breach of the Recruitment Principles.**

Was a criterion wrongly used at the sift stage because it was not advertised?

11. The complainant partly quotes the chair stating that he 'did not demonstrate the same depth of experience in running large and complex organisations.' The complainant considers that, as this was not a stated criterion, then the 'assessment was not accurate or fair'.
12. In the Candidate Information Pack, Person Specification section, it states that candidates must demonstrate 'the ability to manage an autonomous organisation with full accountability for its operational running, including budgetary and project management skills'. The full quote from the chair's feedback to the complainant was: 'did not demonstrate the same depth of experience when it came to running large and complex organisations, or leading large numbers of people compared to some of the other candidates who we decided to select for interview.' The chair makes it clear in the above quote, that all the candidates were assessed against this criterion at sift and this was 'a clearly specified requirement for the role'.
13. In the person specification, it clearly refers to an autonomous organisation, with 55 employees and a £7.5m budget. In other parts of the Candidate Information Pack, it clearly refers to the complex nature of the role. The management criterion was clearly stated in the Information Pack and all candidates were assessed against this criterion.
14. The complainant considers he met the criterion for running an autonomous organisation, with full accountability for its operational running, including budgetary and project management skills.
15. It is not for the Commission, when investigating a complaint, to re-sift applications. The information examined showed that DfT assessed all candidates against the same criteria and those deemed most suitable were invited for interview.

**This is not a breach of the Recruitment Principles.**

Was the panel capable of assessing and appointing the most suitable candidate?

16. The DfT Director of Aviation was the chair of the interview panel and responsible for the selection process. The Candidate Information Pack also listed all interview panel members and included the Chief Inspector, Marine Accident Investigation Branch. DfT considers the panel was qualified to assess candidates and that it met Civil Service Recruitment principles. The process the panel followed at sift met the legal requirements.

**This is not a breach of Recruitment Principles.**

Was the selection process conducted as advertised because a stakeholder was involved?

17. DfT states the stakeholder took part in the stakeholder exercise on the day of the interviews. He was not '...a decision maker in the overall appointment.' He was not a member of the sift panel or interview panel.

18. The evidence provided shows the stakeholder took no part in the sift and interview process. It is clear the selection process was conducted up to sift as advertised.

**This is not a breach of the Recruitment Principles.**

Does the successful candidate meet the legal requirements for a Chief Inspector?

19. The complainant considers that some of the candidates selected for interview, were not as qualified as he was. Also, he was 'at least equal to' other selected candidates.

20. The panel chair stated that all shortlisted candidates met the necessary legislative requirements and were measured against the relevant criteria. DfT states the successful candidate met the requirements, as set out in the job description. The chair states: 'he was the unambiguous choice of the appointment panel as the right person for the job.'

21. DfT explained that this role has traditionally been filled by internal candidates. However, there is no requirement for this to be the case. DfT have opened up all SCS recruitment to external candidates. The chair confirmed that all

candidates were assessed against and met the legal requirements, stating: 'the consistency of both the process and the appointment with our legal obligations has been confirmed by our legal advisers.' DfT also referred to supporting legal advice that the appointment was made in line with regulations.

22. DfT confirmed: 'that if an external candidate is appointable as an Inspector of Air Accidents, then he is appointable as Chief Inspector. The two posts are indivisible as regards the professional criteria that need to be met for appointment.' DfT confirm this is supported by legal advice. The remit of the Commission is to consider whether the recruitment process has complied with the Recruitment Principles. Any matters relating to employment law and other relevant legislation are for the department's consideration, prior to launching the recruitment campaign. This legal issue is not in scope for our consideration and it does not relate specifically to the Recruitment Principles.

23. All candidates had to meet the same requirements at each stage of the process as set out in the application pack, including experience and competency of civil aviation.

**This is not a breach of the Recruitment Principles.**

#### Should the chair of the panel pause the recruitment process?

The Commission is not able to replay competitions to judge how individuals fared against the criteria for a post in competition with others. However, on examining the relevant papers concerning all of the candidates, there is no apparent evidence to support the contention either that the approved candidate did not meet the requirements of the role or that he was not the most meritorious.

#### **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.

Angela Sarkis

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Civil Service Commission

February 2017