



## Staffing Advice

### Legally Compliant Job Interviews

The South African labour laws are stringent and make it challenging for the people conducting interviews. Interviewers have to negotiate a regulatory maze that determines what questions are appropriate to ask and what questions are not, and its best to know what this maze entails otherwise you could find yourself summoned before the CCMA.

The regulations governing the job interview process are there to protect the candidate against discrimination, but we also understand that employers want to know as much as they can about the candidate before making any long-term decisions. We recommend that interviewers take note of the following questions in order to extract the most information out of a candidate without infringing on their rights:

#### ***What are the job interview legal boundaries?***

An employer must comply with all regulations prohibiting any discrimination on the basis of race, religion, sex, age, national origin or disability.

#### ***What can be discussed at a job interview?***

An interviewer can ask an applicant about anything that is relevant to the position. Any questions which are irrelevant to the position may be barred by law and may be discriminatory if the applicant ends up not being hired.

#### ***What cannot be discussed at a job interview?***

If the subject is of a personal nature to the employee and does not really pertain to the duties of the job, then the interviewer should not ask about it. Subjects that are generally inappropriate include personal finances, sexual orientation and activity, political affiliations and medical history.

#### ***What are the restrictions on an interviewer for asking questions dealing with personal subjects that may be work-related?***

Again, the general rule is that any questions asked must deal with the ability of the applicant to perform the tasks of the job. Anything that is considered beyond that could be considered discriminatory. An employer can describe the demands of the position and then ask if the applicant is able to meet those demands. The interviewer need only know whether or not the applicant can perform the job, not the exact reasons why the applicant cannot perform the job.

It is important to keep notes that provide a summary of the proceedings during an interview and to note why a particular applicant was found to be unsuitable. These notes will be invaluable should a case of unfair discrimination be opened against you at the CCMA.