

# The interview questions employers shouldn't ask you

Before you head to an interview, it's important to be aware of the questions that recruiters and employers shouldn't be asking you.

Employers use job interviews as a way to work out how suitable you are for a role – and the interview is an ideal opportunity to [discuss your skills and expertise](#).

But there are limits to what employers can or should ask you about. Here's what you need to know.

## What is acceptable for employers to ask?

A job interview is designed to help employers work out whether or not you're the most suitable person for a role. This means that the questions you're asked should relate directly or indirectly to your ability to perform the role, says Trent Hancock, Principal of [Jewell Hancock Employment Lawyers](#).

“While questions about certain personality traits that may be relevant to the role are understandable, for example, ‘How do you deal with stressful situations at work?’, questions about irrelevant personal attributes are not, for example, ‘Do you suffer from any mental health issues?’,” Hancock says.

It all comes back to what information they're seeking and why, he explains. “The distinction lies in the motive behind the question being asked and the relevance of the information the interviewer is trying to obtain.”

## Questions that employers can't legally ask

In Victoria, the Equal Opportunity Act 2010 (Vic) provides that a person mustn't request or require someone to supply information that could be used to form the basis of

discrimination, Hancock says.

“This means that employers in Victoria cannot ask questions about a candidate's personal attributes if they are irrelevant to the role being applied for.”

A personal attribute includes for example questions about your age, gender, ethnicity or sexuality. “The reason you cannot be asked to supply information about these attributes in Victoria is because usually they have no bearing on your ability to perform the role,” Hancock adds.

While other states and territories in Australia do not necessarily have a similar prohibition, Hancock adds that it is unlawful under Fair Work Act 2009 for an employer to use information obtained in an interview process to then discriminate against you on the basis of race, colour, sex, sexual orientation, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

“The right not to be discriminated against doesn't just apply to existing employees,” he says. “It also extends to “prospective employees” such as job candidates and ensures that they are not denied job opportunities for discriminatory reasons.”

This means that most questions about irrelevant personal attributes should be off limits. For example, the following questions will usually be unreasonable in most interviews:

- Are you in a same-sex relationship?
- How old are you?
- What's your ethnic background?
- What religion are you?
- Are you pregnant or planning to start a family?
- Who do you vote for?
- Do you have a physical or mental disability?

“In most cases, the answer to these questions will not shed any light whatsoever on your ability to actually do the job,” Hancock says. “Therefore, the fact that these questions are even being asked by an employer can suggest an intent or desire to discriminate and should therefore be avoided.”

## **Are there exceptions?**

A broad exception to this general rule exists if the information is being requested

because it's reasonably required for a non-discriminatory purpose.

"For example, if a person was applying for a role at a warehouse that required heavy lifting, it would be lawful and reasonable for the employer to ask about any physical disability that might impact your ability to perform that heavy lifting," Hancock says.

"In this scenario, the question about the personal attribute goes directly to your ability to perform the role and is therefore reasonable."

## **What you can do if you're asked a question that you think may lead to discrimination**

Even when a question seems off limits to you, when you're eager for the role it can feel difficult to refuse to give an answer.

Responding in a way that redirects the conversation may help. "If an interviewer steps out of line and asks a question that could potentially lead to discrimination, politely respond that you do not believe that the answer is relevant to your ability to perform the role," Hancock says. Depending on how the question was asked, this might be as simple as saying, 'I'm interested to know how that relates to the role. Can you tell me a little more?'

"Ideally, this response will cause the interviewer to realise their misstep and withdraw the question. You can also use it as an opportunity to pivot the conversation towards the strengths that you do have that are actually relevant to the role".

By sensitively responding to what you think is a discriminatory question, it may also encourage the interviewer to explain why they think the question is relevant to the role. It may be that the question is required for a non-discriminatory reason.

But remember, whether you're an employee or potential employee, you should never feel pressured to answer a question that requires you to supply information that could be used to discriminate and has no direct bearing on your ability to perform the role.

Hancock says you should stand firm if you're asked clearly discriminatory questions, and know that you can take legal action against a prospective employer if you've been discriminated against during an interview process.

Ultimately, what an employer asks you in an interview should relate to the job and how

suitable you are for it. It can be uncomfortable to refuse or avoid a question, but knowing what's off limits and having a simple response at the ready can help you to feel more confident and in control.

For more information on workplace discrimination, visit [Fair Work](#).

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- [How to answer the interview question: why should we hire you?](#)
- [Bolstering your CV: Key skills for your resumé](#)