

Ms Nadra Ahmed OBE
Chair
National Care Association

2 November 2016

Dear Ms Ahmed

Employers' recruitment practices and attitudes to employing UK-born and foreign-born workers: the gap in business's understanding of recruitment law

I am writing to you to highlight the Commission's new report into recruitment practices, and to ask that you please relay seven key requirements to your members to help ensure they recruit staff fairly and lawfully.

Our research, *Examining employers' practices and attitudes to employing UK-born and foreign-born workers*, explored the extent to which employers and recruitment agencies understand employment legislation relating to the recruitment of UK and foreign born workers with the right to work in the UK. The research found that employers and recruiters sometimes misunderstand the law, which risks leading to discriminatory recruitment practices.

For example, less than half (45%) the employers we surveyed knew that they must check that all job applicants have a right to work in the UK before employing them, irrespective of their place of birth. Over a third (36%) incorrectly thought they could advertise for someone with English as their first language and a small but significant number (6%) thought it was lawful to pay foreign-born workers below the legal minimum wage.

Both employers and recruiters were confused about the lawfulness of advertising a job in Britain exclusively in a foreign language or advertising a job in Britain exclusively abroad.

Tel: 020 7832 7800 | **Email:** correspondence@equalityhumanrights.com

Fleetbank House, 2-6 Salisbury Square, London, EC4Y 8JX

www.equalityhumanrights.com  [@ehrc](https://twitter.com/ehrc)  

Based on our research, we have identified a check-list of seven important requirements which will help employers avoid discriminatory recruitment practices:

1. Employers must offer the **same pay rates and employment contract** to workers performing the same job roles, regardless of whether they are born inside or outside the UK.
2. Where there is a genuine requirement for the role, employers should advertise for '**fluent English speakers**' rather than 'English as a first or native language'. This will ensure people with the necessary language abilities can apply for the role regardless of their nationality.
3. Employers must **not advertise jobs in Britain exclusively in a foreign language** unless the ability to speak a language is a genuine requirement of the job. Where it is a requirement, it is good practice to also advertise in English so that all applicants know that speaking the language is a requirement.
4. It is almost always **unlawful for employers to advertise jobs in Britain exclusively abroad**. Where the employer believes there is a skills shortage for a role, they can advertise both in the UK and abroad.
5. Employers need to check that **all job applicants have the right to work in the UK** before employing them, regardless of whether they are foreign-born or UK-born.
6. Employers **cannot have a quota** for the number of foreign-born or UK born workers they employ. Having a quota may result in unlawful discrimination against applicants because of their nationality. Employers need to ensure a fair selection process where candidates are assessed on merit.
7. Employers must ensure that they **do not offer preferential treatment** to their workers based on their nationality.

I should be grateful if you would draw these requirements to the attention of you members. The Commission has also produced [guidance](#) to help people advertise lawfully under the Equality Act 2010.

Tel: 020 7832 7800 | **Email:** correspondence@equalityhumanrights.com

Fleetbank House, 2-6 Salisbury Square, London, EC4Y 8JX

www.equalityhumanrights.com  [@ehrc](#)  

To read the full report, including our findings about the attitudes and practices of employers and recruitment agencies towards UK-born and British workers, please access the report [here](#).

Yours sincerely



David Isaac

Chair

Tel: 020 7832 7800 | **Email:** correspondence@equalityhumanrights.com

Fleetbank House, 2-6 Salisbury Square, London, EC4Y 8JX

www.equalityhumanrights.com  [@ehrc](https://twitter.com/ehrc)  