



**FINDINGS AND RECOMMENDATIONS:      Date February 2021**

**REF: 1627**

**RECRUITMENT PRINCIPLES COMPLAINT TO THE CIVIL SERVICE COMMISSION**

**FINDINGS OF THE INVESTIGATION**

**AUTHORITY**

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 was unsuccessful at sift for a Grade 7 role at the Department for International Trade (DIT). His complaint relates to sift feedback he received focussing on policy experience and his view that this is not relevant to the lead sift criterion. He noted that this was stated as his sift comment: "No evidence of policy development." He states that all those successful had policy experience.

## **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 correspondence:

- Sift documentation and other campaign documentation;
- Emails from DIT.

3. Jane Burgess and June Milligan were the decision-making Commissioners in this case.

## **SUMMARY OF THE EVIDENCE**

4. The complainant raised some other issues in his complaint but the Commission is content with DIT's actions on these matters.

5. In this instance, the complainant received a response to his complaint from DIT and also other documents further to a Subject Access Request (SAR). DIT's response was that it did not assess applications at sift using a criterion other than that advertised, in this case, policy experience.

6. This is what the advert for this role stated about the process to be followed in considering applications:

*"As part of the application process you will be asked to complete a CV and personal statement. Further details around what this will entail are listed on the application form.*

*In your personal statement, please explain your motivation for applying for this role and the extent to which you satisfy the essential and preferred requirements of the role. Maximum word count of 750 words.*

*Should a large number of applications be received, an initial sift may be conducted using the lead behaviour, Making Effective Decisions. Candidates who pass the initial sift may be progressed to a full sift, or progressed straight to assessment/interview."*

This is what the Success Profiles guide states about the behaviour at Grade 7 "Making Effective Decisions" (MED).

*"Making Effective Decisions*

*Clarify your own understanding and stakeholder needs and expectations, before making decisions. Ensure decision making happens at the right level, not allowing unnecessary bureaucracy to hinder delivery. Encourage both innovative suggestions and challenge from others, to inform decision making. Analyse and accurately interpret data from various sources to support decisions. Find the best option by identifying positives, negatives, risks and implications. Present reasonable conclusions from a wide range of complex and sometimes incomplete evidence. Make decisions confidently even when details are unclear or if they prove to be unpopular."*

This is a further extract from the job specification in the advert:

*"Essential:*

*Experience of policy development"*

7. The complainant received a sift sheet further to his SAR. This document clearly contains comments in a column headed "Any PS comments" and many comments in this column relate to policy development evidence. There was also a sift upload sheet with more generic comments noted and only MED scored. The Commission subsequently received a third sift sheet from DIT where it was clear that comments in the original sift sheet had been altered. We were told that the alterations had been made by someone who was not a panel member as the original sift sheet had been in note form. We have assumed the alteration made relates to the third sift sheet received from DIT which still contains notes about evidence of policy experience for many candidates, but which has been altered in some places.

8. We were told that the comments about policy experience were in relation to the interview stage and were comments recorded for that purpose when the personal statements had been read. Such comments were recorded on the sift sheet seen by the complainant for the majority of applicants. Documents seen stated:

"The Hiring Manager, whilst sifting, also reviewed the Personal Statement to make comments ahead of interviews.....I am advised that the outcome of the sift was only on the MED score not this separate review of Personal Statements."

However, there is an email which responds to the request for confirmation on 29 June as to the 'quick sift criteria' and states:

"I've attached the bulk sift outcome report and can confirm that the short sift will be conducted on the applicants personal statement and one lead behaviour: Making Effective Decisions."

## **FINDINGS AND RECOMMENDATIONS**

9. From evidence seen in the SAR response, when the role was being considered prior to advertisement, DIT Resourcing noted in an email to the vacancy holder that if a large number of applications were received then an initial sift would be completed on the lead behaviour, Making Effective Decisions (MED), **and** the personal statement. This is confirmed and discussed in other emails released under the SAR.

10. It appears that this was not actioned and the detail about the personal statement also being assessed was omitted from the advert. It is reasonable, from the emails seen, to assume that the vacancy holder expected to complete this initial sift on both the lead behaviour and the personal statement.

11. There is further email discussion clarifying the discrepancy between the published job advert and the 'job advert approved by you' (to sift on MED and personal statement) which appears to be retrospective and provides an indication that it was not absolutely clear when the initial sift was completed that the consideration of the personal statement was not to be included.

12. As noted above, one panel member did review the personal statements but when asked stated:

"The sift was only marked on the Making Effective Decisions lead behaviour.

However, I did look at the Personal Statement as well, to highlight any areas where we might want to probe further in interview. In the interest of fairness, I looked at each candidate's PS, regardless of whether they passed the sift. No candidate was marked on the PS, and no candidate's Personal Statement affected their sift score.

I included the comments on the sift table (in the column marked Personal Statement) and <redacted> unbeknownst to me, included the comment in the complainant's letter. This was an error, and should be rescinded."

13. This panel member considered the personal statements with a particular focus on policy development and trade knowledge as none of the other essential criteria received commentary on the sift sheet. Due to redaction of the DIT documents we cannot determine who made these comments.

14. This indicates a clear focus on the essential requirement for experience in policy development by at least one panel member ahead of the panel sift, even if not explicitly reflected in the sift score. In addition the original sift sheet includes commentary on the personal statement for all candidates considered. Our view is that it is likely the sift was influenced by the commentary on policy development, even if not explicitly taken into account and, given the complainant's feedback, it was reasonable for him to have assumed that policy experience was considered at sift.

15. The advert was clear that if a large number of applications were received, then an initial sift may take place using only the lead behaviour only: Making Effective Decisions (MED). This was a different basis from that approved for inclusion in the advert and from that confirmed to the hiring manager. The evidence provided by the department, although not

conclusive, does strongly indicate that the initial sift was additionally influenced by the personal statement.

16. There is assertion by one or more panel members that the personal statement was not material to the initial sift decision, since only the advertised behaviour was 'marked', but the evidence presented does not definitively support this assertion. The evidence is indicative that the personal statement read through the lens of policy experience could have at least inadvertently, if not directly, influenced the panel's consideration of the candidates. The instruction provided to the sifting panel, consistent with the inclusion of personal statement comments in one sift form, indicates - at best - a lack of clarity as to the basis upon which the panel were sifting.

17. The Recruitment Principles state as follows in relation to compliance with the Recruitment Principles:

*17. Departments must follow the published selection process for all candidates, except where they are making a reasonable adjustment for a disabled candidate or where a genuine difficulty arises.*

*65. ....Departments must retain, for a minimum of two years, sufficient information on their recruitment to provide evidence that they have complied, and must provide the Commission with any information it reasonably requires.*

18. In this case, DIT has not kept adequate records to show the basis upon which the sift was conducted because:

- the lead sift criteria agreed by the hiring manager for use in the event of a large number of applications being received were not accurately reflected in the advert;
- DIT has provided three sift documents all holding different information, which make it difficult to follow the audit trail for the competition;
- the feedback to candidates included the commentary on the personal statements included in the sift documentation; in the case of the complainant 'no evidence of policy development'. Candidate outcomes and feedback should reflect the scope of the evidence taken into account by the panel.

Therefore, the decision of the Commission is **that this is a breach of the Recruitment Principles.**

## **REQUEST FOR REVIEW**

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

20. 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.

21. 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.

**Jane Burgess**

**June Milligan**

**Civil Service Commission**

**February 2021**