

## Recruitment and Selection - Managers Guidance

### Equality and Diversity in Recruitment

Information on Derbyshire County Council's commitment to Equality can be found on the Equality and Diversity pages of our website.

As a County Council we are bound by the Public Sector Equality Duty to

- **Eliminate unlawful discrimination**, harassment, victimisation and any other conduct that is prohibited by or under this Act
- **Advance equality of opportunity** between persons who share a relevant protected characteristic and persons who do not share it
- **Foster good relations** between persons who share a relevant protected characteristic and persons who do not share it

Carrying out recruitment fairly and effectively is an important strand of our equality policy. It is unlawful to discriminate against someone on account of the following protected characteristics:-

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

Recruitment and Selection is an area where you have to make decisions about the relative merits of different applicants and prioritise one candidate over another. This is of course legal and necessary. What is not acceptable is to make decisions about a candidate's appointment on the basis of the protected characteristics above or because of a perceived association to one of them. For example, you may have two candidates for a vacant post, one aged 35 and one aged 68. You may decide that the second candidate is less suitable than the first one but this must not be because of the candidate's age – it should be because of e.g. less relevant experience, knowledge, capability i.e. meeting the requirements of the job and person profile. Having candidates from abroad need not be a barrier to a successful appointment as there are processes in place to facilitate recruitment in these circumstances.

## Disability Confident

A person is disabled if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day to day activities.



We have reached Level 2 of the Disability Confident scheme which is a Government initiative which encourages employers to actively seek out and employ skilled disabled people and train, develop and retain them in employment. Disability Confident employers are committed to various actions to bring this about including offering an interview to all disabled people who meet the essential criteria for the job. Applicants who have indicated they are disabled will have a 'yes' in the Disability column when a manager views the applicants for their job on Recruit. All disabled applicants who meet the essential criteria for the job must be shortlisted for interview.

### Reasonable adjustments

If an applicant needs reasonable adjustments, for example a deaf signer to enable them to attend the interview, or undertake an assessment test, you must make the necessary arrangements in good time. Contact your departmental HR team if you need help with this. Reasonable adjustments must be made as part of our equality duty on the grounds of disability, gender reassignment or pregnancy/maternity. You must make reasonable adjustments to make sure that people with these characteristics have the same access to everything involved in getting and doing a job as other people, as far as is reasonable.

When an applicant is invited to interview they should be provided with full information about the interview and assessment process to be used and asked if they require any adjustments to be made. When you assess an applicant's suitability for the job you must take account of how reasonable adjustments could enable them to do the job. Contact your HR team or Occupational Health if you are unsure how to do any of this.

Some adjustments that may be required to keep an individual either in work or enable them to start work may be:

- Making adjustments to work premises
- Adjusting working times

- Adjusting the amount of work which can be done
- Acquiring or modifying equipment used in job role
- Modifying instructions or job related manuals/forms
- Providing a mentor/named colleague/supervisor
- Reducing hours or offering greater flexibility
- Reassigning minor parts of the job which cause difficulty to another team member

What's a reasonable adjustment for one organisation or department may not be reasonable for another, it depends upon the feasibility.

If the help a disabled person needs at work isn't covered by their employer making reasonable adjustments, they may be able to get help from Access to Work which is a government scheme that can contribute to costs.

### **Access to Work**

Access to Work is a publicly funded employment support programme that aims to assist disabled people to stay in work. It is also aimed at people starting work with the overall outcome that someone remains in paid employment. Access to work is only available to people seeking or in paid employment. Access to Work can help organisations to employ people with disabilities who have the skills that they require but who need additional support to retain their employment which go beyond reasonable adjustments. It can be applied for at any time during an individual's employment, which can be useful if someone acquires a disability due to age, illness or accident.

Access to Work may be provided for aids and equipment in the workplace to enable the employee to carry out their job. It could also be used to adapt specific equipment that is needed in the job role.

Access to Work can also be used to enable employees to travel in to and from work in a taxi if other solutions are not suitable. The scheme can also fund support workers to work with individuals on a one to one basis. This is dependent on the individual abilities and the requirements of the job. It is important to know that Access to Work do not supply support staff they only award a grant to pay for the staff. Support staff could be employed directly by the individual or employed by the employer and then their salary claimed back from Access to Work.

### **Who can get Access to Work?**

Anyone with a disability or long term health condition that has a negative effect on their ability to obtain or do their job can apply for Access to Work funding. They need to be over 16 year of age.

### **What will it cost the employer?**

Access to Work will fund 100% of the costs in some circumstances whereas in other situations the employer and employee may be asked to make a contribution.

### **Who Claims Access to Work?**

It is the employee who has to apply to Access to Work. The online address is [www.gov.uk/access-to-work](http://www.gov.uk/access-to-work), the telephone number is 0345 268 8489, and the textphone number is 0345 608 8753.

Further guidance for managers on how to support employees who are covered by the Equality Act is available on our website in the section on the Equality Act 2010 and employment

### **Asking questions about health or disability**

Under the Equality Act 2010 you are not allowed to ask any job applicant health or disability related questions, including those about a person's attendance record, before they have been selected as the most suitable candidate for the job and a conditional offer made. This also extends to asking questions as part of the application process e.g. during the interview, before a job offer has been made. The following points apply:

- **Before the interview**

The council is allowed to collect information for monitoring purposes through the monitoring section of the council's standard application form. This information is separated from the rest of the form before it reaches the recruiting manager. The council is also allowed to ask for information in order to ensure disabled job applicants benefit from the Disability Confident guaranteed interview scheme. Asking applicants when they are invited to interview to tell us whether they require any reasonable adjustments during the recruitment or assessment process is also allowed and should be done to allow candidates to participate fully in the process.

- **During the interview**

You are allowed to ask interview candidates about their ability to undertake fundamental or 'intrinsic' requirements of the job. An example might be where the job involves a significant amount of manual handling. Before you start recruiting to the post it is recommended that you decide whether an essential requirement of the job mean that it will be necessary to ask these sorts of questions as part of the selection process, to establish an applicant's suitability for the job whilst minimising the risk of contravening the legislation.

To find out about a person's suitability for the job you should ask questions about skills and experience, not health or disability. For example, ask candidates to tell you about their recent experience of doing a specific part of the job such as manual handling **not** whether they have any problems with their back which makes it difficult for them to do heavy lifting. You must take any reasonable adjustments that could be put in place into account when deciding whether an applicant is suitable for the job.

- **After a conditional job offer is made**

Once you have conditionally offered the job to the most suitable candidate, references will be requested, unless these have already been requested i.e. for Safer Recruitment roles) and the candidate will be asked to complete the Council's pre-employment health questionnaire.

You should fully consider all the information provided in any references before making the decision to confirm the appointment.

It is at this stage of the recruitment process that you can make sure that someone's health or disability would not prevent them from doing the job, taking into account any reasonable adjustments that could be made. It is still lawful not to offer the chosen candidate the job, if, when you get the references you are not satisfied with the responses regarding their attendance history or other information. You may wish to keep details of your second and third choice candidates to hand for this eventuality. If you require any guidance when making this decision, please contact your HR team for advice.

## **Positive Action**

Positive action is when an employer takes steps to help certain disadvantaged groups e.g targeted adverts. From April 2011 onwards, the Equality Act 2010 has allowed positive action to be used on a voluntary basis in recruitment and promotion as a tie breaker between candidates of equal merit. The Act allows you to choose a candidate with a protected characteristic which is under represented in the workplace. However this is only legal if the candidate chosen is of equal merit to other candidates. A candidate cannot be appointed just because they have a particular protected characteristic such as being from an ethnic minority group. Positive action is only legal when it is a proportionate means of achieving the aim of addressing disadvantage or under-representation in the workforce.

It is a very unusual for candidates to be of entirely equal merit, but if you find yourself in this position as a recruiting manager and wish to use positive action where it is appropriate, you must contact your departmental HR team for detailed advice before making an appointment. You should follow the guidance below.

If a certain protected group is under-represented in your occupational group, you might consider it if you have some reliable information or evidence to back up the decision – e.g. low numbers of the group in the particular role for which you are recruiting. Under-representation of a characteristic can vary according to the role in question – for instance there are relatively few care workers who are men and relatively few engineers who are women, so what qualifies as a protected group varies from one part of the Council to another.

When you have considered all the candidates who have applied for the role, positive action can only be used where two (or more) candidates are of equal merit and as qualified as each other. You must keep careful notes of your appointment process and how you have assessed the skills, abilities and qualifications of each candidate. One of the candidates must have a protected characteristic which is under-represented in the workforce. You can take positive action i.e. choose the one with the protected characteristic only if there is genuinely no other means of distinguishing between the candidates. In practice this situation is likely to arise extremely rarely.