

Keeping inappropriate questions out of the interview

Does your firm have a reputation for equitable hiring practices?

Section 13(1) of the B.C. *Human Rights Code* states that an employer must not refuse to employ ... or discriminate against a person regarding employment. Section 13(4) provides that section 13(1) does not apply if a refusal, limitation, specification or preference is based on a bona fide occupational requirement.

Candidates want interviewers to focus on their professional skills, not on their race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, age or a criminal or summary conviction offence unrelated to the intended employment.

Despite increasing awareness, some law firm interviewers continue to ask questions that are perceived by candidates as discriminatory. This is problematic for both candidates and employers.

If a candidate is sufficiently troubled by the nature of the interview questions and files a human rights complaint, the onus may shift to the employer to demonstrate that the selection process did not contravene the *Code*. As well, lawyers as employers have an obligation not to discriminate under Chapter 2 of the *Professional Conduct Handbook*.

Candidates become uncomfortable, indignant and angry over inappropriate questions. It creates a dilemma. On the one hand, the candidate wants to maintain rapport with the interviewer; on the other hand, the candidate wants to inform the interviewer of the insult and terminate the interview. This dilemma can lead to frustration and resentment after the interview.

A candidate may also resent the fact that there does not seem to be a "right" answer to an inappropriate question. If an interviewer persists in trying to ascertain a candidate's marital status, will the candidate jeopardize his or her chances by answering honestly? It's a sad commentary that candidates have been known to remove their wedding rings prior to an interview because of a firm's "reputation" for hiring single candidates.

Lawyers and prospective articulated students describe injustices or indignities experienced during interviews. To date, only one person has asked me to relay concerns to the interviewer. Why do others remain silent? The answer is fear. They are afraid that constructive criticism

of the interview process will ruin their reputations and chances for employment. Taking the initiative, however, could actually motivate firms to rethink their selection criteria and interview practices.

Here are some examples of inappropriate questions and statements encountered by candidates in law firm interviews:



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- "I know I'm not allowed to ask this question, but what is your ... (age, marital status, family status, etc.)?"
- "What is the extent of your business contacts in the X community?" (asked of a person of X ethnic origin applying for a general practice position)
- "I imagine you want to practise aboriginal law?" (asked of an aboriginal person)
- "Do you belong to any feminist groups?" (question perceived as an attempt to ascertain sexual orientation)
- "I noticed a male voice on your answering machine, but you are not wearing a wedding ring." (statement perceived as an attempt to elicit information about marital status)
- "Do you have, or are you planning to have, children?" (question to a female candidate)
- "You must want a simple, easy job." (statement to a prospective employee with a speech impediment)

Candidates ask, "How should I handle myself when this occurs? I shouldn't have to answer in the first place — it's irrelevant. Yet I can't say that without offending. I try to laugh and appear polite, but inside I'm seething!"

Employers ask, "How can we decide who is the best 'match' for our needs without offending?"

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