


INTERVIEW QUESTION DESIGN

What you need to know
and what to avoid




HEART
TALENT

The background is a solid pink color. It is decorated with numerous small, semi-transparent dots in white and pale yellow. These dots are scattered across the entire surface, with a higher density in the top-left and bottom-right corners, creating a sparkling or confetti-like effect.

Hiring the best talent can
transform your organisation. But
recruitment is far from simple.



Good recruitment is a strategic process. An effective interview is critical.

Designing an interview that yields the most useful insights is key to making an informed hiring decision.

As an employer, you need to gather information about a person's previous experience and achievements, understanding their approach to work and what they want from a new role. Interviews are also an opportunity to demonstrate what you offer to employees and why they should choose to work for you.

How you manage your recruitment process can impact your organisation's reputation and employer brand. A positive candidate experience is essential, along with a robust, merit-based process that is free from bias.

“During a recruitment process, we have a responsibility to ensure everyone is treated fairly and given equal opportunity to demonstrate their suitability for the job.

Asking the right questions will uncover powerful insights, but we must also be mindful of not unintentionally asking inappropriate or unlawful questions.”

– Cynthia Harris, Heart Talent



If you are responsible for interviewing candidates, you should be aware of various legislation and how it applies to recruitment and employment in your state.

In their guide to preventing discrimination in recruitment, the Australian Human Rights Commission (AHRC) provides the following simple yet useful checklist for hiring managers and recruitment professionals.

CHECKLIST

PREVENTING DISCRIMINATION IN RECRUITMENT

- ✓ Plan your approach to ensure you comply with your obligations
- ✓ Educate others involved in the process about their obligations
- ✓ Cast the net as widely as possible to attract a diverse pool of candidates
- ✓ Be consistent and fair in the way you treat candidates
- ✓ Accommodate people who require adjustments
- ✓ Focus on the essential requirements of the job
- ✓ Set aside personal bias, myths and stereotypes
- ✓ Keep records of your decisions
- ✓ Select the person best suited to the job.

3 PRINCIPLES OF APPROPRIATE QUESTION DESIGN

A well-designed interview is key to making informed, fair hiring decisions. When you're thinking about what questions to ask, consider these three simple principles.

1

WHAT DO YOU NEED TO KNOW?

The questions you ask must be directly relevant to the inherent requirements of the job. Questions about personal characteristics are not appropriate.

2

WHY ARE YOU ASKING?

When it comes to inappropriate or unlawful interview questions, the intent behind the question is very important.

3

HOW BEST CAN YOU ASK?

The specific words you use and how you phrase a question can make all the difference.

The background is a solid pink color. In the top-left and bottom-right corners, there are clusters of small, semi-transparent white and yellow dots, creating a decorative, starry effect.

YOU CAN'T ASK THAT!

INTERVIEW QUESTIONS TO AVOID

HOW OLD ARE YOU?

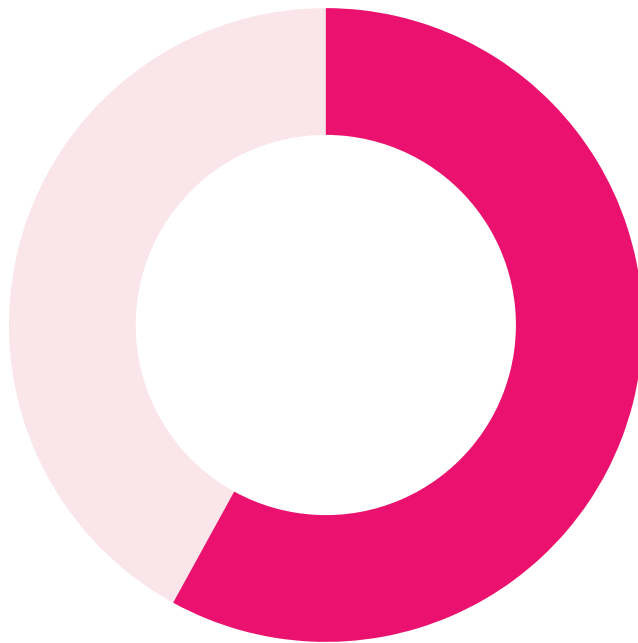


Questions about age, how long someone has been working or when they finished school or University can point to age discrimination. Similarly, it is best not to refer to someone's age in relation to others in the team.

It is unlawful to treat someone unfavourably based on their age. The Age Discrimination Act 2004 prohibits discrimination in employment on the basis of age and applies to young and older people alike.

In 2015, a report from the Australian Human Rights Commission (AHRC) on the prevalence of age discrimination in the workplace showed age discrimination is most commonly experienced in older people who are out of a job and looking for paid work.

The moral of the story? Age is an off limits topic when you're hiring. One exception is if age is an inherent requirement of the job. For example, if the job requires that someone serve alcohol or drive a vehicle, the candidates must be of a certain age to be legally able to perform those duties.



58%

of older people looking for paid
work have been rejected
on the basis of age.

A woman with blonde hair is shown in profile, talking on a black smartphone. She is wearing a black and white striped shirt. The background is blurred, suggesting an indoor setting with large windows.

ARE YOU MARRIED?

Asking a candidate about their marital status is completely irrelevant and should be avoided.

Questions about marital status can also lead to a conversation or other questions about gender identity and sexual orientation, which are also completely off limits in an interview.



45%

of single parents have faced
discrimination in the workplace.

DO YOU HAVE CHILDREN, OR ARE YOU PLANNING A FAMILY?

All questions about parenthood are unlawful and are to be avoided. Be especially mindful of the small talk that often takes place before / after an interview.

If someone is treated less favourably because they have (or are planning to have) children, this could be considered discrimination on the basis of family responsibilities under the Sex Discrimination Act 1984.

If you are interested in knowing how someone juggles their family and work commitments, you'll need to use carefully worded, direct questions.

For example, if the job requires evening work or travel away from home, an appropriate question to ask would be :“This job would require you to regularly travel interstate overnight. Is that something you are able to do?”



WHERE ARE YOU FROM?

This is a great example of a seemingly innocent question that could land you in hot water. While it may seem like a harmless icebreaker, this is definitely a question we recommend you avoid.

Asking someone where they are from could uncover information about their race or ethnicity, and their answer could impact your hiring decision, even if you're not intentionally discriminating.

Of course, it is fine to ask people about their right to work in Australia (and request proof of this).

IS ENGLISH YOUR FIRST LANGUAGE?



Even if the role you are hiring for requires fluency in English, it is not lawful to ask someone if they are a native English speaker.

Similar to the question above, the answer to this question could tell you the candidate's nationality, race or ethnicity, which could lead to discrimination.

10% of the complaints received by the Australian Human Rights Commission in a 12-month period were regarding racial discrimination.

If a high level of proficiency in the English language is a requirement of the job, you can use a skills assessment to determine a candidate's ability.

Of course, if an ability to speak a specific language is a requirement of the job, you can ask this question directly. "Do you speak Mandarin?"

DO YOU HAVE ANY HEALTH CONDITIONS OR A DISABILITY?

However well-meaning, questions about physical or mental health are to be avoided. You also can't ask someone if they've had time off work due to a health condition.

An exception here is if the job requires candidates to pass a health assessment as part of the recruitment process (for example, for the police service or defence force). In this case, questions should directly relate to the person's ability to perform the role.

It is also unlawful to ask someone if they have a disability. If you are concerned that a person with disability will not be able to perform one or more requirements of the role, you should ask a direct question. "This role would require you to do X. Is that something you are able to do?"

If the answer here isn't yes, your next question should be around what adjustments or modifications they would need to support them to do the role.

WHAT ARE YOUR RELIGIOUS BELIEFS?



Any discussion about religious beliefs, practices or views on religion has no place in a job interview.

Religion is deeply personal and should not impact a person's ability to perform the inherent requirements of the role.

While there may be some exceptions here in terms of working on particular days or holidays, the same rule of thumb applies. Ask direct questions that relate to the requirements of the job only.

For example, "This job would require you to work on Sundays. Is that something you are able to do?"

HAVE YOU EVER MADE A WORKERS COMPENSATION CLAIM?

It is not lawful to ask someone if they've previously made a worker's compensation claim for an accident or injury.

Similar to the question around medical or health conditions, discriminating against someone on the basis of a previous claim could suggest they still have the injury or illness, which could lead to a claim of disability discrimination.

This question might also suggest to the interviewee that your organisation doesn't stand up for employees' workplace rights. Any complaint of this nature could constitute a breach of the Fair Work Act.



DO YOU DRINK OR SMOKE?



Discussing personal habits has no place in a job interview.

In the majority of cases, this is irrelevant to the requirements of the job and therefore not an appropriate line of questioning.

If your organisation does drug testing, you can discuss this requirement of the job during an interview, but don't ask someone if they drink alcohol or use drugs.

If the job you are hiring for requires driving (for example), it is fine to ask about medication that may impact this because this relates to an inherent requirement of the job.



ARE YOU A MEMBER OF A UNION?

Asking about union or political membership is intrusive and could lead to bias and/or discrimination.

Under the Fair Work Act (and anti-discrimination legislation in some states), it is unlawful to discriminate against someone based on their trade union activity.

On the flip side, this would also apply to someone who has applied for a job in a unionised workplace and is not connected to a union.

Good recruitment doesn't happen by accident.



To make the best hiring decisions, you need to uncover important insights about each person you're considering. This requires a robust, merit-based interview process that is free from bias.

We hope you find this guide useful in designing an interview process that is fair and gives everyone equal opportunity to demonstrate their suitability for the job.

This guide provides general information about unlawful and inappropriate questions that we recommend you avoid during job interviews. It is not intended to be nor should it be relied on as a substitute for legal advice. If you require professional advice on any area of employment law, please seek independent legal advice.

If you have any comments or feedback on this content, please get in touch with Cynthia Harris at cynthia@hearttalent.com.au or 0432 044 527.





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