



TO EMPLOY OR NOT TO EMPLOY?

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With the plethora of equality legislation currently in place and the significant implications of the Equality Bill looming on the horizon, it is important that employers are aware of the 'Do's and Don'ts' in the recruitment process. Liability for discrimination can potentially arise from when a candidate simply posts their CV in response to an employer's advert. As such, it is imperative that employers implement a fair and non-discriminatory recruitment procedure to protect them from potentially expensive days out at an Employment Tribunal in a claim for discrimination!

Employers should have recruitment policies in place. Here are some useful tips to help employers in their quest for the right candidate, which should by no means be regarded as an exhaustive list:

Before Advertising the job

- Identify the description for the job you are going to advertise.
- Identify what competencies are essential for the job, such as education, skill set etc, however make sure these criterion are not discriminatory.
- Identify the competencies/criteria which are merely desirable for the role and make sure that these competencies/criteria can be objectively justified

Advertising

- Check your existing policies, e.g. if you need to advertise the job internally first and then externally.
- Don't target a narrow audience, such as one particular religious publication, since this could potentially be discriminatory
- Make sure the requirements for the role in the advert are not discriminatory. Examples of potentially discriminatory wording in adverts include "*mature person*", "*young graduate*", "*energetic and in touch with latest thinking*"

Interview Process

- Notify the shortlisted candidates that they have been selected for an interview and ask whether the candidates need any special arrangements to be made, such as wheelchair access etc.
- At the interview ask all candidates broadly the same questions. Of course you may deviate to some extent in exploring the answers that the candidates give.
- Make sure you document all that is said at the interview
- Do not ask personal questions such as marital status, sexual orientation etc or make comments about a candidate's age as this would be potentially discriminatory.

Selection

- After the interview process has been completed make sure you fairly and objectively apply the criteria to the candidates.
- Don't be afraid to give feedback to candidates if they request it, but make sure your feedback is objective.
- Before making a formal offer of employment make sure that the person you are employing is eligible to work in this country under the Asylum and Immigration Act 1996. Failure to do this may render the employer criminally liable.

To conclude, so long as the recruitment process is undertaken in accordance with the company's existing policies and fairly and objectively it would be sufficient to protect the company from claims of discrimination. Then it will simply be a matter of making sure that neither the company nor the company's employees do anything which would constitute discrimination and as such the company should make sure it has a comprehensive Equal Opportunities policy in place.

If you would like to discuss any issues raised in this Update or any other employment related matter please do not hesitate to contact our Employment Team on:- 01279 755777 or email employment@nockolds.co.uk

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