



## **FINDINGS AND RECOMMENDATIONS:**

**October 2017**

**REF: 583**

## **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 grade 7 post, as a Senior Tax Policy Advisor, at Her Majesty's Treasury (HMT).
- She considers:

- The appointments to the HMT posts were not made on merit, based on fair and open competition.
- HMT did not investigate the possible loss of other applications.
- The recruitment process was severely compromised and should be re-run, if possible.
- That CSC discover if the same essential criteria were applied to both internal and external 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.
- Sift score sheets.
- Interview score sheets and chair panel report.

Natalie Campbell and Sarah Laessig were the decision-making Commissioners in this case.

## **SUMMARY OF THE EVIDENCE**

3. The complainant applied for a grade 7 externally advertised role at HMT. It was advertised on CS Jobs and administered by HMT recruitment team.
4. The complainant formally lodged a complaint with HMT about the recruitment process.
5. The complainant complained to HMT about the lack of response to her previous enquiries, asking if discrimination was a factor in HMT's failure to respond.
6. The complainant believes HMT did not process her application properly and that there was bias on the basis of age, gender and whether candidates were external. She also questions HMT's 'refusal to release information about the age, gender and backgrounds of the successful candidates.'

7. HMT had initially mislaid the complainant's application, but had apologised to the complainant and stated that her application had been processed and sent to the hiring manager for consideration, albeit at a later date.
8. HMT informed the complainant by telephone, that she had not been successful at sift, explaining the panel's reasons for not progressing the complainant's application at sift.
9. In response to her telephone conversation with HMT, the complainant submitted a formal complaint to HMT, as she did not agree with the sift panel's assessment that her application did not demonstrate enough experience of multinational corporations, which was apparently a key requirement. The complainant stated: 'I do not recall experience of multinational corporations being one of the major criteria in the job specification otherwise I could...have been more explicit and expansive on the point.'
10. The complainant stated that in her application, she refers to experience with multinational corporations. She also stated: 'I am not yet convinced that your process has enabled you to appoint on merit in this case...I remain to be convinced that this has been a fair process.'
11. The complainant concluded by requesting information about the appointed candidates – their qualifications, age, gender, experience; the objective criteria used for assessment at sift; the number of applications and the number of candidates interviewed.
12. HMT sent the complainant detailed feedback stating that the hiring manager had no personal information on the candidate, as all applications were anonymised at sift stage. The hiring manager stated: 'it was not clear from this application form that the candidate has the type of tax experience that we are seeking; her tax experience does not match a current skills gap in the Treasury.'
13. HMT stated that they considered: 'The process has been open and fair, although a little disjointed with the complainant's application not going over at the start of the process.' In response to the complainant's request for further information, HMT replied: 'We are not able to release the information of the other candidates who have been selected.'

## **FINDINGS AND RECOMMENDATIONS**

## **Did HMT fail to apply the Recruitment Principles when assessing candidates?**

14. The issue of an unpublished criterion being used to assess the complainant, arises from the feedback sent by HMT. The complainant considers this refers to her not having 'enough multinational and international experience.' She considers that this constituted an unpublished criterion, as this was not specified anywhere in the Job advertisement.
15. Although there is no reference to international tax in the person specification, it is stated in the Role Profile that one of the groups candidates would be expected to work with, concerned Business and International tax.
16. In response to CSC enquiries, HMT stated: 'The complexity of this recruitment exercise is that we are not recruiting for a single, highly specific post in a particular tax area...our aim was to recruit a pool of tax professionals.'
17. Responding to the allegation of the use of an unpublished criterion, HMT stated: 'On reflection, it would have been better not to refer to the candidate's specific work experience in my feedback, since this was not the reason for the candidate not being interviewed.' In fact, HMT shows that they did not follow its own process, as stated in the application pack: that feedback would only be provided to those invited to interview.
18. HMT stated that: 'More honest feedback would have majored on the fact that the candidate did not give strong evidence of meeting any of the required skills, knowledge and experience, and that the candidate's lack of up-to-date advisory experience was a concern.'
19. HMT provided the sift score sheets for all candidates. The score sheets show that all applications, including the complainant's were anonymised at sift stage. In addition, all of the candidates were assessed against the same criteria as those stated in the Job advertisement, Role Profile, Person Specification: Required Skills, Knowledge, and Experience.
20. The HMT panel chair stated: 'I asked them [the other two panel members] to independently sift the complainant'. In neither instance did I tell them my own sift outcome, before they did their sift...They both, independently, came to the recommendation that the candidate should not be interviewed.'

21. The sift score sheets for the complainant show that in the opinion of the panel members, she failed to meet the minimum benchmark to progress to interview. The panel chair stated: 'The decision on whether or not to interview was based purely on (a) the qualification requirements, and (b) the required skills, knowledge and experience set out in the job specification. This is true of the candidate in question, and all candidates who applied.'
22. From the information supplied, the complainant was not, as an external candidate, disadvantaged at sift stage. HMT applied a consistent selection process, which was objective, impartial and consistently used to assess all candidates.
23. The panel fulfilled the legal requirement and assessed all candidates against the published essential criteria (competences, skills and experience). The final decision was made by the chair of the panel in consultation with other panel members, that the most meritorious candidates were invited to interview.
24. Based on all of the evidence, the complainant's application was impartially and objectively assessed, against the same criteria as all other candidates. We have however made some best practice recommendations about the HMT recruitment process.

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

### **Did HMT investigate the possible loss of other applications?**

25. In response to CSC enquiries, HMT stated: 'no other applications were lost or misplaced. The HMT investigated the possibility of other applications being mislaid because of human error. They found that no other applications had been mislaid.'
26. Since this campaign, HMT has confirmed that a new IT system has been put in place, which tracks all applications and sends them to hiring managers at the same time, to avoid any mislaid of applications.
27. While HMT did not breach the recruitment principles in mislaying the complainant's application. HMT should have had a robust system in place, to ensure that all applications are tracked and logged on receipt. Mislaying the complainant's application was poor practice.

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

**Were the appointments to the HMT posts made on merit, based on fair and open competition?**

28. The complainant considers that potentially, the most meritorious candidate has not been appointed because of HMT's failure to process applications. She argues that losing her application meant the process had not been applied consistently. She felt that there is no way of knowing if the most meritorious candidates were selected, as it is not known how many applications were lost.

29. From the evidence examined, no other applications were mislaid. The information provided by HMT shows that all candidates were assessed at sift, using the same process and against the same published criteria. The interview panel report shows that the successful candidates were the most meritorious and the appointments were made on merit, based on fair and open competition.

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

**Should the chair of the selection panel have halted the recruitment process, when she became aware that the complainant's application had not been forwarded?**

30. It is for the chair to decide whether to pause the competition, if s/he believes the Recruitment Principles have been breached. In this case, HMT acted correctly in informing the chair of the error. The chair decided to sift the complainant's application in the same manner as all other applicants and therefore did not feel it was necessary to pause the campaign.

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

**Was the recruitment process biased on the basis of age, gender or against external candidates?**

31. The job advertisement stated that all applicants applying would need to complete 'a three part anonymised application form'. HMT confirmed that all applications, including the complainant's application, followed this process. The sift score sheet provided by HMT, clearly show that all candidate applications, including the complainant's were anonymised at sift stage, so

the panel could not know the age, gender or whether the applications were from internal or external candidates. From the information examined, there was no bias in the HMT recruitment process.

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

**Should the recruitment process be re-run because the sift process was compromised?**

32. There is no evidence from information provided by HMT, that the end-to-end recruitment process was compromised in this case requiring that the recruitment process should be re-run.

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

**The complainant requested full disclosure of evidence in the event of CSC finding there has been no breaches to the Recruitment Principles.**

33. The Civil Service Commission will publish its findings of the investigation in this 'Findings and Recommendations' document. This has set out all the evidence considered by the Commissioners in reaching their decision. Before publication, the complainant or those complained against, have had the opportunity to point out any factual errors in the Commission's decision making.

**Recommendations.**

- Panel feedback should be confined to the published essential criteria against which candidates were assessed, at the relevant stage of the recruitment process.
- Job advertisements should be worded to accurately reflect the specific needs and requirements of the roles being advertised. In this case, HMT stated: 'the complexity of this recruitment exercise is that we are not recruiting for a single, highly specific post in a particular tax area...our aim was to recruit a pool of tax professionals.' This wording, or something approximate, could have been included in the person specification, to give a clearer picture of the roles.
- HMT should ensure that 'Experience' refers to time-specific experience, e.g. within the past two years.

**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.

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Sarah Laessig

Civil Service Commission

November 2017