

Discrimination Guide – Universal Jobmatch Telephony Channel

About this guidance

This guidance is organised so that you can find information by job role or subject matter. The drop down menu on the left of this page shows the various areas covered in the guide.

The majority of this guidance is aimed at staff working on the Universal Jobmatch Telephony channel, however all Employer Facing Staff who may place job postings for employers on Universal Jobmatch need to be aware of this guidance and following the necessary discrimination process if they identify any potential discrimination in a job posting.

The relevant legislation that covers discrimination in the job posting process is The Equality Act 2010. This covers the various forms of discrimination in the occupational requirements of the Equality Act 2010 and lists all the protected characteristics it applies to.

The Gender Recognition Act 2004 is still in force.

The strands of discrimination are:

- Direct Discrimination
- Indirect Discrimination
- Discrimination arising from a disability (DAfD)
- Positive Action

Protected Characteristics

- Age
- Disability
- Race
- Religion and belief
- Sex
- Sexual orientation
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity

Should an employer request an exception/restriction in a job posting that includes Marriage and civil partnership or Pregnancy and maternity please contact the Social Justice Equality team.

Here is a list of quick links by job role:

Employer Direct Job posting taker

Employer Direct team leader

Employer Facing Roles (EFRs)

Restrictions in Job postings

A restriction/exception in a job posting is any wording or condition that restricts which applicants can apply for that job. For example, Female only restricts the job to females and means that males cannot apply.

Information on how to proceed when an employer requests a restriction/exception in a job posting via the telephony service is included in this guidance.

Assurance Statements

An Assurance Statement is written information provided by the employer to explain how the restriction or restrictions included in the job posting complies with the Equality Act 2010. Templates are issued to employers to request an assurance statement.

Employers using the self service are not required to provide an assurance statement

Employers using the telephony channel are required to provide an assurance statement if they want to include a restriction in the job posting.

Why DWP needs employers to fully justify the restriction/exception in the job posting

Discussions with employers when dealing with job postings

1. The employer should have agreed to the terms and conditions of the service in writing before you can accept any job postings. See Job posting guidance. If the employer has not yet agreed to the terms and conditions, any discrimination templates required should be emailed to the employer with the terms and conditions.
2. Your overall aim when discussing a job posting with an employer should be to get a good quality job description, and not a person specification. This means getting as much information as possible about the tasks involved in the vacant post and not a description of the person the employer might think is suitable.
3. It may be that an employer has placed an exception on a job posting without realising it could be unlawful. They may assume that a particular type of person usually carries out a certain job. For example they may assume that only school leavers would take an office assistant's job with a low wage. You should explain that any age exception on the job posting could be unlawful and point out to them that other types of people may want to apply and would be willing to do the job on that wage. The employer may be happy to remove the exception and during the discussion it may become clear that there was no intention to discriminate. In that case, no discrimination action would be necessary.
4. In Employment cases, only an Employment Tribunal can give a definitive ruling whether discrimination by an employer is (un)lawful. You should be careful never to accuse anyone of unlawful discrimination - only point out the possibility of it. The DWP role, therefore, is to be alert to the possibility of unlawful discrimination in recruitment. In such cases DWP should advise the employer of their responsibilities under the law and make it clear that any aggrieved jobseeker may have the right to pursue their case to an Employment Tribunal. The DWP role is not to enforce the law but must ensure it does not break the law or help anyone else break it.
5. Employers can obtain free independent advice on a wide range of equality issues from Equality Direct on 0845 600 3444.

Employer Direct job posting taker – process

6. If an employer says something which leads you to suspect unlawful discrimination:
 - ask for more information about *why* they prefer a particular category of employee.
 - If after discussion it is clear that there is still a potential intention to discriminate, the discrimination process should be followed.
 - Ensure you take full details of the job posting and then expire it.
 - The discrim form should be completed electronically for each job posting and by each member of staff involved, attaching any relevant documents. If these are not available electronically, note on the discrim form and send separately to your line manager.
 - Each job posting must be considered separately.

- Record full details of the job posting and your conversation with the employer, summarising the main points.
 - Remember, you will want answers to three questions:
Why is the employer excluding certain categories of applicant?
Have they considered the legislation?
Does the job posting comply with the legislation?
 - Ensure you have the name and position of the person you spoke to and record it on the discrim form and email to your manager.
 - If the employer withdraws the condition but you still have doubts that they will treat all applicants equally, ensure the job posting is on the system and expired and continue with the discrimination action. If the job posting has already gone live, ensure you expire it.
 - Update the UJ employer record, Job posting xxxxx, your name, template xx issued <date> to alert colleagues to the reason why the job posting is not currently advertised.
 - When recording notes, remember that the employer can request a copy of the records under the Data Protection Act. Do not write anything which may make the employer feel we are accusing them of discrimination. For example, write “Age template issued” or “assurance statement not returned” rather than “unresolved discrim issue”.
7. If the employer wishes to include a restriction/exception in the job posting under the Equality Act 2010 you should take action as outlined in the following links:

Age (issue template 12)

Age insurance purposes (issue template 12a)

Age – years experience (issue template 12b)

Race (issue template 13)

Language (issue template 13a)

Sex (issue template 14)

Disability (issue template 15)

Religion or Belief (issue template 16)

Sexual Orientation (issue template 17)

Gender reassignment (issue template 18)

Should an employer request an exception in a job posting that includes Marriage and civil partnership or pregnancy and maternity please contact the Social Justice Equality team

8. If the employer decides they do not want to post this job, no further action is taken.

Following up requests for information

9. If you receive a template or other correspondence which relates to discrimination action, please ensure you look at the UJ employer record, establish who started the discrimination action and forward the correspondence to them. **Do not assume that you have enough details to revive a job posting if you do not have the original discrim form. Also, the person who raised the original discrim form will be waiting for that reply and will be following it up.**
10. Where a template is issued and an assurance statement is required, there is no follow up. If the employer does not respond, the job posting should remain expired. Do not write anything which may make the employer feel we are accusing them of discrimination. For example, write “assurance statement not returned” rather than

“unresolved discrim issue”. If you feel the employer may discriminate on recruitment and information requested has not been returned, email your team leader to inform then that this employer has outstanding assurance statements

Team leader action – process

This paragraph explains the discrimination process. For information on decision making on particular areas of discrimination, see the decision maker’s part of this guidance.

11. ED team leaders – If you feel you do not have enough information in the assurance statement to make a decision, the job posting remains expired. (treat as Restriction in Job posting not reasonably justified) Issue template 19a to the employer.

Employer availability and methods of contact

12. The agent will have issued the relevant template to the employer to request more information. Ensure the job postings remain expired until the information is received.
13. If after ten working days the employer has not replied to your request for information, the job posting should remain expired. Ensure you put a note on the UJ employer record to alert colleagues that there was an unresolved discrimination issue on job posting xxxxx which was not followed up. When recording notes, remember that the employer can request a copy of the records under the Data Protection Act. Do not write anything which may make the employer feel we are accusing them of discrimination. For example, write “assurance statement not returned” or rather than “unresolved discrim issue”. **If you feel the employer may discriminate on recruitment and information requested has not been returned, withdraw service and refer the case to the Social Justice Equality team. Issue template 19b to the employer.**
14. If you need to write to the employer templates are available in this guidance.

Job posting accepted: Restriction in Job posting reasonably justified

15. If after receipt of any assurance statements you have considered it as per this guidance and you decide it is reasonable to accept the Assurance Statement from the employer:
- Issue template 19 to the employer.
 - This does not give the employer the impression that you have 'granted an exception', only that the job posting has been revived. Only an Employment Tribunal can rule whether an exception is lawful.
 - Revive the job posting. Update the notes in UJ employer record re job posting xxxx. Amend the job posting wording if required
 - If the case is locally resolved, the discrim form along with any other supporting documents should be filed and held for two years. The Social Justice Equality team will undertake random checks of the locally resolved cases in order to check compliance, identify any issues and offer support where required. Locally resolved cases should be recorded on the MI return – local arrangements will be in place for this.
 - If you are not sure if this restriction is reasonably justified after reading this guidance please contact Social Justice Equality Team.

Job posting cannot be accepted: Restriction in Job posting not reasonably justified

16. If the job posting is potentially unlawful:
- If after receipt of any assurance statements you have considered it as per this guidance and you decide that, in your view, the exception on the job posting may not

be lawful, and as DWP cannot be party to potential unlawful discrimination, the job posting cannot be revived. Issue template 19a to inform the employer of this

- Update the UJ employer record stating that job posting xxxx is expired and template 19a issued (date) to alert colleagues of the discrimination action.
 - When recording notes, remember that the employer can request a copy of the records under the Data Protection Act. Do not write anything which may make the employer feel we are accusing them of discrimination. For example, write “Sex template not returned” or “assurance statement not justified” rather than “unresolved discrim issue”.
17. If you do not accept the employer’s assurances/reasons for the exception, template 19a allows you to include the reason for this on the template, pointing out that the job posting could be seen as discriminatory and cannot be advertised by Jobcentre Plus. If the employer contacts you again to insist on the exception or disagrees with your decision, complete the discrim form giving your reasons for not accepting the job posting and refer the case to the Social Justice Equality team who will write to the employer.

Employer removes potentially unlawful exception

18. If the employer responds and states they want to remove a potentially unlawful exception, ensure that an assurance statement has been obtained and states that they will treat all applicants equally and fairly in their recruitment process. In these cases, or if you have doubts about an employer's intentions to treat people equally, ask for another assurance in writing before reviving the job posting.
19. Ask yourself these questions when deciding whether to accept an assurance:
- Does the employer now say they will consider all applicants equally?
 - Do I believe they will follow lawful practices in future?
 - Do I believe they will honour the assurance?
20. The answer to all three must be "yes" before you can accept the assurance and continue to service an employer's job postings.
21. Even if a satisfactory assurance was given by an employer it is important that future job postings are monitored to ensure that applicants continue to get fair and equal consideration.
22. If you are convinced that the employer will consider all applicants equally, revive the job posting
23. Update UJ employer record job posting xxxx revived <date> <wording> removed. Note on discrim form that <wording> has been removed.
24. When recording notes, remember that the employer can request a copy of the records under the Data Protection Act. Do not write anything which may make the employer feel we are accusing them of discrimination. For example, write “requirement around race removed and case resolved” rather than “potential discrim issue”.

Employer insists on potentially unlawful exception

25. If the employer will not remove the exception, or they do not give a satisfactory assurance:
- Ensure the job posting remains expired (and consider withdrawing services for this employer); note your decision, giving full reasons on the discrim form and refer the matter onto the Social Justice Equality team;
 - Explain to the employer that DWP cannot service any job postings for them at the moment and that a report of what has happened will be sent to DWP Social Justice Equality team, who will write to them

- Inform the employer they are able to contact 'Equality Direct' on 0845 600 3444 and obtain free advice on a wide range of equality issues;
- Update UJ employer record, giving your name, location and alerting colleagues to the fact that there is outstanding discrimination action.
- When recording notes, remember that the employer can request a copy of the records under the Data Protection Act. Do not write anything which may make the employer feel we are accusing them of discrimination. For example, write "case referred to Equality team" rather than "unresolved discrim issue".

Withdrawal of service - employer job postings

26. In a majority of cases where the employer persists in placing unacceptable exceptions on a job posting (for example the employer states they will only employ women), withdrawal of services by the team leader will be the most suitable course of action to take until further enquiries are made. However, when there appears to be a genuine disagreement on interpretation of the law (for example, when an employer believes a job posting is covered by The Equality Act 2010 but you disagree) then it is probably more appropriate to refuse to advertise the job posting in question whilst maintaining other services. If you are in any doubt consult the Social Justice Equality team.
27. DWP services to the employer are withdrawn. The team leader would make this decision and take this action. How to withdraw services.

Team leader decision-making points to consider

Age

Race

Language

Sex

Disability

Religion or belief

Sexual Orientation

Gender reassignment

Should an employer request an exception in a job posting that includes Marriage and civil partnership, Pregnancy and maternity please contact the Social Justice Equality team

Employer Facing Roles (EFRs) – process

28. When dealing with job postings at any stage you should always be aware of potential unlawful discrimination in job postings and if you identify any potential discrimination, take action as outlined in this guidance.
29. If you identify any potential discriminatory wording in the job posting, check the UJ employer record to establish if discrimination action has been taken.
30. If it is clear that some discrimination action has been taken, a decision has been made and we are allowing the exception then, there is no further action
31. If no discrimination action has been taken, expire the job posting and contact the employer by telephone. Follow the potential unlawful discrimination identified when speaking to an employer process

Potential unlawful discrimination identified when speaking to an employer

32. If when speaking to the employer you become aware of potential discrimination wording in their job postings or you are contacting them to discuss potential discrimination wording in their job postings and no discrimination action has been taken, remind the employer of the service terms and conditions. "It is your responsibility to ensure that these words and phrases are only used in Job postings when they meet the requirements of the Equality Act 2010. Does this wording comply with the Equality Act 2010"?
33. If the employer answers yes and gives you information to justify it, and you are satisfied that the employer's request for a particular category of employee is justifiable, make a note on the UJ employer record.
34. If employer answers yes but you are not satisfied that the employer's request for a particular category of employee is justifiable, ask the employer to provide a written Assurance Statement. Expire the job posting.
35. Update the UJ employer record - job posting xxxx expired <date> giving your name and location and alerting colleagues to the fact that there is unresolved discrimination action.
36. When recording notes, remember that the employer can request a copy of the records under the Data Protection Act. Do not write anything which may make the employer feel we are accusing them of discrimination. For example, write "Template not issued" or "Age template issued to employer" rather than "unresolved discrim issue".

Jobseeker complaints

37. A jobseeker may make a complaint in person or by phone or at a Jobcentre stating that they believe they were unlawfully discriminated against during the employer recruitment process (application or interview stage). It is not essential that complaints from jobseekers are in writing – all complaints of unlawful discrimination by employers should be investigated and the discrimination process followed.
38. All Jobseeker complaints will be dealt with by the Employer Facing Staff (EFRs) who is responsible for the employer. Discrimination – Employer Complaint Guidance

Lawful Exceptions and Acceptable Restrictions

- Age
- Race
- Language
- Sex
- Religion or Belief
- Sexual Orientation
- Gender Reassignment

Age

Taking/amending the job posting

39. Unless the exception is lawful explain to the employer that because they have placed an exception on the job posting which could be seen as discriminatory, they need to provide further written assurance statement.
40. If the employer has a UJ account, they may be using the telephony channel because their account is not available today. The employer may state this is not a requirement of the online service. Explain to the employer that this is a requirement when using the telephony channel and the job posting will only be made live after we have received the

written assurance statement and have considered that it is reasonable for us to accept the restriction based on their written assurance.

41. Explain that if the employer can objectively justify the exception, it will be allowed but that they must complete an Age template 12 (preferably by email) so that we can consider this.
42. Ensure the Age template has the job posting and employer number on it and details of where/how it should be returned. The job posting number and employer number must be on the template if this is to be considered as evidence at an employment tribunal.
43. Take the job posting and then expire it until a decision has been made on the discrimination issue. If for some reason the job posting is already live, ensure it is expired.
44. Update the UJ employer account, job posting xxxx, your name, and date to alert colleagues to the fact that there is unresolved discrimination action.
45. When recording notes, remember that the employer can request a copy of the records under the Data Protection Act. Do not write anything which may make the employer feel we are accusing them of discrimination. For example, write "Age template issued" rather than "unresolved discrim issue".
46. ED agents – pass/email the discrim papers to your team leader. .

Wording of job postings

47. Wording of job posting titles and job descriptions may result in a complaint being received.
 48. Job titles. For example, "office junior" as a job title should not be used by employers as this could indirectly discriminate. This gives the impression they are looking for a person of a specific age rather than a person who can perform basic office duties. The employer may have preconceived ideas about the type of person they want to employ, for instance a school leaver to do basic office work.
 49. Employers should never use words that could imply age in the job postings, the obvious ones are young, middle aged, mature or old. The words 'mature' or even 'energetic' are not in themselves synonymous with age but can be interpreted as such, and so may generate a complaint.
 50. For example, an employer may want to place a job posting for an 'office assistant – would suit school leaver' or 'part-time cleaner wanted – would suit retired person' or 'fit, energetic person required as furniture remover – should be under 45. This wording in job postings may result in a complaint being made.
 51. The overall aim should be for the employer to have provided a good quality job description, and not a person specification. The job posting should include as much information as possible of the tasks involved in the post and not a description of the person the employer might think is suitable.
 52. The employer may have preconceived ideas about the type of person they want to employ, for instance a school leaver to do basic office work. They may not have considered that there are other job seekers who may be happy to do the job and happy to accept a relatively low salary. By removing any exception on the job posting and stating exactly what is involved in the job the employer is widening the range of potential applicants.
- For example, an employer may want to place a job posting for a 'office assistant – would suit school leaver' or 'part-time cleaner wanted – would suit retired person' or 'fit, energetic person required as furniture remover – should be under 45 '

In each of the above examples there are potential pitfalls on various legislative grounds. It would be much better to steer the employer to state exactly what is involved in each of the jobs.

- For example, in the office job – ‘person will be required to use various IT packages, including Excel/Microsoft office, and arrange meetings, organise teas/coffees’. In the cleaning job – ‘person required to clean office, including male/female toilets, removing waste from bins, cleaning phones, wiping sills and cleaning kitchen areas. In the furniture remover job – person required to undertake full range of home removals; lifting furniture and packing cases from houses and flats; up and down stairs and lifts where available.’

53. The more detail in the job description, the more this will allow jobseekers to decide if the job is for them, and the less likely that employers will be contacted by unsuitable applicants.

54. Here are some quick links to different areas of age discrimination:

Exceptions for Age

Lawful exceptions – the Equality Act 2010 allows for statutory exceptions.

Period of experience required

Insurance requirements

Apprenticeships

National minimum wage

Young people (16-18)

Care industry

Security industry

Airport/port industry

Examples of age discrimination cases

Lawful discrimination

55. There are limited circumstances when it is lawful to treat people differently because of their age.

56. It is not unlawful to discriminate on the grounds of age if there is an objective justification for treating people differently and there needs to be both a legitimate and proportionate means of achieving it – for example, it might be necessary to fix a maximum age for the recruitment of employees to reflect the training requirements of the post. However an employer would need to prove, if taken to an employment tribunal, that there was a legitimate aim and that the action was a proportionate means of achieving it.

Exceptions for Age

Occupational requirement (OR)

57. There are certain circumstances which allow for an exception because of age if the employer can show that the different treatment objectively justifies the applicant having a particular protected characteristic. This could be to ask for applicants of a certain age. The requirement must be crucial to the post and not merely one of several important factors. It must not be a sham or pretext.

58. This is likely to apply in only a very few cases, for example, acting.

Lawful exceptions – statutory exceptions

59. The provisions in the Equality Act 2010 sit along side other legislation. Age criteria are widely used in legislation, notably to qualify for various licences. Where this is the case the employer must have followed the criteria laid down by statutory exceptions prior to

placing the job posting. The employer will not be contravening the age element of the Equality Act 2010 by doing so.

60. No discrimination action is necessary in these cases – see list of exceptions. If you are unable to confirm that a statutory requirement/National Minimum Standards (NMS) applies email the employer to complete the age template 12. The onus is on the employer to provide the information in a written Assurance Statement, not for us to know the relevant requirements.
61. Young People (special rules for 16-18 year olds)
62. Certain rules apply to the employment of young people. If any of these rules apply to the job posting no discrimination action is necessary.

Lawful Exceptions

NO DISCRIMINATION ACTION IS REQUIRED IN THESE CASES

Solicitors

63. Some job postings have **Regulatory Requirements** for example: In order for a solicitor to supervise a law firm they must comply with Rule 5 of the Solicitors' Code of Conduct 2007: Business management in England and Wales.
64. To be "qualified to supervise" under this paragraph a person:
- (a) must have completed the training specified from time to time by the Solicitors Regulation Authority for this purpose; and
 - (b) must have been entitled to practise as a lawyer for at least **36 months within the last ten years**.
65. If an employer places this restriction on the job posting and a job seeker complains, there are no grounds for this complaint and no further action is required.

Senior Care Assistant, Junior Doctor, Junior Hair stylist

66. Some job titles contain words which may be unlawful in some cases but not in a particular job e.g. "senior care assistant, junior doctor, junior partner in a law firm or junior hair stylist" – it would be fine to use these job titles as they refer to rank and are "industry terms" and do not refer to age.

| Industry/job | Age requirement |
|--|-----------------|
| Security | 18 |
| A licence is required to work in this industry which is renewable every 3 years BS7858 –not mandatory - vetting process requires applicants to provide a continuous record of employment or history for ' 10/5 years or back to school leaving whichever is the shorter '. | |
| Care Industry | |
| Staff who provide intimate personal care can still ask for 18. A care worker can be 16 or over (though it is recommended by the Care Quality Commission that under 18s are on a government recognised training scheme). The Care Quality Commission recommends a senior carer can be younger than 21 if he/she has the right knowledge, skills and qualifications to perform this role. An age stencil should be | 18 |

| | |
|---|------------------------|
| completed by the employer if they asked for 21 for a senior carer. (People working in a children's home must be at least 4 years older than the children being cared for) | |
| Staff given sole responsibility for children | 21 |
| All other staff | none |
| Care home managers should have 2 years experience in a senior management position in the last 5 years and NVQ level 4; or is a first level registered nurse and has a relevant management qualification. | |
| Gambling | |
| Casino, betting office or adult gaming centre (if the premises are open at the time) | 18 |
| Lottery or football pools | 16 |
| Bingo | 16 |
| Bingo Caller | 18 |
| Drivers | |
| Mopeds, mowing machines | 16 |
| Tractor, car, motorcycle up to 125cc | 17 |
| Fork lift truck, dumper truck | 18 |
| Buses and minibuses Unless: aged 18 and learning to drive or taking a PCV test after passing a PCV test when: driving on a regular service where the route does not exceed 50km; driving a PCV constructed to carry no more than 16 passengers; the vehicle is operated under a PSV operator's licence or permit. or not engaged in the carriage of passengers | 21 18 |
| Category C1 (medium sized) Lorries 3500kg to 7500kg with or without trailer weighing no more than 750kg | 18 |
| Category C1+E , C and C+ E Unless: aged 18 and one of learning to drive for this category or Driver CPC initial qualification passed driving test and Driver CPC initial qualification taking a national vocational course to get Driver CPC initial qualification driving licence prior to 10 September 2009 (C1+E, the weight of vehicle and trailer together is under 7500kg) | 21 18 |

| | |
|---|---|
| Taxi drivers (further conditions may apply to taxi drivers dependent on area they work). | 21 |
| Sale of tobacco | none |
| Petrol pump cashier | 18 |
| Bar Staff | 18* |
| Adult entertainment industry | 18 |
| Cinema | 18 |
| Theatre and function halls – unless the performance is given entirely by children. | 18 |
| Sunday market stalls | 18 |
| Nightclubs | 18 |
| Amusement parks | 18 |
| Telephone sales - when entering into a Financial Sales Contract | 18 |
| Door to Door sales - when involves the delivery of an article with blade or point | 18 |
| HM Prison Service - applicable to anyone who applies to join the HM Prison Service as an officer. | 18 |
| Slaughterhouse | 18 |
| Community Support Officer | 18 |
| MOT testers | 20+ Must be a skilled mechanic with at least 4 years experience repairing the vehicle types the person is required to test. |
| Driving instructors | 21 Must have held a UK or European Union (EU/European Economic Area (EEA) unrestricted car driving licence for a total of at least four out of the past six years prior to entering the Register after qualifying. |
| Motorcycle instructors must have held a full motorcycle licence for over 3 years | 21 |
| Swimming Instructors | 18 |

*There are some limited exceptions under the Licensing Act 2003 Section 153 for 16/17 year olds to work as bar staff, however the onus is on the employer to provide evidence to support their request and legality for such a requirement.

MOT Testers

67. In order to be a MOT tester the Vehicle & Operator Services Agency (VOSA) requires persons to be 20 years old and sponsored by the Authorised Examiner of a vehicle testing Station. And be a skilled mechanic with at least 4 years experience repairing the vehicle types you will required to test. Therefore for any MOT tester job postings which fit these criteria, then the age exception is justified and you do not need to follow the process. If you are unsure if the job posting falls into this category, please contact the Social Justice Equality Team.

Years experience UJ Error Message for employers

68. Number of years' experience should NOT be entered here unless very limited prescribed circumstances apply. This field must ONLY be used where there is a relevant regulatory requirement for that number of years' experience. If you enter an amount in the 'years of experience' field in instances where there is no regulatory requirement for a specific number of years' experience, there is a high risk that you will be indirectly discriminating under the Equality Act 2010 against those who because of their age, gender or disability cannot have built up the number of years' experience that you entered into the field. You must leave the 'years of experience' field blank unless there is a regulatory requirement for a certain number of years' experience. Instead of specifying years of experience or service you may include in the free text 'job description' field the type, breadth or level of experience needed for the particular job and the skills and competencies required. You may NOT, however, use the job description field to specify a number of years' experience. You must not use either the 'years of experience' field or the 'job description' field in such a way that could lead to any form of discrimination (indirect or otherwise) under the Equality Act 2010. Any such use of those fields specifically contravenes the Terms and Conditions of this service. If you fail to comply with these instructions and inappropriately enter a number of years' experience you will have acted without the authority of the Department for Work and Pensions, which will mean that any liability for breach of the Equality Act 2010 lies with you.

Period of experience required

69. When an employer asks for a **period** of experience to be included in the job posting you should always ask them why they need to include it as this could be indirect discrimination. Please note the warning that is displayed on the screen at the years experience field. You should discuss with them whether it would be more appropriate to include a **level of experience** or degree of competency instead.
70. If the employer insists that they want to include a period of experience (or a preference for a **period** of experience) ask them to complete the age template 12b - year's experience. Point out to the employer that they may be asked to provide evidence to support their request.
71. **Important note** - if the employer **implies** that 3 years experience is required e.g. "applicant must have the competencies normally associated with 3 years experience", this could still be unlawful and discrimination action should be initiated.
72. Some job postings have **Regulatory Requirements**. For example: In order for a solicitor to supervise a law firm they must comply with Rule 5 of the Solicitors' Code of Conduct 2007: Business management in England and Wales.
To be "qualified to supervise" under this paragraph a person:

(a) must have completed the training specified from time to time by the Solicitors Regulation Authority for this purpose; and

(b) must have been entitled to practise as a lawyer for at least **36 months within the last ten years**.

If an employer requests this requirement you should follow the discrimination process and issue the Age template.

Insurance requirements

73. An employer may request that an age exception is included in their job posting for insurance purposes. The most common request is from employers who ask for drivers aged 25+ but this requirement is not just restricted to drivers. If an employer wants to include an age restriction in the job posting and states it is for insurance purposes you must check to see if the notes on the UJ employer account include details of the employers Insurance Certificate and that it is valid with this age restriction and is still in date.

74. If the record shows the Insurance Certificate is in date and valid for this age request then no further action is required and you can inform the employer that you have a valid certificate and the job posting remains live.

75. If it is not noted on the UJ employer account that a valid Insurance Certificate has been provided or it is now out of date on the employer record, then expire the job posting and issue template 12a to the employer. The employer must then provide a copy of the section of their insurance policy which states this exception. It should be current and related to this particular job posting.

76. On receipt of a copy of the insurance certificate, check that it is valid with this age restriction and is in date. Access the UJ employer account and note :

- Name of Insurer
- Start date of policy
- End date of policy (expiry date),
- Insurance criteria for example “ must be aged 21 to drive this vehicle”

77. If the Employer states or the Insurance Certificate shows that it is not financially viable for the company to take out insurance policies for drivers under the age of 25 then this is not justified as an exception in the Equality Act 2010.

78. In order to comply with the Equality Act 2010 the employer should have justified the age restriction prior to telephoning to place their job posting. If they cannot provide a copy of their insurance certificate which confirms the age requirement then inform them that this restriction has not been reasonably justified, and the job posting will remain expired. Check the UJ employer account to see if the employer has previously been unable to justify this potential discriminatory wording in a job posting and if this has occurred or if there has been a complaint made against this employer then complete discrim 1 and hand to team leader to withdraw services

Please contact the Social Justice Equality Team to discuss further should you require more advice on this issue.

- If the Employer states that it is not financially viable for the company to take out insurance policies for drivers under the age of 25 then this is not justified as an exception in the Equality Act 2010

79. In all cases you should take into account such things as; the size and location of the outlet; hierarchy in the organisation; number of staff managed; autonomy and financial responsibility.

80. **In order to comply with the Equality Act 2010 we cannot deny an employer the opportunity to objectively justify their requirement.** Discuss the issue with the employer tell them, where appropriate, that we are unlikely to be satisfied with their explanation of why their request falls within an exception under the Equality Act 2010.
81. Suggest they amend the job posting specification accordingly. If the employer is insistent that they wish to include the requirement in their job posting follow the current process of completing the Age template 12a and discrimination process.

Apprenticeships

82. Apprenticeships are funded for 16 – 24 year olds in England but are open to applicants of all ages over the age of 16. An employer should therefore not restrict an Apprenticeship job posting based on a person's age. However, if they have funding for 16 – 24 year olds this can be stated in the job posting.
- The Age template does not need to be completed because the job posting is not restricting on age and the employer cannot claim an age exception.
 - The National Apprenticeship Service website for England states funding is available for 16-24 years olds, with full funding for 16-18 year olds and partial for 19-24 year olds. For any funding age criteria outside of the the normal 16-24 funding age group, i.e. 16-18 year olds, the provider/employer must be asked to provide a written statement of the funding arrangements so we know they only have funding for this specifically age group and don't just want to restrict the funding age so they get their full funding allocation.
 - In England, funds are available for people aged 25+ but these will be allocated and used by particular groups in different regions, having been allocated for certain projects. The process you should undertake is the same for people aged 25+, in that the provider/employer must be asked to provide a written statement of the funding arrangements.
83. In Scotland, Apprenticeships are funded for 16-19 year olds but are open to all ages over the age of 16. People aged 20 and over may occasionally receive funding but this depends on the funding availability at the time and funding priority is given to 16-19 year olds. In each case, where the provider/employer asks for a funding age to be placed on the job posting, they must be asked to provide a written statement of the funding arrangements. Again, the Age template does not need to be completed because the job posting is not restricting on age and the employer cannot claim an age exception.
- The funding age restrictions do not apply to Wales where funding is available to all over the age of 16. However, there is currently an apprenticeship scheme in Wales called the Young Recruits Programme. This provides financial support to employers offering apprenticeship programmes to recruit and train additional apprentices aged 16-24 year olds. If the employer confirms the apprenticeship is apart of the Young Recruits Programme and they are taking on additional apprenticeships we will accept the job posting with the age restriction of 16 - 24 years olds. This is an exception to normal apprenticeship job postings process. Issue the template in these cases and state in the job posting description that this the Young Recruits Programme. Please note, all other apprenticeships will not require a template and we will only state the funding requirements not restrict on age.
 - More information on Apprenticeships see below.

National Minimum Wage (NMW)

84. Employers can follow the age bands and minimum wage levels used in the NMW legislation. However, employers cannot justify recruiting a young person simply for financial reasons i.e. because it is cheaper for them to pay a lower wage.

Young people

85. 16 – 18 year olds are restricted from certain types of work. These are:

- work which they are not physically or mentally capable of doing
- work which brings them into contact with chemical agents, toxic material or radiation
- work which involves a health risk because of extreme cold, heat or vibration.

86. Young people under 18 years are not allowed to opt out of the Working Time Directive

87. Employers are required to undertake a health and safety risk assessment if the employee is under 18. This will include assessing any risk from operating machinery; **there is no general age exception on the use of machinery but there are exceptions around certain types of machinery.** The onus is on the employer to provide evidence in writing that this is the case before the job posting can be advertised.

88. Young people must not work more than eight hours a day or more than 40 hours in a week. Exceptions also apply to the times that young people can work. If an employer requires a young person to work at night a check should be made that the requirement complies with guidance in the 'Guide to Working Time Regulations' which is accessible through the Department for Business Innovation and Skills (BIS) website. More information and guidance on working hours and young workers can be found on the Directgov website.

Young people entering into contracts

89. Some employers may state that they need someone aged 18 or over because they will be involved in making contracts with clients. You should send an age template 12 for these cases. Some contracts are not binding if made by someone under 18 but you will need clarification from the employer about the type of contract. If it is clear discrimination action is complete, a decision has been made and we are allowing the exception then revive the job posting. Note on UJ employer assurance statement received <date>

Information for Decision makers

90. There are limited circumstances when it is lawful to treat people differently because of their age.

91. It is not unlawful to discriminate on the grounds of age if there is an objective justification for treating people differently and there needs to be both a legitimate and proportionate means of achieving it – for example, it might be necessary to fix a maximum age for the recruitment of employees to reflect the training requirements of the post. However an employer would need to prove, if taken to an employment tribunal, that there was a legitimate aim and that the action was a proportionate means of achieving it.

Further information on particular industries:

Care

Hospitality

Security

Airport/port

92. Employers may ask to include a requirement for X year's experience. The level of experience needed for any job must relate directly to the requirement to do that job and

not to any other considerations. If an employer insists on putting a number of years experience onto a job specification then action should be taken as in the experience section. Based on experience of dealing with cases since the introduction of the Employment Equality (Age) Regulations 2006, we can identify job titles where employers are likely to be able to objectively justify the requirement.

93. Job titles can sometimes be misleading but generally we can rely on them to differentiate between levels of responsibility in both the care and hospitality industries. However each job posting must be considered individually and reference made to the job specification.
94. In all cases you should take into account such things as; the size and location of the outlet; hierarchy in the organisation; number of staff managed; autonomy and financial responsibility.
95. In order to comply with the Equality Act 2010 Legislation we cannot deny an employer the opportunity to objectively justify their requirement. Discuss the issue with the employer and tell them, where appropriate, that we are unlikely to consider that they can objectively justify their requirement and suggest they amend the job posting specification accordingly. If the employer is insistent that they wish to include the requirement in their job posting follow the current process of completing the age template 12, 12a or 12b and discrimination process.

Care industry

96. There are age exceptions in the national standards for the care industry.

| | |
|------------------------|--|
| Managers of care homes | Care home managers should have 2 years experience in a senior management position in the last 5 years and NVQ level 4; or is a first level registered nurse and has a relevant management qualification. |
| Carers | <p>Aged 18</p> <p>Carers working in children's homes should be at least 4 years older than the oldest child.</p> <p>The previous age limits of 18 for a care worker and 21 for a senior care worker were part of the Care Standards Act. This was replaced on 01 October 2010 by the Health and Social Care Act 2008.</p> <p>A care worker can be 16 or over (though it is recommended by the Care Quality Commission that under 18s are on a government recognised training scheme).</p> |
| Senior Carers | <p>A senior carer can be younger than 21 if he/she has the right knowledge, skills and qualifications to perform this role.</p> <p>It is now up to the employer to decide what is appropriate for young workers to do according to their service user needs, the stage of training of the person, their competence and their skills and knowledge. One person under the age of 21 may have the skills and knowledge to be a senior carer and give medications, another may not. Regardless of the age of the employee, they must be fully trained in care and in giving medications before they can work unsupervised.</p> |

| | |
|--|--|
| | An age template should be completed by the employer if they asked for 21 for a senior carer. |
| Staff given sole responsibility for children or in a management role | Aged at least 21 |

97. Some employers will ask for a certain period of experience. An age template 12b - years experience should be issued. When making your decision you should consider:

- the duties involved;
- the level of responsibility;
- the nature of the establishment;
- the number of residents
- the hierarchy of the staff/managers;
- the number of staff if the post is for a supervisor.

Hospitality/food industry

98. Some employers will ask for a certain period of experience. An age template 12b - years experience should be issued. When making your decision you should consider:

- full duties of the job;
- knowledge of the labour market;
- the proportion of time spent doing whatever is considered to require the GOR;
- the nature and purpose of the establishment;
- the number of other staff/hierarchy;
- the number of staff the applicant will be personally responsible for;
- level of financial responsibility;
- level of autonomy;
- whether the applicant will be managing alone and for what periods of time;
- expertise required in cooking a particular type of food;
- size of restaurant/number of covers;

Also see examples

Security industry

99. The Private Security Industry Act 2001 requires security staff to have a license that is renewable every three years; there is a minimum age of 18 years in England, Scotland and Wales. The current designated sectors or activities that must be covered by a licence are as follows:

- security guarding - under contract
- door supervisors - under contract and in-house
- vehicle immobilising - under contract and in-house
- private investigation - under contract
- security consultants - under contract
- key holders - under contract.

100. Most reputable security companies use the provision of BS7858 'Security Screening' to vet their staff before employment. The vetting process requires applicants to provide a continuous record of employment or history for '**(5)10 years or**

back to school leaving whichever is the shorter’. It is important that you agree with the employer that the full requirement is included in the job posting; it is not acceptable to state ‘(5)10 years checkable history’.

Airport/port job postings

101. Often employers advertising for applicants to work in airports/ports in areas which are beyond passenger security checks will ask for a 5 or 10 year checkable history as they would for a security job. This is quite acceptable as long as the employer includes the words **‘10 years or back to school leaving whichever is the shorter’** in the job posting.

Apprenticeships

102. There are no age exceptions regarding who can apply to undertake an Apprenticeship. However, there is an issue around the funding which is provided in England by the National Apprenticeship Service and is restricted to participants who are 16 to 24 years of age. Apprenticeships are open to applicants of all ages over the age of 16, but if they do not qualify for the funding age group and if no other funding is available the applicant may have to fund the apprenticeships themselves. The employer should not put anything in a job posting which could discourage or disadvantage those over a certain age.
103. It is important that the job posting states who will qualify for funding but that the apprenticeship is open to all ages. You will need to confirm the funding arrangements with the provider.
104. Apprenticeships are funded for 16 – 24 year olds in England but are open to applicants of all ages. The National Apprenticeship Service website for England states funding is available for 16-24 years olds, with full funding for 16-18 year olds and partial for 19-24 year olds. For any funding age criteria outside of the the normal 16 - 24 funding age group, i.e. 16 - 18 year olds, the provider/employer must be asked to provide a written statement of the funding arrangements so we know they only have funding for this specifically age group and don’t just want to restrict the funding age so they get their full funding allocation.
105. The Age template does not need to be completed as the job posting should not restrict on age and the employer cannot claim an age exception.
106. In England funds are available for people aged 25+ but these will be allocated and used by particular groups in different regions, having been allocated for certain projects. The process you should undertake is the same for people aged 25+, in that the provider/employer must be asked to provide a written statement of the funding arrangements.
107. In Scotland, Apprenticeships are funded for 16 -19 year olds. People aged 20 and over may occasionally receive funding but this depends on the funding availability at the time and funding priority is given to 16-19 year olds. In each case, where the provider/employer asks for a funding age to be placed on the job posting, they must be asked to provide a written statement of the funding arrangements. Again, the Age template does not need to be completed because the job posting is not restricting on age and the employer cannot claim an age exception.
- The funding age restrictions do not apply to Wales where funding is available to all over the age of 16. However, there is currently an apprenticeship scheme in Wales called the Young Recruits Programme. This provides financial support to employers offering apprenticeship programmes to recruit and train additional apprentices aged 16-24 year olds. If the employer confirms the apprenticeship is apart of the Young Recruits Programme and they are taking on additional apprenticeships we will accept the job posting with the age restriction of 16 - 24 years olds. This is an exception to normal

apprenticeship job postings process. Issue the template in these cases and state in the job posting description that this is apart of the Young Recruits Programme. Please note, all other apprenticeships will not require a template and we will only state the funding requirements not restrict on age.

Insurance requirement

108. An employer may request that an age exception is included in their job posting for insurance purposes. The most common request is from employers who ask for drivers aged 25+ but this requirement is not just restricted to drivers.
109. If an employer wants to include an age restriction in the job posting and states it is for insurance purposes you must check to see if the notes on the UJ employer account include details of the employers Insurance Certificate and that it is valid with this age restriction and is still in date.
110. If the record shows the Insurance Certificate is in date and valid for this age request then no further action is required and you can inform the employer that you have a valid certificate and the job posting remains live.
111. If it is not noted on the UJ employer account that a valid Insurance Certificate has been provided or it is now out of date on the employer record, then expire the job posting and issue template 12a to the employer. The employer must then provide a copy of the section of their insurance policy which states this exception. It should be current and related to this particular job posting.
112. It is perfectly acceptable for the employer to e-mail the copy of policy back to us.
113. If the employer provides a copy of the section of the policy as outlined above, then the job posting can be displayed.
114. On receipt of a copy of the insurance certificate, check that it is valid with this age restriction and is in date. Access the UJ employer account and note :
- Name of Insurer
 - Start date of policy
 - End date of policy (expiry date),
 - Insurance criteria for example “ must be aged 21 to drive this vehicle”
115. If the Employer states that it is not financially viable for the company to take out insurance policies for drivers under the age of 25 then this is alone is not objectively justified under the Equality Act 2010

National Minimum Wage (NMW)

116. Employers can follow the age bands and minimum wage levels used in the NMW legislation. However, employers cannot justify recruiting a young person simply for financial reasons i.e. because it is cheaper for them to pay a lower wage.

Under 18 year olds and contracts

117. Certain types of contract are not binding if made with a person under the age of 18. For example where a minor was contracting to sell goods as a trader, or a contract of insurance. If you are unsure if the type of contract falls into this category, please contact the Social Justice Equality team.

MOT Testers

118. In order to be a MOT tester the Vehicle & Operator Services Agency (VOSA) requires persons to be 20 years old and sponsored by the Authorised Examiner of a vehicle testing Station, and be a skilled mechanic with at least 4 years experience repairing the vehicle types you will required to test. Therefore for any MOT tester job postings which fit these criteria, then the age exception is justified and you do not need

to follow the process. If you are unsure if the job posting falls into this category, please contact the Social Justice Equality team.

Examples of age discrimination cases

119. **Important note:** you will need to look at all the facts for each job posting. Do not assume that because the job title is the same as those below all cases should be dealt with in the same way. Unfortunately there are no hard and fast rules on where it may be unlawful to place certain exceptions on job postings. Although a job title may be similar, the job specification and circumstances of a post will often be different. These examples are to be used as a guide only.

Shift manager in fast food outlet – 3 years experience

Supermarket Manager - 3 years experience in a similar position

Bar Supervisor. Must have 3 years previous experience

Agricultural Engineer - 3 years experience

Specialist curry chef/tandoori chef - 3 years experience

Tandoori Chef - 3 years experience

Restaurant manager - 3 years experience in a similar position

Van driver required. Must be 25+ for insurance purposes

Driver Required. Must be 25+ for insurance purposes

Job posting and Requirement

120. Shift Manager in a fast food outlet - includes a requirement that applicants have '3 years experience.

Job Specification

- supervising and training junior staff
- setting and maintaining standards of customer service, food quality and hygiene/health and safety
- setting objectives for staff within each shift
- ensuring an excellent customer dining experience is consistently given

Questions to consider

- What is the structure of the organisation?
- Will the jobholder be required to manage unsupervised?
- How many staff will they be managing?

Points to consider when making a decision

- Referring to the job specification, would you consider it reasonable that someone would need three years experience to set and maintain the standards required for the post?
- Will the post holder be responsible for supervising and training junior staff unsupervised themselves?

Decision

- Job posting not serviced, remained expired
- Further information was requested. The General or Assistant Manager would be present alongside the Shift Manager therefore we found it less likely that 3 years experience would be needed for this role. Whilst we accept that working in a fast food environment is fast moving and high standards of customer care, food quality, hygiene/health and safety skills are needed we would have thought that these skills applied equally to all workers and could be developed in a much shorter period.

- Additionally, whilst reference is made to the role involving the supervision and training of junior staff, as the General and Assistant Manager are also acting in a supervisory capacity with the Shift Manager, we felt that the 3 years experience would not be required for this role.

Job posting and Requirement

121. Supermarket Manager must be qualified to HND level with 1 year experience in a similar position or 3 years experience in a similar position.

Job Specification

- must be able to maintain and improve the operation of the business.
- must be knowledgeable in stock ordering, stock turn and merchandising display.
- must be able to have recruitment and staff management skills.

Questions to consider

- How many staff will they manage?
- How large is the supermarket e.g. is it the size of a medium Tesco or Asda or a small local Spar shop?
- What level of financial responsibility will they have?
- Are they a key holder?

Points to consider when making a decision

Identify the level of responsibility in terms of financial accountability and staff management and consider if it is necessary and appropriate for an applicant to have had three years experience in order to undertake the duties required. Will they be managing alone and have departmental managers reporting to them?

Decision

- Job posting could be serviced. Revived
- The post holder would be solely responsible for the recruitment and management of 30 staff and have overall financial responsibility, ensuring that the takings were correct and kept safe.

Job posting and Requirement

122. Bar Supervisor. Must have 2 years previous experience.

Job Specification

- overseeing all aspects of bar service
- supervising and training junior staff
- must have authority in a busy, hectic bar

Questions to consider

- What is the structure of the organisation?
- Will the jobholder be required to manage unsupervised?
- How many staff will they be managing?
- What financial responsibility will they have?

Points to consider when making a decision

Identify the level of responsibility in terms of financial accountability and staff management. Consider if it is necessary and appropriate for an applicant to have had two years experience in order to undertake the duties required and could the job be done by someone with the same skills and knowledge but less experience.

Decision

- Job posting not serviced, remained expired
- It was felt that the job could be done by someone with the same skills and knowledge but less experience. The jobholder would not be working unsupervised.

Job posting and Requirement

123. Chef de Partie Pastry - Must have 5 years experience.

Job Specification

- preparation of desserts, breads, pastries, petit fours
- supervision and training of junior staff

Questions to consider

- What do the duties involve?
- How many staff would the applicant be responsible for?
- Would the applicant be working unsupervised and if so how often?
- How many covers are there in the restaurant?
- What tiers of management are there above the applicant and what supervisory/management responsibility do they have?

Points to consider when making a decision

- This Chef de Partie supervises 2 staff
- Restaurant has 180 covers
- The sous chef and head chef would be overseeing the work at all times.

Decision

Employer's justification not accepted as the sous chef and head chef had ultimate responsibility and would be available for advice. Job posting remained expired

Job posting and Requirement

124. Agricultural Engineer - 3 year's experience

Job Specification

- supervising and developing trainee engineers,
- working independently carrying out repairs and service on agricultural and ground work machinery.
- carrying out repairs and services on various sites in and around the South
- diagnose faults displayed on land based machinery through use of specialist diagnostic equipment.
- Work independently on site or supervising a trainee
- Due to vast range of machines worked on candidate must have worked with many different breakdown scenarios
- Employer requires NVQ level 3 in land based engineering

Points to consider when making a decision

- Level of technical expertise required
- Applicant will be working alone or supervising and developing a trainee
- Applicant needs to have acquired knowledge over a period of time working in the industry

Decision

Assurance accepted. Job posting revived. The post requires a high level of technical expertise and the applicant will be working unsupervised.

Job posting and Requirement

125. Specialist curry chef/tandoori chef in a prestigious restaurant. 3 year's experience.

Job Specification

- sorting of supplies, recipe and menu planning, preparation of Indian curry dishes, Tandoori and vegetable dishes,
- cooking and finishing,
- health and safety,
- quality control
- training of junior staff.

Questions to consider

- How many staff will the applicant supervise?
- Will the applicant be working unsupervised – if so for what periods of time?
- How many covers in the restaurant?
- What is the hierarchy of management above the applicant and when would they be present?

Points to consider when making a decision

- The employer stated there are 200 covers and the applicant will be working unsupervised at all times.
- Candidate will supervise 2 members of staff
- A high level of expertise is required for a specialist chef

Decision

Assurance accepted. Job posting revived. In this case it was a large prestigious restaurant, had it been a smaller less prestigious venue, it would not have been accepted.

Job posting and Requirement

126. Tandoori Chef in a prestigious restaurant. 3 year's experience

Job Specification

- Good verbal and written communication skills
- Knowledge of supervising and running a kitchen efficiently
- Capability of deputising for the Head Chef essential
- Overseeing tandoori cooking, preparation of meals
- Devising new dishes
- Responsible for supervising and training 4 staff
- Responsible for ordering and invoicing of ingredients

Questions to consider

- How many covers?
- Will the applicant be working unsupervised?

Points to consider when making a decision

- A high level of expertise is required for a specialist chef in this type of restaurant (a tandoori chef in a less prestigious restaurant or take away would not normally require 3 years)

Decision

Assurance accepted. Job posting revived. 3 years experience seems reasonable for the high level of expertise required **in this particular** restaurant.

Job posting and Requirement

127. Restaurant manager. 3 year's experience in a similar position.

Job Specification

- Deliver sales, cost and profit targets
- Set objectives for shift managers
- Manage by supervision and reports
- Stock purchase to budget
- Stock control to plan
- Coach, correct and motivate team
- Ensure an excellent customer service is provided at all times
- Deal with customer complaints and manage causes

Questions to consider

- How many covers?
- Will the applicant be working unsupervised?
- How many staff will the applicant be supervising?
- What is the hierarchy of management above the applicant and when would they be present?

Points to consider when making a decision

Level of autonomy

Decision

Assurance accepted as the manager would be in sole charge of a large restaurant and responsible for managing a large group of staff. It was accepted that 3 year's experience would probably be reasonable.

Job posting and Requirement

128. Van driver required. Must be 25+ for insurance purposes

Job Specification

Van driver delivering goods to local retail outlets.

Must have full clean driving license

Must be aged 25 or over for insurance purposes

Questions to consider

Check to see if an insurance statement has been provided and is in date, current and relevant. If not, always send an Age template which asks the necessary questions and request a copy of the section of the insurance policy that states this exception for this particular job posting

Points to consider when making a decision

The employer has provided an up to date copy of the correct section of the insurance policy which does include this exception

Decision

- The statement from the employer in the form of the age template and the information provided (insurance policy) received from the employer would be sufficient to meet the objective justification test so the job posting would be revived.

Job Specification

129. Driver required to delivery goods to local retail outlets.

Must have full clean driving license

Must be aged 25 or over for insurance purposes

Questions to consider

Check to see if an insurance statement has been provided and is in date, current and relevant. If not, always send an Age template which asks the necessary questions and request a copy of the section of the insurance policy that states this exception for this particular job posting

Points to consider when making a decision

Employer states that it is not financially viable for the company to take out insurance policy for drivers under the age of 25. It is not an exception stated in their insurance policy.

Decision

Assurance not accepted. Job posting remains expired. The explanation may not be sufficient to meet the objective justification test. Although reasonable business needs and economic efficiency may be legitimate aims, an employer solely aiming to reduce costs cannot expect to satisfy the test. For example, the employer cannot simply argue that to discriminate is cheaper than avoiding discrimination

Race

Taking/amending the job posting

130. Explain to the employer that

- because they have placed an exception on the job posting which could be seen as discriminatory, the employer needs to provide further written information.
- Explain that under certain circumstances it is possible to claim an exception under the Equality Act 2010 but that they must complete a Race template 13 or language template 13a (preferably by email) so that we can consider this.
- Ensure the Race/Language template has the job posting and employer number on it and details of where/how it should be returned. The job posting number and employer number must be on the template if this is to be considered as evidence at an employment tribunal.
- Take full details of the job posting and expire until a decision has been made on the discrimination issue. If for some reason the job posting is already live, ensure it is expired.
- Note on the UJ employer record, Job posting xxxx your name, Template 13/13a issued to alert colleagues that there is unresolved discrimination action. When recording notes, remember that the employer can request a copy of the records under the Data Protection Act. Do not write anything which may make the employer feel we are accusing them of discrimination. For example, write "Race template issued" rather than "unresolved discrim issue".
- ED agents - pass the discrim papers to your team leader.

Wording of job postings

131. Be careful with job titles. For Example:

- "Indian Chef" should not be used – instead use "Chef" and put details of the type of cooking in the job description.
- This description gives the impression that a person of a particular nationality is required rather than someone who can prepare Indian Cuisine.

132. Your overall aim should be to get a good quality job description, and not a person specification. Get as much information as possible of the tasks involved in the post and not a description of the person the employer might think is suitable.

A number of years UK residency

133. An employer may wish to place an exception that the applicant must have been a resident of the UK for a period of time. This exception is sometimes required for certain types of job to protect national security and the length of time is dependent on the type of check to be undertaken. For example, the applicant may be required to work at an MOD site and may have access to sensitive information.
134. If an employer places such an exception you should follow the discrimination process and issue template 13.
135. If you accept the employers' statement, the job posting can be advertised. Suggested wording on the job posting is "X years UK residency required to facilitate security clearance checks".

Geographical exceptions

136. There is no discrimination legislation that prohibits the exception of recruitment by post code. Many employers are now using this method of recruitment.
137. You should, however, question if an employer says they do not want applications from a particular geographic area with a significant ethnic minority population, as this exception may indicate indirect racial discrimination. Ask the employer to put reasons for the exception in writing
138. Update UJ employer account job posting xxxx Template 13 issued.
139. ED agents complete discrim form part 1 and pass to your team leader.

Information for decision makers

Exceptions to the Equality Act 2010

There are several exceptions to the Equality Act 2010, but you are most unlikely to meet them. Some of the more common ones are shown below.

140. National Security

Use template 13 to ask the employer to provide a statement explaining in detail why they think the exception would be an exception to the Equality Act 2010.

141. Occupational Requirements

There are certain circumstances which allow for an exception because of race if the employer can show that it is an occupational requirement that the applicant have a particular protected characteristic.

The requirement must be crucial to the post, and not merely one of several important factors. It must not be a sham or pretext.

Examples of occupational requirements include:

participation in a dramatic performance **or other entertainment** for reasons of authenticity

participation as an artist's or photographic model for reasons of authenticity

working in a place where food or drink is provided to and consumed by members of the public in a particular setting for which, in that job, a person of that racial group is required for reasons of authenticity and

provides persons of that racial group with personal services **promoting their welfare**, and those services cannot be provided as effectively in a less discriminatory way.

NB Also see guidance on language specifications on job postings

142. Employment in the service of the crown

The Equality Act 2010 covers all employment in the service of the Crown but there are exceptions where employment is by a 'prescribed public body'. In the Civil Service these are referred to as "reserved" posts i.e. reserved for UK nationals only. However, DWP should never mention these rules on a job posting because they may deter many people who are eligible from applying. Instead, "Civil Service Nationality Rules Apply" should be included. For more information see www.careers.civil-service.gov.uk.

Prescribed Public Bodies (to which nationality rules may apply)

- Bank of England
- Board of Trustees of the Armouries (as regards the Master and Deputy Master only)
- British Council
- House of Commons
- House of Lords (as regards certain staff only)
- Metropolitan Police Office (as regards employment of members of the metropolitan civil staff)
- National Army Museum
- National Audit Office
- Natural Environment Research Council
- United Kingdom Atomic Energy Authority

Apart from "reserved" posts, Civil Service posts are open to UK and EEA nationals. Again "Civil Service Nationality Rules Apply" should be stated on the job posting.

Factors to consider when making your decision under the Equality Act 2010.

143. These are:

- The full duties of the job – which part of the job/what proportion of the job necessitates someone of a particular nationality/race.
- Why the job cannot be carried out by someone other than that specified by the employer
- The nature/purpose of the establishment
- The ratio of staff from this particular group compared to others
- Has the employer considered altering staffing rotas to enable a current member of staff to cover those duties, thus opening up the job posting to all groups of applicants?

Job posting accepted

144. If the exception is accepted revive the job posting. Issue template 19 to the employer.

145. Update UJ employer account, job posting xxxx Assurance statement received.

Geographical exceptions

146. There is no discrimination legislation that prohibits the exception of recruitment by post code. Many employers are now using this method of recruitment.

147. You should, however, question if an employer says they do not want applications from a particular geographic area with a high ethnic minority population, as this exception may indicate indirect racial discrimination. Issue template 13 to the employer.

148. If it is clear from the employers' assurance statement that the area does not have a high ethnic minority population, and the reason for the exception is not discriminatory, then the job posting can be advertised.

Examples of race discrimination cases

149. Important note: you will need to look at all the facts for each job posting. Do not assume that just because the job title is the same as those below all cases would be dealt with in the same way. Unfortunately there are no hard and fast rules on when it is unlawful to place a particular exception on a job posting. Although a job title may be similar, the job specification and circumstances of a post will often be different. These examples are to be used as a guide only:

Barber – must not be black

Polish labourer

Job posting and Requirement

150. Barber – must not be black

Job Specification

Cutting customers' hair.

Questions to consider

Why can the job not be carried out by a black person?

Points to consider when making a decision

The employer stated that black people could not cut European hair styles and most of his customers were white people.

Decision

Job posting remained expired and all services withdrawn. Employer would not agree that cutting hair was a skill which people of all colours were capable of doing.

Job posting and Requirement

151. Polish workers required as labourers on building site.

Job Specification

General labouring on building site.

Employer wanted to place the advert in Polish as well as English language to attract Polish workers.

Questions to consider

Why does the applicant need to be Polish?

What are the duties?

What nationalities are the other people working on the site?

Why could the duties not be carried out by someone who was not Polish?

Points to consider when making a decision

Employer states most of his workforce are Polish and do not speak English.

Decision

Job posting remained expired. The employer could not justify reasons for claiming an exception for this job posting. There were others in the workforce who could translate.

Note: Job postings must be displayed in English (or Welsh).

Language

Taking/amending the job posting

152. No discrimination action is necessary for language teachers, translators or interpreters.

153. Apart from the English language requirements, the discrimination process must be followed for all other cases with a language exception. Please note that this does not apply for job postings in Welsh for positions in Wales. Job postings should not include

words, such as 'preferred' or 'advantageous', which suggest a prejudice or preference for speakers of a particular language. You should seek an assurance from the employer that the language requirement is strictly necessary for the job postings that they wish to place with you and issue a language template 13a.

English Language

154. Employers can request a certain level of English language skill but you must ensure the requirement is strictly necessary for the job posting. Unlike all other language requests, if it is apparent from the job description or if speaking with the employer that the need for a level of English is required in order to carry out the duties of the role, then this can be included in the vacancy and no further discrimination action is required. In this situation a language template should not be issued. For example, someone working as a secretary may need a certain level of written English skill or someone working as a carer for a patient with hearing problems may need to speak English clearly. The job description should reflect the duties involved and the reason why a certain level of communication skill is appropriate. Jobseekers will then know if their English language skill is at the level required to carry out a particular job.
155. You should not automatically change the wording to "good communication skills" and/or say to the employer asking for good command of English is discriminatory. We should not accuse an employer who asks for a standard of English language of discrimination. However, if it is not clear from the job description as to why there is a need in the job role for a good command of the English Language then you can and should find out the reason why a certain level of English skill is appropriate for the role. For example, some questions you could ask the employer are: What levels of communication will be involved with this role? Will they have to speak to colleagues in English and understand instruction? Will they have to write in English? From these types of answers you should be able to tell if a level of English is required.
156. If you feel that the employer may be asking for someone who can speak English to enable them to avoid other nationalities applying then issue the Race/Language template to obtain written information. See examples.
157. If you are still unsure of the requirement, tell the employer you are going to send them a template to complete where they can detailed why they need the level of English asked for. If you have any further concerns or are unsure with what action to take please contact the Social Justice Equality team.
158. When the employer completes the Language Template 13a, giving full details of the reasons for the exception and they have reasonably shown the language skill is a necessary requirement for the duties to be fulfilled, you can accept the reason for Language requirement. In which case, record full details on the discrim form and revive the job posting. The job specification should explain why the language requirement is necessary for the performance of the job.
159. You will need to ask the employer certain questions and request written assurances using the Race/Language template13/13a. Questions to consider in every language case include:
 - What are the main duties of the post?
 - Does the employee have to work with others; what language requirement is necessary for interaction with these people?
 - How important is communication in the job role advertised?
 - Can the employer reorganise the current staff to enable the new post to be filled by someone who does not need to speak this particular language?
 - How many current staff speak only this language?

160. Be careful with job titles. For example:

- “French receptionist” / “mother-tongue French receptionist” should not be used - instead use “receptionist” and make a note of the language requirement in the job specification.

The first job title gives the impression that a person of a particular nationality is required rather than someone with excellent French language skills.

161. Your overall aim should be to get a good quality job description, and not a person specification. Get as much information as possible of the tasks involved in the post and not a description of the person the employer might think is suitable.

162. Note: job postings can only be advertised in the English (or Welsh) language.

163. Job postings should be taken and expired until a decision has been made on the language issue. If the job posting is already live, expire it.

164. Make a note on the UJ employer record Job posting xxxxx , your name, template 13 issued <date> to alert colleagues that there is outstanding discrimination action. When recording notes, remember that the employer can request a copy of the records under the Data Protection Act. Do not write anything which may make the employer feel we are accusing them of discrimination. For example, write “Race/ Language template issued” rather than “unresolved discrim issue”.

165. ED agents - Complete a discrim form part 1 and pass to your team leader.

Information for decision makers

Factors to consider when making your decision where language is concerned:

- the full duties of the job – how important is it / what proportion of the duties involve the need for the language skill?
- why the job cannot be carried out by someone who cannot speak a particular language;
- the nature/purpose of the establishment;
- the ratio of staff with the requested language skill compared to others;
- has the employer considered altering staffing rotas to enable a current member of staff to cover those duties, thus opening up the job posting to applicants who do not have the requested language skill?

Examples of language cases

166. Important note: you will need to look at the facts for each job posting. Do not assume that because the job title is the same as those below that all cases would be dealt with in the same way. Unfortunately there are no hard and fast rules on when it is unlawful to place a particular exception on a job posting. Although a job title may be similar, the job specification and circumstances of a post will often be different. These examples are to be used as a guide only.

Delivery driver who can speak Urdu or Punjabi

Hotel receptionist – must speak Korean

Window cleaner for building site – must speak English

Cleaner – must have good English communication skills example 1

Cleaner – must have good English communication skills example 2

Supervisor of ground work staff – must speak Polish

Requirement

167. Delivery driver who can speak Urdu or Punjabi

Job Specification

Delivering goods to shops and restaurants

Questions to consider

- What are the full duties of the driver?
- Why could the job not be carried out by someone who could not speak Urdu or Punjabi?

Points to consider when making a decision

Applicant would be delivering to customers who were predominantly Asian.

Decision

Job posting remained expired. Although delivering to customers who may not speak languages other than Urdu or Punjabi, the duties main involve delivering goods – speaking the same language as the customers would not be essential.

Requirement

168. Hotel receptionist, must speak Korean

Job Specification

Hotel reception duties

Must speak Korean

Questions to consider

Why couldn't someone who could not speak Korean carry out these duties?

Points to consider when making a decision

The hotel has regular customers who only speak Korean - staff from Korean Airlines use the hotel for all overnight stays.

There are several other receptionists but only one of them can speak Korean.

Decision

Job posting revived. The need to speak Korean was a skill required to perform the job and it was reasonable for the employer to have at least two members of staff on a rota basis who could speak Korean to enable them to offer the appropriate service to Korean Airlines.

Job posting and Requirement

169. Window cleaner for building site.

Job Specification

Must have good English communication skills to enable applicant to read health and safety signs.

Questions to consider

What are the duties of the applicant?

Why could someone who did not have good English communication skills not do the job?

Points to consider when making a decision

All health and safety signs on building sites are universal and pictorial.

Decision

Job posting remained expired. Health and safety signs are pictorial and universal. Good English language skills are not necessary when cleaning windows.

Job posting and Requirement

170. Cleaner in large store. Must be able to read instructions in English.

Job Specification

General cleaning duties in large store.

Questions to consider

Will the cleaner be working alone?

What instructions will the cleaner be expected to read?

Points to consider when making a decision

The cleaner is required to mix cleaning chemicals and will be working unsupervised.

Decision

Job posting revived. The cleaner would be working alone and could not mix the chemicals safely without an English language skill.

Job posting and Requirement

171. Cleaner in office complex. Must be able to read instructions in English.

Job Specification

General cleaning duties in office complex, working as part of a team.

Questions to consider

Will the cleaner be working alone?

What instructions will the cleaner be expected to read?

Points to consider when making a decision

The cleaner works in a team of cleaners and will not be required to mix cleaning chemicals. All chemicals used carry health and safety symbols which are universal to all languages.

Decision

Job posting remained expired. The cleaner would be working in a team of people and would not need to speak English to carry out the job.

Requirement

172. Delivery driver who can speak Urdu or Punjabi

Job Specification

Delivering goods to shops and restaurants

Questions to consider

- What are the full duties of the driver?
- Why could the job not be carried out by someone who could not speak Urdu or Punjabi?

Points to consider when making a decision

Applicant would be delivering to customers who were predominantly Asian.

Decision

Job posting remained expired. Although delivering to customers who may not speak languages other than Urdu or Punjabi, the duties main involve delivering goods – speaking the same language as the customers would not be essential.

Requirement

173. Supervisor for ground workers. Must speak Polish

Job Specification

Supervising a team of 8 people laying paving stones and kerbs.

Half of team are Polish and speak little English therefore for health and safety reasons, candidate must be able to communicate in Polish.

Questions to consider

What problems would the applicant experience if they did not speak Polish?

Points to consider when making a decision

Is the job very technical?

Health and safety signs are universal for all languages.

Decision

This is not a very technically difficult job. Instructions could be given even if the supervisor did not speak Polish. Health and safety signs are universal for all languages. If the job posting was advertised it would discriminate against non-Polish speaking applicants. Job posting remained expired

Sex

Taking/amending the job posting

174. Explain to the employer:

- Because they have placed an exception on the job posting which could be seen as unlawful, the employer needs to provide further written information. Issue template 14.

175. Under certain circumstances it is possible to claim an exception to the Equality Act but that they must complete a Sex template 14 (preferably by email) so that we can consider this.

176. Ensure the Sex template 14 has the job posting and employer number on it and details of where/how it should be returned. The job posting number and employer number must be on the template if this is to be considered as evidence at an employment tribunal.

177. Take the job posting and expire it until a decision has been made on the discrimination issue. If for some reason the job posting is already live, ensure it is expired.

178. ED agents - Pass the discrim papers to your team leader.

179. Update UJ employer account, job postingxxxx, your name, template 14 issued <date> to alert colleagues to the fact that there is outstanding discrimination action. When recording notes, remember that the employer can request a copy of the records under the Data Protection Act. Do not write anything which may make the employer feel we are accusing them of discrimination. For example, write "Sex template issued" rather than "unresolved discrim issue".

Wording of job postings – job titles and job descriptions

180. Be careful with job titles. Use titles which give no indication of gender. Job postings must be clearly open to both men and women unless an exception applies.

For example,

- use "sales assistant" instead of "salesman" or "saleswoman" or
- "waiting staff" instead of "waiter" or "waitress".

181. Your overall aim should be to get a good quality job description, and not a person specification. Get as much information as possible of the tasks involved in the post and not a description of the person the employer might think is suitable. Avoid being gender-specific i.e. never use "he" or "she" only, use "he/she"

Information for decision makers

Exceptions to the legislation

182. There are limited circumstances when it is lawful to treat people differently because of their sex.

183. It is not unlawful to discriminate on the grounds of sex if there is an objective justification for treating people differently and there needs to be both a legitimate and proportionate means of achieving it – for example, it might be necessary to specify the

sex of an applicant to reflect the essential nature of the job that requires a man or a woman. However an employer would need to prove, if taken to an employment tribunal, that there was a legitimate aim and that the action was a proportionate means of achieving it.

The essential nature of the job requires a man/woman for:

reasons of **physiology** (excluding physical strength or stamina), for example, modelling clothes;

reasons of **authenticity** in dramatic performances or other entertainment, e.g. acting in a particular part in a theatre.

NOTE –

Job postings for Father Christmas/Santa Claus would qualify for an exception under the Equality Act 2010. Employers do not need to complete a Sex template in this case – service the job posting as normal.

To preserve **decency or privacy** where the job must be held by a person of the specified sex because:

- the job is likely to involve physical contact between the job holder and other people of that sex in circumstances where they might reasonably object to the job holder being a person of the opposite sex; or
- the job holder is likely to work in the presence of people of that sex who are in a state of undress, or using sanitary facilities and might reasonably object to a person of the opposite sex being there.

For exceptions you should check that the employer has no other option: for example, rearranging the staffing rota to enable other staff to take over the part of the job which involves personal contact. Jobs which do involve personal contact, do not automatically qualify for an exception. The questions on the Sex template cover this information.

The nature or location of the job makes it impracticable for the job holder to live anywhere else but on premises provided by the employer and there are no separate sleeping and sanitary facilities for each sex. For example, if the job is on a lighthouse or in an otherwise isolated work station.

The exception does not apply if it is reasonable to expect the employer to equip the premises with separate sleeping and sanitary facilities, or to provide other premises for persons of the opposite sex.

The job is for a **single sex establishment for people requiring special care**; perhaps a hospital ward or prison, and it is reasonable that the job is held by a person of that sex.

An exception would not necessarily apply to each and every job posting in a single sex establishment. In exceptional circumstances it may still apply when a person of the opposite sex uses the services.

The job involves providing individuals with personal services promoting their welfare or education, **or similar personal services**, and those services can most effectively be provided by a man (or, as the case may be, by a woman): for example, a counsellor in a rape crisis centre.

The job is likely to involve **work outside the UK** in a country where the job can only be done effectively by a man/woman because of that country's laws or customs. For example, a driving job could only be done by a man in Saudi Arabia, as women are forbidden to drive.

The job is one of two to be held by a married couple, a couple who are civil partners of each other, or a married couple or a couple who are civil partners of each other.

Although it is DWP policy to encourage employers to let the couple make the choice about who does which job, it is not a requirement by law. The employer can state who does what.

An employer can specify that he or she wants a man (or a woman) for the job when the job involves living or working in a private home where there could be reasonable objection to someone of the **other** sex having (a) the degree of physical or social contact with a person living in the home and/or (b) the knowledge of intimate details of such a person's life, which the job would involve.

NOTE –

- **Job postings for Ann Summers Party Planners requesting a female for the role is allowed and Employers do not need to complete a Sex template in this case– service the job posting as normal. A male is not allowed to do this role at an all female party, so the request for a female applicant is legitimate. However, this is the only exception, any other job roles within Ann Summers, i.e. a cleaner or an administrative role etc, the normal Discrimination process should be applied.**
- **Armed Forces – The Equality Act 2010 allows an occupational exception for imposing a requirement for a man if the requirement is a proportionate means of ensuring combat effectiveness of the armed forces and includes an exception to requirement that a person not be a transsexual.**

Working in private homes

184. Work in a private home which involves caring for children or dependent relatives, either as the main function or in conjunction with other duties does not necessarily mean that the post holder need be a woman. Some parents/employers feel that only women can care properly for children and other relatives, and that male carers are not to be trusted. However, unless the conditions in the Equality Act 2010 are satisfied, a job posting for a position in a private home where a "woman only" is required cannot be accepted.

185. Factors to consider when making your decision under the Equality Act 2010:

- the full duties of the job;
- the proportion of time spent doing whatever is considered to require the occupational requirement;
- the nature and purpose of the establishment;
- the ratio of male to female staff; the ratio of male to female residents/pupils;
- the needs of the group/person being supported;
- whether the employer considered altering staffing rotas to enable a current member of staff to cover those duties, thus opening up the job posting to both sexes.

Exception accepted

- Revive the job posting.
- Update UJ employer account, job posting xxxxx Assurance statement received.

Examples of sex discrimination cases

186. Important note: you will need to look at the facts for each job posting. Do not assume that because the job title is the same as those below that all cases would be dealt with in the same way. Unfortunately there are no hard and fast rules on when it is unlawful to place a particular exception on a job posting. Although a job title may be similar, the job specification and circumstances of a post will often be different. These examples are to be used as a guide only.

Female shop assistant required for female clothing store.

Female carer required to care for a boy with severe learning difficulties in his own home

Requirement

187. Female shop assistant required for female clothing store.

Job Specification

Stocking clothes racks and pricing goods

Ensuring clothing displays are neat and tidy

Working on changing cubicle duty

Selling goods at the checkout

Questions to consider

- Why could this not be carried out by a man?
- How many men and women work in the shop at any one time?
- Can the rotas be altered to allow the post to be opened to men and women?
- What will the applicant be expected to do when working on changing cubicle duties?
- What proportion of time would be spent on cubicle duties?

Points to consider when making a decision

Do the changing cubicle duties involve access to customers when in a state of undress?

How many other women work in the shop and why can they not do the cubicle duty while the new applicant carries out other duties?

Decision

The job posting remained expired. All other employees were female and it was easy to change the staffing rota to accommodate one of the other female staff for changing cubicle duties. Also, the person on cubicle duty would not have access to customers in a state of undress so a man could perform those duties.

Requirement

188. Female carer required to care for a boy with severe learning difficulties in his own home.

Job Specification

Personal care for young boy with severe learning difficulties.

Taking service user to school and activity clubs on a daily basis.

Some overnight stay required

Questions to consider

Why could these duties not be carried out by a man?

Points to consider when making a decision

Boy's mother is a single parent and would not feel comfortable having a man in the house.

Decision

Exception accepted where the job is in a private home and there is reasonable objection to someone of the other sex having the degree of physical or social contact with the person living in the home, or the degree of knowledge of intimate details of such a person's life which the job is likely to entail. Job posting revived

Disability

Taking/amending the job posting

The Equality Act 2010 includes disability as a protected characteristic.

189. It is not discrimination to treat a disabled person more favourably than a non disabled person providing that they equally meet the requirements of the job

190. An employer should not discriminate against a disabled person by treating a person with one disability less favourably than someone with a different disability.

If an employer tries to impose a condition that appears likely to be unjustified you should take the following appropriate steps

- explain to the employer that you feel the condition could discriminate against disabled people and try to encourage them to withdraw the condition;
- **if the employer withdraws the condition in question** and you are satisfied that there was no intention to discriminate, service the job posting as normal – no discrimination action is required.
- **if the employer refuses to withdraw a condition**, take the job posting and expire it. Record details on the discrim form and update the UJ employer account Job posting xxxx, your name, template 15 issued <date> to alert colleagues to the fact that there is outstanding discrimination action. When recording notes, remember that the employer can request a copy of the records under the Data Protection Act. Do not write anything which may make the employer feel we are accusing them of discrimination. For example, write “template 15 issued” rather than “unresolved discrim issue”.
- **if the employer decides not to place the job posting**, no further action is required

Information for decision makers

Factors to take into account when making a decision under the Equality Act

All employers (except for the Armed Forces) will need to comply with the work requirements of the Equality Act 2010 in relation to disability.

191. If after discussing the job posting with the employer you are satisfied with their explanation, i.e. that the condition appears to be justified, complete the discrim form noting reasons given. Service the job posting in the normal way.

192. If you have reason to doubt the employer's genuine acceptance of your explanation of their responsibilities under Equality Act 2010, issue template 15. Explain that the job posting may be serviced once the written assurance statement is received and accepted. Service the job posting and expire it. Emphasise to the employer that it is the individual's suitability for the job which is important and not any particular disability they may have which may prevent them from carrying out the duties.

193. Exclusions which do not take account of individual circumstances can also lead to discrimination. For example, an employer who has a job posting for a Care Assistant requests an exception from the Equality Act 2010 as they believe applicants with a disability, especially wheelchair users or people with a mobility problem would be unable to care for somebody else with a disability. What the employer needs to understand is that not **all** disabled jobseekers are either wheelchair users or have mobility problems, so by placing a blanket ban on disabled jobseekers they are restricting the job posting to everybody who is defined as disabled within the Act.

194. Remember that:

- Almost any requirement could rule out some disabled people
- No single requirement would rule out all disabled people

Contact the Social Justice Equality team if you require more information or advice

Conditions which need to be challenged

195. Challenge the employer if they say something that leads you to suspect unlawful discrimination. Before you can challenge a condition you will need to be confident about the actual job requirements.

196. Some conditions imposed will not link to the skill requirements of the job and may present difficulties for **all** jobseekers, including disabled jobseekers.
197. For example an employer states - "Must be able to reach high shelves in a food display area" This may be an unreasonable condition as quite a number of jobseekers could find it difficult to reach high shelves.
198. You will need to ask the employer the following questions:
Are you a self-service supermarket?
Is shelf filling an important part of the job?
How do staff and customers normally reach high shelves?
199. Putting questions to the employer in this way gives them the opportunity to think about whether their conditions are genuine. They may not have considered that the conditions imposed may have excluded people who could do the job well.

Reasonable Adjustments

An employer can ask in a job advertisement if applicants require a reasonable adjustment to attend the interview or assessment. The advert can say – "Please let us know if you are disabled and require a reasonable adjustment to the interview or assessment". They must not use this information to assess the suitability of the applicant for the job and all applicants must be considered on merit.

Positive Action

This applies to all protected characteristics

200. Positive Action means the steps an employer can take to encourage people from groups with different needs or groups who are under represented in that particular area of work. An example of this maybe when an employer may find that their make up of their workforce is different to the make up of the local population, so they decide to encourage people to apply for the job posting. Examples of the sort of positive action steps an employer can take during recruitment:

- Offering pre-application training to particular groups where this meets a need. For example, updating people's skills ahead of the recruitment process
- Holding open days or "taster days" which are held exclusively for the targeted group.
- Offering bursaries to obtain qualifications in a profession such as journalism.

Positive Action - Disability

With disability this means taking positive action in favour of one group who share a disability when compared to those who share a different disability. An employer has to show that

- the persons who share a characteristic have needs that are different from the needs of persons who do not share it,
- or participation in an activity by persons who share a characteristic is particularly low to be able to rely on the positive action provisions.

Treating disabled people better than non disabled people

201. The Equality Act 2010 recognizes that disabled people face a lot of barriers to obtaining work and allows employers to treat them better or more favourably than a non disabled person. An example of this might be to include guaranteeing interviews to disabled people. This is something that Disability Symbol users do now.

Displaying Job postings for Disabled People Only

202. Employers can advertise job postings for disabled people only. However, it would be unwise for DWP to display any job posting that might offend jobseekers. Our policy

is to encourage equal opportunities and ensure that all jobseekers are given the opportunity to apply for the jobs they can do.

203. Where an employer wants only to receive applications from disabled people you should:

Explain the exception is not unlawful, but that DWP does have a clear equal opportunities policy

Encourage the employer to lift the exception and replace this with a message of encouragement for disabled applicants. For example:

"We are committed to equal opportunities. Applications from all candidates will be considered on merit and:

Applications from disabled candidates are particularly welcome, and/or

Suitable disabled candidates are guaranteed an interview.

If, after you have discussed DWP policies and considered alternative options with the employer, they still insist they only want to attract disabled people to their job posting then accept the job posting. There is still a legal requirement not to discriminate on other grounds (e.g. race, sex, age, religion or belief, sexual orientation or people with different disabilities) and the need to word the job posting as sensitively as possible. Where possible it might be appropriate or helpful to say why the job posting is being restricted to disabled people only.

204. **To Note:** The Equality Act 2010 allows charities, which promote the interests of a particular group of disabled people, to treat people from that group more favourably than others where this is connected with their charitable purposes. For example, it would be acceptable for the Royal National Institute for the Blind (RNIB) to employ a visually impaired person in favour of a wheelchair user, for a position as a trainer.

Examples of disability discrimination cases

205. **Important note:** you will need to look at the facts for each job posting. Do not assume that because the job title is the same as those below that all cases would be dealt with in the same way. Unfortunately there are no hard and fast rules on when it is unlawful to place a particular exception on a job posting. Although a job title may be similar, the job specification and circumstances of a post will often be different. These examples are to be used as a guide only.

Double-glazing installer – must be a fully fit driver

School Inspector – must have a full driving licence

Requirement

Double glazing installer – must be a **‘fully fit’** driver. JCP must not help an employer ask questions to applicants about their health before an offer of work is made.

Job Specification

206. Installing double glazing around the country

Questions to consider

Why does the jobseeker need to drive?

Could another work colleague do the driving?

What do they mean by ‘fully fit’ and why is this required - The term “fully fit” would not be allowed under the Equality Act 2010 as an employer cannot ask questions about disability or health before a job offer.

Points to consider when making a decision

The employer explains that these exceptions are because the job involves working alone, driving long distances and carrying the double-glazing materials up ladders to first, second and third storey windows.

Decision

These activities take up the vast majority of the job; therefore the need to be able to carry a certain weight would seem to be plausible, as does the need to be able to drive. The employer would have to remove the phrase 'fully fit' and include full details of the tasks involved so that the applicants are fully aware of what is involved. Once the employer amended the job details the job posting was revived.

Requirement

207. School Inspector – must have a full driving licence

Job Specification

Travel round local schools

To conduct ongoing dialogue with all schools to include pre-inspection advice and support

Questions to consider

Does the job involve a significant amount of driving?

Could the job applicant travel to the schools by alternative means of transport?

Points to consider when making a decision

The employer confirmed that there would be a limited amount of travelling and all would be local. As this is the case it would be reasonable for the job applicant to do the travelling involved by other means of transport quite easily and cheaply, and it is likely to be a reasonable adjustment for the employer to let the applicant do so.

Decision

Job posting remained expired. It would be discriminatory to insist on the specification and reject their application solely because they have no driving licence. It was explained to the employer that if they did not make this adjustment, a disabled person might successfully claim unlawful discrimination. The employer still insisted on the requirement for a driving license so this job posting remained expired.

Religion or belief

Taking/amending the job posting

208. Ask the employer why they have placed exceptions on the job posting and record it on the discrim form part 1.

209. Explain that, because they have placed an exception on the job posting which could be seen as unlawful, you will issue template 16 so the employer can provide additional information before the job posting can be advertised.

210. Take the job posting and expire it until a decision has been made on the discrimination issue. If for some reason the job posting is already live, ensure it is expired.

ED agent - Pass the discrim papers to your team leader.

211. Update UJ employer account, job posting xxxx, your name, template 16 issued <date> to alert colleagues to the fact that there is outstanding discrimination action.

212. When recording notes, remember that the employer can request a copy of the records under the Data Protection Act. Do not write anything which may make the employer feel we are accusing them of discrimination. For example, write "template 16 issued" rather than "unresolved discrim issue".

Wording of job postings – job titles and job descriptions

213. Be careful with job titles.

Your overall aim should be to get a good quality job description, and not a person specification. Get as much information as possible of the tasks involved in the post and not a description of the person the employer might think is suitable.

Information for decision makers

214. Consider the assurance statement and how the employer believes the job complies with the exception in the Equality Act 2010 and meets the terms and conditions of the UJ service.

215. Make a note on the discrim form part 2 of the grounds on which the employer claims an exception.

216. Explain you cannot service the job posting at this stage and that they will need to supply you with a written statement (letter or email) outlining why they wish to restrict the job posting. The statement should explain why they wish to restrict the job posting on these grounds, or what the roles are within the job posting, which would mean that it would need to be restricted to someone of a particular religion.

Exceptions to religion or belief

217. There are exceptions under the Equality Act 2010 legislation for occupational requirements (OR). For example:

218. An Objective Requirement can be claimed where it is necessary for the relevant duties to be carried out by someone of a specific religion or belief because being of that religion or belief is a “determining” factor, for example in the Islamic faith a halal butcher must be Muslim.

219. The Equality Act 2010 applies where an employer has an ethos based on religion or belief and applies an occupational requirement that a person be of a particular religion or belief. The employer must show that the occupational requirement is objectively justified.

220. Where the organisation has a religious ethos an exception cannot be claimed if the nature of the role and the context within which it is carried out is not of sufficient profile or impact within the organisation to affect the overall ethos of the organisation. For example a post for a counsellor in a Christian organisation may need to be held by a Christian, whereas a gardener in the same organisation may not.

- **Please note:** The appointment of a teacher at a Voluntary Aided Church school is covered by Section 60 (5) of the School Standards and Framework Act 1998, and states preference may be given, to the appointment of teachers whose religious opinions are the same as the religion specified in the school. Where this is the case, the School Standards and Framework legislation prevails and the school does not have to comply with the Occupational Requirement provisions in the Equality Act 2010. Voluntary Aided Church Schools if they so wish can ask for a teacher to be of the particular religion, as per Schedule 22 (4) of the Equality Act 2010 .

221. Under the Equality Act 2010 there are exceptions for national security and positive action.

- Always refer to the Social Justice Equality team in cases where an exception is claimed for a role in a school with religious character.

Factors to take into account when making decisions under the religion or belief regulations:

- What are the full duties of the job?
- Why can the job not be carried out by a person who is not of a particular faith or belief?

Exception accepted

222. Revive the job posting. Update the UJ employer account, job posting xxxxx , your name, assurance statement received.

Examples of religion or belief cases

223. Important note: you will need to look at the facts for each job posting. Do not assume that because the job title is the same as those below that all cases would be dealt with in the same way. Unfortunately there are no hard and fast rules on when it is unlawful to place a particular exception on a job posting. Although a job title may be similar, the job specification and circumstances of a post will often be different. These examples are to be used as a guide only.

Gardener required at Catholic care home. Must be Catholic.

Female Muslim embalmer at a Muslim place of worship

Requirement

224. Gardener required at Catholic care home. Must be Catholic.

Job Specification

General gardening duties.

Chatting to patients and visitors on occasions in the gardens.

Questions to consider

Why can this not be carried out by someone who is not Catholic?

Points to consider when making a decision

What degree of contact will the applicant have with residents and visitors and in what capacity?

Decision

The claim that the job posting wording was an exception was not accepted. Job posting remains expired. The majority of duties were gardening duties and the gardener would not be responsible for counselling or preaching. The employer could put on the job posting that the home was run by the Catholic Church and that although applicants were welcome from any religious/non religious background, they would need to have empathy with the Catholic religion when speaking to people using the facility.

Requirement

225. Female Muslim embalmer at a Muslim place of worship

Job Specification

Candidate must be of the Muslim faith and have experience in washing, treating and preserving dead bodies of Muslim faith. Applicant must be a woman as will be needed to deal with bodies of Muslim women.

Questions to consider

Why can the job not be done by a man?

Points to consider when making a decision

Where the embalming is carried out.

The reasons why the applicant must be Muslim.

Decision

The place of employment is a Muslim place of worship and as such they deal exclusively with Muslim clients. The Equality Act 2010 applies as the employer has an ethos based on religion. The employer has explained that the embalmer needs to be of Muslim faith so that the body is attended to in accordance with religious practices. It would seem reasonable to infer that the nature of the employment and the context in which it is being

carried out, being of the Muslim faith is a genuine occupational requirement. The reasons for the need for the applicant to be a woman and of Muslim faith can both be claimed under the Equality Act 2010. A sex template 14 and a Religion and Belief template 16 are required in this case.

Sexual orientation

Taking/amending the job posting

- 226. Ask the employer why they have placed exceptions on the job posting and record it on the discrim form part 1.
- 227. Explain that, because they have placed an exception on the job posting which could be seen as unlawful, you require a written assurance statement. Issue template 17
- 228. Take full details of the job posting and expire until a decision has been made on the discrimination issue. If for some reason the job posting is already live, ensure it is expired.
- 229. ED agent - Pass the discrim papers to your team leader.
- 230. Update the UJ employer account, job posting xxxx your name, template 17 issued <date> to alert colleagues to the fact that there is outstanding discrimination action.
- 231. When recording notes, remember that the employer can request a copy of the records under the Data Protection Act. Do not write anything which may make the employer feel we are accusing them of discrimination. For example, write “sexual orientation template issued” rather than “unresolved discrim issue”.

Wording of job postings – job titles and job descriptions

- 232. Be careful with job titles.

Your overall aim should be to get a good quality job description, and not a person specification. Get as much information as possible of the tasks involved in the post and not a description of the person the employer might think is suitable.

Information for decision makers

- 233. Tell the employer that DWP cannot accept a discriminatory exception on a job posting unless it is covered by The Equality Act 2010.
- 234. Ask how the employer believes the job complies with the Equality Act 2010 and meets the terms and conditions of the service. Make a note on the discrim form part 2 of the grounds on which the employer claims an exception
- 235. Explain you cannot service the job posting at this stage and that they will need to supply you with a written statement, issue template 17.
- 236. An assurance statement from the employer will be used at an employment tribunal.

Exceptions to sexual orientation

There are certain circumstances which allow for an exception because of sexual orientation if the employer can show that it is an occupational requirement that the applicant have a particular protected characteristic.

The requirement must be crucial to the post, and not merely one of several important factors. It must not be a sham or pretext.

An exception can also be claimed where the employment is for the purposes of an organised religion, such as the leader of a faith or mosque, where it is a proportionate way to comply with religious doctrine; or, because of the nature of the work and the context in which it is carried out it is a proportionate way to avoid conflicting with the strongly held religious convictions of a significant number of the religion's followers.

237. If the employer claims an exception applies to the job posting, it is their responsibility to show the exception is justified.
238. Under the Equality Act 2010, there are exceptions for national security and positive action.
239. An exception cannot be claimed unless some or all of the duties, or the totality of the role, are covered by a specific exception and it has been shown that it would be unreasonable to require other employees of the appropriate sexual orientation to undertake those duties. It must also be shown that those duties must be carried out to achieve the objectives of the job.
240. Exception accepted
241. Update UJ employer account, job posting xxxxx, assurance statement received.

Examples of sexual orientation cases

242. **Important note:** you will need to look at the facts for each job posting. Do not assume that because the job title is the same as that below that all cases would be dealt with in the same way. Unfortunately there are no hard and fast rules on when it is unlawful to place a particular exception on a job posting. Although a job title may be similar, the job specification and circumstances of a post will often be different. This example is to be used as a guide only.

Requirement

- Homosexual youth leader

Job Specification

Applicant to work in a youth centre during a guidance session for homosexual young men. Provide advice and guidance. Applicant needs to be homosexual to give young men confidence that their issues are understood.

Questions to consider

Why can the job not be carried out by someone who is not a homosexual male?

Points to consider when making a decision

Is the requirement a necessity to carry out the job? Is it reasonable to accept the employer's statement?

Decision

Job posting revived. It is a genuine occupational requirement of the post that the person be a homosexual male. The person will need to provide advice based on personal experience.

Gender reassignment

Taking/amending the job posting

243. Ask the employer why they have placed exceptions around gender reassignment people on the job posting and record it on the discrim form part 1.
244. ED agents - Explain that, because they have placed an exception on the job posting which could be seen as discriminatory, you need a written assurance statement. Issue template 18. Take full details of the job posting and expire it until a decision has been made on the discrimination issue. If for some reason the job posting is already live, ensure it is expired.
245. ED agents - Pass the discrim papers to your team leader.
246. Update the UJ employer account, job posting xxxx, your name, template 18 issued <date> to alert colleagues to the fact that there is outstanding discrimination action.

247. When recording notes, remember that the employer can request a copy of the records under the Data Protection Act. Do not write anything which may make the employer feel we are accusing them of discrimination. For example, write “gender reassignment template issued” rather than “unresolved discrim issue”.

Wording of job postings – job titles and job descriptions

248. Be careful with job titles.

Your overall aim should be to get a good quality job description, and not a person specification. Get as much information as possible of the tasks involved in the post and not a description of the person the employer might think is suitable.

Information for decision makers

249. Tell the employer that UJ cannot display a job posting which could discriminate against a person who has proposed, started or completed a process to change his or her sex unless it is covered by an exception to the Equality Act 2010.

250. Ask how the employer believes the job complies with the Equality Act 2010 and meets the terms and conditions of the service. Make a note on the discrim form part 2 of the grounds on which the employer claims an exception.

251. Explain you cannot service the job posting at this stage and that they will need to supply you with a written statement. The employer assurance statement will be used at an employment tribunal.

Exceptions and Gender Reassignment

- Armed Forces

Armed Forces – The Equality Act 2010 allows an occupational exception for imposing a requirement for a man if the requirement is a proportionate means of ensuring combat effectiveness of the armed forces and includes an exception to requirement that a person not be a transsexual

Positive Action

252. **Positive Action** means the steps an employer can take to encourage people from groups with different needs or groups who are under represented in that particular area of work. An example of this maybe when an employer may find that their make up of their workforce is different to the make up of the local population, so they decide to encourage people to apply for the job posting. Examples of the sort of positive action steps an employer can take during recruitment:

- Offering pre-application training to particular groups where this meets a need. For example, updating people’s skills ahead of the recruitment process
- Holding open days or “taster days” which are held exclusively for the targeted group.
- Offering bursaries to obtain qualifications in a profession such as journalism.

253. There are some circumstances in which employers can lawfully take steps to attract applicants from a certain group; welcoming messages can be used in advertising, but at the point of selection unlawful discrimination is not allowed. If you need advice about positive action please contact the Social Justice Equality team.

Reviving expired job postings

254. Once discrimination action is in process, expired job postings must not be revived until a decision has been made on the discrimination issue. Any documentation or information received from the employer must be sent on to the person who started the discrimination process so that a decision can be made based on all available information.

Jobseeker complaints

255. A jobseeker may make a complaint in person or by phone at a Jobcentre stating that they believe they were unlawfully discriminated against at the application or interview stage of the employer recruitment process. It is preferable but not essential that complaints from jobseekers are in writing – all complaints of discrimination by employers should be investigated and the discrimination process followed.

Complaint Handling Resolution Roles

It is recognised that due to District 'freedom and flexibilities', different Employer Facing Roles (EFRs) within individual Districts could be responsible for handling complaints about employers, including Employer Advisers (EAs), Complaint Resolution Managers, District Employer Engagement Teams, Local Account Managers or equivalents (as determined by those individual Districts). These roles include Complaint Resolution Managers, Employer Facing Roles (EFRs), Employer Advisers (EFRs), District Employer Engagement Teams, Local Account Managers or equivalents (as determined by individual Districts).

256. All Jobseeker complaints will be dealt with by the EFRs who is responsible for the employer.

257. Discrimination – Employer complaint guidance for EFRs

Why DWP needs employers to fully justify their exceptions

258. DWP has a duty not to unlawfully discriminate in the way in which it provides its services in its capacity as an employment agency. It is also unlawful to knowingly aid an act of discrimination. If DWP accepts a verbal job posting that does not comply with legislation we could be held liable and required to attend an Employment Tribunal or Court. You may be called upon to attend the tribunal/court if you have been involved in taking the job posting details so it is important that you record full details of any actions you take on the Discrimination Form.

259. It is important that you can show that you have followed the discrimination process and required the employer to justify the reason for including the exception in the job posting. If you are required to give evidence at a tribunal/court hearing and have not followed the process disciplinary action may be taken against you.

260. Wherever possible you should ask the employer to provide an assurance statement in writing or by email by issuing the relevant template. The assurance statement can then be presented as evidence. Details of all relevant communication should be recorded on the Discrimination Form. Team leaders should ensure that the statement made by the employer fully justifies the reasons for any exception and that it is reasonable for you to rely upon that statement. It should also be made clear to employers that they would be committing an offence if they provide a false or misleading statement – this statement is part of the discrimination templates. It should also be made clear that they must abide by the terms and conditions of the UJ service. Please ensure that the templates have the employer number and job posting number on them –this is important if this is to be considered as evidence at an employment tribunal.

Examples of discrimination cases

Age

Race

Language

Sex

Disability

Religion or belief

Sexual Orientation

Direct/Indirect discrimination

Direct Discrimination

261. Direct discrimination occurs where someone is treated less favourably than someone else in similar circumstances just because of a protected characteristic, namely their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex or sexual orientation. Direct discrimination is most likely to be obvious and easy to identify.

For example, an employer may state in a job advertisement that men are only welcome to apply for a particular job, or an employer may refrain from interviewing people who are black. Both of these examples are an open indication of direct discrimination.

Indirect Discrimination

262. Indirect discrimination is where an employer might place an unnecessary condition or requirement on a particular job to prevent certain members of the community, namely people who share a protected characteristic, from applying.

For example; stipulating that only people who can speak clear fluent English where the job does not require verbal communication, can be seen as indirect discrimination.

Qualifications

263. Particular qualifications should only be mentioned in a job posting if they are necessary to indicate a level of skill and should usually be accompanied by "or equivalent". Stating a requirement for GCSEs for example can exclude older people who passed 'O' level exams, people who were educated abroad or people of other nationalities who passed different exams of an equivalent standard.

264. Watch out for excessive qualification requirements and consider if they are appropriate for the job, for example a general worker in a biscuit factory requires 4 GCSE passes (or equivalent). Explain to the employer that the requirement may exclude some people who would otherwise be suitable for the job.

Application forms

265. It is good practice for employers not to ask questions on application forms which could indicate an intention to unlawfully discriminate. Information such as date of birth, nationality or disability can be collected by an employer for monitoring purposes. They should be asked on a separate diversity monitoring form that should not be seen by those involved in the selection process. If there is a valid reason for the information to be requested within the application form then there should be a reason given.

Health Conditions

266. Applicants must not be asked to provide information about health or disability or complete health questionnaires until they have either been offered the job or been selected into a pool of candidates to be offered a job when one becomes available.
267. Employers have a duty to make reasonable adjustments to make sure that a disabled person has access that is as close as possible to the standard offered to a non disabled person as far as is reasonable. Employers can ask an applicant if they need a reasonable adjustment but they must use this information only to determine if a reasonable adjustment is required for the interview and assessment only. They must not ask about reasonable adjustments required for the actual job until after the person has been offered a job or been accepted into a pool of candidates to be offered a job.

Photographs

268. If an employer asks for a photograph as part of the application process, without explanation, you establish why it is necessary.
269. If the photograph is to be used purely for identification purposes you could suggest that applicants bring a photograph with them to an interview instead of sending it with the application form.
270. If the photograph is being used as part of the selection process, then explain to the employer that the procedure could be interpreted as discriminatory. Although there is no legislation preventing employers' requesting photographs, it is good practise for employers not to.

Driving licences

271. Some employers may wish to place an exception on a job posting that an applicant should hold a UK driving licence. This could be seen as indirect discrimination. The job posting should specify current driving licence.

Discrim form and Templates

Discrim form – UJ Telephony Channel

Age template 12

Age template 12a – Insurance Purposes

Age template 12b – Years Experience

Race template 13

Language template 13a

Sex template 14

Disability template 15

Religion and Belief template 16

Sexual orientation template 17

Gender reassignment template 18

Justified – notification to employer template 19

Not justified – notification to employer template 19a

Not Justified Withdraw services - notification to employer template 19b

Independent advice for employers

Employers can contact the following organisations for advice.

Equality Direct

0845 600 3444

ACAS

www.Acas.org.uk

Telephone 08457 474747

The Equality and Human Rights Commission

The Equality and Human Rights Commission provide advice and guidance for businesses covering a range of equality and diversity issues, to help equip them with the tools and resources they need to get it right.

<http://www.equalityhumanrights.com/advice-and-guidance/here-for-business/>

Independent advice for jobseekers**The Equality Advisory Support Service**

<http://www.equalityhumanrights.com/about-us/equality-advisory-support-service/>

This new service in place from 01 October 2012, is aimed at individuals who need more expert advice and support on discrimination

The contact numbers for the new service are:

Phone: 0800 444 205

Textphone: 0800 444 206

Employment Tribunal Service

<http://www.justice.gov.uk/tribunals/employment>

Telephone 0845 795 9775

(textphone users 0845 757 3722).