

32. Promoting an Equal Opportunities Workplace and Avoiding Discrimination

1 OVERVIEW

Promoting your business as an equal opportunities workplace shows your commitment to creating a successful, caring and welcoming place for all employees. You want to promote a supportive and inclusive environment where employees can reach their full potential, without prejudice and discrimination.

An equal opportunities workplace is committed to providing a service and following practices which are free from unfair and unlawful discrimination.

2 RELEVANT LEGISLATION

The Equality Act 2010 applies to how employees treat fellow employees, visitors, suppliers, former employees and customers/clients.

This means that no applicant, employee or client should receive less favorable treatment on the grounds of their age, disability, gender reassignment, marriage and civil partnership, pregnancy or maternity, race, religion or belief, sex or sexual orientation.

Discrimination can be direct or indirect.

Direct Discrimination. This is where someone is treated less favorably due to one or more of the above protected characteristics. It can be intentional or unintentional discrimination. An example is an advert for a job that requires 'men only' or 'under 30s only'.

Indirect Discrimination. This is where someone is disadvantaged by an apparently neutral provision, criterion or practice (PCP) that is applied 'across the board' or 'equally across a particular group'.

The PCP may have the consequence of causing a disadvantage, which then affects somebody. The PCP could be justified if it is 'a proportionate means of achieving a legitimate aim'.

Victimisation. This is treating someone less favorably because they have complained about or given information about discrimination or harassment, either regarding themselves or someone else.

Ensure that training, development and progression opportunities are available to all staff.

3 RECRUITMENT AND SELECTION

If you are involved in recruitment and selection, you should be aware of discrimination legislation. This should help you:

- ask only relevant job-related questions during interviews.
- prepare questions only on the basis of the interview, application form or CV, the job description and person specification.
- avoid asking for unnecessary personal information.
- avoid making stereotypical assumptions.
- avoid making discriminatory comments or indicating an intention to discriminate.
- apply objective selection criteria and scoring.

Unconscious bias. There is a risk that those conducting interviews may make assumptions about ability to do the job, without exploring this with the candidate or testing objectively for evidence of previous experience.

Raising awareness of unconscious bias reduces the risk of challenge, as well as improving your decision-making and selection processes.

Disabled candidates

Disabled candidates are protected in the Equality Act 2010 to avoid them being unfairly screened out from the recruitment process. Section 60 of the Act makes it unlawful to ask job candidates about their health.

This provision does not prevent an employer from asking health questions altogether - it just restricts the timing of such enquiries so that, in effect, they can only be raised after an offer of employment has been made.

The Equality Act 2010 requires employers to make reasonable adjustments to avoid placing a disabled person at a substantial disadvantage in comparison with those who are not disabled.

Employers should ensure they consider anything in the interview process that could place disabled candidates at a disadvantage.

Some common examples of actions to take as a result could include:

- moving the interview to a location with easier access.
- rescheduling the time of the interview where a disabled candidate relies on assisted transport.
- allowing a deaf candidate to be accompanied by a sign language interpreter.
- arranging for blind candidates to be met on arrival and escorted to the interview.

Avoiding discriminatory questions

To help ensure fairness and consistency in the interview process, it is important that interviewers only ask questions about information that is relevant to the job.

Questions may be discriminatory if they:

- indicate an intention to discriminate on the grounds of any of the protected characteristics (for example, indicating that a job will not be suitable for candidates with childcare arrangements).
- imply a biased view of the interviewer in respect of any of the protected characteristics (for example, asks an older candidate how they would "fit in" in a younger team).
- put the candidate at a disadvantage because of a protected characteristic.
- are derogatory in relation to any of the protected characteristics (for example, a comment made about a female candidate's family commitments could be construed as sex discrimination).

Questions about health

The Equality Act 2010 makes it generally unlawful for employers to ask questions about health before a job offer is made. Where an employer feels the need to question candidates about their health, it must ensure it can provide a lawful basis for the question, in line with the Equality Act 2010.

4 NEXT STEPS

- Create a culture that is inclusive and supportive of everybody.
- Create an Equal Opportunities statement to demonstrate your commitment to equality and non-discriminatory practices.
- Review your recruitment and selection procedures and other employment policies to ensure potential discriminatory practices are removed.

5 FACTSHEETS TO HELP

- Preparing for interviews and inviting a candidate to an interview
- How to conduct a telephone interview
- How to conduct a face to face interview
- Reviewing candidates and making a hiring decision
- Making an offer of employment
- Anti-bullying and harassment - creating a safe and happy working environment

6 FOR MORE ADVICE AND INFORMATION

ACAS - (Advisory, Conciliation and Arbitration Service) free and impartial information and advice to employers and employees on all aspects of workplace relations and employment law. www.acas.org.uk

Achieve in Bath & North East Somerset - free recruitment support, advice and help. Matching job seekers, employers and course providers to help employers recruit, train and retain employees. www.achieveinbathnes.co.uk

Future Bright - free help & support for businesses and employees to realise their full potential. Provide access to training and development, workshops and networking. HR support to promote career progression and best practice to attract and retain staff. www.futurebright.org.uk

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