

**Jobcentre Plus,
Transformation and
Product Management
Directorate**

**Accepting and advertising employer
vacancies from within the adult
entertainment industry
by Jobcentre Plus**

Equality Impact Assessment

August 2010

Equality impact assessment for accepting and advertising employer vacancies from within the adult entertainment industry by Jobcentre Plus

Purpose and aim(s) of accepting and advertising employer vacancies from within the adult entertainment industry by Jobcentre Plus

What Jobcentre Plus is doing

1. The Coalition Government does not believe that it is appropriate for a publicly funded employment service to be used to accept vacancies for jobs whose aim is sexual stimulation.
2. That means jobs that would be likely to entail the jobholder providing services which wholly or mainly involve the individual personally engaging in:
 - a performance;
 - an activity; or
 - a live display of nudity (whether full or partial)which sexually stimulates others (whether or not the job would include physical contact).
3. As a result, [these vacancies](#) will no longer be accepted by Jobcentre Plus from 3rd of August.
4. This will be an interim measure as the Coalition Government intends to bring forward primary legislation to give a statutory basis for such a restriction – ensuring that the statutory position is clarified.

Why Jobcentre Plus are doing it

5. Jobcentre Plus has an obligation under Discrimination Legislation to have due regard to:
 - The need to eliminate unlawful discrimination and harassment;
 - Promote equality of opportunity between men and women;
 - Promote equality of opportunity and good relations between people of different racial groups;
 - Promote equality of opportunity between disabled people and other people;
 - Promote positive attitudes towards disabled people; and
 - Encourage participation by disabled people in public life.
6. Jobcentre Plus has carried out its obligation to have “due regard” to these anti-discriminatory and promotion of equality duties in relation to its adult entertainment vacancy advertising arrangements, by weighing them up against its obligation to advertise vacancies and help people into work (under section 2 of the Employment and Training Act 1973, as mentioned in paragraph 1) and by taking into account any other factors which might be relevant. “Other factors” would include factual evidence of any harm that specific genders, racial groups or

those with disabilities may face in light of the policy. Here “other factors” also included the responses to the consultation.

7. The Coalition Government has had regard to the high number of responses received to the consultation expressing concern about Jobcentre Plus accepting and advertising these vacancies, some of which provided material indicating that certain types of jobs within the industry could lead to harassment of women.

Background to the existing policy

8. As signatory to the International Labour Convention of 1919, the UK is obliged to provide a free public employment service to assist people seeking employment and employers seeking employees. The legislative basis for this employment service is section 2 of the Employment and Training Act 1973. Jobcentre Plus delivers this service in England, Scotland and Wales on behalf of the Secretary of State for Work and Pensions.
9. In discharging the above responsibilities, Jobcentre Plus accepts and advertises vacancies from a wide range of employers and occupation sectors, including from within the adult entertainment industry, providing they comply with civil and criminal law. Vacancies from within the adult entertainment industry account for approximately 0.015% of the total number of vacancies advertised.
10. Jobcentre Plus has not always accepted and advertised vacancies from within the adult entertainment industry. However, a judicial review (brought about by Ann Summers in 2003) concluded that an outright ban on advertising such vacancies was unlawful because it:
 - paid no regard to the benefit jobseekers could gain from such employment opportunities;
 - paid insufficient regard to Jobcentre Plus’ legal obligation to help employers fill their vacancies;
 - did not take into account the measure of control that could be deployed by Jobcentre Plus, e.g. providing clear information about the nature of the employment in question; and
 - elevated the Jobseeker’s Allowance sanction processes beyond its purpose, i.e. by not requiring people to consider or apply for such vacancies, Jobcentre Plus could advertise without attaching benefit implications.
11. Following the Ann Summers ruling, Jobcentre Plus has since advertised vacancies from within the adult entertainment industry, providing they complied with civil and criminal law. However, in recognition of the Ann Summers ruling, a number of safeguards were in place to make sure jobseekers are able to make fully informed decisions about the suitability of a particular vacancy; and were not required to consider or apply for such vacancies as part of meeting the conditions under which Jobseeker’s Allowance is paid.

New policy

12. From 3rd August Jobcentre Plus will only accept certain vacancies from within the adult entertainment industry. As a result, Jobcentre Plus will refuse to accept vacancies such as lap dancers, web-cam performers, topless bar staff and strippers etc. However, Jobcentre Plus will continue to accept other vacancies in a personal services business. So, for example, Jobcentre Plus will take a vacancy for a cleaner in a lap-dancing or striptease club. They will also continue to accept vacancies in the retail, manufacturing and distribution sectors of the industry.
13. Those vacancies Jobcentre Plus accept will continue to be advertised with safeguards in place to make sure that jobseekers are able to make fully informed decisions about the suitability of a particular vacancy. In particular:
 - the nature of the work involved must be made entirely clear by the employer;
 - such vacancies must state that applicants must be aged 18 or over;
 - nobody will be required to consider or apply for such vacancies, or penalised for failing to do so;
 - these vacancies will only be discussed with customers who enquire about them specifically and will not be offered generally (although they will be displayed publicly on Jobcentre Plus's Jobpoints and the Directgov website);
 - with the exception of vacancies within retail and manufacturing, jobseekers will not be able to apply directly to employers. Instead, they will first have to see a Jobcentre Plus personal adviser who will confirm that the jobseeker is at least 18 years of age and is fully aware of the nature of the job; and
 - these vacancies will also be checked by a central team before they are advertised. However, as this is a manual check, they cannot guarantee 100% compliance.

Consultation and involvement

14. The policy of advertising vacancies from within the adult entertainment industry has been, and continues to be, the subject of ongoing and often intense media and public interest.
15. In December 2008 Jobcentre Plus conducted a [diversity impact assessment](#), which included an initial screening assessment (which did not reveal any disproportionate affect on either their customers or their staff) followed by a full public consultation exercise which began in December 2008 and closed at the end of March 2009.
16. A copy of the consultation document, along with an analysis of the responses received and the Coalition Government response are available on the DWP website at www.dwp.gov.uk/consultations/
17. The consultation document was sent to people and organisations who have already been involved in this work or who have expressed or may have an interest. The full list of those consulted is contained within the consultation document at Annex 2.

18. The consultation sought responses on a number of specific questions about Jobcentre Plus's Gender, Race and Disability Equality duties and other diversity issues such as age; religion or belief and sexual orientation; and the adequacy or otherwise of the existing safeguards.
19. Jobcentre Plus received 240 responses, which included 198 letters of protest signed by members of the public as part of a demonstration that took place outside Brixton Jobcentre Plus office. 238 (99.2%) of the responses were against the policy. Only two (0.8%) supported the policy.
20. All the responses received from consultees are detailed within the analysis document. In terms of the specific questions asked, the analysis of the responses against the policy has revealed generally that they say:
- For **question 1**, the policy does not:
 - Promote gender equality because for example, "it perpetuates and normalises the sexual objectification of women."
 - Eliminate harassment because for example, "Research carried out on behalf of Glasgow City Council, found that women in lap dancing experienced harassment from customers and were approached for sexual activity. As such, the current position risks placing women in situations where harassment is the norm" and "Strip and lap dancing clubs specifically encourage harassment of women."
 - Eliminate sex discrimination because for example, "the sex industry is built on sex discrimination."
 - For **question 2**, the policy does not pay due regard to the duties under the Race Equality Duty because for example:
 - "The sex industry mainly employs white women."
 - "Racism is inherent in commercial sexual exploitation."
 - "Black and Minority Ethnic women are the most vulnerable to exploitation through the sex industry."
 - For **question 3**, the policy does not pay due regard to the duties under the Disability Equality Duty because for example:
 - "There will be very few disabled people employed in the sex industry."
 - "Since when did lap dancing clubs hire young women in wheel chairs as lap dancers?"
 - "People with disfigurements would not be welcomed as lap dancers or web-cam performers."
 - For **question 4**, the policy does not reflect good practice in terms of equality for the other diversity strands such as age; religion or belief and sexual orientation because for example:
 - "The sex industry most often employs white, young, thin, able bodied women who fit a very narrow stereotype."
 - "Few middle-aged women or old men will be employed as lap dancers or web-cam performers."
 - "Religious people are likely to find the sex industry thoroughly offensive – as indeed do many atheists and agnostics."
 - For **question 5**, more can be done by Jobcentre Plus to strengthen the safeguards in place for jobseekers because for example:

- “To ensure jobseeker safety Jobcentre Plus should simply stop advertising jobs within the adult entertainment industry.”
- “The only way to ensure safety for women is not to accept them.”
- For **question 6**, about whether the safeguards go too far and ignore the needs of the employer in favour of the safety of jobseekers, all responses said “the safeguards did not go far enough.”
- For **question 7**, examples of other comments received about the policy said:
 - “The DWP is essentially acting as a recruitment outlet for pimps and legitimising jobs which are fronts for prostitution.”
 - “Vacancies for escorts, lap dancers, and workers in saunas and massage parlours are not adult entertainment but have strong links with and are routes into prostitution.”

21. The analysis of the responses supporting the policy has revealed they said that:

- For **question 1**:
 - One response “felt strongly that the policy to advertise adult industry vacancies does pay due regard to the Gender Equality Duty and related statutory instruments.”
 - The other said, “in terms of promoting equal opportunities there seems to be little imbalance regarding who is applying for the jobs and that clearly, some of the jobs will be gender specific (such as lap dancers) but these will be covered by the relevant laws.”
- For **question 2**:
 - One response said, “they could not see how Race Equality could be either promoted or otherwise in such an industry.”
 - The other said, “in terms of promoting equal opportunities there seems to be little imbalance regarding who is applying for the jobs.”
- For **question 3**:
 - One response said, “as the vacancies that were filled by people I knew were in the retail and manufacturing sectors, I consider that existing provision of Disability Discrimination Legislation should be enough to ensure that best practice is promoted.”
 - The other said, “in terms of promoting equal opportunities there seems to be little imbalance regarding who is applying for the jobs.”
- For **question 4**:
 - One response said, “it is up to any individual as to whether he/she wants to be employed in the legal adult entertainment industry regardless of their religion or belief or their sexual orientation.”
 - The other said, “in terms of promoting equal opportunities there seems to be little imbalance regarding who is applying for the jobs.”
- For **question 5**:
 - One response said, “the onus must be on the jobseeker to communicate concerns to the Jobcentre staff and good communication from the outset is vital in ensuring that only genuine and lawful employers may use the services of Jobcentre Plus.”

- The other said, “the current process of advertising jobs, as stated in the document, demonstrates that great care is taken by Jobcentre Plus to ensure that the jobs are legitimate and legal. There appears to be appropriate safeguards in place to protect jobseekers. Jobseekers who inquire about these vacancies will be able to make their own decisions about the types of work (as would people inquiring about other industries which have sensitiveness such as working in an abattoir or butchers). The procedure of NOT offering these jobs unless people inquire seems a sensible policy which prevents both staff and jobseekers being offended. The policy as it stands seems adequate as demonstrated in the extremely low levels of complaints from jobseekers.”
- For **question 6**:
 - One response said, “the safeguards are valid and responsible and they promote good practice.”
 - The other said, “the policy relating to employers appears to be fair and given the number of applicants for the 351 vacancies, employers are receiving the levels of interest in the jobs in order for them to be filled. Equally, the safeguards which are in place to protect the jobseekers reduces (dramatically) the mismatch of jobseekers going for jobs without fully knowing the extent and nature of the job.”
- For **question 7**:
 - One response said, “I consider the policy to be responsible and balanced. In a democracy, it should be considered the right of a claimant to consider or refuse a vacancy that could be deemed morally offensive.”
 - The other said, “It is the aims and duty of Jobcentre Plus to promote work and job vacancies for those who are inactive. Not advertising these jobs would be doing a disservice to those jobseekers who would legitimately consider this type of work”; and “Jobcentre Plus should not have a moral standpoint which informs whether jobs are advertised. If so, then there are many other industries which could be challenged as being immoral, illegitimate, or inappropriate work. Making decisions to advertise vacancies based on moral decisions would not fulfil the basic aims of promoting legal work.”

Impact of the new policy

Staff

22. There is no adverse impact on staff.

Customers

23. Based on current knowledge, there is no adverse impact on jobseekers and employers from an equality perspective.

Disability

24. Jobcentre Plus vacancy taking policies and procedures are designed to ensure all vacancies advertised comply with the Disability Discrimination Act.
25. Jobcentre Plus will advertise adult entertainment industry vacancies to any section of the community and provide all jobseekers with the same level of service should they wish to apply for a vacancy of this nature.
26. Jobcentre Plus offices are designed to allow access for customers with restricted mobility or health conditions, to enable them to make best use of Jobpoints and other services. Jobcentre Plus text phone services are available through Jobseeker Direct (their telephone service for anyone who is looking for work) to enable jobseekers who are deaf, hard of hearing or have speech difficulties to be notified about suitable vacancies.
27. Jobcentre Plus services will be withdrawn if they are made aware that an employer appeared to have unlawfully discriminated against or harassed a disabled person in contravention of the Disability Discrimination Act. Jobcentre Plus will co-operate fully with any subsequent legal proceedings.
28. If a customer tells Jobcentre Plus they have been discriminated against by an employer, they will provide advice about their rights and give them details of local organisations such as their local Citizens Advice Bureau that may be able to support them.
29. Jobcentre Plus have also considered the other legal duties for Disability which are to:
- Promote positive attitudes towards disabled people;
 - Encourage participation by disabled people in public life; and
 - Take steps to take account of disabled persons disability, even where that involves treating disabled persons more favourably than other persons.
30. However, Jobcentre Plus do not feel that the policy of accepting and advertising vacancies from within the adult entertainment industry will have any positive or negative impact on these duties.

Gender

31. Jobcentre Plus vacancy taking policies and procedures are designed to ensure all vacancies advertised comply with employment and equality legislation. Jobcentre Plus will advertise adult entertainment industry vacancies to any section of the community and provide all jobseekers with the same level of service should they wish to apply for a vacancy of this nature. However, under certain circumstances it is possible for an employer to discriminate against men or women without being in breach of the law when advertising a vacancy, as long as they can provide evidence that an exception to the Sex Discrimination Act applies.
32. Jobcentre Plus services will be withdrawn if they are made aware that an employer appeared to have unlawfully discriminated against or harassed men or women in contravention of the Sex Discrimination Act. Jobcentre Plus will co-operate fully with any subsequent legal proceedings.

33. Jobcentre Plus advisers will signpost customers who are seeking advice about employment rights to local organisations and sources of support, e.g. the Citizens Advice Bureau and the Department for Business Innovation & Skills.
34. With regard to adult entertainment industry vacancies specifically, they will be made available to the public through the Directgov website, touch-screen Jobpoints located in all Jobcentre Plus offices and some external sites and their telephony-based jobsearch service (Jobseeker Direct). Although these vacancies will be advertised openly, they will not be proactively brought to the attention of individual customers unless they ask about them specifically.
35. The arrangements do not require that people consider or apply for vacancies from within the adult entertainment industry or penalise any customer claiming benefits who, after expressing an interest, subsequently refused the offer of employment.
36. Safeguards are in place to help identify concerns about harassment, e.g. if having accepted a job, a customer was asked or expected to undertake activities not previously specified and of an illegal nature. In such cases, service to the employer will be withdrawn, the Police informed and no further vacancies advertised unless the employer subsequently contacts Jobcentre Plus and satisfies them that their concerns were unfounded.
37. Jobcentre Plus vacancy taking policies and procedures will help them to meet the duties to:
- eliminate unlawful discrimination and harassment on the grounds of sex.
 - promote equality of opportunity between women and men.
 - eliminate discrimination and harassment in employment and related fields and vocational training (including further and higher education), for people who intend to undergo, are undergoing or have undergone gender reassignment.

Race

38. Jobcentre Plus will advertise adult entertainment industry vacancies to any section of the community and provide all jobseekers with the same level of service should they wish to apply for a vacancy of this nature.
39. In taking such vacancies, policies and procedures are in place to make sure they comply with employment and equality legislation. However under certain circumstances it is possible for an employer to discriminate on the grounds of race without being in breach of the law when advertising a vacancy as long as they can provide evidence that an exemption under the Race Relations Act applies.
40. Jobcentre Plus services will be withdrawn if they are made aware that an employer appeared to have unlawfully discriminated on the grounds of race in contravention of the Race Relations Act. Jobcentre Plus will also co-operate fully with any subsequent legal proceedings.
41. In addition, where a customer tells Jobcentre Plus they have been discriminated against by an employer, they will give the customer advice about their rights and

42. Jobcentre Plus have also considered the other legal duty for Race which is to promote good relations between people of different racial groups. However, Jobcentre Plus do not feel the policy of accepting and advertising vacancies from within the adult entertainment industry will have any positive or negative impact on this duty.

Age

43. Jobcentre Plus vacancy taking policies and procedures are designed to ensure all vacancies advertised comply with the Employment Equality (Age) Regulations 2006.

44. Jobcentre Plus will advertise adult entertainment industry vacancies to any section of the community, and provide all jobseekers irrespective of their age with the same level of service should they wish to apply for a vacancy of this nature. However, one of the safeguards in place for these vacancies requires they must state that applicants must be aged 18 or over.

45. Any employer who, having placed a vacancy, was subsequently found to have discriminated on the grounds of age in contravention of the Employment Equality (Age) Regulations 2006, will have Jobcentre Plus service withdrawn and Jobcentre Plus will co-operate fully with any subsequent proceedings against the employer.

46. In addition, where a customer tells Jobcentre Plus they have been discriminated against by an employer, they will give the customer advice about their rights and give them details of local organisations, such as their local Citizens Advice Bureau that may be able to support them.

Monitoring and evaluation

47. Jobcentre Plus will continue to collect diversity data and will monitor, evaluate and report on their findings by the end of July 2011 on the impact of the policy to accept and advertise adult entertainment industry vacancies on gender, race, disability and age. This data will include information from the previous operational year on the number of:

- vacancies Jobcentre Plus accepted.
- customers Jobcentre Plus submitted.

Next steps

48. Jobcentre Plus will review the Equality Impact Assessment in preparation for the change to primary legislation.

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