

Equality and Human Rights Commission
Research report 104

Recruitment in Britain

Examining employers' practices and attitudes to employing UK-born and foreign-born workers

Executive summary

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Executive summary

In August 2015, the Equality and Human Rights Commission ('the EHRC') conducted research into employer and employee practices, perceptions and experiences in relation to recruitment. Our aim was to understand whether there was any evidence of differential treatment between UK-born and foreign-born workers with a right to work in the UK; the extent of discrimination on the basis of nationality, and what may be causing it.

The Equality Act 2010 provides protection from discrimination on the grounds of nine 'protected characteristics' including race, which covers ethnicity and nationality. The Act makes it unlawful for employers and their agents to discriminate against people seeking employment: they must treat applicants fairly and not discriminate in any arrangements for making appointments.

The research focused on sectors with a high proportion of foreign-born workers and a mixture of skill levels:

- Food manufacturing
- Accommodation (hotels, holiday and other short-stay accommodation, youth hostels and camping grounds)
- Food and beverage service activities (restaurants, mobile food service activities, pubs and bars)
- Social care
- Computer programming

Workplaces¹ across these five sectors that have at least 10 staff account for 6% of all UK workplaces. Twelve per cent of the UK workforce is employed in these workplaces.

The research is based on a literature review on discriminatory recruitment practices and migrant workers in the UK, quantitative surveys of workplaces² and recruitment

¹ The term 'workplace' is used instead of 'employers' to describe the respondents to this survey. This is because participants were asked to respond to questions about their particular site, office or branch rather than a wider corporation or organisation to which they may be affiliated.

agencies, and qualitative interviews with employers, recruitment agencies and both UK-born and foreign-born workers in these five sectors. The research is based on employer and employee perceptions of treatment. This allows us to identify practices which may be discriminatory, whether this is done consciously or not; however only a tribunal can determine whether unlawful discrimination has occurred.

Key findings

In most circumstances, **employers appointed workers on their ability to do their job**, rather than where they came from. There was a small number of examples of approaches by employers and recruitment agencies that may lead to potentially discriminatory recruitment practices. There was also evidence of a lack of knowledge about the law, which could also lead to unlawful discrimination. However, our evidence suggests that there is only **limited clear and unequivocal evidence to suggest that employers might act on a preference to recruit foreign-born over UK-born workers, or vice versa**. Our research allowed us to check whether this held true through a variety of questions; looking at knowledge, approaches and practices, application outcomes, employers' views of workers and experiences from employers, recruitment agencies and workers themselves. Throughout this summary and the report we flag up where the evidence may indicate the potential for discriminatory recruitment practices.

Are there different perceptions of workers?

Workplaces did not see nationality in itself as a key driver of success in terms of securing job offers, with most workplaces indicating that UK-born and foreign-born job applications were equally likely to be successful (78%).

Where foreign-born workers were unsuccessful in job applications, respondents were more likely to give insufficient English language skills as the reason (54%). About two-thirds of respondents (64%) said that UK-born applicants were most likely to be unsuccessful due to a perceived lack of motivation, enthusiasm and energy, compared with 30% who said the same about foreign-born workers. Sixty-four per

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cent of respondents said that UK applicants were unsuccessful due to a lack of relevant knowledge/experience, compared with 47% of employers who said that foreign-born applicants were unsuccessful for the same reason. There were some instances of foreign-born workers being relatively over-qualified for the jobs that they were doing, and employers tended to appreciate their additional skills.

Respondents tended to regard UK born and foreign born workers as being productive, flexible and hardworking, although a greater percentage thought foreign-born workers had these attributes. Ninety-two per cent of respondents perceived foreign-born workers to be productive compared with 83% who said the same about UK-born workers; 88% of respondents perceived foreign-born workers to be enthusiastic and motivated compared with 75% who said the same about UK-born workers. When asked to identify specific disadvantages of employing UK-born workers, around half of respondents (52%) said there were none. By contrast, 37% of workplaces said there were no disadvantages to employing foreign-born workers.

In most cases **employers said that they looked primarily for the skills, experience, qualifications (if relevant) and personal attributes necessary for the vacancies on offer, regardless of nationality**. Foreign-born and UK-born workers also did not report experiences that suggested that they had been targeted in particular on the basis of anything other than their ability to do the job. Many foreign-born workers reported experiencing positive attitudes towards them, on the part of employers, but it was generally felt that these views and perceptions did not translate into targeted recruitment strategies.

Is there different treatment in recruitment practices and the workplace based on nationality?

The means of recruiting workers and also the outcomes in terms of the job itself also did not suggest any different treatment between foreign-born and UK-born workers.

Workplaces in different sectors used similar recruitment channels and processes for UK-born and foreign-born workers.

Almost half of workplaces who recruited or tried to recruit new staff reported having a vacancy that was difficult to fill. This was mainly because of skills shortages, the shortcomings of the recruitment methods they used and strong competition for staff amongst employers in their sector. Only one in eight workplaces (13%) that had carried at least one hard-to-fill vacancy had targeted foreign-born workers as a

result. **It was far more common for workplaces to have tried other strategies, such as offering training to less well-qualified recruits (75%), restructuring their existing workforce (73%) or increasing the amount spent on recruitment (53%).**

Workplaces said that the **salaries and terms and conditions for the roles most commonly held by UK-born workers and foreign-born workers were similar.** Foreign-born workers were less likely to be earning less than £7 an hour and were slightly more likely to be earning more than £12.70 an hour.

The majority of the foreign-born interviewees said that they were not treated differently in the workplace in comparison with UK-born workers. However, UK- and foreign-born interviewees reported examples where they believed employers had treated UK-born workers more favourably in relation to issues such as training and shift allocation. There were also incidents in which foreign-born employees were treated less favourably by customers or service users.

Is there evidence of discrimination in recruitment and in the workplace, and what are the causes of this?

Discrimination in recruitment does occur, this is clear from reports the EHRC receives³ as well as the literature review in this report; **we found some evidence where there was a potential for workplaces to risk discriminating against either UK-born or foreign-born workers directly or by asking recruitment agencies to discriminate on their behalf.** Notably, of the one hundred recruitment agencies that we surveyed, ten reported that employers specifically asked for UK-born workers to fill a vacancy, mainly to recruit someone with good English skills, and eleven said that they also have had employers request foreign-born workers specifically (in most cases this was due to their perceived work ethic and foreign language skills). It is unlawful for employers to instruct recruitment agencies to discriminate in their selection of applicants, where neither an occupational requirement nor one of the other specific exceptions in the Equality Act applies.

However, **clear evidence of discrimination was not as prevalent as we might have expected across the five sectors**, especially considering the high proportions of foreign-born workers within them. That said, it is clear that **there is considerable confusion among workplaces and recruitment professionals about their legal**

³ <https://www.equalityhumanrights.com/en/our-work/news/unlawful-adverts-jeopardise-job-opportunities-says-commission>

obligations in relation to recruitment. It would be for a tribunal to decide on a case by case basis whether any recruitment practices were discriminatory but we found that:

- Twenty-eight per cent of recruitment agents incorrectly believed that employers are allowed to advertise for people with English as their first language (in practice employers are permitted to request English language skills, but not English as a mother tongue).
- Less than half of workplaces (45%) knew that employers must check that all job applicants have a right to work in the UK before employing them, irrespective of their place of birth – this was the question that workplaces were most likely to get wrong (52% answered incorrectly).
- Only a minority of workplaces agreed that it is illegal for an employer to advertise jobs in Britain exclusively in a foreign language (39%) unless the ability to speak a language is a genuine requirement of the job. In such circumstances, it is advisable to advertise in both languages so all applicants know that speaking the language is a requirement. Only 0.065% of workplaces had said they had advertised exclusively in a foreign language.
- Larger workplaces (those with 100 or more staff) tended to have slightly higher awareness of their legal obligations than small ones (10–24 staff).

This evidence suggests that workplaces and recruitment agencies should increase their understanding about the law in relation to recruitment so that they are not at risk of discriminating against candidates on the basis of their nationality. This will help them to better demonstrate that they are using a fair, lawful and transparent recruitment and selection processes.

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