

Personality testing in job applications: What can and can't employers ask you?

August 12 2022, by Dominique Allen



Credit: Sora Shimazaki/Pexels, [CC BY](#)

You might have heard of jobseekers being asked to complete a "personality test" as part of a job application, or been through the process yourself.

The questions can range from the innocuous to the deeply personal, with some applicants reporting being asked about their [political views](#) in such tests. The Guardian Australia recently [reported](#) one jobseeker was asked

to do a personality test assessing "zest" and "spirituality."

So what can and can't prospective employers ask in a [personality test](#)?

Workforce Australia provider makes jobseeker complete personality tests assessing 'zest' and 'spirituality'
<https://t.co/u8j0lD3BkN>

— Guardian news (@guardiannews) [August 4, 2022](#)

Questions about a person's age, sex, race, [sexual orientation](#), political opinions or disability are unlawful if the employer [makes a decision based on the response](#).

But it's not always easy to prove the employer did actually make a decision based on the response you gave.

For example, say an employer asks a job applicant with a [physical disability](#) about what changes they would need in the workplace to accommodate their disability, and then doesn't hire them because of the costs involved. A court might find that to be [disability discrimination](#).

Anti-discrimination law: It's complicated

Blatant examples like this are unlikely, because workplace discrimination has been unlawful for four decades; savvy employers know what not to do.

But what about a recruiter asking if the candidate sees themselves as "lively" or "energetic"? Could this question be used to work out age, and then used to deny an older applicant the job? This *could* be age discrimination but it's not easy to prove.

And if someone finds they weren't hired even though they had the right skills but they're over 55 and didn't describe themselves as "energetic," how will they ever prove age was a factor in the hiring decision?

No wonder people are skeptical about providing information—they don't know why employers want this information or what they're going to do with it.

Anti-discrimination laws require the candidate to prove that the reason they weren't hired was because of their disability or age. Unless the [employer](#) told them this or put it in writing, this is very difficult.

Without direct evidence, the candidate will have to ask the court to infer that the reason they weren't hired was because of their disability or age.

This is a costly exercise, especially if lawyers are involved. Even if the candidate wins, compensation payouts are not windfalls. It's not surprising so many discrimination claims are [settled or abandoned](#).

The Woolworths case

In Queensland, employers are [prohibited](#) from asking a person a question upon which discrimination could be based.

This was an [issue for Woolworths in 2014](#), when a man applying to work in a petrol station was asked to provide his gender, date of birth and documentary proof of his right to work in Australia.

He lodged a complaint and the case was heard in the Queensland Civil and Administrative Tribunal.

Woolworths said it needed his date of birth to streamline recruitment, helping determine if he could work in its liquor outlets and his rate of

pay.

The tribunal [found](#) "that Woolworths' conduct in requiring a job applicant to provide a date of birth and gender on its online application form contravened [section 9](#) of the [Anti-Discrimination Act](#)."

Woolworths could have collected this information in other ways, such as asking if he was aged over 18, and requiring him to show evidence of age if hired.

Woolworths was ordered to pay the man A\$5,000.

The tribunal also noted it had, by then, already taken steps to change the online application form, which had addressed all of his concerns.

This case did not involve personality testing, but it does show how employers should be clear about why they're seeking [personal information](#).

The decision in the Woolworths case came about a year after the man applied for the job, showing how slow and onerous a court or tribunal process can be. Most wouldn't bother to try.

It's about how information is used

Collecting [statistical data](#) about a workforce can be [useful](#) in addressing discrimination if it's followed by action when inequality is detected, and those actions are monitored.

Most employers are required to collect data about the gender composition of their workforce and report annually to the [Workplace Gender Equality Agency](#).

If the data show a lack of women in certain jobs, they can take note and actively recruit women, or encourage women to seek promotion.

This won't be sex [discrimination as long as the employer can show](#) their strategy was designed to increase equality.

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