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## November 2017 Update

Welcome to this month's update - where we discuss the latest legislation and guidance. In this Edition, we report on:

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- Advertising Job Vacancies
- Application Forms
- Shortlisting Candidates

### Advertising Job Vacancies

Workplace laws are not just for employees and workers. Job applicants and even potential job applicants have some protection. The Equality Act gives candidates protection from the point when you identify a vacancy, all the way through to selecting the successful candidate.

Base an advert on a job description and person specification. Think through the essence of the role and ask yourself questions like: could the job be done on a part-time basis? What skills, qualifications and experience must the successful candidate have? It is good to consider what skills and experience would be desirable, but not essential.

It is easy to inadvertently give the impression that someone is not able or welcome to apply for a job because of a particularly protected characteristic for example, disability, sex, religion or belief. Specifying 'regular Sunday working' when working on a Sunday would only be an occasional requirement, could amount to indirect discrimination against a Christian who decided not to apply.

Some other things to avoid:

- 'Salesman', 'waitress' show a bias towards particular characteristics.
- 'Full-time' when that isn't an actual requirement. It could be indirect discrimination against women, more of whom work part-time.
- Requirements relating to physical attributes, health and fitness that cannot be objectively justified.
- 'At least 10 years experience' is potential indirect age discrimination.
- 'At least 10 years continuous employment' could be indirect discrimination against women, who are more likely to look after children.
- Skills or knowledge criteria that are unnecessarily restrictive:
- Requiring a good sickness record. This could be indirect discrimination against disabled people, and you would need to be able to objectively justify the criterion.

If you are recruiting internally, make sure you give everyone (including those who may be off sick or on maternity leave) a fair opportunity to find out about the vacancy and to apply.

Be careful in only asking for personal information that is relevant to the recruitment decision to be made.

**Employers:** Be aware of the new General Data Protection Regulations. You should state in the advert the purpose for which you may use personal information, as part of the recruitment process.

**Contact us:** We can assist with checking job adverts, designing job specs, and your obligations under the New General Data Protection Regulations.

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## Application Forms

Many companies simply accept CVs from candidates or use recruitment agencies.

If your company does use an application form, then the more standardised you can make the application process, the better. The key thing with applications and interviews is to be as objective as you can about the applicants.

Best practice when it comes to the application form include:

- Putting your organisations' name on the form.
- If you're going to use information from the application form for a purpose other than to recruit for a specific job, or pass it to anyone else, declare it.
- Only ask for personal information that is relevant to the recruitment decision to be made.
- Only ask for information regarding criminal convictions if it can be justified, based on the role.
- If you're looking to collect sensitive data (for example medical information) explain why you're doing this.
- Provide a secure method for sending and receiving applications.
- Once electronic applications are received, save these in a directory or drive to which only those involved in the recruitment process have access.
- Ensure that postal applications are given directly to the person processing the applications, to store in a locked drawer.
- Make sure that line managers who process applications know how to gather and store them with confidentiality.

Be careful about asking an applicant about their disability and health, including past sickness absence.

The general rule is that you should not ask questions about the health of an applicant unless such questions are intrinsic to the job. For example; you can ask someone who needs to carry heavy objects about their ability to do this, as it is intrinsic to the role.

You are also able to ask if you need to make any reasonable adjustments to the recruitment process, to accommodate an applicant with a specific disability or need.

**Employers:** Need to be more aware of the information they collect on future employees, which is often not relevant to the role that is applied for. The new GDPR is a good opportunity to clear out old and out of date records.

**Contact us:** We can assist with reviewing your job application forms.

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## Shortlisting Candidates

When shortlisting applicants it is useful to consider having more than one person involved in shortlisting wherever possible, in order to avoid any bias, and to mark applications individually before agreeing a final score. It is useful to agree a marking system in advance and stick to it. Select on the basis of information provided (application form, CV or formal performance assessment reports) on this objective marking system.

By comparing the scores of two different people involved in the shortlisting process, it allows for a more balanced selection for shortlisting candidates. Alternatively ask another manager or director to review the selections made.

Many employers now use psychometric testing as part of their selection process (such as DISC) to assist them understanding the characters involved. Such tests help match up the candidates skills and abilities with the job specs.

As part of the shortlisting process, employers are more commonly checking an employees social media postings to see the type of person they are? Or, to make sure they're not the sort of person who posts negative comments about their current or previous employer?

It's perfectly legal to do that, but it's not entirely without risk. The sort of criticism you might face (if you then don't offer that candidate the job) is that you've taken into account something which might be discriminatory, for example their strong political views, the fact they might be trying to get pregnant, or health issues which don't have an impact on their ability to do the job.

So, feel free to look at their social media accounts, but just be cautious about what you're taking into account, if you then decide to refuse them the job.

**Employers:** Wherever possible try and set up some objective marking system to score candidates for shortlisting.

**Contact us:** We can assist with reviewing your application and recruitment process.

**For more information or assistance Email:** [enquiries@employmentlawsupport.co.uk](mailto:enquiries@employmentlawsupport.co.uk)

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**Silverstone**  
Business Forum

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