

Avoiding Inappropriate Interview Questions

Job interviewers need to be very careful to avoid asking certain questions before, during or after an interview because they might contravene anti-discrimination laws and, therefore, be illegal. And, whilst candidates would probably recognise a blatant discriminatory question, there are often 'grey' areas and questions that seem harmless, but are, in fact, discriminatory.

Some interview questions are obviously discriminatory and avoided by almost all employers. However, when trying to build a friendly rapport during an interview, it can be easy to innocently stray into 'grey' areas which may seem harmless but are in fact discriminatory, and therefore potentially illegal. Employers may think they are just making conversation but could be leaving themselves open to litigation. How you can find out all the information you need in an interview without straying into potentially litigious territory?

This information is for guidance purposes only and not legal advice. Not all the questions below are necessarily illegal, but it is best practice to avoid straying into any of these areas.

1. Before you start the interview

Although anti-discrimination legislation can feel like a minefield, it doesn't have to complicate the interview process. By simply asking questions in a different way, you can find out the information you really want to know (i.e. the candidate's suitability for the role) without asking the interviewee to divulge information about their personal life (that you don't need to make a decision).

The exception to these guidelines is when there is an occupational requirement for a role, when an employer can objectively justify why a specific type of candidate is required.

2. Place of Birth, Ethnicity or Religion

Employers should steer clear completely of any questions regarding a candidate's birthplace, background or religious affiliation. If an applicant has an unusual name, don't ask about its origin, as the answer could possibly be grounds for discrimination.

While it is legal to ask about ethnic background on application forms, this is for monitoring purposes only and usually anonymous, and should never be brought up in an interview.

You may want to ask about religious practices to find out about any scheduling conflicts around weekends or religious holidays, but you should never ask a candidate about their beliefs. Instead, simply confirm they are able to work when they will be required to.

Don't ask: What country are you from? Where were you born?

Do ask: Are you eligible to work in the UK?

Don't ask: What is your native language?

Do ask: This job requires someone who speaks more than one language. What languages are you fluent in?

Don't ask: What religion do you practice? Which religious holidays do you observe?

Do ask: Can you work in the days/schedule required for this role?

3. Marital Status, Children or Sexual Preference

Asking questions about someone's children is usually just making conversation, but not appropriate in an interview setting. You cannot ask a candidate if they are planning a family, if they are pregnant or about their childcare arrangements.

This also applies to questions about marital status, which could be grounds for discrimination, as some employers may believe that married employees are more stable, or single people may have more time to devote to the job.

Any mention of an applicant's sexual preference should also obviously be avoided.

Don't ask: Do you have or plan to have children?

Do ask: Are you available to work overtime on occasion? Can you travel?

Don't ask: How many children do you have? Do you have childcare arrangements in place if we need you to work out of hours?

Do ask: This job may require some overtime work on short notice. Is this a problem for you? What days/hours are you available to work?

Don't ask: Is this your maiden name?

Do ask: Are any of your references or qualifications under another name?

Don't ask: If you went on maternity leave, would you come back to work afterwards?

Do ask: What are your long-term career goals?

4. Gender or Age

Steer clear of any questions that reference a candidate's age or gender. You should certainly ask about their ability to handle the challenges of the role, but never imply that their gender or age may affect this.

The only question regarding age which is acceptable is to establish whether they are of the minimum age required for the role. A prime example of what not to say to an applicant would be to ask of someone in their sixties, "and how many more years do you see yourself in the workforce?"

Don't ask: We've always had a woman/man in this role. How do you think you will handle it?

Do ask: What can you bring to this role?

Don't ask: How do you feel about managing men/women?

Do ask: Tell me about your previous experience of managing staff.

Don't ask: How old are you?

Do ask: Are you over the age of 18?

Don't ask: How much longer do you plan to work before you retire?

Do ask: What are your long-term career goals?

Don't ask: When did you graduate?

Do ask: Do you have a degree or other qualification related to this role?

5. Location

It is very common in interviews to ask about commuting distances and times, to make sure the candidate will be able to get to work on time. However, this can be difficult to judge, as how far people are willing to commute varies wildly. Some employees are willing to travel for over an hour, while others think 20 minutes is too long.

In addition, asking someone about where they live could create discrimination issues if it is in a neighbourhood heavily populated by a specific ethnic group or social class.

Don't ask: How far would your commute be?

Do ask: Are you able to start work at 9am?

6. Disability or Illness

Interviewers should be careful around any questions related to illness. Asking a candidate to explain any gaps in their CV due to long-term sick leave is acceptable, but asking directly if they have any health conditions is not.

Questioning a person over a disability and whether or not it would affect their ability to do the job is grounds for disability discrimination.

Don't ask: How many sick days did you take last year?

Do ask: How many unscheduled days of work did you miss last year?

7. Lifestyle Choices

An employer cannot ask an interviewee whether they smoke or how much alcohol they consume. While an employer can set rules for professional conduct and substance use at work, what an employee does in their own time should have no bearing on whether they are suitable for the job.

While you can ask about criminal records on an application form, it's generally not a good idea to bring it up at interview. Likewise, while some roles require a CRB check, you cannot discuss the findings in a job interview.

Questions about political affiliations or group memberships should not be asked during interviews, unless they are relevant to the role in question. Although you might want to find out if they are involved in any activities that may have an impact on their time commitments, it is better to simply ask if they are able to commit to the role.

Don't ask: Do you belong to any clubs or organisations?

Do ask: Are you a member of any professional group that's relevant to this role?

Don't ask: Are you a member of the Territorial Army/Special Constabulary/Other Volunteer Force?

Do ask: Do you have any upcoming commitments that would require extensive time away from work?

8. Height or weight

Questions about a candidate's weight or height are also best avoided unless there are certain minimum or maximum requirements required for the role

For additional questions and invaluable insight on how to maximize your recruiter relationship, to build stronger organisations and develop a winning hiring strategy contact:

Helen Henderson 44 (0)1189 291 815 Or insights@elliottjamesconsulting.com