



平等機會委員會
EQUAL OPPORTUNITIES COMMISSION

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Good Management Practice Series:

The Sex Discrimination Ordinance

Recruitment Planning

Preparing job descriptions

Drawing up a job description is often the first step of a recruitment exercise. You may be using a template for a long-established position, or preparing a job description for a newly created role. Either way, a clear and accurate description of the duties and requirements of the job would help potential applicants understand the scope of work and help you decide whether they are suitably qualified.

If, however, the description contains requirements that cannot be objectively justified as being necessary for the job, this may lead to discrimination claims by people who cannot comply with these requirements because of a protected characteristic and consequently are denied an opportunity to apply.



What the law says

Under the Sex Discrimination Ordinance, it is generally unlawful for employers to discriminate against job applicants on grounds of **sex, pregnancy, marital status and breastfeeding** in the arrangements made for the purpose of determining who should be offered employment.

“Arrangements” can cover the different actions employers may take during the recruitment process, including specifying job duties and requirements.

Indirect discrimination occurs when a requirement is applied to every job applicant, but:

The proportion of applicants with a protected characteristic who can comply with it is considerably smaller than that of applicants without that characteristic;

The requirement is not justifiable;* and

A person with the said characteristic suffers a detriment (i.e. a disadvantage) because she or he cannot comply with it.

Whether there is intent to discriminate is irrelevant.

*Generally, a requirement is justifiable if it is reasonable and proportionate for achieving a legitimate objective.

Examples: what do you think?

“Muscular physique”

An employer is preparing the job description for the position of warehouse worker, which states that prospective employees must have “powerful and muscular physique”.

Such a description, while not inherently discriminatory, may carry subjective or stereotypical connotations, and discourage women who are fully capable of working as a warehouse worker from applying. As a matter of good practice, when setting out the tasks and requirements of the job, the employer should use more objective descriptions, e.g. “lifting heavy goods”.



Height requirements

An employer specifies a height requirement in the job description for a position. Such an arrangement could be indirectly discriminatory on the ground of sex, as it may exclude more women than men, i.e. women on average are shorter than men. The employer must show that the requirement can be objectively justified.

Parenting experience required

A company specifies “parenting experience” as one of the requirements for the position of childcare product promoter. Such a requirement may indirectly discriminate against unmarried people and amount to indirect marital status discrimination, unless it can be objectively justified.

To avoid discrimination, employers can specify the knowledge required for the job, which can be written as, for example, “knowledge in childcare products”.

Good practices



Include only the criteria that are necessary to the job.



Use gender-neutral language, e.g. “salesperson” rather than “saleslady”.



Ensure the criteria can be objectively justified and are non-discriminatory.



Review the job descriptions for different positions periodically to keep them up-to-date.