

# The questions that are off limits during a job interview

**T**he Human Rights Act protects prospective employees from discrimination.

Therefore, questions about family status ("Are you married?" "Do you have children?") are not allowed in a job interview in most cases.

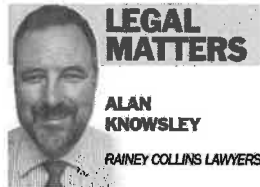
Similarly, questions about religion, race, gender, age, disability and sexuality are also likely to be unlawful unless an exception applies.

Some employers will want to ask questions that they should not, because they see the answer as relevant to the ability to do the job. For example, asking whether an applicant has children may stem from a belief that people with children can't travel or work long hours.

If the job requires both of those things, in the employer's view it might be relevant to ask about children.

However, having children is not the determining factor in whether an employee can work late or travel.

A lot of people with children can and do travel or work long hours.



In most employment situations, whether someone has children has no bearing on the prospective employee's ability to perform the required job.

It is therefore not a relevant question to ask during a job interview.

What is relevant is the ability to work late or travel, so an employer should ask direct questions about those things and dig deeper to find out if there are any factors that would hinder the employee from doing so.

Keep a note of the answers because from day one employees can now ask for flexible working hours. There is no restriction on the number of times they can ask

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Having covered off the need for certain hours or overtime or travel in the job interview will provide the employer with information when considering flexibility requests.

There are several exceptions when these kinds of questions can be asked in specific scenarios or for specific roles. For example:

- Actors who need to play certain roles can be discriminated against on the basis of race, gender or age.

- If you are hiring a nanny or housekeeper who will be working in your house, you can discriminate based on gender, sexual orientation, religious or ethical belief, disability, age, or political

opinion, if you choose to.

- There can be terms and conditions in relation to disability or age in a partnership agreement.

- Discrimination is appropriate if a disability poses an unreasonable risk to the applicant or others, or the applicant would require accommodations the employer cannot reasonably provide.

- Youth rates can be applied for young workers.

- Some government jobs, political roles or roles involving national security may discriminate against certain people on the basis of religious or ethical belief, national origin, political opinion, disability, family status or age.

However, if an exception does not apply, and a question is inappropriate, candidates may claim discrimination if they feel their answers got in the way of them getting the job.

If potential employees feels an employer is discriminating against them, they may make a complaint to the Human Rights Commission.

In other circumstances, a stereotypical view may get in the way of a great hiring decision.

For example, some employers might assume applicants with disabilities will need more time off than other employees, and may therefore not make an offer to the best person (based on skills and experience).

In fact, research in this area indicates that on average disabled people take less time off than their peers.

When in doubt, ask yourself: is this question relevant to this job? If not, keep it to yourself.

If people want to talk about their children or whatever else, then they will. And if you need to know whether they can travel for work, ask them that instead.

Good alternative questions:

- "Tell us about yourself... what are your out of office interests?"
- "Is there anything that would prevent you working late or travelling at short notice?"

Column courtesy of Rainey Collins Lawyers, phone 0800 733484. If you have an inquiry you would like discussed in this column, email [aknowsley@raineycollins.co.nz](mailto:aknowsley@raineycollins.co.nz), or go to [raineycollins.co.nz](http://raineycollins.co.nz).