



Employment Guide: Equal Opportunities in the Workplace

Note: This publication is intended to provide general guidance only. It does not constitute legal advice and should not be relied upon as doing so.

Advisory Officers, at the Employment Relations Service, can offer confidential and free advice on all aspects of employment law and employment relations.

Overview

It makes good business sense to afford equal opportunities to all employees. Employees feel valued and understand that they will be treated fairly and equitably by the employer.

Employers should consider their recruitment practices and internal equal opportunities policies to ensure that all employees, regardless of age, sexual orientation, religion or belief are afforded equal treatment in the workplace.

Recruiting successfully

If the employer has an unbiased approach to recruitment, the employer can base the recruitment decision on merit and hire the right person for the job.

Promoting equal opportunities at the recruitment stage can lead to:

- a wider pool of applicants and a better chance of getting the best person for the job
- improved staff morale and job satisfaction
- employees feeling valued,
- reduced staff turnover,
- greater productivity, and
- a better public image (people will want to work for you)

Advertising for staff

- advertise widely to attract the best candidates
- use neutral descriptions for job titles
- use neutral advert pictures which depict both male and female employees
- invite applications from both sexes
- state clearly in the advert that you are an equal opportunities employer

At the interview

- don't ask about marital status, childcare or domestic obligations; avoid stereotyping
- use clear and objective selection criteria. Are the questions relevant to the job?
- use application forms (rather than, or in conjunction with, letters or CVs); it standardises responses
- use more than one interviewer if possible; a mixed panel is best
- keep records to show why people were/were not recruited and monitor your recruitment and selection process. This will help to identify any unconscious patterns of discriminatory practice

Maternity Leave

Pregnancy is a gender specific condition, so avoid any unfavourable treatment which could be linked to it. Ask yourself whether pregnancy is the root cause of the less favourable treatment? If the answer is 'yes', this is likely to be direct discrimination (e.g. no redundancy consultation during maternity leave).

Part-time Employees

- treat part-timers as you would full time members of staff; treating part-time staff less favourably is likely to be indirect sex discrimination (because most part-timers are women)
- consider requests for more flexible/part-time working seriously. If the company cannot accommodate such a request, give a clear and justified explanation to the employee as to why the request cannot be granted

Consider in-house policies

- review contracts of employment and check if there is any unlawful element (e.g. do maternity/adoption leave policies comply with the requirements of The Maternity Leave and Adoption Leave (Guernsey) Ordinance, 2016?)
- dress codes should promote equal standards of dress for both sexes
- take harassment claims seriously and make a clear statement that harassment will not be tolerated
- implement an anti-harassment policy and an equal opportunities policy; train staff and line managers how to apply them effectively

Equal Opportunity Policies

Research has shown that equal opportunities can bring benefits to an organisation. Employers who treat staff unfairly may be faced with grievances, resignations or constructive unfair dismissal claims and in some cases, may even be breaking the law. Employees may also bring civil claims for damages for stress-related illnesses if they believe they have been the victim of bullying or sexual harassment.

What should an Equal Opportunities Policy encompass?

Policies should include the importance of a consistent approach when dealing with staff grievances and issues. Fair and reasonable treatment for each individual is vital.

Under the Sex Discrimination Ordinance employers are liable not just for their own actions, but for those of their employees too (individual employees may also be personally liable).

Employers may not be liable for the discriminatory acts of their employees if they can show that they took 'reasonable steps' to prevent the discriminatory acts from occurring.

The best defence for an employer is to show that they took 'reasonable steps' through implementing and enforcing an Equal Opportunities Policy.

How to implement an Equal Opportunities Policy

Draw up a draft policy including, in your introduction, a statement to show:

- the company's commitment to treat all staff fairly, regardless of sex, marital status, race, disability, age, religion, sexual orientation
- that harassment and bullying of employees will not be tolerated (you may wish to set up a separate policy to deal specifically with this). See the Employment Guide 'Bullying and Harassment at Work'
- that all employment decisions will be based on merit

Action Plan

Draft an action plan, stating what you are going to do to achieve equality. The employer could conduct a review of how the organisation's approach may impact on staff.

- **advertising** : how do you advertise for and recruit staff? Does the wording of the advert imply any restrictions? e.g. phrases such as 'mature person' or 'would suit young graduate' imply subjective criteria and discrimination.
- **selecting staff**: how do you select the best person for the job? Look for the candidate's skills, experience and ability to do the job well, regardless of background or personal situation.
- **promotion and training**: what opportunities does the organisation provide? Are opportunities made known to all staff and available on a fair and equal basis?
- **identify** if there are any potentially unfair practices. For practical advice on potentially unlawful discriminatory practices refer to the guide 'Sex Discrimination in the Workplace'.
- **look at your employment contracts**. Are there any differences in terms and conditions, pay and benefits which seem unfair? For example, part-timers (who tend to be mostly women) should receive the same benefits as full-timers (in

proportion to the hours that they work). Can you justify any differences in pay and benefits irrespective of sex, race, age etc?

- **collect information on your staff** e.g. sex, marital status, race, age, job title, hours worked, pay, training received etc. to see if there is any potential discrimination (and, eventually, to monitor the effectiveness of your policy). Are there mainly women in lower paid jobs and mainly men in senior positions? It may be that encouragement or training is necessary to open up more opportunities for women, or for those for whom English is a second language? A positive view may need to be adopted on flexible working for more senior posts (the ability to work full-time or unsocial hours tends to be more difficult for women with childcare responsibilities).
- **remember that any information** you collect is sensitive personal information and should be kept confidential.
- **keep basic records on recruitment and selection** e.g. the numbers of men and women applying for jobs, marital status, race, age, disability etc. Who was appointed and rejected, and the reasons why a person was successful in their application. This is useful if a job applicant complains that they were discriminated against when they didn't get a job. It is a helpful tool to identify if there is a subconscious discriminatory practice in your organisation.
- **take steps to remedy any discrimination, including bullying and harassment, if identified.** It is useful, if possible, to have a named person(s) who is responsible for investigating complaints from staff about unfair treatment. You should also confirm that breaches of the policy may result in disciplinary action.
- **review the action plan regularly** to check that it is still effective and fit for purpose.

Implementing the policy

Equal Opportunities policies should not just have the organisation's support but the support of all the employees. Employees should understand and recognise the importance of the policy. Consult with staff and, if applicable, their representatives when drafting a policy. Employees then feel included and engaged in the process and can bring their views to the consultation.

A policy that is viewed as paying lip service to Equal Opportunities may weaken the employer's defence at any Discrimination Tribunal Hearing.

The final policy must be communicated to all staff. Staff should be encouraged to report any unfair treatment. The policy could be attached to the contracts, staff handbook, displayed on the staff notice board or uploaded to the company's intranet.

Management and staff should also be trained in the policy. Training should be given to anyone who conducts job interviews to prevent discriminatory practices at any stage of recruitment.

Staff should also be trained concerning potential issues of harassment and victimisation in the workplace. They need to be aware that what they say and what they do may

constitute harassment and that they may be personally named in Tribunal proceedings (see Employment Guide – ‘Bullying and Harassment at Work’).

Other Publications

Publications can be downloaded from the website on a wide range of employment relations subjects, including local employment legislation and best practice guidance on other employment related matters.

Contact Information

For further advice

- Check www.gov.gg/employmentrelations
- Email employmentrelations@gov.gg
- Contact the **Employment Relations Service**, Edward T Wheadon House, Le Truchot, St Peter Port, GY1 3WH
- Telephone number: **01481 220026**