



## (4) Interviewing Procedures

Interviews are commonly used in a selection process but they can be riddled with bias if not carried out properly. During an interview, the questions from interviewers reflect, to a large extent, the criteria upon which selection and rejection decisions are based. Accordingly, employers should make sure that interviews are conducted in a fair and consistent way and that there is no unlawful discrimination either in the process or in the outcome.

### *Interviewers*

Employers should ensure that people involved in shortlisting and interviewing are trained in non-discriminatory selection methods, and are familiar with the relevant legal provisions, including that it is unlawful to put pressure on or instruct others to discriminate. Interviewers should have an agreed understanding of the selection criteria and a general idea of the kind and level of information they need to obtain to satisfy the criteria. To avoid possible bias, interviews conducted by a panel are preferred to those by single interviewers.

Interviewers must be careful not to treat a person less favourably on the ground of sex, marital status, pregnancy, disability, family status or race. Family status means having responsibility for the care of an immediate family member. Reasonable accommodation should be provided during the interview process to job applicants with a disability, such as an accessible venue and usage of auxiliary aids or other assistance, e.g. allowing applicants with a hearing impairment to bring a sign interpreter. Employers should allow for flexibility in interview arrangements in case the requirement may discriminate indirectly against a certain racial group. For example, Jewish people who have to observe Sabbath Day may find it difficult to attend interviews on Saturdays. Candidates should be assessed solely on their qualifications, relevant knowledge, experience and personal qualities.

### *Questions which should not be asked*

Questions which tend to directly discriminate against men or women, persons of a certain marital status, pregnant women, persons with family status, persons with a disability or persons from a particular racial group should be avoided. Questions which indirectly discriminate against persons on the above grounds may amount to unlawful discrimination. Unconscious discrimination can result from general assumptions about the capabilities, characteristics and motivations of a particular group of persons. Likewise, employers' misinterpretation of some external manifestation of a disability may cause incorrect assumptions about the abilities of a person with the disability.

Questions arising from preconceptions about what are "men's jobs" or "women's jobs" and stereotypes of the kinds of work which are suitable for a particular sex, non-pregnant women, persons of a certain marital status, persons without a disability, persons without family status or persons from a particular racial group should be avoided. For example, it would be wrong to assume that men would be unwilling to work in an all-female environment, or that women would be more suitable for routine or detailed work as compared to jobs requiring policy decisions. It would also be wrong to assume that persons with any disability are unfit for security jobs, women with young children to care for cannot work long hours, or persons from certain racial groups can only be domestic workers or security guards.

Avoid asking candidates questions such as:

- Any plans of getting married?
- Any plans to have children?
- Do you have young children?
- How would you feel if you were the only woman (or man) in an all-male (or all-female) office?
- How would you feel if you were the only non-Chinese employee in office?
- How many days were you absent from work because of illness last year?
- Have you had a major illness in the last 5 years?



- Have you ever been hospitalised? If so, for what condition?

#### *Questions which may be asked*

Questions should relate to the requirements of the job, for example, about candidates' willingness to work long hours or the ability to communicate with people when marketing the company's products. Where it is necessary to assess whether personal circumstances will affect the ability to carry out the duties of the job (for example, business trips or shift work), the job requirements should be discussed objectively without detailed questions based on assumptions about marital status, pregnancy or family status. Furthermore, such questions should be asked of all candidates. Employers may ask applicants with a disability questions about the ability to perform specific job functions or the need for any special facilities to perform the functions of the job.

#### *Selection tests*

If selection tests are used, employers should ensure that they are directly related to job requirements and measure the candidates' actual or potential ability to do the job. Tests should be standardised, but may be modified flexibly according to the needs of applicants with a disability. Where the ability to speak, listen, read or write in a particular language is necessary for the satisfactory performance of a job, employers may require applicants to take the selection tests in that language. Otherwise, employers should provide the test in languages which are understandable by applicants where reasonably practicable.

The contents and standard of the tests should be reviewed regularly to ensure that they remain relevant and free from any possible bias.

#### *Personnel records*

Information necessary for personnel records can be collected after a job offer has been made. Such information includes data regarding the spouse, number of children or the applicant's medical history, which may be necessary for the purpose of arranging medical benefits, education allowances or to ascertain whom to notify in case of emergency.

## **(5) Pre-employment Medical Examinations**

Pre-employment medical examinations are commonly included by employers in the selection process of candidates for jobs and are usually conducted in the final stage of the recruitment process. Some employers ask for pre-employment medical examinations to be conducted as a matter of routine practice, without considering what the purpose behind such examinations is. Often an applicant who is found to be pregnant or to have a certain disability is not offered the job after the medical examination, regardless of whether the applicant is able to perform the job. This may be unlawful under the Sex Discrimination Ordinance (SDO) and/or the Disability Discrimination Ordinance (DDO).

#### *Can an employer insist on a pre-employment medical examination?*

Pre-employment medical examinations, in themselves, are not prohibited under the law. However, if the purpose of the examination is to discriminate against an applicant on the ground of disability, it may contravene the DDO. Furthermore, if the examination is used to screen out pregnant women, this may contravene the SDO. It is important that employers who insist on pre-employment medical examinations do so for the right reasons.

#### *Justifiable purposes for conducting pre-employment examinations*

An employer should only ask for a pre-employment medical examination for the purpose of:

- determining whether the applicant is able, with or without any adjustment, to perform the inherent requirements of the job; or
- checking whether the applicant has any infectious disease so that the employer may act reasonably in order to protect public health.

#### *Is the applicant able to perform the inherent requirements of the job?*

The DDO makes it unlawful to discriminate against