

Testing Discrimination

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For: The EU- Anti-Discrimination Directives 2000/43 and 2000/78 in practice: exchange of good practices and recent developments

At ERA, Trier, 09.06.2008



The four ways of testing

- Testing to gain evidence
- Testing to prove a policy
- Testing for awareness raising
- Testing for scientific research



Testing to gain evidence

Example:

Mrs. X has responded to a job advert and was told that the job had already been taken. She believes that she has been discriminated on the grounds of her sex and ethnic background.



Testing to gain evidence

Possible test:

(Testing by phone)

First tester: Male + ethnic majority

Second tester: Female + ethnic majority

Third tester: Male + Mrs. Xs ethnic group

(Fourth tester:) Female + Mrs. Xs ethnic group



Testing to gain evidence

Outcome of testing:

First tester: Is the job already taken?

Second tester: Does ethnicity make a difference?

Third tester: Does sex make a difference?



Testing to prove a policy

Example:

People report that there is a discriminatory access policy at a certain bar, club,...

Possible test:

Testers bearing different features try to get access.

Outcome:

Evidence on „door-policy“



Testing for awareness raising

Testing in cooperation with media.

Especially recommended for the testing of policies.

The media coverage aims at raising public awareness and increasing pressure on perpetrators beyond legal accountability.

Possible trap: Testers could be „too eager“ to find discrimination.



Testing for scientific research

The first step in maintaining the controlled experiment is to recruit testers who meet a daunting set of requirements : ability to play the job-seeker role convincingly while simultaneously making accurate observations about the hiring process ; willingness to approach the study objectively ; similarities between testing partners in general appearance and demeanor ; and the differing demographic characteristics required by the study design. Recruiting individuals meeting all the requirements of the position is often a time-consuming and painstaking process. In one typical study, 93 potential testers were interviewed before 4 testers were selected to form 2 testing pairs

(Nunes and Seligman, 1999, p. 6).



Testing for scientific research

The second step in maintaining the controlled experiment is training to make pairs of testers equally credible job applicants. During training, testers develop and memorize their false resumes, receive coaching on effective job interviewing techniques, and rehearse similar answers to common interview questions. Concurrently, testers are trained to be “human tape recorders” by drilling them to notice and remember important details of their job application experiences and instilling the value of objective observation. In typical well-run testing studies, training requires about 3 days.

(Marc Bendick, Jr.)



General thoughts on testing

- Testing is not fun.
- Testing requires preparation and training.
- The output of testing is not always useful for litigation purposes. What kind of evidence does it really produce?
- Testing needs allies



Testing is not fun

Always keep in mind that your testers encounter **real exclusion** and possible **humiliation** even in fake situations!

For most testings they cannot claim any remedy against it.

So it is the sole responsibility of the testing organisation to take care of their well-being.



Testing requires preparation & training

The whole success of testing depends on the preparation!

Credibility, integrity and objectivity are the crucial factors.

Testing pairs or groups shall approximate the “but for” test as perfectly as possible. This means that they shall be similar *but for* the characteristic which is tested.



The output of testing is not always useful for litigation purposes

- Most testing methods do not produce evidence useful for individual cases litigated.
- Discrimination against testers might not qualify as unlawful discrimination in courts.



Testing needs allies

Especially the work of NGOs is often regarded as partisan.

Therefore, it makes a lot of sense to include unsuspecting or even unexpected allies in testing activities like police (RADAR experience), media, notaries etc.



Testing is useless without good documentation!

