RECRUITMENT AND SELECTION IS AN EXERCISE IN DISCRIMINATION

REGRUTOVANJE I SELEKCIJA JE VEŽBA U DISKRIMINACIJI ¹

Dragan Čizmić
Westminster Business School,
University of Westminster, London

Jovana Simović
Birkbeck College,
University of London, London

Abstract

Throughout the course of this work it is examined how the ways in which both, the law of the land and the morals held by a company, can improve the process of choosing an employee. It also identified the principles of recruitment and selection which should be applied and discuss their effect upon a potential recruit. It looked into the ways in which these considerations benefit both the employer and the employee.

Keywords: Recruitment, Discrimination, Employer, Employee, Legal Issues.

1. Ethical issues

The recruitment process plays a pivotal role within an organisation, as the recruiter is directly responsible for introducing new employees to the workforce. The quality of the work carried out by a company is directly dependent upon their staffs, which means that it is important to select the correct

people for the job. However there is a difference between judging an applicant based upon their ability and letting prejudiced beliefs influence who is taken on. Prejudice is when somebody is judged based upon assumptions on the part of the recruiter rather than on their merits. Social scientists David Buchanan and Andrzej Huczynski (1991: 124) define perception as the way in which we receive, organise and comprehend data picked up from external sources. The quality of an individual’s perception has a major impact upon how we respond to a situation. In a time constrained job interview it is easy to make mistakes based on prejudice and discrimination.

One of the main errors to avoid when interviewing a candidate is judging them in relation to one’s self. HR experts Gary Rees and Ray French (2010: 174) state that choosing somebody for a job based upon their likeness to you is a flawed method of recruitment. This is known as a ‘self-centred bias’ and can cause a ‘clone effect’, which is when a business is clogged up with like minded individuals, each possessing similar strengths and weaknesses. Interviewers who possess a self-centred bias are liable to stifle creativity within a company and judge potential employees unfairly. They are likely to hold them up against themselves rather than picking them based upon their suitability to fulfil a role.

Stereotyping is another pitfall of the selection process, for example in March 2010 the Daily Mail (2010) reported that Polish workers were being given priority for jobs on the basis that they were less likely to answer employers back, whereas in reality this is a racist belief that has no factual basis. People are individuals and stereotyping can harm somebody’s chance of getting a job. The applicants may also take legal action, as there are laws in place to prevent discrimination in the workplace.

Hall et al (2011: 579) point out in Human Resources Management that companies that discriminate against certain groups within society can often lose out on talent as a result. It stands to reason that the more minorities an organisation rules out, the smaller the pool of potential employees will become. Discriminative employers are therefore compromising the quality of their own workforce by their actions as well as acting unethically towards their interviewees.

Rees and French (2010: 174) identify early information bias as another form of discrimination. This is when people are judged upon their performance at the start of an interview and all subsequent events are ignored, for instance some recruiters may immediately rule out a candidate who trips over whilst entering the room where the interview is scheduled to take place. This is an unfair way of judging somebody’s capability to do a job, as it places all of the emphasis upon their conduct during the first few seconds of the encounter. It
may also result in suitable employees being overlooked due to relatively minor issues.

Interviews are not the only area in which discrimination can take place. Written applications are equally subject to prejudice and those with untidy handwriting may sometimes be automatically discounted irrespective of their ability to fulfil a role. A study conducted by Anderson et al in 2001 (in Hall et al, 2011: 579) found that handwriting tests are of little value when deciding upon an employee. Interviews and work samples were proven to be far more effective methods of selection. It is therefore unwise to judge somebody based upon their handwriting alone to the exclusion of other factors.

Although it is detrimental to discriminate against a candidate based upon the issues that I have mentioned, there are certain areas where it is necessary to pass judgement. Choosing who to hire for a job requires weeding out those who are unsuitable for the role. The University of York’s Human Resources Department (www.york.ac.uk) has identified a number of points that should be taken into consideration when selecting an employee. It states that, ‘the assessment of performance from selection tests must be made on a predetermined set of factors, rather than vague generalisations, using set criteria will enable an objective assessment of the test set’. This means that there needs to be a set method for marking any tests that are undertaken as opposed to the examiner deciding what is right or wrong based on his or her opinion. The department has also pointed out the need for a clear understanding of what the test hopes to show and how large an influence its results will have upon a candidate’s chance of gaining employment.

2. Legal issues

The UK anti-discrimination law has three main parts that deal with prejudice and discrimination. These are the Sex Discrimination Act 1975, the Race Relations Act 1976 and the Disability Discrimination Act 1995. These statutes state that it is illegal to refuse to employ somebody based upon their sex, sexuality or gender, race or nationality or physical/mental disability (Government legislation website, http://www.legislation.gov.uk). Without these principles in place, minorities would be open to unfair treatment with regards to interviews and recruitment. There would consequently be less diversity in the workplace and more unemployment amongst those who are not white, heterosexual, able-bodied males.

In certain circumstances it is arguable that belonging to a specific sex, race or sexual orientation is an occupational requirement for a role (Business
Recruitment and selection is an exercise in discrimination. In *Equality, Diversity and Discrimination*, personnel and development experts Kathy Daniels and Linda McDonald (2005: 114) state that in order for something to class as an occupational requirement it must ‘genuinely be necessary, in order to ensure effective performance of the job in question, for the post-holder to either be a man or a woman (as the case may be), a person from a defined racial group someone who belongs to a specific religion, or someone of a specific sexual orientation.’ It could therefore be argued that an Italian waiter is a requirement of an Italian restaurant, as this provides the establishment with an authentic Italian atmosphere (Business Link website, http://www.businesslink.gov.uk).

Many have criticised homosexual workers within the church and claimed that heterosexuality is an occupational requirement in order to conform to the views expressed in The Bible. However whether a race, gender or sexual preference is required in order to carry out a job is a purely subjective issue and it is therefore debatable as to whether it should have any bearing whatsoever upon somebody’s employment prospects.

There are four categories of discrimination prohibited by the current legislation. These are direct discrimination, indirect discrimination, harassment and victimisation. Direct discrimination is when an employer treats somebody less favourably due to race, sexuality, etc, for example only opening a job to male applicants.

Indirect discrimination is when a rule or working condition disadvantages one group within society more than it does another, e.g. a ban on turbans in a workplace. This would negatively impact upon the amount of Sikhs applying for a job, thus effectively ruling them out before they have even applied. This form of discrimination is only permitted if it is necessary for a business to function, for example in 2010 it was decided that Sikhs who wear turbans could not join firearms teams, as they would be difficult to wear with a helmet (BBC News website, http://news.bbc.co.uk/1/hi/uk/8639432.stm).

Harassment refers to sexist or racist language or actions aimed at intimidating or humiliating a potential employee. This is likely to put them off taking up the role and hamper their chances of performing highly in an interview. If somebody complains about harassment and is treated less favourably in response, this is victimisation. All of these forms of discrimination could result in legal action and can also act as a guide as to how to behave in a morally upstanding manner when recruiting or selecting (Direct Government website, www.direct.gov.uk).

It is also illegal to advertise a job in a manner that might dissuade applicants of a certain ethnicity, gender or sexuality or with a disability from applying. The guidelines listed in the government booklet *Discriminating in*
Advertising: A Recruiter’s Guide (2010: p1) state that ‘if someone reasonably concludes from an advertisement that the advertiser intends to discriminate on the grounds of race, sex or disability, the advertisement is likely to be unlawful, whatever the advertiser’s actual intentions.’ This means that it is an employer’s responsibility to ensure that minority groups have an equal chance of being awarded a role and that they will be held accountable if this is not done, irrespective of whether any groups are being deliberately excluded or not.

The booklet advises that ‘The test of what “might reasonably be understood as indicating an intention” to discriminate is whether an “ordinary, reasonable person with no special knowledge” will think the advertisement is discriminatory. It is therefore up to the creator of the advert to ensure that the average citizen will deem the advertisement to be inclusive of all minority groups.

It is however permitted to target advertising towards an under-represented or disadvantaged group. This can be done by placing advertisements in publications that are popular with a particular minority, stating that applications from a certain group are especially welcome or developing links with community groups that work with those that fall within a disadvantaged demographic. Although some might disagree with this practice and view it as unfairly advantageous to minorities, it can be argued that it is required in order to level the playing field and ensure that the workplace maintains a suitable level of diversity.

3. Conclusion

In conclusion, although recruitment and selection require a level of discrimination, it is important not to rule people out based on criteria that are beyond their control. This can disadvantage both the recruiter and the potential employee and can also result in legal ramifications. People should be judged upon their ability to do a job rather than their race, sexuality or gender. They should also be judged fairly and as objectively as possible. A set of selection and recruitment methods should be established prior to the interview stage to guarantee objectivity. Failure to do this may result in a compromise in the quality of a company’s workforce, which undermines the basic function of the recruitment and selection process.

Literatura

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**Apstrakt**

Tokom čitavog ovog rada ispitani su načini na koje oboje, zakon zemlje i moral po kojem kompanije rade, mogu poboljšati proces izbora zaposlenog. Takođe su identifikovani principi po koje trebaju da se primene pri regrutaciji i selekciji i kao uvid u njihov efekat na potencijalnog kandidata. Poblie su pregledani načini na koji isti mogu biti koristi i za poslodavca i za zaposlenog.

**Ključne reči:** regrutovanje, diskriminacija, poslodavac, zaposleni, legalna pitanja