

Recruitment Pitfalls

This note considers some of the key phases of the recruitment process. It highlights some of the pitfalls for an employer to be aware of when filling a vacancy.

What should you do before you advertise a role?

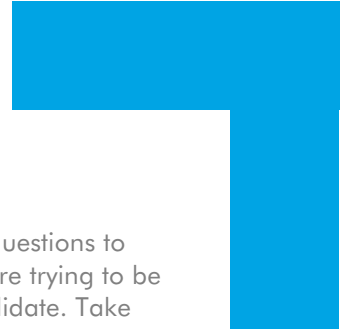
- An individual can bring an employment tribunal claim against an organisation for discrimination in the recruitment stage. You should ensure that all staff involved in the recruitment process are aware of this risk and understand, broadly, the equal opportunities obligations that you are under.
- Think about preparing a job description. This will help you clarify the nature of the role and its purpose.
- Think about using a person specification. This will fit with the job description and identify the experience, qualifications and skills that are important in order to do the job.
- Test the thinking behind the job description and person specification. Are all of the requirements necessary? Could you justify why you have included any particular element? Do any of the requirements make it more difficult for a particular type of employee to comply? If this is the case, it may be indirectly discriminatory. Think about hours of work, travel, certain qualifications etc. For example, does the role need to be full-time? This may discourage female applicants with childcare responsibilities.

Advertising

- How are you going to advertise the job? Is this internal or external? Or both?
- Think about in what media you place any external adverts. Will this reach a wide range of possible candidates? Different publications and media formats tend to appeal to different groups in the community.
- How will candidates apply? Is it by submitting a CV or using an application form? It is seen as preferable to use a standard application form. This provides a level playing field and asks all candidates to provide the same information in relation to the particular requirements of the role.

Selecting applicants for interview

- Think about the interview – are you going to have more than one person involved? Is there a panel?
- Do you need to use psychometric tests or other methods of aptitude testing?
- Work out what selection criteria you want to use – make sure these are based on the job description and person specification.
- Prepare your list of candidates for interview and think about the questions that will be asked of all candidates.



Interviewing

- Try and have a consistent set of questions for all candidates. You can ask additional questions to clarify answers and explore areas that open up in discussion. Keep in mind that you are trying to be consistent in approach for all. Score the answers given in the same way for each candidate. Take notes of candidates' answers and the thoughts of those interviewing.
- Don't jump to any conclusions about the candidate based on their personal characteristics. You don't want to be asking questions about personal life or personal preferences and, in particular, where it could be interpreted as discriminatory.
- Make notes during the process – this will be very important if you have to defend any allegations. However, keep in mind the Data Protection Act and the Information Commissioner's Employment Practices Code.
- If disappointed candidates ask for feedback, you can respond verbally or in writing. Make sure you are measured, reasonable and fair. Try to avoid subjective answers, based on personal impressions.

Offer of employment

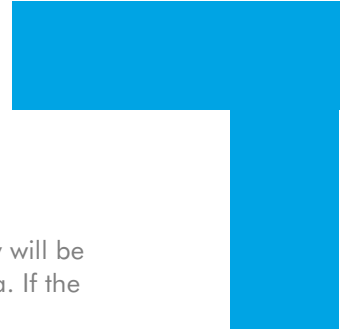
- Decide on the successful candidate. Send them an offer letter and stipulate a time for responding in writing.
- Make sure that your offer is marked subject to contract and to satisfactory references being provided. If you operate a probationary period, set this out in the offer letter.
- Ask the candidate to provide proof that he or she has permission to work in the UK.
- Where it is relevant for the role, the candidate may have to provide, for example, proof of qualifications, a current DBS check or pass a medical examination. You may have other industry specific requirements which should be specified.
- Decide whether you want to send the candidate the contract of employment with the offer letter or hold this back until the employee confirms their provisional acceptance.
- It is worth setting out that the candidate should not leave his or her current role until the relevant conditions have all been satisfied.
- If you are employing a child, ensure you are aware of the particular requirements that apply.

Contract

- Make sure that you prepare the contract of employment for the candidate in good time.
- Think about any bespoke changes to your standard contract which are relevant for the candidate.
- Consider whether there is to be a probationary period for the employee (and, if there is, ensure this is referred to in the offer letter).

Revoking an offer

- It can happen that, after the successful candidate has accepted an offer of employment, something changes and you decide it is no longer appropriate to employ the individual.
- This can trigger breach of contract allegations from the disappointed candidate. The damages for the candidate are often limited to the losses stemming from the notice period in the contract.



Probationary periods

- Where you are using a probationary period, make sure the employee knows how they will be assessed and when it will be confirmed that he or she has satisfied the relevant criteria. If the period can be extended, make sure the employee knows this.
- Make sure that you monitor the employee's progress and also give the employee feedback on areas for improvement. Consider what support you can provide the employee to succeed.
- Hold a meeting with the employee to review the probationary period when it is complete. If the probationary period is to be extended, explain why and for how long.

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Legal advice in black and white

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