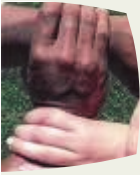


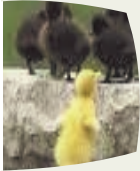


## DISCRIMINATION AND RECRUITMENT

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# 3HR focus

## Discrimination and Recruitment

### What is Discrimination?

Discrimination happens when an employer treats one employee less favourably than others. For example, a female employee who is paid less than a male colleague for doing the same job, or an ethnic minority employee refused training opportunities offered to white colleagues.



An employer must not discriminate against employees on the basis of:

- Sex
- Gender reassignment
- Being married or in a civil partnership
- Being pregnant or on maternity leave
- Race
- Disability
- Sexual orientation
- Religion or belief
- Age

### Job advertisements



Make sure:-

- the words used in an advertisement are not sexist: for example "waiter" or "waitress";
- nothing in the advertisement could be indirectly discriminatory against men or women, or against people from a minority racial group;
- any pictures used do not create a stereotypical image, for example: if only men and no women are in the picture;
- there is no ambiguity or possibility of misinterpretation in the advertisement;
- the words used do not contain a statement that people of a particular age group are required or preferred;
- you do not use ageist terminology in job adverts, for example: words such as "mature" or "energetic", or phrases such as "recent graduate" or "ideal first job"; and
- the advert does not indicate a preference for applicants not having a disability eg; stating that the job requires physical fitness or energy,

### Examples of discriminatory job adverts

"An ability to work long hours/and or travel"  
This may indirectly discriminate against female candidates with childcare responsibilities.

"Mature individual required"  
Avoid using words such as "mature" or "young" as they may give rise to an inference of discrimination on grounds of age.

"Applicants must have a minimum of five years' post qualification experience" Rather than stipulating the number of years' experience required, employers should set out requirements as to the type or level of experience required for a job to avoid discriminating against younger candidates.



## Interviewing - Good practice

Managers involved in recruitment have a duty to conduct selection interviews fairly and without bias for or against particular candidates.

Managers should prepare a list of core interview questions to be asked of all applicants for a particular post. This approach ensures consistency and fairness as all interviewees would be given an equal opportunity to sell their skills and abilities.

Candidates should not be asked questions about:



- their marital status or marriage plans;
- childcare arrangements;
- general family commitments and/or domestic arrangements;
- actual or potential pregnancy/maternity leave;
- their partner's occupation and mobility; or
- any actual or potential absences from work for family reasons.

Employment tribunals have consistently taken the view that such questions, if asked of a female candidate, indicate an intention to discriminate (whether conscious or not). This is because questions of this type are usually rooted in an assumption that childcare and other family commitments may have a negative impact on a woman's commitment to her job, her attendance or her availability to work overtime.

### Instead use questions which explore the applicant's ability to perform the job

| Don't say   | Instead say   |
|---|---|
| Are you planning to get married/have a family in the next few years?                              | What are your general aims and goals over the next three/five years?  |
| Who would look after your children if you were asked to travel away from home on a business trip? | The job would involve travelling away on business trips approximately [x] times a year. To what extent would you be able to comply with this? |
| If we needed you to work late at short notice, how would this affect your childcare arrangements? | The job might occasionally require you to work late at short notice. How would you respond if asked to do this?                               |
| How would your husband feel if we asked you to relocate to a different branch of the company?     | How would you feel if we asked you to relocate to a different branch of the company?  |

Ultimately, if a job applicant who is suitable for the job in terms of skills and experience is rejected in favour of someone of the opposite sex or of a different racial group, for example, and that person can show that he or she was materially disadvantaged by the way in which the interview was conducted, he or she will have a strong argument that the selection decision was discriminatory.

## Interview notes

It is essential for managers and others conducting recruitment interviews to keep interview notes and afterwards make a record of the rationale behind the selection decision, ie to note the key reasons or reason why a successful candidate was selected and why the other shortlisted candidates were rejected.

There are several key reasons why such records are important.

- If no records are created and a rejected candidate subsequently brings a tribunal claim alleging discrimination, you are unlikely to be able to recall the precise matters that were discussed at the interview or the way in which questions were phrased.
- The absence of any records may lead an employment tribunal to conclude that the whole recruitment process was conducted in a random, subjective or haphazard way.

Managers should be aware that any record created about an individual will give rise to individual rights under the Data Protection Act 1998. Specifically job applicants will have the right, on written request, to be given a copy of their own file. Interview notes should be compiled with this in mind.

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