**Recruitment and Discrimination**

**Job adverts**

You must not state or imply in a job advert that you will discriminate against anyone. This includes saying you won’t make reasonable adjustments for workers with a disability.

Only use phrases like “recent graduate” or “highly experienced” when these are actual requirements of the job. This could discriminate against younger or older people who might not have had the opportunity to get certain qualifications.

Where you advertise might cause indirect discrimination - for example, advertising only in men’s magazines.

**When you can discriminate**

If it’s a requirement of the job you can specify that the successful applicant will be from a particular group. For example, people under 18 cannot legally sell alcohol.

**Questions you can’t ask when recruiting**

You must not ask candidates about [protected characteristics](https://www.gov.uk/discrimination-your-rights/types-of-discrimination) and:

* their health
* if they’re married, single or in a civil partnership
* if they have children or plan to have children

You **can** ask about about health or [disability](https://www.gov.uk/recruitment-disabled-people) if:

* there are necessary requirements of the job that can’t be met with reasonable adjustments
* you’re finding out if someone needs help to take part in a selection test or interview
* you’re using ‘[positive action](https://www.gov.uk/recruitment-disabled-people/encouraging-applications)’ to recruit a disabled person

Even if you use a recruitment agency you might be liable if any discrimination happens during their recruitment process.

**Date of birth**

You can’t ask someone for their date of birth on an application form. You can only include this as part of an equality monitoring form if you use one.

**Criminal convictions**

Applicants don’t have to tell you about [criminal convictions](https://www.gov.uk/employers-checks-job-applicants) if they’re spent. You must treat the applicant as if the conviction has not happened, and cannot refuse to employ the person because of their conviction.

There are some areas of employment that are exempt from this rule, eg schools.

**Trade union membership**

You must not use membership of a trade union as a factor in deciding whether to employ someone. This includes:

* not employing someone because they’re a member of a trade union
* insisting someone joins a trade union before you’ll employ them

**Employing people with protected characteristics**

You can choose a job candidate who has a protected characteristic over one who doesn’t if they’re as suitable for the job and you think that people with that characteristic:

* are underrepresented in the workforce, profession or industry
* suffer a disadvantage connected to that characteristic (eg people from a certain ethnic group are not often given jobs in your sector)

You can only do this if you’re trying to address the under-representation or disadvantage for that particular person. You must make decisions on a case by case basis and not because of a certain policy.

You can’t choose a candidate who isn’t as suitable for the job just because they have a protected characteristic.

**Disabled people**

When recruiting you can treat a disabled person more favourably than a non-disabled person because of their disability.

# Discrimination during employment

You must not discriminate against your employees. This could be done by, for example:

* introducing measures that discriminate between workers, eg a benefit for married employees that’s not available for people in a civil partnership
* selecting someone for redundancy because they have a protected characteristic
* failing to make reasonable adjustments for a disabled worker
* firing someone for making an allegation of discrimination
* firing someone because they’re a union member
* unfairly rejecting a [request for flexible working](https://www.gov.uk/flexible-working) from a new parent

This includes self-employed people on a contract for you.

Training and promotion can’t just happen because of an employee’s age or the time they’ve worked for you.

You should also not just choose older workers for discussions about retirement. Such talks should be part of general discussions about each worker’s career development.

## Employment tribunals

An employee who thinks they’ve been discriminated against may raise a [grievance](https://www.gov.uk/solve-workplace-dispute/formal-procedures) or take their case to an employment tribunal.

You are responsible for discrimination carried out by your employees unless you can show you’ve done everything you reasonably could to prevent or stop it.

## Employing family members

If you hire members of your family you must:

* avoid special treatment in terms of pay, promotion and working conditions
* make sure tax and [national insurance contributions](https://www.gov.uk/national-insurance) are done correctly

## Gender reassignment

The moment an employee tells their employer that they are going to have gender reassignment, they are protected from discrimination. This includes:

* disadvantaging the worker because of the time they may have to take off because of medical treatment
* enabling the worker to use facilities appropriate to their gender
* once the worker has a Gender Reassignment Certificate and a new birth certificate, you must amend your records, eg human resources records, to reflect this
* insuring complete confidentiality of all information the worker gives you regarding their gender history