



FINDINGS AND RECOMMENDATIONS:

August 2017

REF: 503

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

Background

- The complainant applied for the Executive Officer (EO) Operations Work Coach, at Department for Work and Pensions (DWP). She was successful at interview and placed onto a reserve list. She considers:

- The process was not fair, as she was discriminated against because of her request for part-time positions.
- DWP failed to apply the selection process consistently, as she was not informed that the reserve lists had been merged. Therefore, she was not given the opportunity to amend her choice of location, or working pattern. This placed her at a disadvantage, compared with other candidates.

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 Department and complainant.
- Correspondence to and from Department.
- Interview score sheets.
- Candidate reserve list.

Jan Cameron and Kevin Woods were the decision-making Commissioners in this case.

SUMMARY OF THE EVIDENCE

1. DWP was seeking to appoint 107 Executive Officers (EO) at multiple locations across the North West of England. The recruitment campaign was advertised on Civil Service Jobs and administered by Civil Service Resourcing.
2. The complainant was successful at interview and placed on the Chester reserve list. She was offered a post in June 2016. However, she was unable to accept the post, as part-time/job-share working conditions could not be agreed or accommodated.
3. In September 2016, DWP merged the Merseyside and the Chester reserve lists and instructed Civil Service Resourcing (CSR) to notify all candidates that the two lists had been merged and that all candidates had the opportunity to change options such as location, working patterns. The complainant was not included in the CSR correspondence.
4. In December 2016, the complainant found out that the list had been merged but CSR had failed to notify her of this change. The complainant believes that had she

been placed on the newly merged list, she would have been offered a position, which she would have accepted.

5. DWP invited the complainant to attend a meeting to discuss the issues she had set out in her complaint. DWP concluded that the complainant had not been treated unfairly, as there was no guarantee that her preferred working patterns would be accommodated. DWP also stated that the availability of differing working patterns was the decision of individual business units. Therefore, DWP considered they had acted within the scope and spirit of the original advertisement, in that it gave no guarantees that particular working patterns could be accommodated in preferred locations.

FINDINGS AND RECOMMENDATIONS

Was the complainant treated fairly during the recruitment process?

6. The complainant considers she was discriminated against because of her work pattern requirements, which DWP failed to consider fairly.
7. In the job advertisement pack, it states: 'Working Pattern: Flexible working, Full-time, Part-time, Job share'. The complainant believed flexible working patterns were available. She stated that if she had known they were not available, she would not have applied for a post, due to her personal circumstances.
8. In the application pack Further Information section, it states: '...DWP is a family friendly employer and part-time and job sharing working patterns...may be available'.
9. The DWP manager stated: 'the availability for alternative working patterns in any given Jobcentre is a decision for local management and will be determined by local business needs, which must prevail and that it was for individual businesses to make decisions on working patterns.'
10. The DWP manager confirmed that while a small number of candidates had been appointed on a part-time basis, no candidates were posted on a part-time working pattern in the complainant's choice of locations. In addition, other candidates who requested part-time within other parts of the district, could also not be accommodated and they either accepted full-time, or declined the offer and remained on the reserve list.
11. The DWP manager stated that the offer of flexible working patterns is not absolute. The job advertisement pack provides information on working patterns and refers applicants to the Further Information section, where it makes clear that the offer of flexibility is conditional.

12. While the complainant was not treated unfairly because she was not offered a part-time or flexible position, as there were no positions available, the information provided suggested that such positions were likely to be available. **This is poor practice.**

This is not a breach of the Recruitment Principles.

Did DWP fail to apply the Recruitment Process consistently?

13. The complainant maintains that had she received the information of the merged reserve lists, with the option of changing choice of location and work pattern, then she would have been offered a role that she would have accepted.

14. The DWP manager admitted the complainant did not receive the same information as other candidates, regarding the merged lists. He stated that CSR confirmed the complainant had not been included in the mail shot to candidates, regarding the merged lists. Also, CSR did not include the complainant on the distribution list advising her of an option and opportunity to change her preferences.

15. The DWP manager accepted that the complainant did not get the opportunity to amend her preferences as early as other candidates. However, the DWP manager felt this did not affect the outcome for the complainant. Even if she had received the information, she would not have been offered a post, as there was no suitable post available. Therefore, she was not disadvantaged.

16. Whether or not the complaint would have found a suitable post is irrelevant. She was not given the opportunity to change her working pattern requirements, once the reserve lists were merged. In this instance, she was not given the relevant information about merging the lists. As a result, the selection process was not applied consistently to all candidates.

This is a breach of the Recruitment Principles.

Recommendations.

- Recruiting managers should be reminded of their duty to abide by the Recruitment Principles when conducting the recruitment process. They must ensure **all** candidates are notified of any changes in the process, including candidates who may have declined a role in a specific location.
- Job advertisements should be worded to accurately reflect the opportunities and working patterns that may be available, rather than a generic wording: 'flexible working, full-time, part-time, job share.' The candidate information pack

should state that the decision for any flexible, part-time or job share roles will be a local business decision and therefore cannot be guaranteed.

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

Kevin Woods

Civil Service Commission

August 2017