

# **POLICY AGAINST DISCRIMINATION**

## **What is discrimination?**

Discrimination is the process of making a choice or selection based on perceived differences about an individual. In many cases, discrimination is a positive thing e.g. applicants can be selected according to whether they have the appropriate qualifications.

There are a number of grounds on which it is unlawful to discriminate at any, and every, stage of employment. These grounds can be broadly categorised into race, sex (including sexual orientation), religious belief and disability. Harassment for whatever reason will also be considered discriminatory.

The consequences of discriminating on any of these grounds can be considerable. Employment Tribunals can award unlimited compensation for loss of earnings and injury to feelings. Different requirements are imposed by the law depending on the type of discrimination.

## **How can discrimination occur?**

When employing staff for the first time some examples of areas that could be affected by discrimination include:

- Advertising vacancies
- Application forms and procedures
- Selecting candidates
- Offering jobs
- Job terms

## **How do I recognise discrimination?**

Discrimination can be divided into two broad categories:

1. Direct discrimination
2. Indirect discrimination

## **What is direct discrimination?**

Direct discrimination is treating an individual less favourably, due to for example their sex; race, disability etc., than you would another person given the same situation, and where this different treatment cannot be justified. When employing staff, examples could include:

<b>Sexual discrimination</b>	A deliberate policy not to employ women in a particular post.
<b>Racial discrimination</b>	Only asking non-white job applicants whether they need a work permit or not.
<b>Disability discrimination</b>	Making an employee redundant as the department they work in has changed locations and the employee cannot manage the stairs to the new office.

In addition to particular legal rights for pregnant women, treating a woman detrimentally because she is pregnant or has given birth is sex discrimination. No comparative male worker is required for complaints based on pregnancy. It is not legitimate to treat a woman unfavourably because she is pregnant, has given birth or has taken maternity leave. For example, the refusal to consider a job application by a woman returning from maternity leave on the basis that she may have conflicting demands on her time from her new baby amounts to discrimination.

### **What is indirect discrimination?**

Indirect discrimination occurs when an apparently neutral provision, criterion or practice, which applies equally to all, is shown to be detrimental to a larger proportion of one particular group of people than another and it is not justifiable. Anyone complaining must also show that it is detrimental to them and, unless the complaint is indirect sexual discrimination, that they cannot comply with it. When employing staff, examples could include:

<b>Sexual discrimination</b>	A requirement that employees work overtime could be considered indirectly discriminatory against women.
<b>Racial discrimination</b>	A dress code that does not permit beards may indirectly discriminate against Sikhs as an ethnic group.
<b>Disability discrimination</b>	A job advert that states a person must be able to drive as the job involves visiting customers in their own homes. This may indirectly discriminate against disabled people who, as a result of their impairment, are unable to drive. The advert should be reworded to say 'must be willing to travel'.

## GUIDANCE NOTE

### **Avoiding discrimination when recruiting**

Codes of Practice on eliminating discrimination on the grounds of race, sex and disability have been produced by the Commission for Racial Equality, Equal Opportunities Commission and Disability Rights Commission respectively. These provide guidance to employers and examples of particular situations where the risk of discrimination may be an issue.

#### **Unlawful discrimination**

In considering what steps an employer should take to prevent unlawful discrimination, the size of the employer and its resources will be a relevant factor in determining what it is reasonable to do. Nonetheless, the general intentions are applicable and so the employer should consider how it could best achieve the desired results.

As a general guide the implications of any decision should be considered in relation to sex, race and disability discrimination. If it is found that a decision or course of action is likely to discriminate on any of these grounds, then consideration should be given as to whether the requirement or decision is justified or, in the case of disability, whether any reasonable adjustments can be made. It may be appropriate to seek legal advice.

#### **Discrimination in the recruitment process**

When recruiting staff there are a number of areas to be aware of:

##### **Advertising**

- Consider where best to advertise vacancies so that the advert is seen by both sexes and the area or publication in question does not exclude or disproportionately reduce the number of applications from particular racial groups.
- Avoid setting requirements based on UK experience alone as comparable overseas qualifications could also be acceptable.
- Avoid stereotyping on grounds of sex, race or a particular disability.
- It is a good idea to include an equal opportunities statement in literature for applicants and advertisements.
- Use agencies for recruitment and ensure they do not confine themselves to particular racial groups or one sex only.

- Recruitment by recommendation can limit the ethnic make up or balance of the sexes within the workforce.
- Advertise vacancies and training openly to all employees.
- Avoid age limits where they are not necessary to the job as these could discriminate indirectly against women who have taken time off for child raising.

### **Recruitment**

- Check selection criteria and any selection tests to ensure they are relevant to the job requirements.
- Record the reasons for rejecting candidates.
- Recruit according to an individual's personal capabilities to do the job:

Do not assume only men or woman can do particular jobs; and

Do not assume a disabled person cannot do a particular job.

- Ensure staff who make recruitment decisions or act as a filter (e.g. personnel, reception etc) are trained to treat all applicants and candidates equally.
- Consider training needs or guidance for staff responsible for recruitment to address, in particular, cultural differences and the effects of generalised assumptions.
- Applicants should not be asked about their marital status or family intentions although if unsocial hours or extensive travel are relevant to the job then it is appropriate to discuss these objectively with all candidates.
- Short-listing and interviews should ideally be carried out by more than one person and notes should be taken in an interview. Under the Data Protection Act 1998, the applicant has a right to see these notes.
- If an applicant is disabled, discuss their situation from the start and ask about the real effects of their disability and what changes might help.
- Specialist advice on changes to cater for a disability may be appropriate.
- Consider what adjustments can be made to enable a disabled person to do a job. There may be more than one required.
- Adjustments for a disability may be minor but could make a big difference to the individual.

- Funding may be available from the Government or other sources to make some adjustments.
- Details of an individual's disability should be kept confidential if similar information about another employee would not normally be revealed. It may be necessary to inform their manager, but even then information should be limited to what is necessary for job performance for example it may only be necessary to discuss the adjustments that have been made rather than the disability itself.

## ***STAFF RECRUITMENT***

Recruitment and Selection procedures are reviewed regularly to ensure that there is no direct or indirect discrimination in recruitment practices.

Job advertisements are placed in local press and via the Jobcentre Plus to ensure wide publicity and to actively encourage applications from ethnic minority groups. PHOENIX HOUSE will accept applications for employment by PHOENIX HOUSE standard application form.

Staff involved in interviewing and selection are given training to avoid discrimination in these processes. (While it is permissible to encourage applications from minority groups, there must be no discrimination based on race, gender or disability at the shortlisting or selection stage as all candidates must be judged on merit). Although during the recruitment process PHOENIX HOUSE may seek information about a candidate's disability PHOENIX HOUSE will only do this if PHOENIX HOUSE believes it may be relevant to that person's ability to do the job or where PHOENIX HOUSE is considering what type of reasonable adjustment, if any, may be necessary.

A monitoring system has now been developed (The Equal Opportunities Monitoring System) to record the gender, ethnic origin and disability of all those applying, shortlisted and appointed to posts within the organisation.

## ***SERVICE USER REFERRALS***

Referral procedures are reviewed regularly. Potential service user referrals to Phoenix House are considered based on the eligibility criteria and in accordance with our equal opportunity policy. Referrals are considered based on the presenting issues of the service user, the needs of the service user, and careful considerations following an initial risk assessment. All referrals which are accepted are done on an initial four week probationary period, at the end of which a review meeting and an additional assessment will be carried out.

Although we aim to support as many people with mental health problems as we possibly can, unfortunately we are not able to accept all referrals made to the organisation. In considering referrals for acceptance, our assessment team looks at the needs of the service user and whether Phoenix House will be able to provide the appropriate support for the service user.