

Fair Recruitment Policy

Tes Global Limited (we, us) is committed to acting in an ethical, fair and non-discriminatory manner when engaging with all users of our services.

Policy Statement

The purpose of this policy is to ensure that the use of our services is enacted in a way which is consistent with the principles of anti-discrimination and equal opportunities legislation. The main pieces of legislation being the Equality Act 2010, Equality Act 2006, the Employment Rights Act 1996 and the Human Rights Act 1998.

The most modern piece of anti-discrimination legislation, the Equality Act 2010 (EqA 2010), codifies the existing laws on unfair treatment and outlaws discrimination in relation to nine "protected characteristics".

1. Age;
2. Disability;
3. Gender reassignment;
4. Marriage and civil partnership;
5. Pregnancy and maternity;
6. Race (including ethnicity and national origin);
7. Religion or belief;
8. Sex; and
9. Sexual orientation.

The EqA 2010 makes it unlawful for any employer or potential employer to discriminate against any work seeker (or employee) on the basis of the above protected characteristics.

The EqA 2010 applies to all businesses, service providers and individuals who either operate or provide services within England and Wales. The provisions of the EqA 2010 will be applicable where a business, service provider or individual is actually physically located within England and Wales or simply where the use of a service has a 'degree of connectivity' to England and Wales.

The services of Tes Global Limited are utilised by establishments and individuals all across the world. Tes Global Limited appreciates that the law on discrimination can vary widely by jurisdiction and what may be unlawful in one country is not necessarily unlawful in another.

However, the EqA 2010 applies to recruitment services which have a degree of connectivity to England. This will be the case for Tes Global Limited and we must ensure that the provisions of the EqA 2010 are adhered to by all users. Not simply because this is what the law requires us to do – but it is also the correct course of conduct to ensure that we are morally and ethically fair in our recruitment services and true to our corporate values.

All users must be able to have confidence that the services of Tes Global Limited are provided in a lawful and transparent manner and that we can demonstrate that the principles of fairness and equality of opportunity are at the heart of how Tes Global Limited operates.

Anti-Discrimination legislation can be difficult to understand and digest. We have taken this opportunity to set out the types of discrimination that are unlawful and what steps we will take in order to ensure compliance.

Circumstances in which discrimination may occur

Discrimination in a recruitment context could potentially occur in a number of ways:

- a. In the arrangements that an employer (or potential employer) puts in place when deciding on whom to offer employment. This could be the person specifications / job description used, the criteria adopted by the potential employer for the type of applicant they will allow to apply or even the format / content of the interview process. Where the 'arrangements' are geared towards excluding a certain protected characteristic or subjecting individuals in a group to a detriment then this may fall foul of anti-discrimination legislation - for instance, setting a maximum age limit on those who may apply for a role.
- b. In the terms on which the potential employer makes an offer of employment. This could be by offering different terms to different applicants based solely (or predominantly) on a protected characteristic – for instance, by paying men more than women.
- c. By not offering a certain person, or category of person, employment or engagement at all.

Scope of the EqA 2010

The EqA 2010 applies to:

- Employees and applicants. Job applicants and employees are protected against discrimination by their potential employer, employer or former employer;
- Contract workers: Contract workers, including agency workers, are protected against discrimination by the end-user of their services;
- Partners / LLP members: Partners and those seeking partnership in a firm or LLP are protected against discrimination by the firm;
- Office holders: Office holders and applicants for an office are protected against discrimination by a person with power to recommend, make or terminate their office or to determine their conditions;
- Professional or trade qualifications: Those seeking or holding professional or trade qualifications are protected against discrimination by the relevant qualifications body;
- Vocational training and employment agencies: Those seeking or undertaking vocational training (including work experience placements) are protected against discrimination by the training provider. Further, people using employment agencies or related careers guidance services are protected against discrimination by the agency or service;
- Trade organisations: Members and those seeking membership are protected against discrimination by the organisation;
- Local authority members: Members of local authorities are protected against discrimination at the hands of the local authorities in relation to providing access to facilities such as training which relate to the carrying out of their official business.

The scope of the EqA 2010 is designed to cover all types of work and styles of engagement. Simply because a job posted is a temporary position, is predominately for vocational training or is for an agency worker does not mean that the EqA 2010 will not apply.

Types of Discrimination

The specific types of discrimination in employment / engagement that must be avoided are:

- Direct Discrimination – this is defined as treating an individual less favourably than you would treat others because of a protected characteristic. An example of this would be refusing to employ an individual because they are disabled.

- Indirect Discrimination - acts, decisions or policies which are not intended to treat anyone less favourably, but which, in practice, have the effect of disadvantaging a group of people with a particular protected characteristic. Where such an action disadvantages an individual with that characteristic, it will amount to indirect discrimination unless it can be objectively justified. An example of this would be a 'nationality' requirement to work in a restaurant. For instance, a Spanish restaurant may wish to only hire native Spanish employees in order to keep the ambiance of their restaurant. This would disadvantage any applicant who was not natively Spanish. However, this could be objectively justified as a genuine occupational requirement.
- Harassment – this is defined as unwanted conduct related to a protected characteristic which has the purpose or effect of either violating the individuals dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for the individual. An example of this would be sexualised comments made to an applicant during an interview.
- Victimisation – specifically in a discrimination context, victimisation, would be the unfavourable treatment of an individual where they have done a 'protected act'. A protected act in this context would be an individual complaining that they have been discriminated against or assisting someone else in complaining that they have been discriminated against. An example would be where an employee is offered a role, but complains of harassment at the interview. If this employee was dismissed because they had raised this complaint then the dismissal would be victimisation.
- Instructing, causing, inducing or knowingly helping unlawful acts – the EqA 2010 makes it unlawful to instruct, cause, induce or help someone to discriminate against, harass or victimise another person, or to attempt to do so. An example of this would be where an employer instructs a recruitment agent not to allow applications from people of a certain race. The liability for this act would rest with the employer as they had instructed, caused or induced an unlawful act. In this scenario, where the agent then knowingly helps that unlawful act take place the agent would also be at fault.

As part of the acceptance of the use of our services all users must ensure that they do not instruct, cause or seek to induce Tes Global Limited to engage in unlawful acts.

We will not knowingly assist any employer or potential employer in engaging in such practices.

All use of our services must be in line with the Fair Recruitment Policy.

Occupational Requirements

As has been set out above, discrimination in employment is generally prohibited. However, in certain circumstances, an employer may have a defence to an act of indirect discrimination (or in specific instances, direct discrimination) that is otherwise unlawful if they are able to show that their requirements were genuine and related to a necessary part of the job role. Furthermore, any potentially discriminatory requirements must be a proportionate means of achieving a legitimate aim.

Specific examples of this are below:

- 'Visa Requirements' – the requirements for a valid visa in each jurisdiction will differ. There is a potential here that the visa requirement for a certain jurisdiction will limit applications from individuals over a certain age. This would be potentially discriminatory, but would be an occupational requirement for a role in a foreign jurisdiction that cannot be worked around. This would therefore be a proportionate means of achieving a legitimate aim. However – the visa requirements entered for any role must be genuine. This requirement cannot be used to unlawfully restrict the access of older or younger workers from applying for a role unless it is a legal requirement of the country in which the job is posted.

- ‘Years of teaching experience’ – the requirement for a set number of years of teaching experience must either be a visa requirement or it must be based on a genuine requirement of the role for a specific purpose. This would be a valid condition where the teacher was required to coach less experienced colleagues or the educational requirements in the jurisdiction meant that a set number of years’ experience was mandatory.
- ‘Educational requirements’ – the requirement to be educated to a specific level has the ability to be potentially discriminatory in terms of age. For instance, it is generally older teachers who would have more advanced levels of education i.e. educated to a post-graduate or masters level. As above, this is acceptable as long as the nature of the role requires a minimum level of education for a specific purpose.
- Health / Medical checks – the check on an individual’s medical history must be undertaken carefully. A job seeker may satisfy the legal definition of ‘disability’ under the EqA 2010 where they have a mental or physical impairment which has a long term, substantial, adverse effect on their ability to undertake normal day to day activities. This is different from the medical definition so care should be taken. Under the EqA 2010 a potential employer is required to make reasonable adjustments for those with disability to remove or reduce barriers to access to work.
- Languages – fluency in a certain language has the potential to exclude individuals from a different ethnic or national origin. This is normally going to be justifiable where the individual is going to work with students who do not speak a foreign language and / or where the requirement of the role is to explain complex or varied topics or where the teacher will be engaging with young students. A consideration of what languages are required for the role and whether they are genuinely required is necessary.
- Career Gaps / Employment History – where an individual has a career gap then care should be taken to not discriminate where this is on the grounds of pregnancy, child care, other parental leave, or for a disability related reason (either for the individual or where they care for a disabled third party). These enquiries are acceptable where the information disclosed is not then used to discriminate against a job applicant.

Tes Global Limited does not have an issue with genuine occupational requirements being used for job roles. However, these requirements should not be abused or misused in order to discriminate or unfairly treat job seekers.

Enforcement

Where we become aware that there is a potential breach of the requirements of the Fair Recruitment Policy and reasonably believe that discriminatory practices are being used we will take appropriate enforcement action. This will be enacted in the following process:

- Preliminary Stage – where a potential employer is unsure as to the genuine occupational requirements of their role or the visa requirements necessary for requirement they should seek guidance either from a local lawyer or from a local governmental department. When a service user makes use of our services, we will consider that they have sought all help necessary in order to establish whether their practices are lawful. Consideration must be taken for our Fair Requirement Policy and the requirements of the EqA 2010 as a strict requirement for use of our services.
- Stage One – where we are notified or become aware that a discriminatory practice may be being used we will first question the relevant organisation to assess their understanding. Our first aim will be to educate and inform. We will not take other enforcement action until the satisfaction of this initial enquiry stages.

- Stage Two – if we believe that our questions and investigations from Stage One have not been properly answered then we may move to suspend the operation of the accounts of the organisation(s) involved pending proper resolution. Suspension will only be used as a temporary measure and will restrict the operation of the organisation on our platform. The suspension will be lifted on a satisfactory statement from the organisation that their practices will change or that they are using genuine occupational requirements (or other such statement as may be appropriate in the circumstances).
- Stage Three – if the discriminatory practices are found to have occurred and both Stage One and Stage Two have failed to prevent or amend the practice to a sufficient degree then we may be forced to summarily terminate the agreement with the organisation(s) at fault.

Tes Global Limited are committed to providing a fair and ethical platform for use by all service users. We will not knowingly help or condone discriminatory practices and will co-operate fully with the requirements of any regulatory body who may investigate the use of our services – this may include the Equality and Human Rights Commission and Information Commissioner’s Office. We will also cooperate with any judicial or quasi-judicial enquiry as a result of an Employment Tribunal claim or other legal proceedings.

Reporting

Where an individual wishes to report any issue which may be in breach of the Fair Requirement Policy they should send an email in complete confidence to help@tes.com

We will investigate and seek to remedy all reports of contravention of our Fair Recruitment Policy within a reasonable time scale.