

AI in hiring and staff decisions

Using AI to choose, rate, allocate or watch people brings extra legal duties in some places. Here is what two official texts say, as read on 16 Oct 2026. Talk to your adviser before you use any AI tool for these jobs.

HIGH-RISK FROM 2 DEC 2027

Annex III, point 4, of the EU AI Act (Regulation (EU) 2024/1689) lists these as high-risk AI systems:

- (a) "AI systems intended to be used for the recruitment or selection of natural persons, in particular to place targeted job advertisements, to analyse and filter job applications, and to evaluate candidates"
- (b) "AI systems intended to be used to make decisions affecting terms of work-related relationships, the promotion or termination of work-related contractual relationships, to allocate tasks based on individual behaviour or personal traits or characteristics or to monitor and evaluate the performance and behaviour of persons in such relationships"

The main duties for these systems now apply from **2 December 2027**: Regulation (EU) 2026/1744 moved them from 2 August 2026 (Article 113, as amended). Article 6(3) sets out limited cases in which a listed system is not high-risk.

Duties for deployers, the organisations that use such a system, include (Article 26):

- use it in line with its instructions for use;
- give human oversight to people with the necessary competence, training and authority;
- keep the logs it generates, where they are under your control, for at least six months, unless other law says otherwise;
- before using it at the workplace, inform workers' representatives and the affected workers;
- tell people when it makes, or helps to make, decisions about them.

BANNED SINCE 2 FEB 2025

The EU AI Act bans the use of AI systems "to infer emotions of a natural person in the areas of workplace and education institutions", except where it is meant for medical or safety reasons (Article 5(1)(f)).

ILLINOIS SINCE 1 JAN 2026

Public Act 103-0804 changed the Illinois Human Rights Act. In recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure, or the terms, privileges or conditions of employment, it is a civil rights violation for an employer "to use artificial intelligence that has the effect of subjecting employees to discrimination on the basis of protected classes", or to use zip codes as a proxy for them. It is also a violation "to fail to provide notice to an employee" that AI is used for these purposes. The Illinois Department of Human Rights is to adopt rules on when and how notice is given (775 ILCS 5/2-102(L)).

BEFORE YOU USE AI ON PEOPLE DECISIONS

- Which tools touch hiring, shifts, tasks, performance or monitoring, including AI features inside other software?
- Does a person make each decision, and can they explain it?
- Have the people affected been told?
- Who looks for unfair patterns in the results, and how often?
- Have you asked your adviser? Other places have their own rules. This page covers only the texts named here.

Your policy's section "AI in decisions about people" sets the house rules: a person decides, ask first, tell people, no emotion reading.