



平等機會委員會
EQUAL OPPORTUNITIES COMMISSION

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Good Management Practice Series:

The Sex Discrimination Ordinance

Recruitment Planning

Pitfalls in job advertising

Employers commonly put out job advertisements on- and offline to attract the best talents. However, biases, both conscious and unconscious, can lead to the use of words and images that discourage potential applicants from applying as they feel excluded on account of their personal characteristics. Ultimately, this may limit the pool of talents available and hurt the bottom line of the organisation.

The Sex Discrimination Ordinance (SDO), which provides for protections against discrimination on the basis of sex, pregnancy, marital status and breastfeeding, contains provisions which expressly deal with advertisements. Employers should familiarise themselves with the law and avoid publishing discriminatory job advertisements.



What the law says

It is unlawful to publish or cause to be published an advertisement that indicates, or might reasonably be understood to indicate an intention by a person to do any act which is or may be unlawful under the SDO.

Such acts include refusing or deliberately omitting to offer employment to someone on grounds of **sex, pregnancy, marital status or breastfeeding**.

In relation to sex discrimination, it is a valid defence if the employer can show that being a woman/man is a genuine occupational qualification for the job. Check out our [separate flyer](#) to learn more.

How does the law define “advertisement”?

It includes every form of advertisement, whether to the public or not.

Advertisements for SDO purposes may appear in any way, including but not limited to being: in a newspaper or other publication; presented on television or radio; displayed on notices, signs, labels, show cards or goods; distributed on samples, circulars, catalogues, price lists or other materials; or exhibited through pictures, models or films.

Court Case: EOC v Apple Daily Limited (CACV 168/1998)

Apple Daily Ltd. (Apple Daily) published a Chinese recruitment advertisement in its 9 May 1997 issue with the following job description:

Celebrities - Fashion page requires a number of beautiful female reporters to report on balls and parties...

After receiving a complaint, the EOC wrote to Apple Daily seeking an explanation. Apple Daily replied that they had not scrutinised the advertisement before publishing it. The EOC took legal action against Apple Daily, applying for a decision that the advertisement was in contravention of the SDO. The Court of Appeal ruled in favour of the EOC. It held that the SDO is clear in its wording: a contravention occurs so long as the advertisement indicates an intention by a person (here Apple Daily) to do an act which is or may be unlawful under the SDO (here the act of deliberately omitting to employ someone as a reporter on the basis of sex), or it might reasonably be understood to indicate such an intention. It does not matter that there are other possible meanings of the advertisement.



Avoid single gender images

Good practices

- ✓ Use non-discriminatory language and illustrations (if any) in advertisements.
- ✓ Train all personnel involved in advertising on equal opportunities issues.
- ✓ Advertise in a wide range of media to reach the largest pool of applicants.

Who is responsible for discriminatory advertisements?

Parties involved in different stages of publishing a discriminatory advertisement may be held liable under the SDO. Such parties include:

Parties	Examples
The advertiser that authorises the terms of the advertisement	<ul style="list-style-type: none">• Employers
The recruitment agency that writes and places the advertisement	<ul style="list-style-type: none">• Recruitment agencies
The publisher that publishes or displays the advertisement	<ul style="list-style-type: none">• Newspapers and magazines• Recruitment notices in school