



## PSYCHOMETRIC ASSESSMENT – LEGAL CONSIDERATIONS AND PRINCIPLES

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### Psychometric Assessment- Legal Considerations and Principles

The purpose of this document is to provide information for agencies on psychometric assessment.

Assessment practices must be free from bias and discrimination and this should be demonstrated by agencies prior to use. No human resource practices should be unlawful or unethical. It is important to take great care particularly when the outcome of the practice has serious consequences (such as not being selected for a role compared to a team building exercise).

#### Relevant principles and legal obligations

The principles below apply to all assessment, whether it is undertaken in the context of recruitment, selection, capability assessments, individual development, or the management of change.

Any assessment processes for the workplace must adhere to and be consistent with the following:

#### Te Titiri O Waitangi

The Public Service needs to honour Te Tiriti O Waitangi when designing and implementing assessment processes in the workplace. Principles of whanaungatanga (partnership), kaitiakitanga (protection), and manaakitanga (participation) will be advanced and applied in the workplace.

In doing so, the Public Service should recognise the Treaty partnership as well as ensure that processes are not discriminatory.

#### Gender Pay Principles

- These principles have been agreed by unions, State sector agencies and the State Services Commission and aim to ensure working environments in the State sector are free from gender-based inequalities.
- Assessments used should reflect the gender pay principles. In particular, Psychometric testing should demonstrate freedom from bias and discrimination, (GPP 1), which includes paying particular attention to the compounding impacts of gender combined with other factors for example Maori, Pacific, Asian and other women and also that leaders and decision makers develop strong relationships with women to reduce opportunities for bias and discrimination to occur.
- Gender Pay Principle 4 states the commitment to integrating the principles of Te Tiriti O Waitangi and addressing the needs and perspectives of Māori women.

Note: under the Gender Pay Gap Action Plan

- Chief executives are committed to closing gender pay gaps in their agencies
- One of the critical actions is that “there is no bias or discrimination in remuneration systems or human resource practices”.

### **State Sector Act 1988**

Under section 56(1), department chief executives must operate a personnel policy that complies with the principle of being a good employer.

A personnel policy that meets the good employer principle includes:

- the impartial selection of suitably qualified persons for appointment (section 56(2)(c))
- recognition of the aims and aspirations of Maori, employment requirements of Maori and the need for greater involvement of Maori in the Public Service (section 56(2)(d))
- recognition of the employment requirements of women and persons with disabilities (section 56(2)(g) and (h))
- recognition of the aims and aspirations and employment requirements, and the cultural differences of ethnic or minority groups (section 56 (2) (f)).

### **Human Rights Act 1993**

Section 22 (1) of the Human Rights Act states that it is unlawful to refuse or omit to employ people, offer less favourable terms of employment, conditions of work, superannuation and other fringe benefits and opportunities for training, promotion and opportunities for transfer, or to terminate employment on any of the grounds of discrimination listed below, unless a permitted exception under sections 24 to 32 applies.

The prohibited grounds of discrimination (section 21) are:

- Sex including pregnancy and childbirth
- Marital status
- Religious belief
- Ethical belief
- Colour
- Race
- Ethnic or national origins
- Disability
- Age
- Political opinion
- Employment status
- Family status
- Sexual orientation

### **Privacy Act**

Agencies need to take reasonable steps to ensure information they collect on individuals is accurate, up to date, complete, relevant and not misleading in relation to the purpose for which the information is to be used (Privacy Principle 8). This requires transparency about the purpose of any assessment, and demonstrable assurance that the assessment method is fit for purpose, reliable and valid across all groups.

Personal information (for example assessment results, comments, assumptions and conclusions) about a person must be available to them in accordance with the Privacy Act. They should not otherwise be withheld.

The relevant information privacy principles include:

- only collect personal information that is necessary for a lawful purpose (Principle 1)
- take reasonable steps to ensure that the individual concerned is aware of the purpose for which the information is being collected (Principle 3)
- allow the individual concerned to access their personal information where it can readily be retrieved (Principle 6)
- take reasonable steps to ensure that the information is accurate, up to date, complete, relevant and not misleading (Principle 8).

The Public Service should not enter agreements with providers that restrict access to personal information in breach of the Privacy Act. Providers should not use the personal information gained for anything other than providing the Public Service agency with the required reports, and this should be explicit in the contract for service with the provider.

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