

Ethical and legal considerations in the recruitment process

There are a number of ethical and legal issues that you must consider in relation to the recruitment and selection process. Ethical issues are those not governed by law but which are considered as the right processes to follow to be fair and equal to all.

It is important that employers are aware of the latest equal opportunities legislation and ensure that they comply with it or risk prosecution. Most employers have a very clear equal opportunities policy to help them comply with the legislation, and also to ensure that they make changes to help prospective employees from different groups to be successful in their applications. Try to think of the benefits to employers of hiring a diverse workforce.

Ethical considerations

Ethical considerations are slightly different to legal ones in that they include elements that are not required by law but, when implemented, they ensure that the process is fair, even if legal action could not be taken. These include considering:

- ▶ being honest in an advertisement
- ▶ maintaining confidentiality throughout the process
- ▶ ensuring the same questions are asked at interview to all candidates
- ▶ using the same criteria for all applicants
- ▶ asking applicants to disclose if family or friends work for the same business.

Equal opportunities legislation

Equal opportunities legislation ensures that all prospective employees are supported to do their best and that they are not disadvantaged. The law that relates to equal opportunity changes regularly and is updated. The *Equality Act 2010* ensures that different groups of prospective employees are not discriminated against when applying for jobs due to any of the following reasons:

- ▶ age
- ▶ being or becoming a transsexual person
- ▶ being married or in a civil partnership
- ▶ being pregnant or having a child
- ▶ disability
- ▶ race including colour, nationality, ethnic or national origin
- ▶ religion, belief or lack of religion/belief
- ▶ gender
- ▶ sexual orientation.

These reasons are also called 'protected characteristics' and, if discrimination does take place, a prospective employee can take action against an employer.

It is also important that employers offer the minimum wage when advertising a vacancy. The National Minimum Wage is the amount of money set by the government as recommended by the Low Pay Commission. Each year the amount goes up, but it is the minimum amount that workers aged 16 or over must be paid for doing a job. There are very few exceptions to this amount of money and specific rates are given for workers aged 16 and 17, as well as 18 to 21 and 22 or over. These amounts are the minimum rates that must be paid, but, of course, employers can choose to pay more if they wish.

If employees are not being paid the minimum wage, they can ring the Pay and Work Rights Helpline to report their employer and either give their name or call anonymously.

Employers must always ensure they are using the latest legislation and minimum wage rates during the recruitment process. If any of the above is not adhered to, then employers can face prosecution. This is obviously damaging to a business, not only due to the financial impact, but also to their reputation as a reliable and honest business.

Right to work legislation

Employers must also make sure when they are recruiting a person that they have the right to live and work in the UK. The law relating to working in the UK is complicated and changes frequently. Employers must make sure that they are aware of the law and that they ask for the right documents and information to avoid employing a person that does not have the right to work in the UK.

The government's website has lots of information about the latest legislation but, essentially, the most critical information is to ensure that prospective employees have the correct paperwork such as letters from Her Majesty's Revenue & Customs (HMRC) or a British or an EU passport, or documents from the Home Office proving their right to work in the UK. Employers must check these documents and ensure that prospective employees are allowed to work in their businesses. Employers must keep a copy of the documents and ensure that they are still within the required dates. If they do not check these documents, and employ someone illegally, they risk a fine of up to £20,000 per person (as of August 2015).