

## Hiring someone

### 1. Check you're following discrimination law

When hiring, it's obviously important to find the best person for the job. But you should also check you're following the law on discrimination.

It's usually against the law to discriminate against a job applicant based on any of the following, known as 'protected characteristics':

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

### Indirect discrimination

Indirect discrimination is against the law. In the workplace, indirect discrimination means there are rules or arrangements that apply to everyone, but which in practice could be less fair to someone because of their sex, race or other protected characteristic.

For example, your business is recruiting for a head of sales. You only advertise the job internally. The potential applicants in the business are all men. You could therefore be discriminating indirectly against women.

Another example could be a job advert that states applicants must have spent a specific amount of time doing something (for example, 10 years working in retail).

By doing this, you could be discriminating indirectly against younger applicants. The advert should instead say that the applicant needs to meet a specific level of competence or knowledge. You could also include the main tasks and skills involved in the job.

### When you can ask about protected

## characteristics

In some cases you can ask questions about disability, race or other protected characteristics. If you do this you must follow the law.

Common examples include asking a job applicant:

- if you need to make ['reasonable adjustments'](#) for them, for example making sure that a disabled person coming for interview can access your office
- to complete an [equality and diversity monitoring form](#), to help check your business follows the law

If you ask applicants to complete an equality monitoring form:

- anyone involved in interviewing or deciding to hire them 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

Other questions about someone's sex, race or other protected characteristics could be against the law.

As this can be a complex area, [call the Acas helpline](#) or get legal advice if you're not sure of the types of questions you can ask.

## When a requirement is crucial or helps a disadvantaged group

You can ask that job applicants have a certain protected characteristic (for example, sex or race), but only if:

- it's crucial for the job (an 'occupational requirement')
- it helps a disadvantaged or under-represented group

### It's crucial for the job

You must be able to prove that the protected characteristic is crucial for someone to do the job effectively.

For example:

- a care worker agency could ask for female applicants, if the person being cared for is female and she said she would be uncomfortable receiving this type of care from a man
- the Catholic church can ask for a priest who is a Catholic

If an occupational requirement is justified and you advertise the job again later, you must check that it still applies.

Because an occupational requirement can be hard to prove, you should get legal advice beforehand.

## It helps a disadvantaged or under-represented group

You can ask for a protected characteristic or use it when deciding to hire someone, as long as you can prove you're doing this to help a disadvantaged or under-represented group in your business.

This is sometimes known as 'positive action'. You must also be able to prove that the person is capable of doing the job.

For example, your business has 10 salespeople who are all men, so you know women are under-represented.

When interviewing for another salesperson, you find that 2 applicants appear equally able to do the job. One is a man, the other is a woman.

In the end you decide to hire the woman. This is because she appears able to do the job and women are under-represented in your existing workforce.

According to the law, you must always see if there's a less discriminatory way to make your workforce more diverse.

Even if you believe a certain protected characteristic is essential, you could be challenged if someone feels you've discriminated unfairly. [Call the Acas helpline](#) or get legal advice to check first.

## Trade union membership

It's against the law to treat someone unfavourably based on whether they are, or are not, a trade union member.

## 2. Check if you need to advertise

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

Advertising a job means:

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

If your business has written rules (for example, a recruitment policy) in place you should follow them.

For example, your rules 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 your business has written rules, they must be applied the same way for everyone.

## How to advertise a job

According to the law, you cannot usually refer to [‘protected characteristics’](#) (such as a person's sex or race) in a job advert.

Examples that could be discriminating unfairly against protected characteristics include:

- terms like 'recent graduate' or 'highly experienced' – these can discriminate against age (you must be able to prove you have a good reason for any job requirement in your advert)
- terms like 'barmaid' or 'handyman' – these can discriminate against someone's sex
- language requirements – '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

## Describe what the job involves

To make clear what the job requires and help avoid unintended [discrimination](#), it's a good idea to provide the following:

- job description
- job application form
- person specification
- information about your business
- equality and diversity monitoring form

They should be provided as part of your advert or once you've received applications.

You can use our [templates for hiring staff](#) to help you. The templates include examples of how to write clear and specific job and person requirements. They will also make it easier to assess the applications you get and choose who to interview.

## Tell applicants what you'll need from them

You should also provide information that tells applicants about anything else you'll need from them, such as:

- proof that they have the right to work in the UK
- whether they'll need a reference
- whether the person who gets the job will need a health check before they start work

Your business could be fined up to £20,000 if you do not check that the person you hire has the [right to work in the UK](#).

Check that forms do not discriminate. For example, stating that the applicant must fill out the job application form in their own handwriting may discriminate against people with dyslexia, if handwritten English is not crucial to the job.

## Check your advert reaches a wide range of people

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

- reach a wider range of people
- [avoid discrimination](#)

Consider whether the channels you use 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 on the internet

You could be discriminating if the only job advert you use on the internet is a targeted one. A targeted job advert can only be seen by specific groups of people. For example, you put an advert on a social media site such as Facebook, and only make it visible to users in a certain age group.

## 4. Using information on someone's social media profile when hiring

Avoid using information that's on someone's social media profile 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

For example, while using Facebook you discover the profile of someone who has applied to you for a job as a personal assistant. You notice a picture of her with 2 toddlers in a pushchair and think she looks too young to be a mum.

You've now already started making a judgement – even if you did not intend to – about whether she's the best applicant for the job.

If you then decide not to interview her and she discovered you'd seen her profile, she could argue that your decision discriminated against her because of her sex or age.

## Information on jobs and business networking sites

When recruiting, you can usually use information that someone puts on a jobs website, or a business 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](#).

## 5. Choosing who to interview

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

Even if you do not have to interview, doing so is a good idea so that you:

- can find out if the person really is right for that job
- do not leave anyone thinking you might be [discriminating](#) against other people who could do the job

Avoid using [information on someone's social media profile](#) when deciding who to interview.

## Decide who's involved in selecting and interviewing

It's a good idea for the people 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

Ideally, 2 or more people should be involved in choosing who to interview. This is so that the business can avoid discriminating indirectly.

## 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. You can:

1. Turn each point in the job description and person specification into a checklist of, for example, 10 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 7 of the 10 points, you can score the application as 7 out of 10.

## 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.

Find out more about [discrimination and the law](#).

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

By law you must ask anyone coming to an interview to tell you if they need '[reasonable adjustments](#)' so that they can attend. For example, making sure your office is accessible for a disabled applicant.

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

Once all the interviews have taken place, 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'll need to make them a job offer.

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

later on.

Avoid using [information on someone's social media profile](#) when deciding whether to offer them a job.

## What to include in a job offer letter

A job offer letter should include:

- the job title
- confirmation that you've offered them the job
- any conditions, for example, that the offer depends on 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 of any questions

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

You must give a [written statement](#) to your employee within 2 months of them starting work.

## If you change your mind

Once you've made the job offer you can [withdraw the job offer](#) if the applicant did not meet conditions of the offer. For example:

- suitable references
- criminal record checks

It's a good idea to inform them of the reasons you withdrew 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. [Call the Acas helpline](#) or get legal advice if you need to withdraw an unconditional job offer.

## Check their right to work in the UK

Before they start work, you must check they have the [right to work in the UK](#).

Your business could be fined up to £20,000 if you do not check that the person you hire



| has the right to work in the UK.