GUIDANCE PAPER

IMPLEMENTING FAIR AND TRANSPARENT RECRUITMENT PROCESSES

GUIDANCE AT A GLANCE

This guidance has been produced to support employers and education leaders in implementing fair and transparent recruitment processes in schools and colleges in England. These processes will help schools and colleges attract and select from a wider, more diverse talent pool which addresses both the current recruitment and retention difficulties, and ensure school workforces are truly inclusive.

Section 1 Current Context

Recruitment and retention

Diversity in teaching

Section 2 Benefits of a Diverse Workforce

Section 3 Implementing a Fair and Transparent Recruitment Process

Recruitment managers

Application pack (including job description, person specification, application form, equal opportunities monitoring data, interview process timeline)

Going out to advert

Shortlisting applicants

Guaranteed interview

Interview process (including inviting candidates to interview, assessments, interviews, setting interview questions, assessing candidates)

Feedback

Recruitment recordkeeping

Monitor relevant data

Section 4 Further Information

1 CURRENT CONTEXT

Recruitment and retention

Recruitment and retention continue to be challenging and will be for some time to come, particularly in the secondary sector.

The **2018 School Workforce Census** (SWC) and **National Pupil Projections** forecast a 15% increase in secondary pupils alone by 2026. This represents an additional 429,000 pupils in secondary schools. Based purely on the 2018 secondary Pupil Teacher Ratio (PTR) rate, assuming no resignations, this would require over 26,000 additional secondary school teachers.

We also know from data in the 2018 SWC that recruitment of school leaders continues to be problematic. There has been a steady decline in the number of teachers appointed to these roles since 2011.

Diversity in teaching

Against this backdrop, we know that leadership in education is not diverse enough and often does not reflect the school population it serves.

Data from the SWC shows that 86.2% of teachers are white British, against only 78.5% of the working-age population. In contrast, we know that black Africans make up 1.9% of the working age population and yet only 1.3 % of male teachers and 0.7% of female teachers are black Africans.

The contrasts make stark reading and become starker the more senior the role, where gender also becomes a significant issue.

2 BENEFITS OF A DIVERSE WORKFORCE

Many schools and trusts are not clear in the reasons for their own commitment to diversity. Diversity and inclusion in schools is vitally important for a number of reasons:

- "You can't be what you can't see". It's important for young people to see themselves in others around them and especially in leadership roles. Having authentic role models can have a powerful impact on a child's aspirations.
- The globalised world. The world is changing; we are more interconnected and integrated than ever before. Not only is it intrinsically right that we reflect that in our own schools and colleges, by doing so we can also better prepare our young people for the world beyond education.
- We know that when people can be themselves at work, they are more likely to perform better, and be happier, more productive and more innovative. Diversity and inclusion directly links to wellbeing of both our young people and our educators.
- As educators, it's important that we teach our young people to celebrate difference, to live with compassion for others and to be curious about people who may not be the same as them.
- It will make an impact to social mobility by enabling a wider pool of talent of varying backgrounds to access jobs in organisations.
- Finally, we know that more diverse and inclusive organisations are better performing[1].

3 IMPLEMENTING A FAIR AND TRANSPARENT RECRUITMENT PROCESS

One of the first steps to changing the make-up of schools and colleges is to review recruitment processes to determine whether they are truly inclusive.

For all school and college roles, implementing a consistent and fair process is vital to the ongoing success of the organisation. The focus in this guidance is two-fold: firstly, how to ensure as employers schools and colleges recruit the best candidates fairly and transparently; and secondly, how to ensure schools and colleges are employing best practice to enable candidates to experience a positive, fair, and transparent process.

Each stage of the process should be objectively reviewed so that the organisation is assured they are operating a truly inclusive, fair, and transparent process which in turn will enable candidates from all backgrounds to thrive.

Recruitment managers

Members of staff taking on the role of recruitment managers are in the front line when it comes to fair and transparent recruitment.

In an education setting, there are legal requirements around training with regards to interviewing. In line with Regulation 9 of the School Staffing (England) Regulations 2009, it is a legal requirement for maintained schools to ensure that at least one of those conducting the interview has done safer recruitment training, and it is best practice for academies to comply with this.

1 See Mckinsey & Co, 2018

When undertaking recruitment activities, employers should have regard to the DfE advice ***Staffing and Employment Advice for Schools*** which draws attention to relevant legislation and sources of up-to-date guidance and advice that employers need to consider, some of which may be statutory guidance. Of particular relevance to this paper, the DfE guidance contains a section entitled "discrimination in appointments".

Employers should also have due regard to the The Equality and Human Rights Commission's ***Employment Statutory Code of Practice***, which, whilst not specific to education, is statutory and so would be applicable.

It is the employer's responsibility to ensure that staff who undertake recruitment activities are adequately and appropriately trained in order to undertake this role.

In order to be confident that recruitment is fair and transparent, employers should ensure that staff undertaking recruitment activities have had appropriate training in employment law, interviewing skills, enabling equal opportunities, diversity awareness, and in avoiding unconscious bias.

Recruiting managers should consider whether any post must be filled on a full-time basis, or whether a more flexible working pattern can be offered (such as job share, part-time or term-time only, or compressed hours). The working hours and pattern should be made clear in the application pack. They should consider the DfE's guidance ***Flexible Working in Schools*** , specifically, paragraphs 29-51 which state that "adopting a completely flexible approach to advertising has produced significantly better results than being overly specific…should therefore consider advertising all posts as flexible working opportunities."

Application pack

Prior to advertising the post you will need to prepare an application pack. This should include a number of documents enabling applicants to apply for the post and not only provide you with all the information needed to sift candidates for the next stage of the process, but should also encourage a good field of diverse candidates.

In order to achieve this, and before you go out to advert, it is important to ensure you have fully reviewed the post; an individual leaving is the perfect opportunity to review whether the role can or should be performed differently.

This review can also serve to support you in conducting a thorough and objective job analysis to determine the specific behaviours, skills, knowledge and characteristics essential for the role.

It is at this point that you should consider whether the job can be made more appealing to a wider range of candidates. In particular, review the working hours: could more flexible options be offered to open up the talent pool? Failing to consider other ways the role could be done risks excluding candidates before they have applied. You can connect with the **Maternity Teacher Paternity Teache**r project or **Flexible Teacher Talent** for help and support on this.

From here, the job description and person specification, core elements of the applicant pack, can be developed.

Job description

One of the first things a candidate sees when they are considering a job with your school or college is the job description. Often, we pay more attention to the face-to-face, latter stages of the process, but the way we describe the role and the words we use can have a big impact.

A job description should clearly and concisely state the essential objectives of the role. It should focus on the job's core requirements and what it entails, and ensure it does not contain tasks or duties that the postholder will not, in practice, need to perform. It should also not overstate marginal or occasional requirements. Including non-essential tasks or duties could discourage appropriately qualified individuals from applying. Indeed, it could lead to discrimination claims if the tasks and duties are ones that some people are less likely to be able to fulfil because of a protected characteristic[2].

The job description should focus on the outcome, and not state how the tasks should be carried out. For example, insisting that someone communicate by telephone when email or other electronic communication may be as effective could indirectly discriminate against a person with a hearing or speech impediment.

The recruiting experience can be enhanced by informing candidates, either in the job description or elsewhere in the applicant packs, what they can do to enhance their application. For example, if using a competency-based process explain what that is. This prevents applicants from having to guess what you are looking for and makes for better prepared candidates.

The language used should be inclusive and not make certain groups feel excluded. For instance, studies show that the use of words more likely to be associated with men in job descriptions can be a barrier for female applicants[3]. Put your job description through a decoder to analyse the language used and whether there is bias towards or against certain groups, for example the **Gender Decoder for Job Ads**.

The job description should also be proofread through the lens of inclusion; share the job description with an appropriate person from outside the organization to gain another perspective.

2 The protected characteristics under the Equality Act 2010 are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

3 Journal of Personality and Social Psychology, 2011

Person specification

The person specification should describe the qualifications, skills, experience and knowledge which you deem essential or desirable for the successful candidate[4]. These should relate directly to the job description and form the foundation of the recruitment process.

To ensure open and transparent recruitment, only include information relevant to the job. For example, if you have specified a 2:1 degree or higher, is this really needed to carry out the role? Avoid over-specifying the level or type of qualifications required, as this could be indirectly discriminatory. Rather, it is advisable to make reference to 'equivalent qualifications' or to 'equivalent levels of skill or knowledge'.

The criteria must not be discriminatory and avoid requirements that may lead to bias. For example, have you asked for a certain amount of experience? Remember it is unlawful to discriminate based on age and should therefore avoid phrases such as 'young and dynamic' or 'would suit someone who has just qualified', unless the criterion or statement can be justified by the genuine needs of the job. Words such as 'energetic' could be considered to favour both younger and more physically able candidates. If in doubt about being able to justify this, it would be preferable not to include or apply the criterion or statement.

Equally, specifying a minimum number of years' experience could amount to indirect discrimination on the basis of age (younger applicants) or sex (as women are more likely to have had time out of the workplace due to childcare or other caring commitments), unless there is an objectively justifiable reason for doing so. A requirement for continuous experience is especially problematic for people who have had time out of the workforce.

Application form

As with the job description and person specification, the application form should only require information that is relevant to the post on offer. Again, it should be proofread against unintentional bias. The Equality and Human Rights Commission's Employment Statutory Code of Practice (EHRC Code) recommends that employers adopt a standardised process to applications, whether through use of application forms or CVs, to facilitate an objective assessment of the applicant's abilities.

However, standard applications should not preclude making reasonable adjustments for applicants with a disability. This includes ensuring you offer alternative ways for candidates to submit their applications. For example, supply an email address or phone number so applicants can request the application form on paper, via email, in Easy Read in large print, in Braille, in audio format or in other data formats.

Employers should also be prepared to provide the application form in a variety of formats, in order to support candidates.

To eliminate unconscious bias, you might wish to consider a blind application process. Consider asking a third party to manage this for you, removing the personal detail before passing the applications on (for instance a recruitment agency). Alternatively, someone within the organisation who is not involved in the recruitment exercise could undertake this role.

Equal opportunities monitoring data

Information on an applicant's racial or ethnic origin, physical or mental health, religion or similar beliefs and sexual life is a special category of data under the GDPR and DPA 2018, unless and until it is anonymised.

It is important that candidates feel confident you are collecting equal opportunities data so that you can continue to improve your organisation and not as a basis for selection decisions. Be explicit about your reasons for collecting data.

For example:

"*This school wants to meet the aims and commitments set out in its equality policy. This includes not discriminating under the Equality Act 2010 and building an accurate picture of the make-up of the workforce in encouraging equality, diversity and inclusion. We need your help and co-operation to enable it to do this but filling in this form is voluntary.*"

If an applicant's protected characteristic(s) are suggested by information in an application form, those who are shortlisting must not use this information to discriminate against the applicant.

Personal information requested for monitoring purposes as part of the application process should not be revealed to those who are shortlisting or interviewing. This should be made clear in the applicant pack.

You must also ensure that the application forms state clearly to whom the information is being provided. If information from the form will be used for any other purpose than to recruit for a specific job, for example, for monitoring purposes (see section below), or passed to anyone else, this must be stated on the application form.

Interview process timeline

The Application Pack should also include a timeline for the recruitment process.

This should tell candidates how long each stage of the process will take and what the key dates are, including expected interview dates. This will help ensure the preferred applicants are available for interview.

4 "Essential" criteria are those without which the job could not be performed, whereas "desirable" criteria are those that would enable an individual to perform the job well

It is also good practice to have a central record system to track every application received, from whatever source. This will enable you to quickly and easily refer back to application forms and contact details and ensure each candidate is kept informed of the progress of their application.

Going out to advert

When thinking about advertising for roles there will likely be a standard set of sites and organisations where you usually place adverts. There is still value in using these to attract volume, as recruitment is an ongoing challenge, and there are certain outlets that teachers will always use to search for roles. However, you should also be aware of signs that your candidate pool is comprised of individuals with similar education and backgrounds indicating your search may be too narrow.

To widen the search and encourage applications from a wider range of candidates you will need to think creatively about where you advertise vacancies. By changing the way you've always done things and considering advertising the role more widely, applicants who may have overlooked your school or college in the past – or who may have been overlooked by you in the past, may now connect.

Take action to try and address inequalities, for example by proactively encouraging applications from Black, Asian and Minority Ethnic (BAME) or lesbian, gay, bisexual and transgender (LGBT+) candidates:

- partner with grassroots organisations to get your roles featured in their national communications (including **BAMEed**, **LGBTed**, **WomenEd**, the **Leading Women's Alliance**, **DisabilityEd**)
- use social media platforms such as Twitter and LinkedIn to reach a wider audience, although avoid using social networks' targeting options to exclude groups with protected characteristics.

It is essential that the job advertisement does not contain images or descriptions that might alienate potential applicants and your advert must not be discriminatory.

Website

Once the role has been advertised, your website will also become a source of information for applicants. It is therefore worth checking that this aligns with your ambitions to be a fair and transparent employer.

Shortlisting applicants

To ensure a fair and transparent shortlisting process, follow these steps:

- All members of the recruitment panel should have attended the appropriate training (see 'Recruitment managers').
- At least two members of staff should be involved in the shortlisting process to reduce the risk of personal bias.
- Panel members should agree the relevant weighting of each criteria, bearing in mind that not all criteria will necessarily carry equal weight or importance. Applications should be marked consistently and each panel member's score added together to gain an overall score.
- Panel members should score the information provided in the application against the selection criteria listed in the person specification, which must not be discriminatory. This should be done independently of each other and a final score for each candidate subsequently agreed via a shortlisting meeting.
- Selection should be based only on the information provided on the application forms (where one is used) or in any formal performance assessment reports in the case of internal applicants.
- Those candidates scoring highest against the essential requirements should be shortlisted first. If large numbers of applicants meet the essential criteria, the desirable factors can be used as a secondary filter.
- The employer should retain written records of the panel's decisions and the reasons for them, along with the original application form, in line with their Recruitment Privacy Policy (see 'Recruitment record keeping').

The reasons for not interviewing an applicant must relate to the requirements listed in the person specification and be entirely relevant to the job. They must be justifiable in the event of challenge. 'Too experienced' and 'overqualified' should be avoided as reasons for not short listing. Using these reasons could unfairly discriminate against older or disabled candidates seeking work of a different kind to fit their current circumstances.

Panel members should not compare and contrast applications.

Contrast effect

When recruiting, there is a tendency to spend a large amount of time sifting through applications. Rather than allowing each application to stand out on its own merit, there is a danger of comparing the latest application to the one that went before. In doing so this moves the goalposts with each new application sift, thereby instead of judging whether a candidate is suitable for a role based on their skills and attributes as displayed in the application, they are instead compared to other candidates.

Guaranteed interview

Many employers offer guaranteed interviews to all applicants with a disability who meet the essential criteria for the job if they opt into this arrangement. Employers are encouraged to sign up to the **Government's Disability Confident scheme** to make the most of the talents disabled people can bring to the workplace.

Interview process

Inviting candidates to interview

The EHRC Code recommends employers should ask candidates whether they require any adjustments in advance of the interview and check again on the day of the interview if any adjustments are needed. For instance, candidates may require a sign language interpreter or want to check the interview room is accessible by wheelchair.

However, you should be aware that disabled candidates may be wary of revealing the nature of their disabilities in advance of the interview because they feel they may be asked inappropriate or discriminatory questions.

Assessments

Candidates should always be given comprehensive information before sitting an assessment. This allows candidates to prepare adequately and make an informed decision about whether they wish to attend. Setting candidates' expectations increases their perceptions of fairness about the procedure and outcomes and may help alleviate any assessment anxiety.

At a minimum this should include:

- location, date and time
- duration of assessment
- what to bring
- type of assessment (for instance, competency-based interview, cognitive ability test)
- competencies assessed and descriptions (if applicable)
- values assessed and descriptions (if applicable)

Selection tests should only be administered if they can reasonably be considered to provide relevant, reliable and valid assessments of the candidates' abilities to perform the duties of the job.

All candidates should undertake the same test, unless there is a health and safety reason why they cannot do so, or unless a reasonable adjustment is required, for example, by giving a candidate who is disabled due to dyslexia more time to complete it.

Tests should have no discriminatory impact on any of the protected characteristics. For example, a test that assumes knowledge of British history may discriminate on the grounds of race; one that includes a scenario based around a more male-dominated sport, such as football or rugby, may disadvantage women.

Interviews

Job interviews should be constructed in a structured and systematic way. Where possible, consideration should be given to including a mix of individuals with different protected characteristics on interview panels. Once constituted, the interview panel should meet prior to the interview to agree and set:

- suitable interview questions which directly and clearly correspond to the criteria described in the job description and the person specification
- a standardised system of scoring for use throughout the process

At interview, panel members need to be especially careful to avoid making judgements about applicants on the basis of subjective impressions and bias. They must ensure that decisions about the suitability of candidates are based solely on how well they match the criteria for the job as set out in the person specification and evidenced during the interview.

Setting interview questions

Interview questions should remain focused on the behaviours, skills and experience listed in the person specification. Panel members should not imply discrimination by asking questions about personal circumstances which are unrelated to the job. If the discussion strays off course or starts to elicit unwanted information, particularly about protected characteristics, for example a candidate's religion, marital status, sexuality, or plans to have children, then panel members should bring the discussion quickly back on topic by asking another job-related question. Any information around protected characteristics that is volunteered must not be taken into account in deciding the candidate's suitability for the job.

Whilst there may be an attractiveness in adopting an unstructured approach in order to determine suitability and fit within an organisation, there is a significant risk of giving your unconscious bias more fuel. For example, you may find out that a candidate likes the same music as you, or has relatives living in the same area.

Structured interviews also help you score candidates against the role's requirements more consistently and accurately, making comparisons between candidates easier.

Assessing candidates

A lot of post-interview discussions talk about recruiters' 'gut' feelings. Decisions can be made which intuitively select a candidate on irrelevant factors such as emotion, intellect and their individual makeup instead of focusing on a person's actual capabilities.

Rather, the assessment should be based solely on the evidence in application forms, CVs, and interview performance, and how these weigh up against your pre-agreed selection criteria.

Given this, it should be clear which candidate has performed best when scored objectively, and you will be able to give clear reasons for choosing one candidate over another which have nothing to do with protected characteristics.

Feedback

It is good practice to offer feedback to unsuccessful candidates, if requested. When doing so, give reasons that are based purely on the job requirements as set out in the job description.

Equally you must not discriminate against job applicants in the terms on which they offer employment, for example extending a probation period for a disabled candidate would be discrimination.

Recruitment recordkeeping

As an employer, you must be able to justify your decisions to recruit an individual. Should you be faced with a claim of unlawful discrimination, thorough recordkeeping will help evidence a fair recruitment process. Therefore, it is good practice to keep records of all stages of the recruitment and selection process for a period and then dispose of them securely.

When considering how long to keep records, consider the following from The Equality and Human Rights Employment Code of Practice[5]:

"*In deciding exactly how long to keep records after a recruitment exercise, employers must balance their need to keep such records to justify selection decisions with their obligations under the Data Protection Act 1998 to keep personal data for no longer than is necessary.*"

The Information and Records Management Society have a useful (but non-statutory) **toolkit** which suggests records relating to unsuccessful candidates should be retained for six months following the appointment of the successful candidate.

Whatever length of time you decide, this should be set out in your Recruitment Privacy Policy or Notice. This policy should inform candidates what to expect in relation to personal information about them which is collected, handled and processed by or on behalf of your organisation when they apply for a vacancy.

The Recruitment Privacy Policy should be sent to applicants in the application pack.

Monitor relevant data

Measures should be in place to regularly monitor the effectiveness of your recruitment processes in terms of equality and diversity. For example, use your applicant tracking spreadsheet to work out the number of applications you receive from each gender, and how the proportion of applications that proceed to each stage differs by gender. This will help you identify if a disproportionate number of male or female applications are being rejected at various stages of the process, which in turn could help you identify sources of bias which you can work to correct.

Consider other protected characteristics. The data samples may be very low in a single recruitment round, but if you collate data for all recruitment then any trends are more likely to become apparent.

Also, consider applying the "four-fifths rule". Acas proposes this in their guidance ***Prevent Discrimination: Support Equality*** . The proposition is that the success rate for members of any particular group should not be less than 80% of any other group's success rate. This should not be used as an absolute measure, but simply to indicate where the four-fifths is not being met, whether a matter should be investigated further.

Whatever approach you take, it is essential that ongoing monitoring takes place in order to help the employer assess whether the organisation is recruiting fairly and transparently.

5 Ibid 16.45

4 FURTHER INFORMATION

DfE, *School workforce in England: November 2018*
www.gov.uk/government/statistics/school-workforce-in-england-november-2018

DfE, National pupil projections – future trends in pupil numbers: July 2018 (2019 update)
assets.publishing.service.gov.uk/government/uploads/system/uplo_National_pupil_projections__July_2019.pdf

DfE, *Staffing and employment: advice for schools*
www.gov.uk/government/publications/staffing-and-employment-advice-for-schools

DfE, Flexible working in schools
www.gov.uk/government/publications/flexible-working-in-schools

Equality and Human Rights Commission, Employment Statutory Code of Practice
www.equalityhumanrights.com/sites/default/files/employercode.pdf

The Maternity Teacher Paternity Teacher Project
www.mtpt.org.uk/

Flexible Teacher Talent
https://flexibleteachertalent.co.uk/

Department of Work and Pensions, Disability Confident: how to sign up to the employer scheme
www.gov.uk/guidance/disability-confident-how-to-sign-up-to-the-employer-scheme

IRMS, *Information Management Toolkit for Schools*
https://irms.org.uk/page/SchoolsToolkit

Acas, *Prevent discrimination: Support equality*
https://archive.acas.org.uk/media/4402/Prevent-discrimination-support-equality/pdf/Prevent_discrimination_June_2018.pdf

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