

EMPLOYMENT LAW DEPARTMENT

Avoiding Discrimination During Recruitment

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1. How can an employer make sure that their recruitment practices aren't unintentionally discriminatory?

When beginning the process of recruitment, an employer has to start as early as the job advertisement to avoid the potential of discrimination. It will be important to think carefully about the language which is used as words such as "energetic" could exclude someone who uses a wheelchair or has mobility problems. Employers should also think about the employee specification and the criteria which might be considered essential for the applicant. Does a candidate truly need a clean driver's licence for example? If a job does involve lifting or manual handling, consider how much is involved and whether equipment such as hoists could reduce (or even avoid) the need for too much heavy lifting so as to make the role more accessible for more people.

Further thought might be needed when interviews are arranged, as an employer can ask applicants if they have a disability so that any adjustments which should be made to the interview process can be considered. These adjustments could include changing the location of the interview room, allowing more time for written assessments or adjusting the time at which the interview will take place.

It's important to avoid making stereotypical judgements and assumptions such as presuming a disabled candidate would be physically unable to carry out certain aspects of the role or won't fit in with the work culture and existing staff.

2. How far should an employer go in terms of making adjustments?

Reasonable adjustments are required when a disabled person is put at a substantial disadvantage by either a physical feature of the premises or a provision, criterion or practice that has been applied. When this happens there is a duty to take reasonable steps as are necessary to avoid the disadvantage. Whether a disadvantage is substantial and what amounts to a reasonable step will vary depending on the disability and what criterion has been applied that an individual says is causing them the disadvantage.

3. What if the employer doesn't know a candidate is disabled?

If the employer doesn't know and can't reasonably be expected to know that someone is disabled and that they are likely to be disadvantaged, then the employer is not under a duty to make adjustments. However if an employer knows a candidate is disabled they would be wise to make enquiries with them about whether anything in the recruitment process may cause them disadvantage and then make suitable adjustments as necessary.

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