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# Lookism: The New Frontier of Employment Discrimination?

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## Introduction

If you're ugly, short or rude, your career prospects in the Chinese navy don't look like plain sailing. Officials say anyone joining the service in 2006 must be good-looking, tall and polite. (BBC News, 2006)

The reason that Chinese navy sailors must be good looking and well-mannered, according to a navy spokesman, is that, as China opens up to the world and its navy vessels visit and engage in joint exercises with other countries, its sailors become representatives of China. Beyond the media's attention-grabbing headlines, there is now established academic research from the USA and UK, as well as some emerging indications from Australia, highlighting links between an individual's looks and his or her pay and employment prospects.

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The conclusion is stark: employee looks matter. Employers appear to discriminate in favour of people perceived to be better looking or who are perceived to have the 'right look' and penalize those perceived as less physically attractive or having the 'wrong look'. This 'lookism' is being signalled as the next frontier in the struggle against discrimination in employment. As Oaff (2003: 7) states bluntly, 'If your gender and your race haven't kept you off the short list, your physical appearance still might'.

Discrimination is an intentional feature of all recruitment and selection. Some applicants will be offered jobs and others rejected. It is accepted that employers 'filter in' potential employees deemed most appropriate and exclude those judged less appropriate. However, some criteria upon which this discrimination is based are deemed lawful while others are not. For example, discrimination based upon academic or vocational qualifications possessed by an applicant are acceptable, while that based upon sex, race, disability and, more recently, age is legislated against by governments in the EU. Discrimination based on employee looks is a grey area, perhaps because it is only now emerging as an issue but also because it is more problematic to address.

Initially drawing upon secondary data from the UK and USA, this Research Note considers how and why employees' looks have become an important feature in employment. It then highlights the different national institutional responses to lookism, noting that Australian jurisdictions may be leading the trend to increased regulation. Nonetheless, the article also suggests that whilst the issues of lookism might be taken seriously by anti-discrimination law in Australia, there is a vital need for more research both of the issue and how it is being addressed.

## **Employees Looking Good and Good-Looking Employees**

Although there are a few historical references to its importance to employers (see for example Hopfl, 2000), the issue of employee looks has become prominent as services have expanded and competition increased, with companies trying to differentiate their service offerings. A key employer strategy to differentiate services is through emotional labour and employer appropriation and transmutation of employees' feelings in order to affect customer feelings in the pursuit of commercial gain. Over the last decade, analysis of interactive service jobs has been dominated by this emotional labour paradigm, with the focus on the possible stresses and strains associated with employees having to manage their own and/or customers' feelings (for a review and critique, see Bolton, 2005). More recently, and in part an extension of this approach, attention has turned to 'aesthetic labour' in which it is recognized that it is not only feelings that employers want to organize and control but also employees' corporeality (Witz et al., 2003). If emotional labour seeks to shape employees' feelings, then aesthetic labour seeks to similarly shape employees' corporeality, and for the same reason – commercial gain.

Initial research examining aesthetic labour centred on Glasgow's emerg-

ing 'style labour market' and jobs in designer retailers, boutique hotels, style bars, restaurants and cafes (Warhurst et al., 2000). This pilot study revealed that these companies desired and developed employees who could become the physical embodiment of the corporate image and 'personality'. These employers believed that having employees who 'look the part' helped create a distinctive company image and provided competitive advantage for these companies in the crowded retail and hospitality industries. In the course of this research, however, it became apparent that the success of these companies was creating 'demonstration effects' among other, more prosaic retail and hospitality employers. These other companies too were beginning to think about using employee looks to appeal to customers. A subsequent survey of hospitality and retail companies in the same city (Nickson et al., 2005) found that the look of employees was an important part of all companies' branding and competitive strategies. Asked to assess the centrality of employee appearance to business success, 93 percent of employers stated it to be either critical or important, with 90 percent citing the right appearance as a critical recruitment criterion.

However it is not just employees who look good that employers favour but also good-looking employees. Longitudinal research from both the USA (Hammermersh and Biddle, 1994) and the UK (Harper, 2000) indicates that employment, career and pay are influenced by employees' appearance. In short, employees perceived to be good looking have better pay and job prospects. Although in the UK this outcome exists across all sectors, it is more pronounced in services. In the USA, a recent survey by Eversheds, a network of employment lawyers, revealed that 16 percent of Americans believed that they had been discriminated against because of their appearance (Labour Research Department, 2005).

## Institutional Responses to Lookism

Interestingly, there was a noticeable difference in Nickson et al.'s (2005) research between employers' and employees' responses on the use of photographs as part of recruitment and selection. Only 2.7 percent of the employers stated that they requested a photograph from job applicants. However, 23 percent of employees said that they had been asked to provide a photograph when applying for jobs. The low figure reported by employers may reflect their reluctance to admit to the practice given the advice from the UK Employment Service to employers not to use photographs due to their potentially discriminatory nature. Lookism is defined by Ayto (1999: 485) as 'prejudice or discrimination on the grounds of appearance (i.e., uglies are done down and beautiful people get all the breaks)'. The term is an Americanism, first used in print by the *Washington Post* in the late 1970s; in the UK legal experts more recently have referred explicitly to aesthetic labour (Middlemiss, 2004).

The regulation of adverse treatment on the grounds of physical looks, as with all discrimination by employers, is complex: lookism is difficult to prove, and difficult to prosecute under existing US and UK legislation. According

to Vo (2002), it is human nature to ascribe positively to beauty. In the USA there is debate about whether discriminating on the basis of lookism should be outlawed by being considered discriminatory under Title VII of the *Civil Rights Act* 1964 or the *Equal Employment Opportunity Act* 1964 (Pincus-Roth, 2000; Valenti, 2003). Currently though lookism per se is not considered to be an illegal form of discrimination. With no federal laws in the USA, for example, to protect against discrimination based on appearance, appellants must prove that the discrimination is based on other factors such as sex or race. This approach is one also adopted in the UK. In cases in which employees, trade unions or organizations concerned with equality have successfully challenged discrimination or discipline on the basis of employees' appearance it has been using existing legislation centred typically on race and sex discrimination (Hay and Middlemiss, 2003).

One state in Australia, however, has taken a more direct approach and created legislation that might address lookism. Under the *Victorian Equal Opportunity Act* 1995, it is now unlawful to treat someone unfairly or discriminate against them because of their physical appearance. The Act specifically refers to discrimination on the basis of physical features and seeks to prevent employers from treating people less favourably because of these characteristics. The Act defines physical features as a person's height, weight, size and shape and bodily characteristics such as scars, skin conditions and birthmarks over which people 'do not have control' (Equal Opportunities Commission [EOC], 2003). Although not included as 'physical features', the Act recognizes that enforcing particular dress codes and appearance can have discriminatory implications in relation to sex, religion, race and lawful sexual activity for example. As a consequence, the EOC provides employer guidelines on appearance standards and dress codes that cover the hiring, firing, promotion, pay and training of full-time, part-time, casual, probationary and contract workers.

Since 1995, the Commission has registered over 600 complaints about discrimination on the basis of physical appearance in the workplace. Although the EOC recorded a large number of grievances, the problem might be more widespread. Around 70 percent of people who contacted the Commission with an enquiry did not follow through with a registered complaint, perhaps because they believed that what they have experienced is not serious enough to warrant a complaint (EOC, 2002). Significantly, as yet, there has been little assessment of the impact of this legislation in terms of operation or outcome.

## Concluding Remarks

Lookism based on employees having the right look or just good looks, is clearly emerging as an employment issue. However, in the USA and UK the tendency has been to address any discrimination through existing legislation. The different approach taken by Victoria in Australia provides an opportunity to examine the feasibility of a law intended to address discrimination on the basis of employee appearance.

Therefore while some research has investigated how appearance may influence employment in USA and the UK (see also Laabs, 1995), lookism is academically under-researched in Australia. This neglect is despite growing media attention to cases of potential discrimination on the basis of appearance, for example when Australia Post attempted to refuse hiring 'porkie posties' (*Herald-Sun*, 2006), as well as assorted accounts of firms imposing alluring dress codes or accessing the Australian Industrial Relations Commission to defend the banning of employee nose rings while at work (Australian Industrial Relations Commission [AIRC], 2006; Hildebrand, 2005; Watson, 2004). This academic neglect into the regulation of employee appearance at work in Australia is surprising given that Victoria appears to be the only jurisdiction where discrimination on the grounds of appearance has been directly legislated (Ronalds and Pepper, 2004). As such it is timely to explore the possible extent of lookism as well as the varying institutional responses to it both in Australia and internationally. Consequently, research undertaken jointly by the authors in UK and Australia seeks to survey and analyse the extent of 'aesthetic labour' in the largest interactive services sector in both jurisdictions – the retail trade. The research hopes to track the demand for aesthetic labour among employers, using this material to lever open wider academic debate about discrimination on the basis of employee appearance.

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