



CSAC Appeal 011/2019 – Record of Decision

Appeal 011/2019 was received on 28 June 2019 from an Appellant alleging that the Respondent acted unfairly and/or acted in a manner inconsistent with the requirements of Part VII of the PSML during the process in which the Appellant was not selected for a position during a recruitment exercise.

Following receipt of submissions from the Respondent and further supporting documents from the Appellant, an Appeal Hearing was held on 31 October 2019. It is noted that Chairman Huw Moses along with members Jennifer Skinner, Kimbert Solomon and Olivaire Watler participated in the Appeal Hearing.

The Commission subsequently considered the submissions, witness testimony and relevant legislation. The Commission found that there was a breach s.41(5) and s.41(6) of Part VII of the PSML by the Respondent who shortlisted the successful applicant in error given that he lacked the essential requirements detailed in the job advert and/or the job description. The Commission accordingly found that the successful applicant was not lawfully appointed to the position since the recruitment process was invalid due to the breach of s.41(6) of the PSML.

The Commission made the following orders:

- the appointment of the successful applicant be “terminated” as soon as practical and in any event within 30 days (on the basis that the appointment previously made was not effective as a matter of law) and that he is restored to his previous [Acting] position;
- the Appellant is restored to her previous [Acting] position upon the termination of the successful applicant from his current position and that within 30 days of such restoration to the [Acting] position, the Respondent commence the process to appoint an interim post holder (pursuant to PSML Regulation 31(2)) and/or re-commence the process to appoint a post holder, by open recruitment;
- the Job Description and the Job Advert for both positions are determined and clearly specify the qualifications, skills and experience, required or preferred for both positions before any recruitment process is commenced for either position. For the avoidance of doubt there should be no material difference between any given Job Description and its corresponding Job Advert; and
- a contribution of CI\$5,000 is made by the Respondent to the Appellant’s legal costs.

The Commission's decision was duly issued on 26 November 2019 to the legal representatives of both the Appellant and Respondent.



Huw St. J. Moses OBE
CHAIRMAN
CIVIL SERVICE APPEALS COMMISSION