

Equal opportunities and interviewing

There are lots of myths about what makes an “equal opportunities” interview, and what employers can and can’t ask, and probe on, in the interview process. This guidance explains what the Equality Act 2010 does and doesn’t say about interviewing, and what employers can do to avoid bias and discrimination in the interview process.

The Equality Act 2010

There’s no specific reference to interviewing in the Equality Act 2010. What the Act states is that employers must not:

- treat a job applicant worse than another job applicant because of a protected characteristic (Age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation)
- do something which has a worse impact on a job applicant and on other people who share a particular characteristic than on people who do not have that characteristic
- treat a job applicant unfavourably because of something connected to their disability where you cannot show that what you are doing is objectively justified
- treat a job applicant worse because they are associated with a person who has a protected characteristic
- treat a job applicant worse because you incorrectly think they have a protected characteristic
- treat a job applicant badly or victimise them because they have complained about discrimination or helped someone else complain
- harass a job applicant.

In addition, to make sure that people with a disability have the same access to everything that is involved in getting and doing a job as a non-disabled person employers must make reasonable adjustments.

Best practice in interviewing

The Equality and Human Rights Commission advise that the following actions would ensure an employer would conform to the legislation in terms of a best practice interview process.

- Ask candidates before interview if they require any adjustments to be made to the interview or selection process to allow them to attend and participate effectively, and make any reasonable adjustments in advance or on the day if required.
- Be flexible with interview dates and times to avoid unlawful discrimination.
- Do not ask questions about someone's protected characteristics unless they are very clearly related to the job because, for example, an exception applies.
- Do not ask questions about health, disability or sickness record. Questions to disabled candidates should be related to their ability to do the job and should aim to reveal what adjustments may need to be made in the job.
- Do not make instant, personal and often unfair judgements on someone when they first arrive for interview because of their protected characteristics. Focus on finding out if they have the skills, qualities and experience to do the job.
- The Chartered Institute of Personnel and Development recommend avoiding the following questions in order to prevent discrimination taking place in the interview.
 - Are you married?
 - How old are you? What is your date of birth?
 - How many children do you have? We need someone who can travel so how do you think you could balance that with your childcare arrangements?
 - What does your husband do? What does he think about you applying for this role?
 - What church do you go to?
 - How do you feel about managing a team of younger people?
 - How many more years do you see yourself working? When do you plan to retire?
 - Where do you come from?
 - What political party do you belong to?
- Have more than one person interviewing to avoid unintended bias.
- Keep a record of the interview and store all interview notes for 12 months. The notes are important evidence to be able to demonstrate that you have not discriminated.

- Focus interview questions and probes on whether the applicant has the relevant skills, qualities and experience to do the job and ensure you have clear criteria to assess all candidates against.

“It’s a myth that equality law says you must ask everyone exactly the same questions. There is no reason for you not to ask about things that are different for a particular candidate, or follow up an applicant’s answers with questions that relate to what they have just said.

However you should be focussing on the same broad subject areas with each applicant. This is because otherwise you will be applying different standards to different applicants based on their protected characteristics, and this may lead to unlawful discrimination”.

(Equality and Human Rights Commission 2014)

Further guidance

Chartered Institute of Personnel and Development (CIPD)

www.cipd.co.uk

ACAS

www.acas.org.uk

Equality and Human Rights Commission

www.equalityhumanrights.com