



平等機會委員會
EQUAL OPPORTUNITIES COMMISSION

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**Good Management
Practice Series:**

**The Sex Discrimination
Ordinance**

Recruitment Planning

Sex as a Genuine Occupational Qualification

Under the Sex Discrimination Ordinance (SDO), it is unlawful for an employer to single out a certain sex for a particular job or position. Employers can only do so in exceptional circumstances, where a certain sex is a Genuine Occupational Qualification (GOQ) for a particular job.

Under the circumstances where sex is a GOQ for a job, it is not unlawful for employers to discriminate on the grounds of sex in terms of to whom they offer employment. Employers may state that because of the nature of the job in question, only candidates of a particular sex are eligible to apply or take up the job.



What the law says

The SDO sets out the circumstances under which sex is a GOQ for a job. However, GOQ is not an automatic exception. In every case it will be necessary for the employer, who claims GOQ as an exception or defence, to show that GOQ applies to the particular job in question.

GOQ cannot be relied on as an exception for a job if at the time of recruiting:

The employer already has employees of the required sex who are capable of performing those duties that form the basis of sex as a GOQ.

It would be reasonable for these employees to perform such duties.

The number of these employees is sufficient to meet the duties requirement such that the employer would not be subject to undue inconvenience.

Examples: what do you think?

Job opens to female candidates only?

The women's clothing section of a department store has put up an advertisement for a sales assistant. A male applicant has been rejected, as the employer claims that sex is a GOQ of the job, which duties involve taking body measurements and assisting customers in fitting, besides helping customers find products in the store, stocking merchandise, creating display and taking inventory. To preserve decency or privacy, the employer claims that the job must be held by a female.

However, there are already quite a number of female sales assistants working in the women's clothing section who can help take body measurements or assist female customers when needed. Under such a circumstance, the employer may not be able to rely on the GOQ exception.

General exceptions

- Charities may lawfully restrict their services or benefits to persons of a particular sex, provided that it is set out in their charitable instrument.
- Religious organisations may employ people on the grounds of sex, provided that the choice of a particular sex is necessary to conform to religious doctrines or to avoid offending the religious susceptibilities common to followers.
- Employers may choose employees of a particular sex if the communal accommodation for employees can only be used by that particular sex due to the nature of its sanitary facilities or for reasons of privacy or decency.



WOMEN ONLY



MEN ONLY

Good practices

- ✓ Carefully consider the duties of the job concerned and the manpower resources available to carry out the required duties before deciding whether sex is a GOQ of a job.
- ✓ Assess whether it would be reasonable to have existing employees carry out the required duties.
- ✓ State clearly in the job advertisement the circumstances of GOQ to avoid giving the impression that the employer deliberately omits someone from the job on the grounds of sex.
- ✓ Re-examine regularly and when the post becomes vacant to see whether the GOQ still applies.

Circumstances in which sex is a GOQ

GOQ1: Because of physiology or for authenticity in dramatic performances or other entertainment

Example: an advertising firm hires a female model for filming female undergarments.

GOQ2: To preserve decency or privacy

Example: a sports club employs a female attendant for its female changing room.

GOQ3: To work in private household involving significant contact with the persons therein

Example: An elderly woman wants to hire a female live-in carer to take care of her.

GOQ4: To work and live in single-sex accommodation provided by the employer

Example: A girls' boarding school hires a live-in female warden.

GOQ5: To work in single-sex establishments for people requiring special care, supervision or attention

Example: A male warden is assigned to work in a male prison or a female attendant to work in the women's ward of a hospital.

GOQ6: To work on the personal welfare or education of individuals of a particular sex

Example: A female counsellor works in a shelter home for battered women or a female social worker at a girls' home.

GOQ7: To work outside Hong Kong, in which place(s) the customs or laws do not permit a particular sex from performing the duties

Example: A male sales manager who is required to negotiate business deals in a country where the customs would forbid the involvement of a woman.

GOQ8: The job is for one of two to be held by a married couple

Example: A married couple is employed as foster parents at a children's home.