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**FAQs and issues arising from the 2018-19 compliance process**

**Updated January 2020**

**PLEASE READ IN FULL AS WE WILL GIVE SOME GUIDANCE HERE**

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**Which recruitment records do we need for an audit?**

For campaigns:

We need to see:

- job adverts and any other documentation given to candidates (e.g. job description, candidate pack),
- sift records,
- interview records.

There may be a need to see other documentation as well; this is not an exhaustive list. You must be able to show, for example, how you distinguished between tied candidates.

If GRS holds this information it is your responsibility to ensure you obtain it or that GRS attends the audit.

For Exceptions:

We need to see (again, not exhaustive):

- Dates and length of the appointment (for all Exception types),
- Role title and grade (all),
- Salary (all),
- Reason for use of Exception (all),
- Whether appointee has been an Exception appointee in the last 12 months before this appointment (Exceptions 1-4 inclusive),
- When appointee left Civil Service and grade on leaving (Exception 5),
- Has scheme been approved by the Civil Service Commission (CSC) (Exception 2)?
- Has the conversion process been approved by CSC (Exception 10)?

**Can candidates meet relevant people from the organisation?**

E.g. Ministers, Senior Civil Servants?

Yes. The process for doing this should be set out in the advertised material. It should be clear what any meeting is for and offered to *all* relevant candidates (see below extracts from the *Recruitment Principles*).

18.<sup>1</sup> Similar opportunities must be offered to all candidates to inform themselves about the role. For example, if some short-listed candidates have the opportunity to meet key people in the Department, then all short-listed candidates must be offered the same opportunity.

26. Where candidates are asked to meet individuals other than panel members during the competition, it must be made clear to them whether this is for briefing purposes or whether it is part of the assessment.

Don't forget the requirement for a representative of the Commission to be present at **Ministerial** meetings when the Minister wants to meet candidates. Meetings with a Minister must be offered to all **shortlisted** candidates:

41. The Minister may meet each of the shortlisted candidates, to discuss his or her priorities and the candidates' approach to the role, and feed back to the panel views on any issues the Minister wants the panel to test at interview. Meetings between the Minister and candidates must be attended by a representative of the Civil Service Commission.

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<sup>1</sup> All numbers refer to paragraphs of the Recruitment Principles (2018)

<p><b>Which Exception appointees can apply for internal roles?</b></p>	<p>Only those appointed under Exceptions 5-10 inclusive can apply for internal roles.</p> <p>Those appointed under Exceptions 1-4 inclusive cannot apply for internal roles.</p> <p>Secondees (Exception 3) cannot apply for internal Civil Service vacancies, unless they have been appointed on merit following a fair and open competition to an accredited NDPB and are being seconded from that organisation. In that case, they can apply for Civil Service-wide vacancies.</p> <p>Secondees cannot be reappointed under Exception 5.</p> <p><b>You should ensure that staff are aware of their status in this regard.</b></p>
<p><b>If candidates experience technical issues with online tests can we give them more time to complete them?</b></p>	<p>Yes, where you have identified that candidates have been affected by technical issues, you must extend the deadline for all candidates who have not yet started or completed the tests.</p>
<p><b>How do we run our locational campaign's merit list?</b></p>	<p>For locational campaigns you should inform candidates how you intend to run your merit list, whether you use an overall merit list or locational merit lists and then stick to this. You must appoint in merit order.</p>

<p><b>How do we manage reserve lists?</b></p>	<p>You must appoint in merit order. You cannot pick people off a merit list out of merit order, whether or not you think they are a better “fit” than the higher placed candidates. This would be a breach of the Merit principle.</p> <p>However, we would recommend removing candidates from the reserve list who have been offered the actual job they applied for, and have rejected this offer. It may be different if they have been offered a role that is similar, but with closely matching essential criteria, and in this case it may not be appropriate to remove the candidate.</p> <p>You should ensure you inform candidates at the point of making an offer what you intend to do (whether remove or retain them on the reserve list) and treat all candidates the same.</p>
<p><b>What is Exception 7?</b></p>	<p>Exception 7 is a mechanism for staff to transfer into the Civil Service after success in a Civil Service-wide competition. It should be used for relevant accredited NDPB staff who apply for Civil Service-wide roles and are then successful and need to transfer into the Civil Service. You should report these appointments under Exception 7. We can advise you if a body is accredited.</p>
<p><b>Can a reserve list be extended beyond 12 months?</b></p>	<p>Only with the Commission’s approval.</p>

**Can I assess “desirable” criteria?**

If you want to assess a criterion then please consider whether it is actually essential rather than desirable.

The use of desirable criteria should be clearly set out in the advertised material. We recommend that desirable criteria are only used, in the event of a strong field of candidates, as a second stage after essential criteria have been considered and there is a need to distinguish between candidates who are close after the initial consideration of essential criteria, either at sift or interview.

**How should secondees who apply to a “fair and open” competition and are appointed on merit be treated?**

All secondees should now be appointed by Exception.

Secondees cannot apply for internal Civil Service vacancies, **unless** they have been appointed on merit following a fair and open competition to an accredited NDPB and are being seconded from that organisation. In that case, they can apply for Civil Service-wide vacancies.

Secondees cannot be reappointed under Exception 5.

Our legal advice is that there is no such thing as a “fair and open secondment” if the only option in the advert for this role was a secondment. This is because this is open to legal challenge on “openness” because candidates need to be employed and for their employer to agree to their secondment to be able to apply.

If the “fair and open” external advert gives the option of a secondment or, for example, a fixed term appointment, this will meet the openness requirement. However the above paragraphs still apply: if seconded, they should be recorded as Exceptions, they cannot apply for internal roles, Exception 5 does not apply.

The only thing that may be permissible here is that secondees appointed following a fair and open (to all) competition, may be appointed permanently to the Civil Service if they leave the employer they were seconded from, and immediately join the Civil Service the next working day. You should seek our advice on this on a case by case basis if considering permanency.

<p><b>Are these statements breaches if included in external advertisements or other advertised material?</b></p> <ol style="list-style-type: none"> <li>1. Stating that those on probation cannot apply.</li> <li>2. Stating that line manager approval or appraisals are required to apply (where this clearly relates only to civil servant applicants).</li> <li>3. Stating that candidates on disciplinary procedures cannot apply.</li> <li>4. Failure to include complaints procedures, Recruitment Principles reference and Civil Service Code reference in advertised material.</li> <li>5.</li> </ol>	<p>These were always breaches, but for several years we have not given breaches. We believe that we have given sufficient leniency on this now and from 2019-20 will consider breaching organisations where any of these are seen in adverts.</p>
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<p><b>Can we appoint “near misses” to a lower grade role if we didn’t state this in the advert?</b></p>	<p>If the applicant has been found appointable at the higher grade but there are no positions available, they may be offered a role at the lower grade, in merit order, and in line with the reserve list provisions, whether or not this possibility was advertised.</p> <p>If the applicant was not found appointable at the higher graded role, they may be appointed to the lower role but only if they have been assessed at the lower role and found appointable to the lower role and this possibility (of a lower grade role) was advertised when they applied to the original, higher graded role. This can be done without approval from the Commission. It must be done in merit order and in line with the reserve list provisions.</p> <p>If the applicant was not found appointable at the higher grade and there was nothing in the advert about appointing to a lower grade role, our consent is required. We will need to see how they were assessed at the lower grade and found to be appointable to this role.</p>
<p><b>Can we turn an applicant away at interview if they do not bring a passport or driving licence?</b></p>	<p>No, there should be a wider choice of identifying documents than this.</p> <p>Candidates should be given the opportunity to produce such documentation at a later date where relevant. We do not believe that candidates should be turned away for failing to bring ID documentation to an interview.</p> <p>If a particular type of ID is required in order to enter a particular building for an interview you should consider holding interviews at an alternative location for those without access to the required ID - which may be for many reasons, or even a temporary situation.</p> <p>If it is an objectively justified requirement of the job itself to hold a passport, for example, candidates should be given</p>

	<p>the opportunity to apply for a passport when offered the role.</p>
<b>Qualifications</b>	<p>If you include a qualifications requirement, think carefully about this as you will have to exclude any candidate who does not have this.</p> <p>If you ask for e.g. Maths and English qualifications specifically, please ensure that you check that all candidates have these. Do not assume that having a degree automatically means the candidate has these qualifications.</p> <p>If you have a qualification as an essential requirement, with no alternative given, you should not sift through to the next part of the process anyone who does not have this qualification, nor should you appoint them.</p>