

Advertising

Frequently asked questions
about what is lawful
advertising for: jobs; goods,
facilities and services; and
accommodation

Placing or publishing a discriminatory advert is unlawful under the Equality Act 2010 ('the Act'). The Act protects individuals from discrimination because of sex, race, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, religion or belief, sexual orientation and age ('protected characteristics').

This guidance provides answers to questions that advertisers frequently ask about advertising employment opportunities; the provision of goods, facilities and services; and accommodation.

These FAQs are split into three sections:

1. Advertising employment opportunities

2. Advertising goods, facilities and services

3. Advertising accommodation

1. Advertising employment opportunities

In general, job opportunities should be available to everyone, regardless of their protected characteristics. However, an employer can require a job applicant or employee to have a particular protected characteristic where it is necessary for the particular role (it is an 'occupational requirement'), or one of the specific exceptions in the Act applies. Where an occupational requirement applies, the employer must ensure that imposing the requirement is objectively justifiable. In order to be objectively justified there must be a genuine need for the requirement and the requirement must be a proportionate way of meeting that need. Being proportionate means that there are no alternative, less discriminatory means of achieving that need.

Adverts should clearly explain the basis and reasons for a requirement to have a particular protected characteristic.

Age

Q. Can an employer request an employment agency to advertise for a young graduate?

A. No. Giving instructions to discriminate, and complying with them, is unlawful. An advert that indicates that only young people are eligible for selection, unless the requirement is objectively justifiable, is an example of age discrimination. Both the employer and the employment agency would be liable for any discrimination. It is good practice for an advert to describe any necessary requirements, skills, competencies or experience required for a job and this will help to maximise the number of high quality applicants.

Q. Can a haulage company advertise only for articulated lorry drivers under 55 years old, because statistics show an increased risk of heart attack over this age?

A. Probably not. It is unlawful age discrimination to advertise that only people of a particular age are eligible for selection, unless it is objectively justifiable. In this case a less discriminatory way to protect public safety might include annual medical checks for all drivers as a condition of employment regardless of age.

Disability

Q. Can an employer advertise for an active person?

- A. An advert indicating that only people who are physically active are eligible for selection will unlawfully discriminate because of disability, unless the requirement is a proportionate way of meeting a genuine need for the jobholder to be able to undertake particular physical tasks. In that case, it is good practice for the advert to explain this and to set out the particular tasks, skills and abilities required for the job.
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Q. Can an employer advertise for applicants that hold a valid driving licence?

- A. An employer can restrict applications to people with a valid driving licence only if driving is a genuine requirement of the role, for example, if it is a travelling sales job. A requirement to hold a valid driving licence could unlawfully discriminate against disabled people. If the job simply requires someone to travel from time to time, then use of public transport or taxis may be an alternative less discriminatory way of meeting this requirement.

Sex

Q. Can a building contractor advertise for male manual labourers?

- A. No. An advert that indicates that only people of one sex are eligible for selection is discriminatory and unlawful, unless an occupational requirement applies. If the role requires lifting of heavy objects, then the advert should specify this skill or ability, so that applicants can self-select.
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Q. Can a man or woman with caring requirements advertise for a person of a specific sex to care for them?

- A. This would be lawful if it can be shown that having a carer of a specific sex is a proportionate way of meeting a genuine requirement for that job. This may be satisfied in these circumstances if the care is personal and intimate, affecting privacy and decency, and there is a reasonable objection to being attended by someone of the opposite sex.

Q. Can a women's refuge advertise for a female worker?

- A. Yes, this is likely to be lawful. If the employer can show there is an occupational requirement for the jobholder to be female, for example its female clients require particular care and attention or a safe environment that only a female worker can provide, then this would be lawful.
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Q. Can a beauty salon advertise for a female therapist?

- A. Yes, this is likely to be lawful. Employers can lawfully restrict a job opportunity to women if they can show there is a genuine business need to have female staff (or sufficient female staff) and requiring applicants to be female is a proportionate way of meeting that need. In this case, some services may involve intimate physical contact and a female client may reasonably object to receiving this personal service from a man.

Race or nationality

Q. Can an employer advertise for employees of a particular nationality, for example for Polish or Eastern European workers?

- A. No. This is unlawful discrimination unless there is an occupational requirement to be of a particular nationality. If a job genuinely requires the ability to speak another language, then this should be set out as a required skill. For example, a therapy service for Polish-speaking people may advertise for a counsellor fluent in Polish. Individuals may be fluent in Polish as a first or second language, so a requirement to be of a particular nationality would not be justified. It is good practice to advertise in English as well as Polish so that all potential applicants understand the requirement and the reason for it.

Religion or belief

Q. Can an orthodox synagogue advertise for its rabbi to be a man?

A. Yes. An organised religion can restrict a particular role to men if the requirement to be male is applied to comply with the doctrines of the religion or to avoid conflicting with the religious convictions of a significant number of the religion's followers. However, specifying that an accountant for the synagogue should be male is unlikely to be lawful because having a female accountant is unlikely to be needed to comply with the doctrines of the religion or to avoid conflicting with the religious convictions of a significant number of the religion's followers.

Q. Can an organisation with a religious ethos restrict its jobs to those with a particular religion?

A. Yes, in some circumstances. It is lawful to restrict employment opportunities to people with a specific religion where, in light of the religious ethos of the organisation and the nature or context of the work, there is an occupational requirement which can be justified. A Christian charity can require its chief executive to be Christian, where a deep understanding of Christian doctrine is needed to perform the role. However, an organisation with a religious ethos cannot place a religious requirement on roles where being of that faith is not needed to perform the role. For example, it would be unlawful to restrict an administrative or caretaker role to applicants of a particular religion.

Q. Can a Catholic school advertise for a Catholic secretary?

A. No. Requiring a secretary for a Catholic school to be Catholic is unlikely to be lawful because it is unlikely that being Catholic is needed to perform that role.

Q. Can a faith-based care home advertise for carers of a particular faith?

A. Yes, in some circumstances. A faith-based care home can advertise that certain jobs are restricted to people of a particular faith if it can show that this is a proportionate means of meeting an occupational requirement of that job. For example, a care home may require carers to carry out their duties in a way that meets patients' spiritual needs as well as physical needs, such as praying with them. However, it would be unlawful to apply this requirement to maintenance, reception, garden or administrative staff, as providing spiritual support to the patients is unlikely to be required for those jobs.

Sexual orientation

Q. Can an organisation providing personal care services for individuals advertise for workers of a specific sexual orientation?

A. No, this would be unlawful unless it can be shown that having a carer of a specific sexual orientation is a proportionate way of meeting a genuine requirement of that job. An objection to being attended by someone based on their sexual orientation will not be considered reasonable.

Q. Can a hotel advertise that double rooms are available only for opposite-sex couples because of the religious beliefs of the owner?

A. No. A hotel cannot refuse to provide double rooms or any other service for same-sex couples – this would be unlawful discrimination because of sexual orientation. Although there are some very limited exceptions enabling religious organisations to restrict the services they provide on the basis of sexual orientation, they would not apply to an organisation or business, such as a hotel, whose sole or main purpose is commercial.

2. Advertising goods, facilities and services

Disability

Q. Can a restaurant advertise ‘no dogs allowed’?

A. A restaurant can lawfully refuse entry to people with dogs. However, it is unlawful to refuse access to a disabled person accompanied by an assistance dog to any public place except in the most exceptional circumstances. It is good practice for services to advertise ‘only assistance dogs allowed’ so entry requirements are clear. For further information see the Commission’s guidance [‘Assistance dogs - A guide for businesses’](#).

Sex

Q. Can a beauty therapist restrict her services to female clients?

A. Yes. There are exceptions within the Act allowing the provision of single-sex services. Typical situations in which a beauty business could lawfully provide a single-sex service include:

- therapists operate on their own and in clients’ homes (for safety reasons)
- the service involves physical contact, such as massage, and the therapist might reasonably object to providing it for a man (for example, for privacy and decency reasons)
- the service is likely to be used by more than one person at the same time and a woman is likely to object to the presence of a man, or vice versa, and
- restricting the service to women is objectively justified.

Q. Can nightclubs or bars advertise half-price drinks for women only?

- A. No. This is unlawful if male customers receive a lesser service overall. Reducing drink, food or entrance costs for female customers is prohibited unless male customers are given the equivalent concession on another equally popular night.
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Q. Can gyms and swimming pools advertise women-only sessions?

- A. It is lawful for leisure services to advertise some single-sex services if they can show that providing women-only sessions would be a proportionate way of making the service more effective overall, for example because some women would not participate in mixed-sex swimming sessions for cultural or modesty reasons.
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Q. Can a female business owner advertise the hiring of equipment only to other women?

- A. No, there is no justification for restricting the provision of equipment or other goods to women only. Men should be equally able to hire the equipment.
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Q. Can a local health authority advertise a 'new fathers' support group'?

- A. It is lawful to advertise a single-sex support group, if the local authority can show that many new fathers did not attend mixed-sex parents' support group and that providing men-only groups would be a proportionate way of making the service more effective overall.
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Q. Can a taxi firm advertise that it provides an all-female service?

- A. It is not lawful for a licensed taxi service to only provide an all-female service. However, a taxi service may advertise a women-only service with female drivers if they also provide a service for men and women. The additional all-female service would need to be a proportionate way of making the service more effective overall, for example because some women will not use taxis that are driven by men because of personal safety fears.

Religion or belief

Q. Can an interfaith group advertise a prayer day excluding humanists and atheists?

A. Yes, in some circumstances this would be lawful. For example, a group of religious organisations that wish to bring together various faith groups to discuss the role of prayer can lawfully exclude humanists and atheists from this gathering.

The following conditions must be met:

- The purpose of the religious organisations must be to practise, advance, or teach the principles of a religion or belief; to enable people of a religion or belief to receive a benefit, or engage in activities within the framework of that religion or belief; or to promote good relations between persons of different religions or beliefs.
- The organisations must not be mainly commercial.

If the interfaith group meets these criteria, they can exclude humanists and atheists from their activities in order to comply with their purpose.

3. Advertising accommodation

Sex

Q. Can a woman advertise accommodation for a female tenant?

A. It is generally unlawful for a commercial landlord or letting agent to advertise that prospective tenants should have or not have a particular protected characteristic. However, it is lawful to restrict the sex of a new tenant if the property qualifies as 'small premises' under the Act, and the person who wishes to let or sublet the property or their relative lives in the property and will share facilities, such as a living room, bathroom or kitchen, with the new tenant.

Q. Can a man with care requirements advertise accommodation for a male live-in carer?

A. Yes. In addition to the 'small premises' exception, an advert for a male or female to be a live-in carer would be permissible if a tenant of a particular sex is required due to the intimate nature of the care to be provided.

Race or nationality

Q. Can a landlord or letting agent advertise accommodation restricted to a tenant of a particular nationality?

A. No, it is always unlawful to restrict accommodation because of race or ethnicity.

Religion or belief

Q. Can a Catholic person advertise for another Catholic to flatshare?

A. Yes, this would be permissible if the flat qualifies as a 'small premises' under the Act and there will be shared facilities, such as the kitchen and bathroom.

Further information

Q. What happens if I place or publish a discriminatory advert?

- A. If an individual believes they have suffered a disadvantage as a consequence of the discriminatory advert, they can use the advert as evidence of discrimination in a claim against you. The Equality and Human Rights Commission also has the power under the Equality Act 2006 to challenge discriminatory adverts.

The Equality and Human Rights Commission has published a series of complementary guidance documents:

- Advertising – What equality law means for advertisers and publishers

- Advertising – A good practice checklist for advertisers and publishers

- Advertising – Making an enquiry about a discriminatory advert

You can also find more detailed information in the **Employment Statutory Code of Practice** and the **Services, Public Functions and Associations Statutory Code of Practice** available on the Commission's website at www.equalityhumanrights.com.

Contacts

This publication and related equality and human rights resources are available from the Commission's website:

www.equalityhumanrights.com

For advice, information or guidance on equality, discrimination or human rights issues, please contact the Equality Advisory and Support Service, a free and independent service.

Website **www.equalityadvisoryservice.com**

Telephone **0808 800 0082**

Textphone **0808 800 0084**

Hours **09:00 to 20:00 (Monday to Friday)**

10:00 to 14:00 (Saturday)

Post **FREEPOST Equality Advisory Support Service FPN4431**

Questions and comments regarding this publication may be addressed to: **correspondence@equalityhumanrights.com**.

The Commission welcomes your feedback.

Alternative formats

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