

The Equality Act

The [Equality Act 2010](#) was introduced to legally protect people from discrimination in the workplace and in wider society.

The Act came into force on 1st October 2010. Before that date, there were several separate legislative acts such as the Race Relations Act, Disability Discrimination Act and Sex Discrimination Act, each of which covered different aspects of discrimination.

The Equality Act 2010 replaces these individual anti-discrimination laws with a single Act. The main purpose is to harmonise equality law and make it easier to understand and reinforce protection in some situations. It lays out distinctly the different ways in which it is unlawful to treat another person in the workplace as well as other settings.

Definition of Discrimination According to The Equality Act 2010

The Equality Act 2010 explicitly states that it is against the law to treat any person unfairly or less favorably than someone else because of a personal characteristic. The personal characteristics that are mentioned in the Act include age, sex, race, religion, pregnancy and maternity, disability and sexual orientation. These are called 'protected characteristics'.

Under the terms of the Act, you are protected from discrimination in these situations/environments:

- The workplace
- In any educational institution
- When using any public services
- As a consumer
- When buying or renting property
- As a member or guest of a private club or association

Understanding Discrimination in The Workplace

Age Discrimination

Treating an employee unfavorably or refusing to hire a qualified prospective employee only because they are 'too old' or 'too young' is against the Act and considered to be unlawful. Anyone who is subjected to this unfair treatment only because of their age is a victim of age discrimination.

Disability Discrimination

The new act has made it easier for an individual to show that they are disabled by specifying an exact definition for disability. Under the terms of the new Act, a person can claim disability if they have any physical or mental impairment that has a substantial and long-term adverse effect on their ability to carry out normal everyday activities. The key words here are 'substantial' and 'long term'. The disability has to meet these two requirements for anyone to be considered disabled.

The Act also puts a duty on employers to make reasonable adjustments for a disabled employee or job applicant to help them overcome any inherent disadvantages resulting from their impairment or disability.

Sex Discrimination

Both men and women are protected under the Equality Act 2010, which means it is against the law for employers to have different rules for male and female employees or job applicants. Practices such as drawing up all-female or all-male shortlists or offering different salaries, training or promotion avenues for men and women are considered unlawful practices.

Pregnancy and Maternity Discrimination

The Equality Act protects women who are pregnant, breastfeeding or have recently given birth. Under the terms of the Act, all female employees are entitled to 52 weeks pregnancy leave. Treating a female employee unfairly because she wants to avail of maternity leave constitutes discrimination.

All female employees on maternity leave must also be informed of any jobs, promotions or transfers that become available while they are on leave and allow them to apply if they wish. Failure to do this may be unfair treatment and hence discrimination.

Race Discrimination

According to the Act, the term race includes nationality, color and national or ethnic origins. Treating an employee or job applicant unfavorably because of any of these characteristics constitutes race discrimination.

Religion Discrimination

The Act makes it illegal for employers to discriminate against an employee or job applicant because of their religion. In this case, religion refers to all major as well as minor religions as well as denominations and sects within any religion. It also includes lack of belief or religion. In other words, the Act protects all employees and job seekers, irrespective of which religion they follow and even if they do not follow any religion.

Sexual Orientation Discrimination

Under the terms of the Act, it is against the law for employers to discriminate against employees or job applicants because of their sexual orientation. This includes a person who is gay, lesbian, heterosexual or bisexual.

Gender Reassignment Discrimination

Treating an employee or job applicant unfavorably because they are proposing to undergo, are undergoing or have undergone a process or part of a process for reassigning their sex by changing physiological or other attributes of sex is unlawful and considered sexual orientation discrimination.

Different Ways You Can Be Discriminated Against in The Workplace

The Equality Act 2010 has highlighted six different types of discrimination that are applicable to the workplace.

1. **Direct discrimination** – When an employee or job seeker receives less favorable treatment because of a protected characteristic, it is direct discrimination. Example – not providing additional training for an employee because he is too old.
2. **Associated discrimination** – Treating an employee or job seeker unfairly because of their association with another person who has a protected characteristic constitutes associated discrimination. Example – bypassing a female employee for promotion because she is the mother of a disabled child.
3. **Perceived discrimination** – If an employer treats an employee less favorably because they think or suspect that the employee possesses a protected characteristic, it can be counted as perceptive discrimination. Example – an applicant is not given the job because the employer thinks the person is gay.
4. **Indirect discrimination** – When an employer puts in place unjustified practices, provisions or criteria, which are applicable to all staff equally, but which put a few employees or job seekers at a particular disadvantage as compared with those who do not share that characteristic, it is considered indirect discrimination. Example – insisting that all employees put in overtime work to meet the company's goals may put many female employees at a disadvantage as it is mainly women who take primary responsibility for childcare.

5. **Harassment** – Unwarranted conduct related to a any protected characteristic that violates an individual’s dignity or creates a hostile or offensive environment for them is considered harassment. There are three key forms of harassment – unwanted behavior that has the effect of creating an intimidating or degrading environment for the individual, unwanted conduct of a sexual nature, and treating an individual less favorably because the individual either submitted or refused to submit to sexual harassment.
Example – cracking jokes or making veiled references to a person’s sex, sexual orientation, age, race or religion.
6. **Victimization** – When a person is treated unfavorably because they filed a complaint against or supported somebody else who complained about harassment or discrimination, it is considered victimization under the terms of the Equality Act. Example – excluding an employee from meetings and social groups because they complained about being sexually harassed in the workplace.

Know Your Rights

The Equality Act 2010 protects you against discrimination in the workplace at all stages of employment. This includes recruitment, employment terms and conditions, training, pay and benefits, promotion and transfer opportunities, dismissal or redundancy.

At any stage of your employment or pre-employment, it is against the law for an employer or interviewer to ask you questions about your protected characteristics. This means you cannot be asked questions about your health, sex, religion, marital status or disabilities, unless it is a mandatory pre-requirement of the job.

You are under no obligation to volunteer information about your health, sex, religion, marital status or disabilities unless you need to avail of the reasonable adjustments’ clause. This clause states that an employer must make reasonable adjustments to ensure that all employees have access to all facilities in the workplace.

When It Is Not Discrimination in The Workplace – Genuine Occupational Requirements

Not all unfavorable treatment in the workplace is illegal and considered discrimination. There are certain times when employers have the right to place certain restrictions when hiring employees or when laying down certain practices in the workplace, if they can prove that they have compelling reasons for their actions and that these actions are justified. These are known as genuine occupational requirements.

The examples below clearly demonstrate the principle behind genuine occupational requirements and why they may not be considered discrimination:

An organization that helps deaf people can legally post a job advertisement for only deaf applicants who are familiar with the [British Sign Language](#) to offer help and counselling to other deaf individuals whose first or preferred language is BSL.

Airlines and bus companies may legally lay down a mandatory retirement age for pilots and bus drivers because of safety concerns with retaining older pilots and bus drivers.

Any church is within the law if they hire only members of their church while rejecting clergy from other religions.

A health or employment center for Muslim women may employ only female outreach workers as sick or unemployed Muslim women may not avail of the services if they were provided by a man.

Making A Claim Against Discrimination

The Act lays down a three-step process that you should follow if you think you have been unfairly discriminated against in the workplace.

First step – Talk to your employer or to Human Resources and try and resolve the problem informally.

Second step – If the situation cannot be resolved informally, use a third person or mediator to try and help sort it out.

Third step – If you reach an impasse even after using a mediator, you can make a discrimination claim in a court or employment tribunal. This claim must be filed within 3 months of the discriminatory incident.

The employment tribunal is independent of government and will listen to both sides – the claimant and the respondent – before arriving at a decision.

A last note to keep in mind about filing a discrimination claim – The Act protects you from being victimized or harassed because you have filed a claim so if you are being discriminated against and you want to file a complaint, do not let the fear of potential repercussions stop you.