

# Institute of Equality & Diversity Practitioners

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Baroness O'Neill  
Chair  
Equality and Human Rights Commission  
3 More London  
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7.12.2012

Dear Onora O'Neill

I am writing to seek clarification of s50-52 of the Equality Act 2010 regarding appointments to public office. I note that in the recent publicity about Police and Crime Commissioners a number of commissioners appear to be appointing friend or former colleagues. This would of course be acceptable if these appointments were based on a equal opportunity for all potential applicants but I understand that in the case of Adam Simmonds PCC in Northamptonshire no such equal opportunity process appears to have been undertaken, this may also apply to others.

Extracts from The Equality Act 2010 Code of Practice 3: Employment Statutory Code of Practice:

*Obligations and liabilities under the Act*

10.6

*An employer has obligations not to discriminate against, victimise or harass job applicants and employees. The obligations also apply to a person who is seeking to recruit employees even if they are not yet an employer.*

*What the Act says about employers' obligations to job applicants*

10.7

*Employers must not discriminate against or victimise job applicants in:*

- *the arrangements they make for deciding who should be offered employment;*
- *in the terms on which they offer employment; or by not offering employment to the applicant.*

*What are arrangements? [s.39(1) & (3)]*

10.8

*Arrangements refer to the policies, criteria and practices used in the recruitment process including the decision making process. 'Arrangements' for the purposes of the Act are not confined to those which an employer makes in deciding who should be offered a specific job. They also include arrangements for deciding who should be offered employment more*

*generally. Arrangements include such things as advertisements for jobs, the application process and the interview stage.*

*Chapter 16: Avoiding discrimination in recruitment*

*Introduction*

*16.1*

*Ensuring fair recruitment processes can help employers avoid discrimination.*

*While nothing in the Act prevents an employer from hiring the best person for the job, it is unlawful for an employer to discriminate in any of the arrangements made to fill a vacancy, in the terms of employment that are offered or in any decision to refuse someone a job (see Chapter 10). With certain limited exceptions, employers must not make recruitment decisions that are directly or indirectly discriminatory. As with other stages of employment, employers must also make reasonable adjustments for disabled candidates, where appropriate.....*

*Advertising a job*

*16.19*

*An employer must not discriminate in its arrangements for advertising jobs or by not advertising a job. Neither should they discriminate through the actual content of the job advertisement (see paragraphs 3.32 and 10.6).*

We are keen to establish whether PCC's fall outside the provisions of the Section 50 of the Act and would welcome you speedy response.

Yours sincerely

Linda Bellos OBE  
Chair