

THE KEY RESPONSE

Market Research Report

Prepared for:

The Equal Opportunity Commission of Victoria

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Stage Three: Qualitative Research The Relationship between Equal Opportunity and the Recruitment Industry

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Background

The Equal Opportunity Commission of Victoria (EOCV) is an independent statutory agency, with its role and function defined in the *Equal Opportunity Act 1995*. The primary purpose of the EOCV is to reduce discrimination and assist all Victorians to experience equal opportunity.

In seeking to address broader or more systemic discrimination, the EOCV is conducting an enquiry into the recruitment industry, and its relationship with equal opportunity legislation and associated principles. The objective of the enquiry ultimately is to increase the opportunity for greater access to the workforce by a wider range of people, thereby increasing diversity in the workforce.

Market research was commissioned to provide input into the enquiry.

This study has been conducted in three phases. The first phase comprised in-depth interviews with practitioners in the recruitment industry and industry body representatives. This provided guidance for the development of the quantitative phase which followed (this is reported under separate cover – Sweeney Research).

The quantitative research revealed that the relationship between the recruitment industry and their clients was key to compliance.

This third qualitative phase looks further at the client/agency relationship as it pertains to the Equal Opportunity Act.

Objectives

Focus: To provide insight and understanding which will ultimately help increase the opportunity for greater access to the workforce by a wider range of people, thereby increasing the diversity of the work place.

To investigate the recruitment industry in relation to their awareness of, compliance with, and practice of the principles within, the Equal Opportunity Act of 1995.

This qualitative study explored the following:

- 1) The relationship between recruitment companies and their clients, and how this affects the recruitment process.
- 2) Awareness and understanding of the Act.
- 3) Perceived compliance with the Act.
- 4) Attitudes towards and appreciation of, the intent of the legislation.
- 5) Approaches which assist in compliance with the Act.
- 6) The perceived need for education, training, public promotion and social change.

Methodology & Sample

The interviews were sought as follows, and embraced a cross section of industries, a minority of the agencies specialised in particular types of recruitment or industry, others had a more generalist perspective. Employer recruitment needs were similarly diverse.

	Recruitment Agencies	Clients
Personnel	4	3
Labour Hire	2	2
Executive Search	2	2
	8	7

The majority of these interviews (14) took the form of 7 case studies, ie. where the employer client and recruitment agency had a client/supplier relationship and had recently (in the last six months) worked together to recruit for a particular position. Quotations in the Content Analysis are marked with the industry group pertaining to the case study, eg. automotive/I.T. etc.

The case study sample was recruited by making contact with people responsible for recruitment in client organisations, invariably Human Resource professionals, and they specifying introducing a recruitment agency which that they had dealt with. As detailed elsewhere in this report, attempts to recruit case studies from the recruitment agency contacts made in the quantitative study, or directly with recruitment agencies, failed.

It should be noted that the number of hirings made by the respondents involved in the study were extensive and therefore detailed recall of an individual hiring tended not to occur, the general approach to recruiting and exceptions dominated discussions, not the experience of the particular hire that made them eligible for the interview. The interviewing of agencies and employers who had a relationship was invaluable in providing understanding of the dynamics of the relationships.

(Note: The consultant interviews conducted in Phase One have been included in the reporting of this study.)

Methodological Constraint

Qualitative Research explores attitudes and behaviour within a market. It is used to provide insight and develop hypotheses for input into the strategic development process.

It is, by its nature, subjective and does not provide statistical validity because of the more dynamic, less structured approach, and small number of respondents involved.

Executive Summary

This report focuses on the findings of the paired/case study interviews conducted amongst recruitment consultants and their clients. The actual employment scenarios in question were reported to follow normal practice, ie. **brief given, agreed job descriptions, advertising placed or network of applicants reviewed and contacted, interview process conducted according to a specified interview approach, followed by a similar process by the client.** The respondents did not reveal more specific detail. In part, this could be seen to be a consequence of the fact that the employment scenario in question had gone smoothly, or more significantly, it was but one of many hirings completed in recent months, and thus in itself not memorable. The author also sensed a reluctance to reveal information regarding a specific instance of recruitment of an individual for reasons of confidentiality and recommends that in order to achieve a depth of insight in this context, it would be necessary to follow an actual appointment through the various stages in real time, not retrospectively.

The issue of Equal Opportunity compliance in recruitment is not a simple one and raises many challenges. The management of the diversity of needs of applicants, of consultants and of employers is central to this, as demonstrated by this quote:

"One of the things that I have discovered is that there are many, many individuals out there with many personalities and many weird and wonderful thoughts in their head, and they're all different, and they all change, and you can't please all the people all the time."

The majority of recruitment consultants and clients interviewed **believe that they comply with the Act.** They believe that their procedures, training, definition of job role, interview process and quest for the right person achieves compliance with equal opportunity requirements.

It is important to note that despite this belief, the sample group was not necessarily representative and as a result cannot be considered an accurate reflection of the industry as a whole. The method of selection of participant recruitment consultants became reliant on referral by employer clients, after experiencing difficulty in obtaining introductions to clients from the recruitment consultants. The clients referred us to organisations they respected. The author wishes to point out that the compliant nature of the participants may thus present best case client agency relationships and not be representative of the norm. It is the observation of the author that the difficulties in recruitment via the consultancies can be attributed to a perceived need on the part of the recruitment consultants to maintain client confidentiality and protect their relationship with employer clients.

The **recruitment industry is reported to be under pressure**, and this may also explain their caution in making the necessary introductions. Respondents revealed that the pressures on the recruitment industry are in part driven by the fact that the I.T. and finance booms, that resulted in the growth of the industry, are essentially over. Consultants indicate that there are fewer jobs available, many

applicants in some areas, a dearth of skilled or willing workers in others, and an increasing amount of legislation with which they need to comply. They face many challenges. Despite these pressures, they and their clients (particularly those with human resource titles) are enthusiastic about and committed to their work.

Most of the recruitment consultants interviewed **seek close and valued relationships** with their clients. Those interviewed achieve this some of the time. They seek the type of relationship where finding the best candidates and discussing their suitability would be handled with ease. Much as can be seen to be the case in the context of the relationships represented in the case studies. However, this type of relationship appears to be less of a priority for the client. Clients tend to have contract/regular relationships with several agencies, not all of which live up to these ideals.

The recruitment industry's **profile is poor amongst** the clients interviewed, and even across the recruitment industry in relation to their peers. The development of this relationship can be interpreted to be an upward battle. The clients (generally human resource executives) express less respect for the recruitment industry than the recruitment consultants aspire to. Indeed many clients limit their use of consultants where possible, preferring to source applicants from within company networks, or advertise themselves in the media or via the Internet. Recruitment agencies tend to get the harder to fulfil or more work intensive assignments.

The **clients are aware of their role as final arbiter** and, although the majority of recruitment consultants interviewed reported that they challenge decisions if they feel that the client can be seen to be making the wrong decision or being discriminatory, this action can be seen to be not always considered by the consultant. It should also be noted that the employer clients interviewed in this study did not confirm challenges of this nature by the recruitment consultant, which either suggests it occurs less frequently than intimated by the consultant, or reflected the more equitable and compliant relationship represented by those willing to participate in this study.

The consultants report that their focus is on providing the **right person** for their client's job vacancy, as they believe this will lead to a satisfied client and overcome issues of compliance with the Equal Opportunity Act and other Acts. The **key to defining the right person** is considered by the recruitment industry to be the agreed job description, upon which the candidates are measured and assessed. They can then interview and argue the capabilities of the candidate. This process is seen to facilitate compliance with the Act. Quality job descriptions are reported to be key to 'best practice' in facilitation of the best result and compliance with the Act.

Although this can be seen to be true much of the time, it is in this definition of client need and expectation that the challenges to compliance emerge that have to be addressed, and although the recruitment consultants interviewed put considerable emphasis on clearly defining the job descriptions, the clients interviewed reported less rigorous interaction; usually the brief comprised a written description and/or phone call with little need for more detailed discussion. The concept that very tight job descriptions may, in fact, eliminate potential prospects (and thus not be compliant with the Act) was not considered.

The majority of consultants and client human resource management interviewed **strongly believed in the Equal Opportunity Act** and its intent. Most expressed a strong vocational approach, were committed to the process, and could be seen to be successful in achieving many non-

discriminatory outcomes. These people commit to the quest through **ongoing consultation** with their clients (including in the context of employers, their internal clients), **agreement of detailed brief and job description**, implementation, and importantly, policing of a **structured interview process** (that allows for comparisons between interviews and assessment against the needs as specified by the job description and limiting more subjective elements), **systematic training** of their staff and **supervision of employment decisions**. All of these steps are considered key to best practice in relation to the Act. The research suggests that provision of proformas or templates for these steps, which could act as a tool to guide recruitment processes towards being non-discriminatory (albeit it should be noted that those interviewed in this study believed that their system adequately satisfies their needs).

It is interesting to note that the clients' focus is on their own procedures, they rarely consider the compliance of their recruitment consultants with equal opportunity legislation. All believe in the intent of the Act, and consider that the legislation has been, and will be, necessary in the future to encourage equal opportunity for all.

Those interviewed are **proud of their approach** and believe strongly that it results in the best outcome and better employment decisions which are to the benefit of the employer organisations. This is their primary motive rather than EO compliance specifically. When their process results in employment of people that do not reflect a traditional stereotype such as women in a traditional men's role, or the hiring of post retirement age people, they take particular pleasure in the success of their appointment. Indeed, one can see that making this type of appointment can be more rewarding for the decision-maker than more generally expected appointments. Such cases bring to life the value of the Act.

It should be noted, however, that they are similarly proud of **their acts of positive discrimination and affirmative action** which can, in themselves, be seen in conflict with the Act. Positive discrimination of this kind was particularly evidenced in engineering and in law.

Common areas of discussion regarding the Equal Opportunity Act were age, race and ethnicity, sex and disability; these are addressed in greater detail later in the report.

Those with less experience and management responsibility and/or in a minority of cases, those who lack integrity in the context of the legislation, can be seen to be less aware, motivated, or focused on achieving an EO-compliant outcome. **Outcomes to the satisfaction of their clients were their primary, indeed often exclusive, focus and** EO did not appear to be a particular priority. It is therefore recommended that communications about EO include these people as key targets, in particular attempting to reach younger or junior consultants, as well as their managers. Most also believe there continues to be a need for cultural change in society if the legislation is to be truly successful.

Some are strong advocates of the Act, and see compliance as part of their culture, something that they must be consistently vigilant about. Companies with a strong HR function can be seen to be particularly strong advocates for the legislation, indeed it can be seen to be part of these executives *raison d'être*.

Education is seen to be key to more satisfactory outcomes, yet observation would suggest that the

priority placed on the education across the recruitment industry and employers is not consistent.

Often EO issues are formalised as part of the orientation provided to new recruits, in terms of recruitment policy and behaviour in the workforce, albeit this would appear to take a policy rather than real life scenario/approach. Commitment to make this education ongoing and updating this knowledge is more variable.

In many organisations EO information is provided on company Intranet services or accessible when an issue is raised, rather than something which is actively promoted. It should be noted that most believe these provisions to be adequate, but we suspect it does allow for some aspects of the law to be overlooked/not fully understood, and for interpretation to vary when applied to the day to day requirements/processes of hiring.

The breakfast seminars run by legal companies are highly valued because of the interactive case study approach. However, not all get to experience this level of personal training – extending this kind of initiative or type of information to broader audiences is likely to be beneficial.

It was evident that EO was bringing with it a **cultural change** in the organisations surveyed, however, consultants report, and can be seen to be faced with challenges to the legislation (this is discussed further in Area Three).

These challenges tend to be in the context of preconceptions of employers and consultants regarding cultural fit (ie. the personality profile of the person believed suited to the organisation), and in the context of age, sex, and to an extent, race and ethnicity and disability.

It should be noted that other issues may be evidenced in the job description, that if experience and expertise is too clearly defined it may eliminate or substantially work against candidates with the potential to perform well, but without the prescribed experience.

Workcover is a significant concern or threat to employers, particularly in manufacturing (which is discussed more fully in the body of the report). This can be seen to have the potential to impact on EO compliance.

It should be noted that compliance is deemed much less likely to be a problem where there is a shortage of willing, committed and, importantly, appropriately skilled people for a position. In these situations the 'skill' of the applicants is clearly the most important factor and, consequently, the appointment is more likely to be compliant with the Act. It is recommended that education is targeted towards recruitment in jobs where there is a larger pool of potential applicants, so as to help ensure those with the competencies for the role are not discriminated against.

Conclusion

The research reveals considerable support for the Equal Opportunity Act and a belief that this legislation is required to support the opportunities for employment of applicants. The recruitment consultants interviewed invariably report the best intention in this regard. However, the difficulties encountered in obtaining the case study interviews and the fears and concerns associated with the legislation indicates that the Act can attract a negative perception or be associated, rather than

the more positive associations respondents willing to be interviewed make with its vision. This appears to detract from the positive outcomes that can be achieved through the Act. This suggests that the goal of compliance may be **more achievable if it was more celebrated and acknowledged** rather than seen exclusively as legislation and a law, ie. something that people can use against an executive or an organisation.

Recruitment consultants and human resource executives are championing the legislation and are putting into effect strategies to assist compliance, such as **advocacy, refusal of work of non-compliant clients, and education of clients of the business benefits of diversity**. This is commendable in an industry under pressure. There may be benefit in recognising these people for the outcomes they achieve, and, importantly, the systems they put in place and regulate to achieve these results within their organisations.

The interviews also reveal that although education in relation to the Equal Opportunity Act is often part of a new employee's induction, and available for reference as a policy on company Intranet, this education tends to be not ongoing, and not to focus on practical examples. The legal fraternity can be seen to be doing an excellent job in the context of education. They bring the legislation to life in a way that can be appreciated in the context of the executives work, not just in the context of policy. This kind of approach is enjoyable and appears to add saliency to the information. The EOC may wish to consider a similar training approach.

A particular challenge for education would appear to be in the delivery and marketing to those involved in recruitment but who are not directly responsible – ie. more junior consultants, and in companies, decision-makers outside the human resource department. The need to reach this broader target will need to be confirmed quantitatively, if it is revealed to be the case, raising the public profile of the benefits of equal opportunity (very evident to compliant consultants and employers), and providing and encouraging regular training in the area for all involved in hiring (not just those who specialise in the area), may prove invaluable to achieving the vision of the Act.

Content Analysis

Area One: The Recruitment Industry and their Clients

1.1 Relationship with clients

The recruitment industry is reported to be very competitive. It is said to have grown significantly as a consequence of the I.T. and financial booms and is now facing rationalisation or refocusing. An increase in job applicants is reported (which need to be managed, a difficult challenge in itself), and at the same time a dearth of skills is evidenced in some areas, eg. engineering. Some also reported a perceived lack of young people committed to working in some environments, particularly manufacturing. The recruitment consultant's role can be seen to be a challenging one.

The industry demands considerable commitment, and often long hours, from its consultants in their quest to serve the needs of their clients.

"I never stop work, I've got the phone all the time, I stop work at 5 technically, but I still get calls at night, last night I got a call at quarter to 12 at night."

"I have the mobile phone on me all the time, but generally don't get calls on the weekends!"

(Consultant - Beverages)

The consultants interviewed often described their relationship with client companies as a **partnership**, one where they worked with management to help build the business by providing them with the **right people**. This sometimes involved getting involved in their client's business planning as well as placement.

"Always skill set and experience ... I have recruited all levels ... we're really looking for the right person."

(Consultant - Legal)

It should be noted that comment made by clients, and the difficulty experienced in recruitment for this phase of research would suggest that this concept is an ideal that may be true of some, but not manifested in the majority of agency/client relationships.

"I believe recruitment is a business development industry."

*"You sit there with your client and you say, 'Okay what is **important to you in this role**, what are you going to **measure this person's performance** on, what are the **tools that are required to do this job**, what are the **hours for this job**, what is the **location**', all of that, and that is **a position description**."*

(Consultant - Legal)

"A North American client - they pay us a fee monthly just to be

at their 'beck and call'. They retain us on a monthly basis whether they've got work or not. But we've built them from scratch, and now they're a 28 million dollar turnover American here in Australia. And look ... next two contracts that they're in for they'll go to \$150M-\$200M. We work very, very closely, we talk daily and we actively search for the best people for them non stop."

"With most of (client) companies, we sit in on their business planning (sessions). There's two ways of doing it, one company has us sit in and contribute to it. Others go in at board level, make the decisions and then bring us in, (they say) 'this is where we want to be and this is what we're trying to achieve in the next three months, this is what we're going to do over the next 6, this is what we are in the next 9, this is the next 12, this is our vision for the next 5 to 7 (years) and this is what we need you to do, we need you to come up with a recruitment strategy the whole way through'."

(Consultant - I.T.)

Most of the consultants interviewed reported taking the time to **learn about the business and culture** of their client's organisation as they believed this vital to their being able to place the right people in the vacant positions. They believed this helped guide the development of **job descriptions**, the latter being considered pivotal to their success in recruitment and compliance.

The client **brief and agreed job description** was considered all important, the recruitment agencies believed they were generally doing the 'right thing' by the Act in delivering people to this brief, albeit this may, in itself, introduce the possibility of too narrowly focusing the brief and eliminating potentially good prospects, indeed, introducing the possibility of discrimination.

"We're currently recruiting another senior role at the moment and we've had a real mix of guys, girls, old, young which we've actually been putting through the process."

"We never ask for a certain gender, and we never ask for an age group, we may ask for an experience level in the field, but that could be any age group."

(Consultant - Legal)

Again comment by clients failed to fully support assertions such as these regarding the level of ongoing commitment of the recruitment industry to understand the culture of the organisation or work group or in defining end refining the job description, as few reported much face to face contact when a job vacancy is identified and briefed. One client respondent suggested that assumptions may be being made about the culture unbeknownst to them, which may in fact be counter to the expectations of the client.

"One of the key responsibilities that we see as a recruiter for the

client is to go to them and understand their culture and understand their organisation ... making sure that we have a full understanding of what they do, how they do business. We show an interest, and we want to know more about their organisation ... (this involves) general discussion with us about where they're at in their firm, what their plans and their strategies are to develop their firm to the next level, and hence how the position has come up. Whether it's a replacement position, why it's a replacement, or if it's a growth position, why it's a growth position."

"I have met quite a few of the rest of the management team, so as soon as something actually happens in an area, they actually ask me to go and meet the people in that area. So then I get to know their personality, their culture, their direction about the way they want their particular part of the firm to go."

"We want the right candidate rather than a quick fill ... we say we don't put bums on seats, we make sure that it really fits in with the culture, fits in with the personality."

*"That's why the **position description** is quite important, and that will stop any sort of discrimination because these are the required skills that are necessary to perform the job."*

(Consultant - Legal)

The focus on a "cultural fit" can also be seen to lead to the potential for non-compliance, particularly if this is assumed by the recruitment agency and not explored with clients. Most of the clients interviewed appeared less specifically concerned about cultural fit than the recruitment industry. Indeed diversity in their workforce was often wanted and seen to negate the cultural perspective.

The client was recognised as the final arbiter in the selection process, albeit many of those interviewed also reported that they sometimes have to take responsibility for **training, educating or persuading their clients** to see beyond any potential bias and select the right person for the job. This outcome is reported to take some time to achieve.

"At the end of the day the clients are the ones that pay us so it's really their decision whether they accept or reject someone."

"The client was ready to dismiss this person, but I said to them ... 'this person didn't have much personality, but when I started talking to him about things to do with his job you could see a light turn on in his head', but he didn't have a lot of personality. His reference check revealed that he didn't have a problem communicating with other people or anything like that, I don't know if he was nervous or (nervous because) he'd been

interviewed by a woman ... I suggested that I conduct another reference check and got all positive feedback, and I probed a little further into his abilities ... and they didn't have any problem with him in that situation, so I suggested it would be worth having a second interview."

(Consultant - Beverages)

"We've just re-engineered an engineering company and we've actually said that, 'The reason why your practices are the way they are, you're not allowing other people into your business, you know, it's male dominated', I said, 'You need a different point of view and you need different practices in there', so we're going, hopefully through the practice that the best person actually wins the job."

"They would've said no, but we've convinced them ... the best person wins the role, it's as simple as that."

"We've spent a lot of time educating ... just educate them that the best people are the best people and you take whomever that comes ... that's taken two years of hard work to get their mindset right."

(Consultant - I.T.)

Some reported a desire to **stand up and be counted**, and actively avoided clients who, they believed, made discriminatory demands/decisions.

"It would be a lot harder for us to place people with people that didn't have an alignment with the way we saw things and the way the law is seen, why would we make our life so difficult anyway and spend time doing that, it just doesn't make sense."

"As a whole, recruitment firms will say, 'Sorry, catch you later', we don't want to deal with you."

(Consultant - Legal)

"I think I'll win, I think I'll get him in, that'll take me 2 to 3 weeks, of badgering HR, badgering the engineering manager."

"His requirements are ludicrous, he wants (a fashion model equivalent) to be working alongside, and that's not what we do ... he's not getting anyone, I've said to HR, 'I'm not actually going to do this', I've said, 'You can tell him that we're actively working on it, but you won't be getting anyone from us ... HR have just related that really this is what he's after and I've said, 'Well we won't do it', and they've said, 'We know that, but'. And so our arrangement is that we'll leave it for a month ... we do

battle away at that sort of stuff."

(Consultant - I.T.)

As alluded to earlier in this area, **the clients interviewed** generally respected their consultants, but were less likely to acknowledge the significance of the consultant's role or importance of their contributions in recruiting staff, in developing their businesses, or with their initiatives/endeavours to comply with the Equal Opportunity legislation. Rather they saw this as very much their own domain.

It was also interesting to note that the client companies used agencies selectively, ie. they would recruit internally, or advertise themselves, in preference to using agencies if they felt they would be successful.

"They (management) prefer that we do all the recruitment ourselves, and to be honest we get a better result when we do. But we use agencies on the odd occasion that it's a difficult position. There are a couple of positions in the company that are traditionally hard for us to recruit, or we've beaten our head against a wall several million times and we're now at the point where we go, 'We really need some additional help trying to get this position in'. The hard to find people. We use about three or four agencies on a regular basis depending on where the role is."

(Employer - Internet)

The recruitment industry image was not particularly good in the eyes of the clients and the relationship with those recommended for the study was often considered as an exception. A negative perception of their industry peers was also sometimes reported by consultants interviewed, further suggesting that the approach of those interviewed may be an exception.

"We try and avoid the recruitment agencies simply because of we've had our fingers burnt by a number of them on a number of occasions, and (are) just getting sick and tired of what we see as basically a half baked service. I mean you used to get CV's dropped on your lap and they'd say, 'Here's a CV, what do you think, give us 15% of this person's salary', (the) greatest rip offs in Australian industry."

"For instance (an example of poor service) one of Australia's biggest and supposedly most reputable firms. We were having difficulty getting a particular type of engineer, and had been for about 12 months and we decided to bite the bullet and gave them the job. Three or four months later they still hadn't found anyone for us, we were putting pressure on them, because they told us how good they were. And the next thing you know we had two people to interview for the job, one was good, one was fantastic, we offered the fantastic one the job. That person rang us back and said, 'Look I'm terribly sorry I can't take your job, I already have a job, I don't want your job, I only attended your"

interview as a favour to so and so'."

(Employer – Engineering)

Despite ambivalence about the approach and ethics of the recruitment industry, it was interesting to note that few sought to determine their agency's practices in relation to legal compliance, indeed it appeared not to have been even contemplated as a consideration. Some recruitment agencies indicated that they put forward their credentials which included reference to equal opportunity and other matters, but this was not top of mind with the clients interviewed.

It is interesting to note that some of the agencies reported that they believed that they and their clients were selective of each other in line with their level of commitment to the legal requirements of placement.

"We can identify with what they're doing as not being correct, and they obviously don't want to be linked to us because we could bring them undone I suppose."

(Consultant - Legal)

A minority of consultants suggested that they could be used to hide or camouflage the client's desire to discriminate.

"I think our industry takes what the requirements are and I think people use us to discriminate on their behalf."

(Consultant - I.T.)

The presence of Human Resource personnel and specialists in this, eg. diversity managers within employer organisations can be seen to have helped make the induction of the Equal Opportunity Act smoother in terms of recruitment (through the establishment of a prescribed interview approach and advice and training to those involved in the process).

"The EO policy is always driven from HR."

(Employer - Automotive)

"We also have a diversity manager in HR so her role is to look at EO in terms of compliance and all those, but also diversity issues that arise in the company. I guess diversity captures you know a whole spectrum, it's not just a compliance issue, diversity is also trying to capture possible issues that might arise in the workforce, such as flexible work hours, generational gaps, for example our senior managers are of a certain generation whereas all the graduates that are coming in are obviously (a different) generation and there are different expectations between groups, so looking at issues that might arise."

(Employer - Automotive)

1.2 Responsibility of the Recruitment Consultant

The consultants were responsible for finding people suitable for the clients' positions. They sourced these people variously from through their own databases, networks and advertising. The approach was tailored to the requirement, and what was seen as the best source of applicants. Employers reported little interest, indeed were usually unfamiliar with this process, their interest was in interviewing a shortlist of potential candidates and meeting their requirements.

The deadlines for this work were variable, in manufacturing and labour hire the need for applicants can be within 24 hours of request. Other placements tended to have longer lead times.

Most of the respondents interviewed were very aware of their legal obligations in relation to **Equal Opportunity**, as well as **Privacy** and '**Workcover**', and some consultants expressed **fear of applicant comeback**. The difficulty encountered in obtaining referral to clients from consultants suggested that discomfort or concerns regarding compliance, or fear of this being challenged, could in fact be understated in the comments made by respondents.

"We've been accused of being racist in roles, it's come down to a guy's had 2 or 3 interviews, he's had his medical check and the client has said, 'No, look he's not right for the role'. And they've come back to us saying, 'Well look, we feel as though we're being racially discriminated against', and that wouldn't be the case, they wouldn't have actually got past us, they wouldn't have gone through 1, 2, 3 interviews and had a medical check, but at the final hurdle there's been something wrong. But we've had that levelled at us."

(Consultant - I.T.)

Concerns regarding compliance encouraged many of the recruitment agency management interviewed to be vigilant in supervising their staff, indeed some reported terminating the contract of non compliant staff.

The recruitment consultants' concerns regarding accusations of discrimination were reported as barriers to openly discuss the merits of an applicant.

"What you can and can't say, you know, even let's say you have a candidate who you know has a drug problem, you couldn't actually tell them that. Because there's now some precedents that might suggest that if you actually do not choose that person for the job it might be discrimination on the basis of disability."

(Consultant - Legal)

One respondent reported that the industry worked to manage their prospects expectations early in the interview process so as to not expose themselves to a possible challenge.

Although consultants interviewed thought (to their best intent) that they were compliant with the Equal Opportunity Act, and other legal requirements, they believed that there were agencies who

were less compliant. The least compliant were thought to be those who accommodated pressure from their clients, or were forced to deliver to internal sales performance targets.

Area Two: Awareness of and Attitude to the Act

Recruitment consultants and employers alike **believed strongly in the Act**. They believed that without the Act, equal opportunity in the workforce would not be as advanced as it is today, nor progress effectively in the future. It was something they reported that they would want themselves if looking for a position and thus wanted to apply.

The Act was known to respondents and, although few claimed knowledge of every detail, most believed themselves and their organisations to be complying with the intent.

One also sensed that the Act **added value and legitimacy to the role** of those involved in recruitment. Compliance was something they could take personal and professional pride in. The **development and implementation of interview procedures** and **ways of communicating with job applicants and clients** that helped facilitate compliance, and the existence of the Act could be seen to provide greater power and influence to those in recruitment consultancies and HR departments.

"I certainly know if I was going for a job and didn't get it because I was male or because I was married or something I'd be pretty disappointed if I thought I was the best person for the job and ultimately that's what we want as well. So we try and, at the end of the day that's the basic criteria that we go by."

(Employer - Beverages)

"There is (a need for the Act), definitely, you can't just rely on everybody having the same values and integrity, and what one person sees as important another may not ... you've got to make sure that there's something in place that's going to keep everybody equal."

"There needs to be a benchmark of what is deemed to be caring for all people."

(Consultant - Legal)

"Yes absolutely."

(Consultant - I.T.)

"Oh I think you need it, without doubt, you need to give, you know, all types of people the opportunity to work, I don't see how you could not have it."

(Consultant - Automotive)

"I think it's fine, I think that people need to be reminded, especially with an aging population, that it is not right to discriminate against people purely on the basis of age, unless

you've got a good reason."

"Probably a slight advantage, I think discrimination against women is a cultural thing that's going to change over time, it's evolutionary, and I think this may have pushed it or make it a little bit faster."

(Consultant - Executive Search)

"I think it's good, got to give everyone a chance to prove themselves."

(Employer - Beverages)

"If we didn't have it people would just be making sweeping assumptions and treating people or hiring people based on incorrect information."

(Consultant - Beverages)

*"Because I think it ensures that everyone is judged in a, what's the word I'm looking for, it ensures that everyone's **treated fairly, based on fact**, like there can be a lot of assumptions made about someone that are often totally wrong ...so it is necessary to ensure that there are processes in place to ensure that people have a fair go."*

(Employer - Automotive)

There was also general agreement that there was a definite need for the Act to continue to challenge the status quo. It was also pointed out that functions conducted, such as the administrative areas of business such as HR, were more often considered less important to an organisation because they were not directly linked to revenue. Consequently they, and their activities, can be cut back when the organisation is under economic pressure, which unless the Act was in fact law, could result in the disciplines that assure compliance being overlooked.

"It's okay to have this lovely culture, but then they say, 'Oh you know but we don't want any guys in this area and we don't want any girls in this area and we don't want any, you know'."

"Another point that enhances the fact that you do need to have the law is because from a monetary point of view these are administration focussed roles which aren't revenue building."

(Consultant - Legal)

"I'm not even saying now that there's not a need for an Act, because there would be specific areas or groups where people are not getting a fair go, and women are still not earning the same for example as men in equivalent jobs. So until that's resolved ... there's certainly a need for legislation."

(Employer - Legal)

There is strong support for the Act, despite the challenges and practical implications of compliance.

Area Three: Compliance with the Act

3.1 Overview

The employers and recruitment consultants interviewed strive to be compliant and put systems in place in their recruitment and interview processes which help facilitate this.

As discussed in Area One, the final arbiter on recruitment is the employer organisation and, although recruiters can, and report that they do, persist in provision of the right person and application of the law, they are not (with the possible exception of the labour hire market), responsible for the final decision.

The disposition of the recruitment consultant in terms of their ability or desire to challenge or oblige their clients could be seen as a key factor. Most interviewed were willing to 'fight' to place the right person in the job, others admitted a desire to please.

"Sometimes we know the client well enough to know that they could not relate to a woman. Sometimes we know the client well enough that they won't be able to relate to a man, a woman would be better, so we want to please."

(Consultant - Executive Search)

Employers that were larger corporations, and those with Human Resource departments were believed to be more likely to fully conform with Equal Opportunity laws, both in employment and in the workplace (although all those interviewed expressed good intentions regardless of size). The HR function was seen to be invaluable in defining the quality of job descriptions, the process of the interview, the system of assessment of applicants within the organisation, and indeed, the training of those within the organisation involved with recruitment (the latter would be led by the HR department). HR departments also reported responsibility for driving employment initiatives and policies that are nondiscriminatory.

Smaller client organisations, without HR departments, were thought less likely to be as systematised in their processes. This suggests there may be potential in developing proformas that address the different steps within the process and to provide these as templates for use by clients (and consultant organisations).

"Smaller companies, whilst it's preached, the practices aren't there, they're really not, I think your larger corporate type companies, whether they be in mining, manufacturing, telecommunications or whatever, have a hard and fast rule because it's been implemented by HR and it's been signed off by the CEO, and it is practiced."

(Consultant - I.T.)

The overriding rule of recruitment is finding **the right person for the job**. In large companies and

specialist fields, the vacancies tended to be more specific, easier to define, and harder to fill, and thus easier to recruit without the prejudice that may cause conflict with the Act.

"We're looking for people who have a manufacturing or manual handling type background."

(Consultant - Automotive)

It was interesting to note that Equal Opportunity discrimination was often seen to be an issue with 'old school' employers, most evident amongst older people in employer corporations. However, the reverse was indicated for the recruitment consultant, where younger people could be seen to have less power (and indeed less motivation) to argue the case when putting forward applicants.

*"I have known of clients out there who have wanted a certain type of person, and **it is an education thing**, I guess a lot of those people who want that are from the old school and probably haven't really come around to the 21st century."*

(Consultant - Automotive)

"It's funny, it's probably the oldest who will discriminate more against the older, older type, they'll say, 'We want young guns, young Turks'."

"If you look at the older, more maturing engineering type managers, they're the ones that will discriminate male or female ... because we've been doing this for 30 years."

(Consultant - I.T.)

3.2 Barriers to compliance

3.2.1 Workers compensation

The demands of Workers Compensation issues were reported to be a potential influence in discrimination with regard to the employment of people with disabilities.

It was interesting to note that a Workcover claim could be seen as a bigger challenge than the threat of non-compliance with the Equal Opportunity Act. Workcover rates increase when claims are made and a Workcover case is reportedly expensive for an employer to defend, even where an employer is shown to have done nothing wrong. When assessing risk, it may be a salient point that equal opportunity carries with it a 'no cost' jurisdiction, where even if the case is unfair, costs will not be awarded.

"Most people who lodge claims, I think they actually do believe they have been discriminated against, and unfortunately the only way is to go to the (Workcover) commission ... even if you win, even if you've done nothing wrong, if you're an employer and you've done absolutely nothing wrong at all and you've followed all due processes by the law, the costs, let's say you

spend \$15,000 - \$20,000 ... proving your point there is no claim, you don't get it back!"

(Consultant - Legal)

3.2.2 Competing Legislation

It should be noted that the number of competing legislative requirements imposed on the recruitment consultants (and employers) was often thought burdensome, even by the most educated and compliant consultants. The issue of compliance with all legislation was thought particularly challenging for small business employers, ie. those without in-house professionals to guide their processes.

"How do people actually take this on board, I mean there's so many legislations, which one do you view as being most important, which one do you have to comply with the most ... trying to comply with everything, there's just so much to comply with."

"Each box is a different Act, and as a small business you have to comply with all of them, and the difficulty ... interfacing between different legislations, they all say different things, it might be okay to do something under one Act, but you can't do it under this Act, so it's just an absolute minefield, and it's becoming a bit more difficult."

(Consultant - Legal)

It was interesting to note that the **Privacy Act can be seen to support** the Equal Opportunity Act in that it complements it and asks for greater consideration of a potential employee.

"(The Privacy Act has) really affected our industry ... we explain that process to each of our candidates ... we give them a copy of the Privacy Act and we always say if you've got any problems please come to us. We run through it at every interview and say, 'This is what it covers and this is what it'll protect you for and if you've ever got any concerns feel free to contact us'."

(Consultant - Legal)

However, the Privacy Act was seen to be a negative with regard to obtaining detailed reference material.

"When I first started it was okay for us to ask whether they had any outside influences that affected their work, eg. drugs, alcohol, those sorts of things, that was standard. Now it's, you know, 'Do you have any other comments'. You can't ask a very pointed question about a person's social habits, and sometimes it's imperative to their role - we have a role now with a company that produces 25% of the world's morphine."

"It's an opium refinery, we need to do police checks, we need to. So we have to ask them, 'You know you actually have to lay your soul bare for you to actually get the role ... if you want to go ahead with it'."

(Consultant - I.T.)

3.2.3 Cultural Fit

As outlined in 1.1, the preconceived notions of the type of job applicant most suited to the culture of a work environment, on the part of the recruitment consultant and/or the employer client, can raise potential issues of discrimination and may, in fact, operate as a barrier to compliance.

3.3 Areas of Possible Discrimination

The following discusses the key areas of potential discrimination more fully. As discussed, age, sex, disability and race and ethnicity were the attributes under the Act found most challenging by recruiters, consultants and employers alike. Conversations about the Act and compliance issues were primarily focused on age and sex. It should be noted that discrimination was thought to occur against the young as well as old, and men as well as women, and could be expressed negatively on the basis of an attribute eg. ("we don't want someone old") or positively eg. ("we want a female").

"Legislation doesn't differentiate between positive and negative discrimination."

(Consultant - Labour Hire)

Comments by consultants revealed that the issue of compliance could also be brought to question in the normal interview process as the interviewer strives to learn about the prospect.

"We think about age, marital status, ethnicity, but at the same time I don't think that we necessarily discriminate based on those things. No, we don't specifically go out and ask but ... general discussions with people, 'Tell me a bit about yourself', and those sorts of things just tend to come up ... because it's important in people's lives."

(Consultant - Beverages)

3.3.1 Age

Age was an area that recruitment consultants were very aware of, and one which they, at times, met with considerable opposition from their clients. Age was a particular issue because it could be linked to experience, and years of experience was often, directly or indirectly, part of the job description. Age was also seen to have implications for certain organisational cultures, technical and computer skills, and in the context of long term planning for the management of the company.

"We advise the client you can't do that, you can't recruit on the basis of age."

"We never ask for a certain gender, and we never ask for an age group, we may ask for an experience level in the field, but that could be any age group."

(Consultant - Legal)

"You can't ask them for their age and people don't often put their age in their resumes any more, but we quickly work it out with their work history, how long have they been working."

(Consultant - Executive Search)

"There's a lot of reticence particularly with people who are older, and it is more difficult, there is absolutely no question of that, for lots of reasons, not the least of which happens to be computer literacy, and computer acceptance."

(Consultant - Labour Hire)

"I recently did an exercise for another one of our clients, I shortlisted three, and I put in two guys that were over 50, and a young guy of 23 (these two guys were experts too, over 50). And they've come back and said they want to make an offer on the younger guy, and they'd invest \$20,000 into his training, and these guys have had the training and they've got the work experience, so I'm in negotiation. I haven't told the young guy that they want to actually take him yet because I want to talk to them about the fact that probably he (the older person) could hit the ground running, they'll get ten years out of this guy and he's a leader in his field, so that's what you're battling, it's not us."

(Consultant - I.T.)

"At the moment I'm looking for, trying to fill a position, the client has told us we want somebody in their 30's."

Interviewer: "So do you give them someone in their 50's?"

"Well we could, but they're not going to get the job and then the client will go away unhappy because we didn't find the sort of person they're looking, they've got a good reason for wanting someone in their 30's, a very good reason ... because it's the sort of job that is too junior for somebody in their 50's, unless that person has not progressed and their career has plateaued, in which case they don't want somebody who has not progressed."

(Consultant - Executive Search)

"We have tried to discriminate between about 35 and 45 in that age group to get a male or a female who have in the commercial area who've got particular types of clients and

client base and who have also got skills in a supervisory sort of mentoring role because we want someone who's going to come through and be eventually the head of the commercial division which is why we went and particularly searched for someone. So we've got a fellow who ended up being a little older than we would've wanted, he's I suppose about 43/44, I would've preferred to have got a younger guy or girl in there sort of about 37/38, but he's got a good client base, what he's done, where he is, he's been heading up their small commercial group. Personality wise he's a great fit here so I think he'll do very well."

"We just recently recruited - who'd be late 50's nearly 60 who's a guru on commercial leasing in town. Even more recently we have just recruited - who'd be in his mid 50's ... so we've picked up some terrific clients through those two. I'm very happy taking on some, what would normally be regarded as older people, purely because they've got great skills and they set terrific examples for some of the younger lawyers, and they've got time and interest in mentoring some of the younger lawyers."

(Employer - Legal)

"Might be that we're looking for someone who's had some solid intermediate experience in this industry ... and they're only 23, that they've had say 3 years - an intermediate requires someone who's been in that industry for more than say 5 years of experience."

(Consultant - Legal)

"We'd put them (50+) through the process like anyone else ... if they've got a continuous, proven background in that type of work we'll put them through, I couldn't tell you who the oldest candidate (was that) we've put through, but I know we had a 60 year old gentleman go through recently."

(Consultant - Automotive)

"The old fashioned PA just has such a skill set ... today (the PA) doesn't even have shorthand. You get some PA's coming out of secretarial school now and they get told, I won't make a cup of coffee, they can get their own cup of coffee, and I won't do this and I won't do that!"

(Consultant - Legal)

Where experience was the key, such as in law or engineering, client companies reported that they would also employ people past usual retirement age. The respondents interviewed were proud of the fact that people of this age were employed in their organisations.

"Age doesn't figure at all with us, we have, I think our oldest

person working for us is 74, I think we have a couple of people in their 70's who work for us, so it's not an issue."

(Employer - Engineering)

Respondents reported that older candidates can suspect they are being discriminated against. Some suggest that when age discrimination is the case it can sometimes be insurmountable and that ideally the applicant should be told earlier as the repetition of this interview process is destructive to their ego. This kind of statement suggests that age discrimination does occur, despite the best intentions of consultants or HR personnel.

"I'm getting discriminated against because of my age and people won't employ me, they prefer younger people'. That's very common. He said, 'I think the Act is making life more difficult for me because people will not tell you the reason why you've been rejected, they will tell you, they make up some other reason, they won't tell you, 'Sorry, we are not interested in someone over 50', they will say, 'Sorry you're not of interest because you don't have X Y Z experience'".

(Consultant - Executive Search)

One suggested that there is more age discrimination in Australia than in the UK or America, but believed that this is likely to change with the aging of the population.

"My family in England were horrified that people retire at 55, you know, 60. Most people don't retire 'til 65 there, you pick up an annual report in the UK and look at the chief executives, and people who are reporting to the chief executives, and they're much older than the sort of people you read about in annual reports here."

(Consultant - Executive Search)

3.3.2 Sex

It would appear that many organisations retain stereotypical views with regard to the employment of men and women.

"We have another client that are now openly, now, openly accepting females for the first time and I mean the company's been around for 140 years, and they've never had you know a female workforce or females in their workforce, you know we've recently got them to accept a new (female) HR manager and they're going they won't be able to handle the unions they won't be able to, of course they can, they're confident people."

"Society as a whole, yeah I don't think, because we're still talking about well run, well resourced equal opportunity type companies, but we're still coming back to a mindset that males

or females don't work well in that area."

(Consultant - I.T.)

It should be noted, however, that exceptions to these stereotypes are evident in the workforce. As with the employment of older people, the employment of women or men in unexpected roles supports the concept of diversity and is valued by those involved with recruitment on the client side.

"You tend to find that women don't like heavy lifting for example ... we have two women that probably do our heaviest jobs so."

(Employer - Beverages)

"We have one client that have very fiddly work so women tend to be better at that we still put guys in the positions ... in fact they kept calling back this one particular male because he was good at the job, and the guys love it - they're surrounded by women."

(Consultant - Beverages)

"I'm chasing a female employment lawyer at the moment who I've been working on for 6 months"

(Employer - Legal)

It was also noted that, as for age, 'sex' was sometimes part of the brief in terms of "cultural fit" or desire for diversity.

"You might have a whole lot of females in the office and you really want a male to put a balance in there, or you have a whole lot of males, and really want a female to put a balance in there, you can't actually choose but in fact you are choosing, so it's not always the right thing for the benefit of the workplace to have a non-discriminatory policy."

(Consultant - Labour Hire)

The area of gender was one area where **positive discrimination/affirmative** can be seen to be being applied, both by the consultants and employers.

"Absolutely, we're currently at about 14.8 or 14.9 percent of our staff are female engineers, because we just felt it was appropriate, we're just trying to recruit females into this industry, I mean, what do females make up, I think it's about 51% of the actual numbers of people in this country."

(Employer - Engineering)

*"From our point of view we see it as affirmative **action** type thing, but you don't just put someone in there for show, they actually have to be good enough and we're trying to get them (women) onto the executive, you know, we're going to work hard and*

behind the scenes."

(Consultant - I.T.)

It was interesting to note that the issue of **paid maternity leave** was also considered a potential threat to equal opportunity compliance.

"I'd actually say that one of the biggest hindrances to Equal Opportunity right now, and this is my own personal feeling as a woman, is the push forward for paid maternity leave."

*"Women have come a long way, we've pushed into middle management, we've pushed into executive management, we're far more accepted as individuals in our own right and our own business. We now have, in most businesses, equal footing, number for number with males. We have maternity leave provisions and that's no longer a discrimination factor ... in some instances there's job sharing which is much more accepted, there are a whole raft of things that women have really pushed forward for, now this paid maternity leave issue could wipe all of that away, **it freaks me out!**"*

"It's a really frightening concept to me, and I think it actually pushes women's rights back, or potentially pushes them back 50 years."

(Consultant - Labour Hire)

3.3.3 Disabilities

Non-work related disabilities or physical impairments that were less likely to impact on Workcover claims were reported to be much easier and more willingly accommodated.

"We have one person that works there that's been working for us a little while and his IQ is not that high, but he's an extremely reliable employee. If they have to cut anyone he's the last one that they cut."

(Consultant - Beverages)

"It's never been an issue, obviously it depends on their capabilities to be able to perform the role. Actually recently a very persistent, pushy young lady and recently finished a dual degree at Melbourne Uni and one of our clients, and she was pushing and pushing me for an opportunity and finally got an opportunity at (name of workplace)..."

And no never, there's never been a problem on that side of it. I didn't even know that she was disabled, she came into the boardroom and we had our interview and then the receptionist actually told me that she got out of her wheelchair, walked in

here on crutches and hid them."

(Consultant - I.T.)

"We put on one guy who had, and still has a severe limp from a road accident 20 years ago and yeah that was no detriment for him doing his job, he worked here for a good 12 months as a casual and demonstrated to us that he was still a good employee and I had no issues putting him on."

Interviewer: "So he's permanent now?"

"He's permanent now, has been for 12 months."

(Employer - Beverages)

"Mental disability comes under many things, we have a chap working for us at the moment who's a temp who has dyslexia and there are problems that go along with that, he's a Workcover coordinator and extremely good at it, he's not very good at writing up notes and things but has an extremely good memory, he has difficulty putting things into the computer, but the way in which he coordinates return to works and looks at how people tell him that they're injured and so forth, and what he does to assess whether or not their injuries are legitimate or otherwise is exemplary. So his disability is in fact supported by an extremely competent skill level and therefore for us we're looking at putting him on permanent now. Now that may mean we have to put on another person to bolster up that disability, the difficulty then comes, and I have no problem in supporting him in the role, however he costs us one and a half people, the question then is does he in fact support himself enough to warrant an extra part time wage."

(Consultant - Labour Hire)

The issue of **disability** was reported by some respondents as needing to be handled with care. In some cases there was a need to enquire whether an organisation can accommodate. Often disabilities could be accommodated.

In this context Workcover can also be seen to work against compliance with Equal Opportunity legislation. As manufacturers work to protect their employees on a health and safety basis, some, by necessity, have introduced testing to counteract potential danger, thereby potentially limiting the hiring of people with disabilities, for example:

- **literacy testing** because of the need to read warning signs, company memos

"It's important for safety reasons that they do have a level of literacy, obviously to read warning signs, to read company memos and so forth, it's important that they do have a certain

standard."

(Consultant - Automotive)

- **medicals**

"It's the client's policy, it's not something that we've implemented, they have their own medical team I guess because the work is of a physically demanding nature."

(Consultant - Automotive)

- **simulation testing for manual dexterity**

"We've got some boards set down the back with a wheel rim and nuts and they need to be able to change the wheel rim, put the nuts on in a certain amount of time, also make sure they're following procedures. There's different coloured nuts that they have to use, so they work off a worksheet, they have to put the air valve in the right position, so it basically identifies their ability to read off a worksheet and it also tests their manual dexterity, that they can do the physical nature of the work."

(Consultant - Automotive)

3.3.4 Race and Ethnicity

Racism was not generally believed to be a problem by those interviewed, however, some responses were suggestive of the notion that it is acceptable to focus on 'cultural behaviours' as being a separate issue to race and ethnicity.

Some ethnic groups were believed by the interviewees to have strength in certain areas and not in others, but exceptions also apply. However, these preconceived stereotypes seem likely to affect hirings. It should, however, be noted that many reported considerable cultural diversity in the workforce they hired for and/or were a part of.

"We haven't had any issues on race."

"Race and disability, no."

(Consultant - I.T.)

"Race, race isn't a concern, we've (our client is) very diverse as far as races in the workplace, and yeah we've never had a problem with putting any race out there to be quite honest with you, we've had Ethiopians, Vietnamese, Australians, Italians, Greeks, a really wide range."

(Consultant - Automotive)

"I can't say I've seen a lot of discrimination in that sense, I've worked at several places that are, one place had 37 different nationalities and it really didn't make a lot of difference, from a

race point of view it didn't make a lot of difference, like you perhaps tend to generalise and say certain races have got different skills, like Greeks for example, Greek men I find very, very good at doing bulky heavy type work but are not so good at say finicky attention to detail stuff where perhaps Asians are very good in that area but don't like the heavy lifting and that sort of work and certain, and that's a general classification because there are exceptions to every rule."

(Employer - Beverages)

Some reported that in the case of migrants sometimes cultural behaviour worked against them in the understanding of, and fitting into, the work environment. Such assumptions may well impact on compliance.

"It's not race, it's culture, there are some cultures who behave in a particular way and don't relate well to people ... we're talking about immigrants, not people who are born here."

"Recent immigrants, people who have come here relatively recently, and some of those we know, and we can tell during the interview that they don't relate as well to people as your average everyday Australian or west European."

"They can believe, you know, that they're senior, and junior people should be seen and not heard, then that sort of thing goes against them."

(Consultant - Executive Search)

Another exception to this was in English comprehension and literacy, as a part of the job specification.

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"It can be, mainly from an occupational health and safety point of view."

"We do literacy and numeracy tests, our main thing is we need them to be able to understand safety signs, if they don't understand that, then it's a huge hazard in the workplace. It makes it difficult because you feel, sometimes feel sorry for people, but at the same time you don't want them to be injuring themselves because they can't read a sign."

(Consultant - Beverages)

3.4 Approaches which assist with compliance.

Throughout this report a number of initiatives have been identified which assist the recruitment

industry to comply with equal opportunity legislation and to also assist their client's compliance. Examples have included:

- use of position descriptions to enhance a merit-based selection process (although itself not infallible)
- development of standard interview approaches and candidate assessments
- ongoing education of staff and clients in equal opportunity compliance (see Area 4 for more detail)
- advocating the legislation or in particular instances advocating the 'best person' for the job regardless of attributes
- refusing to accept discriminatory instructions from their clients.

Area Four: Education

Education was seen to be **key to achieving compliance**. However, consultants and client organisations commitment to this, particularly in the context of regular reminders, was reported to be limited. Indeed, several client companies in particular, reported a belief that understanding of the Act was limited. The study reveals scope amongst both consultants and clients for more education. **Education was identified as an area in which the recruitment industry might benefit from the expertise of the Equal Opportunity Commission.**

*"People are getting educated so that it doesn't happen or people are getting educated in terms of trying to change the culture and behaviour. And getting down to the symptoms of things rather than chasing the bad guys. Rather than having a policing role, **focus more on education.**"*

(Employer - Automotive)

"I've got a basic understanding, no I haven't been trained, no, I'm aware of employment against race and religion and those kind of things, marital status and all those criteria ... I've just seen it, just through documentation I've seen about it I guess and hearsay."

"I wouldn't say I understand it in detail but I've got an awareness of it, and certainly we try and abide by those minimum criteria. We're a very multicultural organisation, we've got a good mix of males, females and all of that, so it's not a factor for us."

"We do have an induction which has policies and when we induct each person here we go through and say we're an equal opportunity employer and that you know race, sex, marital status, religion ... it's all discussed at the induction process, there's no actual manual to say well you walk away with this and this is our policies."

(Employer - Beverages)

A primary source of education was that provided by **legal companies** for their current and potential clients. This education generally took the form of breakfasts where the guests enjoyed the breakfast and the stimulation of the talks and case studies presented. The interactive nature of the presentations was particularly appreciated. It should be noted that some consultants and human resource executives reported attending these sessions. However, most respondents did not report awareness of, and were not involved in, or invited to, these forums. Education that could adopt an interactive and case study approach would appear likely to have appeal and relevance to a wider audience of consultants and client executives.

"A lot of our clients run breakfast seminars and things ... they also

have case studies that they actually work through, and the tables (of people at the breakfasts) work through the case studies and then they work through the results of the case studies. So you actually learn the skills, you practice the skills, so you walk away with the skills."

(Consultant - Legal)

"We go to a lot of EO briefings, provided by the law firms."

(Employer - Automotive)

"We just basically bludge on the system, we go to all the free breakfasts. Most of the good law firms here in Melbourne actually have fantastic breakfasts - they have really, really good topics."

(Employer - Engineering)

The **RCSA** and **Industry Search** were also referred to as an information source.

"We get RCSA updates, and I also subscribe to Industry Search which is like a news service for the industry. You nominate which fields you're interested in or which fields are relevant to you. You basically tick boxes and say I want information about these sorts of things and that does come up in Industry Search."

(Consultant - Beverages)

Recruitment consultants and clients had their own **programmes, training manuals, websites or training sessions**, however as discussed, the ongoing review/quality assessments of the processes were not always made. Some reported induction programmes, but this was not consistent across the industry. The information was made available but was not always the subject of specific regular attention, nor followed up by management systems. It would appear that equal opportunity education, particularly on the client side, focussed on the equal opportunity in the workplace as well as during recruitment.

"Yeah they're on our website, so all employees can access that. If you go to a training session you'll be given that also in a binder, but it's all there to read on the website. We're lucky that we have a lot of resources in that regard that we can call on."

(Consultant - Automotive)

"No I wouldn't say we've got a policy document."

"No formal training, no."

(Consultant - Beverages)

"They - equal opportunity policy - everyone gets it when they come in, and it's actually on our Intranet, our internal Intranet with all the HR policies too."

(Employer - Legal)

"New starters also go through a one day induction and within that one day induction we have a session on Equal Opportunity. We take them through the EO policy ... guidelines, expectations, behaviours and all that sort of stuff and they do actually have to sign off to say yes we've gone through some training."

(Employer - Automotive)

"When people join our firm we actually have a formal induction process which goes through all the policies. We also have on our systems all of the Acts that people need to be aware of and people are inducted in that area as well. There is somebody here that they can go to, but everything is on our intranet site so they have everything. We fully induct every person through the procedure."

(Consultant - Legal)

Education could be seen at its most potent when effective at a **personal level**, eg. consultant to employer, HR management to employment teams within the client organisation, or specialist to individual. Having access to 'experts' or champions within the organisation can be seen to help facilitate understanding and compliance.

"Our 'employer relations team' are really good too where if we have an enquiry they're generally able to get back to us pretty quick in regards to that too. So they're the experts on it so we certainly use them as a major resource if we need to."

"We've got a group, they're called 'Group employer relations' and any EO issues that come up we can speak to them, and they can have a look at work sites, and go over details."

(Consultant - Automotive)

"Our management team run ongoing training as soon as there's been a change to a law ... if there's a really big change we might run seminars in-house."

(Consultant - Legal)

"We've got our own systems in place, we do talk to the staff ... we have to be careful (about) our standards. If we don't maintain the highest standards we won't get the business."

(Consultant - I.T.)

Some believed that to take the next step equal opportunity education may need to focus on the community, to address the cultural issues that result in the potential for discrimination in recruitment.

"To be honest with you, so yeah I think it's a societal as opposed to a company situation."

(Consultant - I.T.)