

## Recruitment

### 1 . How employers should recruit

It's up to employers how they recruit for their organisation.

There are no set processes that are required by law. But employers must follow a fair process and certain laws that apply throughout the whole recruitment process, including:

- discrimination
- data protection

Employers should also follow good practice and any policies their organisation might have on:

- recruitment
- equality, diversity and inclusion

[Find out more about improving equality, diversity and inclusion](#)

### If an applicant is a member of a trade union

It's against the law to treat someone less favourably or cause them detriment based on whether they are, or are not, a trade union member.

Detriment means someone experiences one or both of the following:

- being treated worse than before
- having their situation made worse

For example:

- you reduce their hours
- they experience [bullying](#)
- they experience [harassment](#)
- you turn down their training requests without good reason
- you overlook them for promotions or development opportunities

### Get more advice and support

If you have questions about any stage of the recruitment process, [contact the Acas helpline](#).

Acas also provides [training for recruitment, selection and induction](#).

## 2. Following discrimination law

You must follow the law on discrimination when advertising, interviewing and deciding on new staff.

This means you must not disadvantage an applicant because of any of the following 'protected characteristics':

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Indirect discrimination is when there are rules or arrangements that are less favourable to people with certain protected characteristics.

In recruitment, this could happen through:

- the arrangements you make for deciding who to offer the job
- the terms under which you offer the job
- not offering someone the job

[Find out more about the different types of discrimination](#)

## When you can ask about protected characteristics

You may be able to ask questions about protected characteristics in the following circumstances during recruitment:

- for equality and diversity monitoring
- to make reasonable adjustments
- to use 'positive action during recruitment'
- if there's a disability exception
- if there's an occupational requirement

If you do this you must follow the law.

[Find out about when employers may use protected characteristics in recruitment](#)

## Equality and diversity monitoring

You can ask job applicants or new starters to complete an [equality and diversity monitoring form](#). But to avoid discrimination, you must keep the information on this form separate from the application form and CV.

If you ask applicants to complete an equality monitoring form:

- anyone involved in interviewing or deciding who to hire must not have access to the information
- you should not ask applicants to enter their name or any other information that identifies who they are

## Asking questions about health and disability

You must not ask a job applicant about their health or any disability at any stage in the application or interview process, apart from for some exceptions.

Exceptions to this are:

- to confirm someone has a disability because you're using the disability exception for recruitment
- the equality and diversity monitoring form
- to find out if you need to make reasonable adjustments
- to confirm someone has a protected characteristic because of an occupational requirement

You can ask someone about their health or any disability once you have:

- selected them for a group of potential candidates for the job
- offered them a job either outright or on a conditional basis

This is because at those stages of recruitment, you are making sure that someone's health or disability would not prevent them from doing the job. You must also consider whether there are reasonable adjustments that would enable them to do the job.

You could also consider joining the government's Disability Confident scheme, which helps employers to recruit and retain disabled people and those with health conditions. Find out more about [Disability Confident on GOV.UK](#).

## Making reasonable adjustments

By law (Equality Act 2010), you must make [reasonable adjustments](#) for job applicants or interviewees if they are disabled.

This can be relevant at any stage of the recruitment process. For example, providing an application form in a different format, or making sure you hold interviews in a wheelchair-accessible room.

Someone might ask for reasonable adjustments, in which case you can ask them what is needed.

If someone does not ask, you can ask them if reasonable adjustments might be needed.

## Contact the Acas helpline

The law around discrimination and protected characteristics can be complex. If you have any questions or need to talk it through, [contact the Acas helpline](#).

## 3. Using protected characteristics

When recruiting, in some circumstances you can use protected characteristics to help a disadvantaged or an underrepresented group. This can also help your organisation to be more diverse and representative, as well as widening the talent pool you recruit from.

It's important to know what is possible and what could be against the law. Your action must not cause 'detriment' to another protected group.

Detriment means someone is treated worse than someone else. For example, someone does not get through the CV sifting stage because you saw they have a certain protected characteristic.

## Example of using a protected characteristic in recruitment

After identifying underrepresentation within your company you decide to take steps to increase diversity of sexual orientation.

You put your job advert in a national newspaper, on social media and in a magazine with a largely LGBT+ readership. This could mean that more LGBT+ people might see the advert and apply for the job.

It does not cause detriment to any group of people who are less likely to read that magazine because you're also advertising in other places.

## Using positive action during recruitment

Under the law, in very rare circumstances when recruiting, it might be possible to use 'positive action during recruitment'. This is when you use a protected characteristic as a reason for hiring one person over another.

It only applies when 2 candidates are otherwise of equal merit and you need a tiebreaker. It should only be used as a last resort after you have exhausted all other non-discriminatory ways of deciding between the 2 candidates.

You can only do this when all the following apply:

- you've reached the stage of recruitment where you're deciding who gets the job
- you're deciding between 2 or more applicants who are otherwise equally able to do that?job
- the positive action is a proportionate means of achieving the aim of overcoming or minimising the relevant disadvantage

If you use positive action as a tiebreaker, you must be able to prove it's because either:

- an applicant with the protected characteristic is disadvantaged because of it
- people with the?protected characteristic are under-represented in that job

If you do use positive action as a tie-breaker, you must not automatically make the same decision again when hiring in the future. You must make your hiring decisions based on the circumstances of each case and the merit of each applicant.

## Example of positive action in recruitment

You select a female job applicant over a male applicant who did equally well in the application process and is equally qualified.

You do so because your business has a goal of increasing participation of women in that role and you have evidence of underrepresentation of female candidates.

## Positive discrimination

'Positive discrimination' is when an action gives more favourable treatment to members of a disadvantaged or underrepresented protected group of people and causes detriment to another protected group.

Positive discrimination is against the law unless there is:

- a disability exception
- an occupational requirement

## Example of positive discrimination

Alex is aware that people from an Indian background are underrepresented in their business. Alex interviews 2 people for a role and hires the applicant with an Indian background to address that underrepresentation. The other, non-Indian, applicant was assessed as more suitable for the role.

This could be discrimination because the decision was based on the person's ethnicity and it disadvantages anyone applying for the job with a different ethnic background.

### **If there's a disability discrimination exception**

It is not possible for a non-disabled person to claim disability discrimination under the law.

This means you can treat a disabled person more favourably compared to a non-disabled person.

You can specifically advertise for and recruit a disabled person without the risk of disability discrimination.

This can be a useful approach to help increase representation of disabled people in your workforce.

### **Comparing with other disabled people**

The law only applies when comparing a disabled person with a non-disabled person, not specific disabilities.

This means if you specify a disability, there could be a risk of disability discrimination.

If you need to hire a person with a specific disability, it is important that one of the following applies:

- there is an occupational requirement
- you are using positive action during recruitment where candidates are otherwise of equal merit

[Find out more about disability discrimination](#)

### **Example of when the disability discrimination exception would apply**

A mobility aid company is advertising for a new role and decides to say that only disabled people can apply.

Someone who is non-disabled applies for the role and is rejected for that reason. That person could not challenge the company's decision on the grounds of disability discrimination. This is because being non-disabled is not protected under the law.

### **Example of when the disability discrimination exception would not apply**

The company says in their advert that only people with mobility-related disabilities can apply.

Someone with a hearing disability applies for the role but is rejected because they do not have a disability connected to their mobility.

In this case the applicant might be able to make a claim for disability discrimination. This is because they were rejected based on their particular disability, not disabilities in general.

However, if experience of mobility issues is essential to the role, there could be a genuine occupational requirement that justifies the decision.

### **If there's an occupational requirement**

In some cases an employer might be able to justify that an applicant needs a certain protected characteristic to do a particular job. This is known as an 'occupational requirement'.

For it to be an occupational requirement, both of the following must apply:

- the protected characteristic is essential for and relates to the main tasks of the job
- there is 'objective justification' – this means you're able to prove there is a good business reason

#### Example 1 of when there could be an occupational requirement

A refuge for women who have experienced domestic violence advertises for a female support worker.

Even though sex is a protected characteristic, this could be justified as the refuge has evidence from their residents that they only feel safe with female support workers. The refuge reviews the requirement regularly.

#### Example 2 of when there could be an occupational requirement

A TV company advertises for an actor who's black and male to play a specific role. Even though race and sex are protected characteristics, this could be justified if there's a need for realism and authenticity in the TV programme.

### Recruiting the same job in the future

If an occupational requirement is justified for recruiting a role, you must not assume it will be again if you recruit for the same role in the future. You must check the requirement is still within the law.

## Contact the Acas helpline

If you have any questions about using protected characteristics in recruitment, [contact the Acas helpline](#).

## 4. Advertising a job

You're not legally required to advertise a job, but it's a good idea to.

Advertising a job means:

- you're less likely to break the law by [discriminating](#), even if you did not intend to
- you're more likely to get a wider range of applicants who are suitable for the job

You should follow any written rules or recruitment policy your organisation may have. For example, your recruitment policy might say:

- whether you have to advertise a job
- where you should advertise
- who you must advertise to – for example, internal or external applicants

If you have a recruitment policy, you must apply it in the same way to everyone.

## Avoid discriminatory language

When advertising a job, you must not ask for or exclude anyone with a certain protected characteristic otherwise it could be discriminatory.

Examples of words and phrases in a job advert that could be discriminatory include:

- 'recent graduate' or 'highly experienced' – these can discriminate against age and you must be able to prove you have a good reason for any job requirement in your advert
- 'barmaid' or 'handyman' – because they include gender-specific words that can discriminate against people's sex and gender reassignment. You should make clear that people of any gender can apply, and use gender-neutral language like 'bar staff'
- specifying a nationality rather than a language required for the job, for example 'German sales rep' could discriminate against race, so 'German-speaking sales rep' would be more appropriate
- clothing requirements, for example wearing a hairnet in a kitchen could discriminate against someone who for religious reasons covers their head in other ways. The employer could agree for the employee to use their usual hair covering

There are certain circumstances under the law [when you might be able to ask for specific protected characteristics](#).

## Check your advert reaches a wide range of people

It's a good idea to advertise in at least 2 different ways or places. For example, in a newspaper and on a jobs website. This helps you:

- reach a wider range of people
- reduce the risk of discrimination

Consider whether the places you advertise reach a diverse range of people. For example, if you only use social media to advertise the job you could miss out on applicants who do not use it.

### Advertising online

You should think carefully about whether you advertise online only and how you advertise online, as there can be a risk of discrimination.

This is because an online job advert might only be seen by specific groups of people. For example, if you put an advert on Facebook it might only be seen by people from a certain background or age range.

## Describe what the job involves

When advertising or someone asks to apply for the job, you should give them the following:

- the job description
- a job application form
- the person specification
- information about your organisation
- an equality and diversity monitoring form

These will help make clear what the job requires and reduce the risk of discrimination.

You can use Acas templates for:

- [job description](#)
- [job application form](#)
- [equality and diversity monitoring form](#)

Check that application forms do not discriminate against someone who is disabled. For example, telling applicants they must fill out the application form by hand when handwriting is not crucial to the job. This might put people with dyslexia or arthritis at a disadvantage, as writing can be difficult.

## Tell applicants what you'll need from them

You should also tell applicants about anything else you'll need from them, such as:

- proof they have the right to work in the UK
- whether they'll need a reference
- whether they'll need a health check before they start work if they get the job

Important: You could be fined up to £20,000 if you do not check that the person you hire is allowed to work in the UK.

[Check an applicant's right to work in the UK on GOV.UK](#)

## Protect applicants' personal information

You must tell applicants how you'll use their personal information.

[Find out more about using personal data from the Information Commissioner's Office \(ICO\)](#)

## 5. Choosing who to interview

You do not have to interview someone before giving them a job unless your organisation has a policy or rules that say you do.

Even if you do not have to interview, it can still be a good idea so that you:

- can find out if the person really is right for that job
- reduce the risk of [discrimination](#)

## Using information to help you choose

You should use the information you've told applicants you will use to make any decisions, for example application forms and CVs.

You should only use online information if you've already checked that it's appropriate.

### Avoid using someone's personal social media

Avoid using information that's on someone's personal social media profile, for example Facebook, Twitter or Instagram, to decide whether you interview or hire them.

You might be breaking the law, particularly if either of the following points apply:

- they did not agree to you using the information in this way
- you looked at some applicants' social media profiles, but not others

### Using information on jobs and business networking sites

When recruiting, you can usually use information that someone puts on a jobs website, or a business and employment social networking site such as LinkedIn.



When posting information on these sites, users will be aware that the purpose is to show their work experience and professionalism. You must still make sure that you use this information in a way that does not discriminate.

## Decide who's involved in selecting and interviewing

It's a good idea for the staff involved in selecting and interviewing applicants to:

- come from a diverse range of backgrounds
- use a consistent decision-making process, such as a scoring system

If you currently do not have enough diversity among your staff to include in the interview process, you could focus on growing that for the future.

Ideally 2 or more people should be involved in choosing who to interview to reduce the risk of personal biases or unintended discrimination.

## How to select applicants for interview

Select the applicants who best match the job description and person specification. Do this in a fair way for each person.

One way of doing this is a scoring system where you:

1. turn each point in the [job description](#) and person specification into a checklist of, for example 20 criteria, then an applicant could score up to 20 points
2. assess the information in each application form against the checklist
3. score each application form against the checklist. For example, if the applicant meets 17 of the 20 points, you can score the application as 17 out of 20

The point range you use should be wide enough to help distinguish between the number of candidates you're interviewing.

For example, if you only use a score between 1 and 5, then you might get a lot of 4s and 5s, which might not help you decide between them. But if you score between 1 and 20 you might end up with clearer results for each candidate.

Related content

[/discrimination-and-the-law](#)

## 6. Interviewing job applicants

Once you've chosen who to interview, it's a good idea to prepare a set of questions to ask at the interview. Questions must not [discriminate](#).

If possible, each interview should be carried out by more than 1 person to reduce the risk of discriminating.

It's a good idea to check before the interview that the interviewers are:

- prepared
- understand the law on discrimination

## Check if applicants need any reasonable adjustments for the interview

By law you must ask anyone coming to an interview to tell you if they need [reasonable adjustments](#) so they can attend. For example:

- making sure your office is accessible for an applicant who uses a wheelchair
- giving someone more time to do a written test that is part of an interview
- providing a sign language interpreter for someone who is deaf

## In the interviews

When interviewing it's a good idea to ask each applicant the same questions where possible. This is to ensure you're treating applicants in the same way.

### Holding interviews online

If you're holding interviews online, you should make sure:

- you hold the interview in the same way as any interview you hold in person
- the candidate has a reliable method of communication, for example make sure they have the suitable technology or can download any software needed
- you have a backup plan in case of connectivity issues

If you require the interview to be recorded, you must get the person's permission first.

### At the end of each interview

At the end of each interview, you should:

- ask the applicant if they have any questions
- tell them when and how you will let them know whether they got the job or not
- tell them how they can ask any follow-up questions they might have
- tell them what sort of feedback to expect

## Data protection

If you make any recordings or notes in interviews, you must:

- store them securely and confidentially
- follow data protection rules

[Find out more about data protection from the Information Commissioner's Office \(ICO\)](#)

## Deciding who should get the job

When you have finished all the interviews, make sure you're fair and treat everyone the same when deciding who should get the job.

For example, check your decisions are based on how each applicant met each point in the job specification and person specification.

## 7. Offering someone a job

Once you've decided who to hire, you can make them a job offer.

You can make a job offer verbally, but it's better in writing to avoid misunderstandings later on.

## Check they have the right to work in the UK

When you offer someone a job, you must ask for proof that they have the right to work in the UK.

You could be fined up to £20,000 if you do not check this.

[Check a job applicant's right to work on GOV.UK](#)

## Offering a job to someone from outside the UK

You should plan ahead if you want to offer a job to someone from outside the UK. Under immigration law:

- you'll need a sponsor licence to hire most employees and workers from outside the UK
- anyone you recruit from outside the UK will need to meet certain requirements

You'll need to check whether you need a sponsor licence, what type of sponsor licence to apply for and what requirements need to be met.

[Find out more about UK visa sponsorship for employers on GOV.UK](#)

## Offering a job to someone from the European Economic Area or Switzerland

The majority of European Economic Area (EEA) and Swiss citizens will need to prove their right to work using the [right to work service on GOV.UK](#).

The EEA includes:

- all countries in the EU
- Iceland
- Liechtenstein
- Norway

Irish citizens have unrestricted access to work in the UK. They can prove their right to work in the UK by using their Irish passport or passport card, or another proof of identity.

[Find out more about employing EU citizens on GOV.UK](#)

## What to include in a job offer letter

A job offer letter should include:

- the job title
- confirmation you've offered them the job
- whether it's a 'conditional job offer' – if you have any conditions they must meet before being employed by you, for example suitable references or a health check
- the terms – including salary, hours, benefits, pension arrangements, holiday entitlement and the location of work
- start date and any probationary period
- what they need to do to accept the offer or to decline it
- the name of the person to contact, with their contact details, in case they have any questions

It's a good idea to ask the applicant to confirm in writing they've accepted the job.

[Use our job offer templates](#)

## If you change your mind

You can withdraw the job offer if the applicant did not meet the offer's conditions. For example:

- suitable references
- criminal record checks

It's a good idea to tell them the reasons you're withdrawing the offer.

If you did not include any conditions as part of the job offer, it's known as an unconditional job offer. Withdrawing it could be against the law.

If you feel unsure about withdrawing an unconditional job offer, [contact the Acas helpline](#).

## Information you must give them when they start work

By law, you must give a written statement of employment particulars to anyone who's classed as an [employee or a worker](#). The written statement must include certain terms and conditions about the job.

You must provide this on or before the person's first day of work.

Related content

[Staff induction checklist](#)

[Job description templates](#)