



Recommendations

This list of recommendations is intended to be used as a quick reference and a handy reminder covering only the Role of Employers section of the Code of Practice (Section 5). It should be read in conjunction with the main document "Fair Employment in Northern Ireland: Code of Practice".

Responsibilities and Duties

The responsibility for providing equality of opportunity for all job applicants and employees rests primarily with you, the employer. You should have a written policy on equality of opportunity in employment and put it into effective and visible practice. Your policy and practice must be firmly based on the principle of selection according to merit and will be considerably strengthened if they are agreed between you and your trade unions, your employee representatives or your workforce. They should be clearly stated within the organisation, noted on relevant publications (e.g. company reports), and, particularly, in job advertisements. No one should be in any doubt about your policy and practice (page 11, para 5.1.1).

Under section 35 of the 1976 Act you will be treated for the purposes of that Act as though you yourself had done any unlawful acts committed by your employees (whether with or without your approval) in the course of their employment, except where you took such steps as were reasonably practicable to prevent those acts being done (page 11, para 5.1.2).

All private sector employers with more than 25 employees (more than 10 from 1 January 1992), have six key duties placed upon them by the Act. These duties are:

- (a) registering with the Commission;
- (b) monitoring the religious composition of your workforce, and (for certain employers) your applicants, and submitting annual monitoring returns to the Commission;
- (c) reviewing your recruitment, training and promotion practices at least once every three years;
- (d) having regard to this Code of Practice in carrying out your review;
- (e) determining on affirmative action where your review indicates that fair participation is not being enjoyed by a particular community or is not likely to continue to be enjoyed; and
- (f) considering the setting of goals and timetables where you determine on affirmative action.

Public authority employers are treated as registered from the outset and are subject to all the other duties set out above (page 11, para 5.1.3).

Detailed advice on these key duties is set out in chapter 6. The rest of this chapter sets out a general description of the approach which you should take to ensure good practice (page 11, para 5.1.4).

Good Practice for all Employers - General Guidance

Equality of opportunity in employment makes good business sense. It broadens the recruitment base and widens the choice of personnel; it also enhances the probity of a company's personnel practices and improves corporate image. Even if you regard your concern as an entirely fair employer it is necessary to check that you are carrying out the steps mentioned in this Code – discrimination and inequality of opportunity can occur in the absence of regular scrutiny and the adoption of sound practices (page 11, para 5.2.1).

To promote equality of opportunity you should:

- draw up a clear policy to promote equality of opportunity in your recruitment, training and promotion practices - you are encouraged to consult the Fair Employment Commission in doing so;
- allocate overall responsibility for policy and practice to a senior manager - in small undertakings this is likely to devolve on the owner or chief executive/plant manager;
- consult with the appropriate recognised trade unions, employee representatives or the workforce on the implementation of your policy and any amendments to practice;
- show that your policy and practice have the backing of management at all levels - the clear backing of the chairman, Board and top management is of particular significance;
- make it clear that breaches of policy and practice will be regarded as misconduct and could lead to disciplinary proceedings;
- provide training and guidance for persons in key decision making areas (e.g. senior executives), and for personnel, reception and supervisory staff (e.g. foremen), to ensure that they understand their position in law, and company policy and practice – the whole environment within the firm should reflect good practice and these staff should be made aware of the positive influence they can exert in promoting equality of opportunity;
- highlight your policy and practice in a statement, works handbook or similar document, and issue it to all employees and job applicants;
- take all available opportunities, especially when recruiting new staff, to ensure that your policy and practice are widely known;
- promote a good and harmonious working environment and atmosphere in which no worker feels under threat or intimidated because of his or her religious belief or political opinion e.g. prohibit the display of flags, emblems, posters, graffiti, or the circulation of materials, or the deliberate articulation of slogans or songs, which are likely to give offence or cause apprehension among particular groups of employees (page 11, para 5.2.2).

It is accepted that small to medium sized employers in particular will wish to interpret the detailed advice in this Code in the light of their own individual circumstances. That is fully appreciated by the Fair Employment Commission. Such employers should consult the Commission to ensure that their practices are in full conformity with the provisions of the Acts (page 12, para 5.2.3).

Good Practice for all Employers - Core Components

Work situations differ so procedures will vary but there are two core components which, taken together with the six key duties outlined in chapter 6, form the basis of good practice (page 12, para 5.3):

- (a) systematic and objective recruitment (see paras 5.3.2 – 5.3.5); and
- (b) sound selection and promotion arrangements (see paras 5.3.6 – 5.3.7).

Systematic and objective recruitment

Your aim should be to ensure that members of both communities are aware of and encouraged to apply for job opportunities in your company or undertaking. Subject to any specific advice from the Commission, you are recommended to:

- set out the basic facts about the job to be filled. This is best done by preparing a job description including job title, duties and responsibilities, conditions of work, pay, prospects, etc;
- set out the requirements to be met by the person selected to fill the job. This is best done by preparing a personnel specification including educational standards/qualifications (essential and preferred); previous experience/training (essential and preferred); physical requirements; special aptitudes etc (page 12, para 5.3.2).

You should ensure that you:

- so far as practicable make all eligible and suitably qualified persons aware of vacancies and encourage them to put themselves forward for consideration - for example, you might hold information seminars in schools representative of both the Protestant and the Roman Catholic communities in the area, liaise with local careers teachers and invite school leavers from both communities to visit your premises;
- make use of Jobmarkets particularly when it would not be cost-effective to advertise, e.g. when recruiting sporadically for "one-off" posts or for a small number of lower paid jobs;
- always request the staff in the Jobmarket to canvass the vacancies through the other Jobmarkets in the catchment area for the job in question - they will be pleased to do so;
- make sure that recruitment is not confined to those agencies, schools or geographical areas which provide only, or mainly, applicants from a particular community and do not limit advertisements to a publication or other announcement which is likely to be read only, or mainly, by a particular community (but note if you are taking affirmative action to promote fair participation you may encourage applications from an under-represented community);
- use application forms. These assist in the objective assessment of candidates. Where used they must be available to anyone interested in any available job or jobs, but the practice of providing application forms in response to casual requests when no job vacancies exist can create problems and should be avoided;
- include in all advertisements a statement to the effect that you are an equal opportunity employer or, preferably, that applications are welcomed regardless of religious belief or political opinion (page 12, para 5.3.3).

It is unlawful to give instructions to, or bring pressure on, employment agencies or Jobmarkets to discriminate against members of a particular religious or political group (page 12, para 5.3.4).

You should avoid:

- procedures by which applicants are mainly, or wholly, identified through existing employees, trade unions or any other restricted group if this means that only members of a particular community, or a disproportionately high number of them, come forward;

- use of standing lists as a source of applicants for vacancies. If such lists have to be used, and where practicable, they should be valid only for a limited period (six months maximum is suggested) and must include all eligible persons;
- use of applications for one job for the purpose of filling a different job (page 12, para 5.3.5).

Employers' selection and promotion procedures should operate so as to ensure the appointment of the best person for the job. The actual procedures and their degree of sophistication will vary from firm to firm but should involve:

- deciding on the qualifications, ability and potential ability needed for a particular job and on their relative importance;
- ensuring that the nature and level of these requirements can be shown to be essential;
- advertising the requirements clearly and, in the case of internal promotions, ensuring that all eligible candidates are notified and have an equal opportunity to compete;
- applying the requirements fairly and consistently when shortlisting, at interview, and throughout the selection process;
- making certain that all candidates are given the same chance to demonstrate their abilities or potential abilities and that differential standards are not applied;
- remembering that e.g. with younger people or those without experience, potential ability which can be developed through training may be just as relevant an attribute as experience;
- ensuring that no extraneous or irrelevant requirements are included in the selection process (page 13, para 5.3.6).

In selecting personnel, either initially or for promotion purposes, you are strongly recommended to:

- record the various factors considered relevant in a particular job before the shortlisting, interviewing and selection of candidates. These factors might include experience, qualifications, personal attributes as demonstrated by performance in jobs having similar requirements, and interview performance;
- decide on the relative importance to be given to each factor at all stages of recruitment (initial consideration, shortlisting, interview and final choice);
- satisfy yourself that these factors and their relative importance are justifiable, appropriate to the job, and clearly objective;
- ensure that those making the selection:
 - are clearly informed of the relevant selection criteria and the need for their fair and consistent application; and
 - have been given guidance and training on sound selection procedure;
- ensure, if at all possible, that all shortlisting, interviewing and selection panels comprise two or more people;
- record the assessments and decisions of shortlisting, interviewing and selection panels in relation to the relevant factors and their importance (a simple marking chart can be helpful);
- retain all application forms and related documents for 12 months in order to be in position to deal with any subsequent complaints about the implementation of your selection procedures (but note also the obligation to retain certain specific information about applicants for monitoring purposes for three years) (page 13, para 5.3.7).