

Discrimination at work

1 . Discrimination and the Equality Act 2010

Discrimination law (Equality Act 2010) protects people against discrimination at work.

It's important to understand what the law says about discrimination, so everyone knows their rights and responsibilities.

What discrimination means

Discrimination means treating someone 'less favourably' than someone else, because of:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

These are called 'protected characteristics'.

Less favourable treatment can be anything that puts someone with a protected characteristic at a disadvantage, compared to someone who does not have that characteristic.

There's no legal definition of 'putting someone at a disadvantage'. But it might include:

- excluding someone from opportunities or benefits
- making it harder for someone to do their job
- causing someone emotional distress
- causing someone financial loss

It can still be discrimination even if the less favourable treatment was not intended.

When less favourable treatment might not be discrimination

Sometimes, less favourable treatment can be justified and is not unlawful discrimination.

For example, an employer might be able to use:

- positive action – to help a disadvantaged or underrepresented group
- objective justification – when an employer can prove a legitimate need for less favourable treatment

- a disability exception – to specifically recruit a disabled person without the risk of disability discrimination
- occupational requirement – recruiting someone with a certain protected characteristic to do a particular job

Find out more about:

- [using protected characteristics to make decisions](#)
- [using protected characteristics in recruitment](#)

Who is protected by discrimination law

The Equality Act 2010 protects the following people against discrimination:

- employees and workers
- contractors and self-employed people hired to personally do the work
- job applicants
- former employees – usually around providing references

Who is responsible for discrimination

The main responsibility for discrimination at work lies with employers.

By law, all employers must:

- make sure they do not unfairly discriminate in any aspect of work
- take steps to prevent discrimination
- do all they reasonably can to protect people from discrimination by others
- look after the wellbeing of their employees – this is called a 'duty of care'

Not doing these things could cause harm and distress, and could result in discrimination complaints and employment tribunal claims.

Employers can be held responsible for the actions of employees. This is called 'vicarious liability'.

Anyone who discriminates against someone at work is also responsible for their own actions. Discrimination complaints and employment tribunal claims can be made against individuals as well as employers.

Find out more about:

- [vicarious liability](#)
- [preventing discrimination](#)

Types of discrimination

Discrimination includes:

- [direct discrimination](#) – less favourable treatment directly because of a protected characteristic
- [indirect discrimination](#) – when everyone's treated the same but people with a protected characteristic are put at a disadvantage
- [harassment](#) – unwanted or offensive behaviour related to a protected characteristic
- [victimisation](#) – negative treatment as a result of being involved with a discrimination or harassment complaint

Advice on protected characteristics

Find out more about:

- [age discrimination](#)
- [disability discrimination](#)
- [gender reassignment discrimination](#)
- [marriage and civil partnership discrimination](#)
- [pregnancy and maternity discrimination](#)
- [race discrimination](#)
- [religion or belief discrimination](#)
- [sex discrimination](#)
- [sexual orientation discrimination](#)

Get more advice and support

If you have any questions about discrimination, you can contact the:

- [Acas helpline](#)
- [Equality Advisory and Support Service \(EASS\)](#)

You can find more detailed legal guidance on the Equality Act 2010 in the [Employment: Statutory Code of Practice from the Equality and Human Rights Commission](#).

2. How and when discrimination can happen

Discrimination – including harassment and victimisation – can happen in any area of work.

It can result from decisions made at work or from how people behave towards each other.

Discrimination might not always be obvious or noticed by others.

Decisions made at work

Discrimination can happen when employers and managers make decisions around things such as:

- accessibility of the workplace and systems people need to use
- dress codes
- performance management
- recruitment and promotion
- redundancy and dismissals
- sickness and absence
- terms and conditions of employment – for example pay and benefits
- training
- ways of working – for example flexible working or hybrid working
- working hours or rest breaks
- workplace facilities – for example toilets, rest areas and canteens
- work-related events – for example team-building days, conferences and work social events

How people behave at work

The way people behave at work can discriminate in different ways.

For example, discrimination might:

- be a regular pattern of behaviour or a one-off incident
- happen in the workplace, at work social events or when people are working remotely
- happen face to face, on social media, in emails or phone calls
- be spoken or written words, imagery, graffiti, gestures, jokes, pranks or unwanted physical behaviour

It might not always be someone's intention to discriminate or cause offence.

Who someone can experience discrimination from

Someone could experience discrimination from anyone they come into contact with because of their job. This includes:

- someone they work with
- a manager, supervisor or someone else in a position of authority
- someone who's less senior, for example a manager being harassed by their staff

Someone could also experience discrimination from a customer, client or member of the public. An employer will not normally be liable for this under discrimination law. But they still have a duty of care to employees and should take steps to protect them from discrimination.

Discrimination is often directed at an individual. But that's not always the case. Sometimes there can be a workplace culture that's not specifically aimed at one person, for example making offensive comments about disabled people.

Discrimination from someone with the same protected characteristic

Discrimination can come from someone who shares the same protected characteristic.

For example, a Muslim business owner decides not to recruit a Muslim receptionist, even though they're the best qualified candidate. The business owner thinks recruiting someone else will create a better impression for non-Muslim clients. This is discrimination on the grounds of religion or belief, even though the business owner shares the same religion.

When discrimination might not be obvious

Sometimes discrimination is very obvious. For example:

- making openly racist comments towards someone
- telling someone they will not get a promotion because they're disabled
- making fun of someone because they're gay

Other things are not always obvious and might not be noticed by other people. This can include:

- [unconscious bias](#) – when someone's thoughts or decisions are influenced by beliefs or assumptions that they might not be aware of
- stereotyping people – having a fixed view of what someone's like or what they can do based on a protected characteristic
- microaggressions – small comments, questions or behaviours that are inappropriate or can cause offence, sometimes without the person who's doing it realising

This type of language or behaviour might not always be intended. But it can lead to someone feeling offended, unsafe or feeling like they do not belong. It can be very distressing.

Examples of stereotyping and microaggressions

Examples could include:

- being surprised when a disabled person talks about their partner, children or hobbies – this suggests thinking someone who's disabled is somehow not able to live a 'normal' life
- asking "where are you really from?" when someone says they're British – this suggests thinking they're not really British and do not belong here

What to do if you think discrimination is happening

Find out more about the different types of discrimination and what to do if you think they're happening at work:

- [direct discrimination](#) – less favourable treatment directly because of a protected characteristic
- [indirect discrimination](#) – when everyone's treated the same but people with a protected characteristic are put at a disadvantage
- [harassment](#) – unwanted or offensive behaviour related to a protected characteristic
- [victimisation](#) – negative treatment because someone makes or supports a discrimination claim

3. Vicarious liability

'Vicarious liability' is when an employer could be held responsible if one of their employees discriminates against someone.

When an employer could be held responsible for someone's actions

The law (Equality Act 2010) says an employee and employer could both be held responsible if the discrimination happens 'in the course of employment'. This means something that's linked to the employee's work.

This could be at work or outside the workplace, for example at a work party or through social media that's linked to work.

Example of when an employer could be held responsible

Blair, a shop assistant, makes a negative comment to someone they work with about their race. Blair's employer could also be held responsible for that discrimination, unless they'd already taken all reasonable steps to prevent discrimination happening.

If an employer has taken steps to prevent discrimination

If someone makes a claim to an employment tribunal saying an individual has discriminated against them, the judge would decide whether the employer is responsible.

The employer might not be held responsible if a tribunal decides they took all reasonable steps to prevent the discrimination.

Example of an employer taking steps to prevent discrimination

Jamie and Opeyemi work in sales. Their company trains all staff on equality, diversity and discrimination. It also recently ran an anti-bullying campaign.

Jamie sends Opeyemi some offensive and sexually suggestive emails. Opeyemi complains to their line manager. The company immediately opens an investigation and suspends Jamie's email access.

The investigation leads to Jamie being disciplined with a final written warning. Jamie is also sent on further equality training.

If Opeyemi chooses to make a claim to an employment tribunal, the employer's actions might help show it took all reasonable steps to stop discrimination from happening.

[Find out more about preventing discrimination](#)

Contact the Acas helpline

Vicarious liability can be a complicated area. If you have questions you can [contact the Acas helpline](#).

4. Direct discrimination

Direct discrimination is when someone is put at a disadvantage or treated less favourably because of a 'protected characteristic'.

By law (Equality Act 2010), protected characteristics are:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Less favourable treatment can be anything that puts someone with a protected characteristic at a disadvantage, compared to someone who does not have that characteristic.

There's no legal definition of 'disadvantage'. But it might include excluding someone from opportunities, causing them distress, or making it harder to do their job.

Types of direct discrimination

There are 3 types of direct discrimination. These are when it happens to a person who:

- has a protected characteristic – sometimes called 'ordinary' direct discrimination
- has a connection with someone with a protected characteristic – called 'discrimination by association'
- is thought to have a protected characteristic when they do not – called 'discrimination by perception'

Direct discrimination against someone who has a protected characteristic

This is when someone is put at a disadvantage and treated less favourably because of a protected characteristic they have. It's sometimes known as 'ordinary' direct discrimination.

Example of direct discrimination because of someone's protected characteristic

Mo is a woman and applies for a job with a company selling farm machinery. The employer rejects the application because they think men have better technical skills and would have more credibility with customers. This is direct discrimination because of sex.

When 'ordinary' direct discrimination might be allowed

Sometimes direct discrimination is allowed if there is 'objective justification'. This means the employer is able to prove there's a good business reason.

It only applies in some situations related to age and disability.

[Find out more about objective justification](#)

Discrimination by association

'Discrimination by association' is a type of direct discrimination. It's also known as 'associative discrimination'.

It means discriminating against someone because of their connection with either:

- someone who has a protected characteristic – for example a family member, friend or colleague
- a group of people who have a protected characteristic

Discrimination by association does not apply to the protected characteristic of marriage and civil partnership.

Example of discrimination by association

Al has a close friend who had gender reassignment surgery. After some people at work find out about this, they stop inviting Al to work social events. This could be discrimination by association, as gender reassignment is a protected characteristic.

Discrimination by perception

'Discrimination by perception' is another type of direct discrimination. It's also known as 'perceptive discrimination'.

It means discriminating against someone because of a 'perceived' protected characteristic. For example thinking someone is a certain age and discriminating against them because of it, when they're not actually that age.

Discrimination by perception does not apply to the protected characteristic of marriage and civil partnership.

Example of discrimination by perception

Ashley wears a rainbow bracelet to display commitment to LGBT+ equality. Some colleagues think this means Ashley is a lesbian and they draw offensive graffiti on Ashley's locker. Ashley is not a lesbian, so this is discrimination by perception on the grounds of sexual orientation.

Direct discrimination because of pregnancy and maternity

Direct discrimination because of pregnancy and maternity can be a complex area. If you'd like to talk this through, you can [contact the Acas helpline](#).

Find more examples

Read more examples of direct discrimination in our advice on:

- [age discrimination](#)
- [disability discrimination](#)
- [gender reassignment discrimination](#)
- [marriage and civil partnership discrimination](#)
- [race discrimination](#)
- [religion or belief discrimination](#)
- [sex discrimination](#)
- [sexual orientation discrimination](#)

What you can do

If you think you've been discriminated against at work, you should raise the issue with your employer. You can raise the problem informally or formally.

If you're an employer, you should take any complaint of discrimination very seriously and look into it as soon as possible. You must follow a full and fair procedure.

If you think someone else at work is being discriminated against, there are actions you can take.

Find out more about:

- [what to do if you've experienced discrimination](#)
- [how employers should handle a discrimination complaint](#)
- [witnessing discrimination](#)

Get more advice and support

You can contact the:

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- [Equality Advisory and Support Service \(EASS\)](#)

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5. Indirect discrimination

Indirect discrimination is when a working practice, policy or rule is the same for everyone but has a worse effect on someone because of a 'protected characteristic'.

By law (Equality Act 2010), protected characteristics are:

- age
- disability
- gender reassignment

- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Indirect discrimination can be less obvious than [direct discrimination](#). It might not always be someone's intention to discriminate.

What indirect discrimination means

By law, indirect discrimination is when a working practice, policy or rule is the same for everyone in a group, and:

- it would put people who share a protected characteristic at a disadvantage
- it puts someone personally at a disadvantage
- the employer cannot justify the course of action

'Share a protected characteristic' does not always mean everyone with the characteristic. For example it could mean:

- people with a particular disability – for example anyone with an equivalent level of visual impairment, not disabled people as a whole
- people of the same age or age group
- people who share an aspect of race – for example all South East Asian people

Someone without a particular protected characteristic might experience indirect discrimination. This would be where a working practice, policy or rule causes them the same disadvantage as someone with the protected characteristic.

Examples of working practices, policies and rules

Working practice, policies and rules can include things like formal and informal policies, decisions and ways of working. They are not always written down.

The legal phrase is 'provision, criterion or practice'.

For example:

- decisions around workplace facilities – for example toilets, rest areas and canteens
- dress codes
- policies on ways of working – for example flexible working or working from home
- selection criteria used in recruitment
- the way employees are selected for redundancy
- working hours

Who the working practice, policy or rule must apply to

The working practice, policy or rule must apply to everyone in a group.

The group could be everyone in your organisation or any other grouping of staff, for example everyone in a particular role or team.

This includes:

- current employees
- people it would apply to in the future, for example job applicants
- anyone who would be affected by something an organisation is proposing to introduce

When indirect discrimination might be justified

An employer might need to make certain decisions that lead to indirect discrimination. This may be legal if there is 'objective justification'.

Under the law, there can be objective justification if an employer can prove both of the following:

- there's a 'legitimate aim', such as a genuine business need or a health and safety need
- the discrimination is 'proportionate, appropriate and necessary' – this means the legitimate aim is more important than any discriminatory effect

Financial reasons alone are unlikely to justify discrimination. The more the action discriminates, the more difficult it is for an employer to prove it's within the law.

Employers should always check whether there's another way to achieve their aim that either:

- does not discriminate
- discriminates less

[Find out more about objective justification](#)

Example of indirect sex discrimination

A business is recruiting for a head of sales. In line with their usual recruitment policy, they only advertise the job internally. The only people who could apply internally are all men. The business does not intend to discriminate. But it could still be indirect discrimination based on sex.

Example of indirect age discrimination

A job advert for a salesperson says applicants must have spent 10 years working in retail. The business could be discriminating indirectly based on age. This is because the advert excludes younger people who might have the skills and qualifications needed.

The advert should instead say that applicants need a specific type of experience and knowledge. It should also include the main tasks and skills involved in the job, to show applicants what they'll need to be able to do.

Example of when discrimination might be justified

A manufacturer needs to make some redundancies. They do a lot of business with suppliers in India. The employer decides to keep at least one team member who speaks Hindi.

This might discriminate against people not of Indian heritage. However, it could be legal if there's a genuine business need that cannot be resolved with a less discriminatory approach.

The employer considers training others to learn Hindi. They decide it would take too long for them to speak the language fluently.

Example of discrimination when someone does not have a protected characteristic

A business owner is prejudiced against people of Polish origin. They avoid recruiting people from a particular postcode area because a lot of Polish people live there.

This practice indirectly discriminates against Polish people. It could also indirectly discriminate against people who are not Polish but live in the same area. This is because they would be at the same disadvantage.

Find more examples

Read more examples of indirect discrimination in our advice on:

- [age discrimination](#)
- [disability discrimination](#)
- [gender reassignment discrimination](#)
- [marriage and civil partnership discrimination](#)
- [race discrimination](#)
- [religion or belief discrimination](#)
- [sex discrimination](#)
- [sexual orientation discrimination](#)

What you can do

If you think you've been discriminated against at work, you should raise the issue with your employer. You can raise the problem informally or formally.

If you're an employer, you should take any complaint of discrimination very seriously and look into it as soon as possible. You must follow a full and fair procedure.

If you think someone else at work is being discriminated against, there are actions you can take.

Find out more about:

- [what to do if you've experienced discrimination](#)
- [how employers should handle a discrimination complaint](#)
- [witnessing discrimination](#)

Get more advice and support

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6. Harassment

In discrimination law (Equality Act 2010) there are 3 types of harassment:

- harassment related to certain 'protected characteristics'

- sexual harassment
- less favourable treatment as a result of harassment

Harassment and [bullying](#) are often confused. Bullying behaviour can be harassment if it meets the definitions on this page.

It's possible that serious harassment could also be a [hate crime](#).

Harassment related to a protected characteristic

This type of harassment is unwanted behaviour related to any of the following protected characteristics:

- age
- disability
- gender reassignment
- race
- religion or belief
- sex
- sexual orientation

To be harassment, the unwanted behaviour must have either:

- violated the person's dignity
- created an intimidating, hostile, degrading, humiliating or offensive environment for the person

It can be harassment if the behaviour:

- has one of these effects even it was not intended
- intended to have one of these effects even if it did not have that effect

By law, whether someone's behaviour counts as harassment depends on:

- the circumstances of the situation
- how the person receiving the unwanted behaviour views it
- if the person receiving the behaviour is 'reasonable' to view it as they do

If someone makes a harassment claim to an employment tribunal, the judge would consider whether a 'typical' person would see the behaviour as harassment.

What unwanted behaviour is

Unwanted behaviour can include:

- a serious one-off incident
- repeated behaviour
- spoken or written words, imagery, graffiti, gestures, mimicry, jokes, pranks, physical behaviour that affects the person

The person being harassed might feel:

- disrespected
- frightened
- humiliated
- insulted

- intimidated
- threatened

It can still be against the law even if the person being harassed does not ask for it to stop.

Who the law on harassment applies to

The law on harassment related to a protected characteristic applies when someone:

- has a relevant protected characteristic
- is harassed because they are thought to have a certain protected characteristic when they do not
- is harassed because they have a connection with someone with a certain protected characteristic
- witnesses harassment, if what they've seen has violated their dignity or created an intimidating, hostile, degrading, humiliating or offensive working environment for them

Example of harassment related to sexual orientation

Quinn is gay and has not told people at work. When out with their partner one evening, Quinn runs into someone from work. They tell the rest of the team that Quinn is gay. After this, people in the team start ignoring what Quinn says in daily team meetings. Quinn finds this humiliating and uncomfortable. This behaviour is likely to be harassment on the grounds of sexual orientation.

Example of harassment related to sex

Taylor is an apprentice and is the only man in a team of women. Taylor is expected to make drinks for everyone and do the washing up. Several people make comments that "it's nice to see a man doing the chores for once". This becomes a common joke in the team. Taylor feels disrespected and intimidated. This behaviour is likely to be harassment on the grounds of sex.

More examples of harassment related to a protected characteristic

Find more examples of harassment related to a protected characteristic in our advice on:

- [age discrimination](#)
- [disability discrimination](#)
- [gender reassignment discrimination](#)
- [race discrimination](#)
- [religion or belief discrimination](#)
- [sex discrimination](#)
- [sexual orientation discrimination](#)

Sexual harassment

Sexual harassment is unwanted behaviour of a sexual nature.

This type of harassment does not need to be related to a protected characteristic.

For example, someone who thinks they've been sexually harassed does not need to show it was because of their sex or sexual orientation.

[Find out more about sexual harassment](#)

Less favourable treatment as a result of harassment

This type of harassment is when someone experiences less favourable treatment because of how they responded to previous harassment.

It can apply whether the person rejected or 'submitted to' (accepted) the previous harassment.

Harassment happens when the person is treated less favourably than they would have been if they had not responded to the previous harassment in the way they did.

The previous harassment must have been either:

- sexual harassment
- harassment related to sex
- harassment related to gender reassignment

Example of less favourable treatment because of harassment

An employee receives several sexual advances from their manager, but rejects them. A few weeks later at the employee's yearly performance review, the manager gives them a poor performance score. They are regularly praised by others for their hard work. This could count as harassment if the employee's poor performance score is because they rejected the manager's advances.

What the law on harassment does not cover

The law on harassment does not cover the protected characteristics of:

- marriage and civil partnership
- pregnancy and maternity

If someone experiences worse treatment because of having one of these protected characteristics, they might have experienced [direct discrimination](#).

Other kinds of harassment

Under the Protection from Harassment Act 1997 there is a type of harassment which is separate to the 3 types of harassment under the Equality Act 2010.

This is behaviour that causes alarm or distress but is not necessarily related to a protected characteristic. It includes stalking. It can be a criminal act.

If you want to check whether the behaviour you experienced is covered by this law, you should [get legal advice](#).

What you can do

If you think you've been harassed at work, you should raise the issue with your employer. You can raise the problem informally or formally.

Any employee can report a harassment issue they've seen or heard at work, even if it's not directed at them.

If you're an employer, you should take any complaint of harassment very seriously and look into it as soon as possible. You must follow a full and fair procedure.

Find out more about:

- [what to do if you've experienced harassment because of a protected characteristic](#)
- [witnessing discrimination](#)
- [how employers should handle a discrimination or harassment complaint](#)

Get more advice and support

You can contact the:

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7. Victimisation

Victimisation is when someone is treated less favourably as a result of being involved with a discrimination or harassment complaint.

Ways someone could be victimised include:

- being labelled a troublemaker
- being left out
- not being allowed to do something

Victimisation is a specific type of discrimination under the law (Equality Act 2010). It's different to [bullying](#).

What the law says

The law says victimisation means 'suffering a detriment' because you've done or intend to do a 'protected act'.

A 'protected act' means taking action related to discrimination law. This includes:

- making a complaint of discrimination or harassment
- supporting someone else's complaint
- gathering information that might lead to a complaint
- acting as a witness in a complaint
- saying something or giving evidence that does not support someone else's complaint

The law also protects a person from victimisation when someone else thinks the person has done or intends to do any of the things above.

'Detriment' means someone experiences one or both of the following:

- being treated worse than before
- having their situation made worse

Acting in good faith

The law only protects someone from victimisation if they've done something 'in good faith'. This means not acting maliciously.

Someone is not protected from victimisation if they:

- deliberately give false evidence
- deliberately make a false allegation of discrimination or harassment

Example of victimisation

Luca was a witness at an employment tribunal, supporting a colleague who made a claim of sex discrimination.

Luca applies for a promotion and does not get it. A member of the selection panel says Luca is a troublemaker who supported a discrimination claim against the company.

If this is the reason for the panel's decision, Luca is being victimised.

Find more examples

Read more examples in our advice on:

- [age discrimination](#)
- [disability discrimination](#)
- [gender reassignment discrimination](#)
- [marriage and civil partnership discrimination](#)
- [race discrimination](#)
- [religion or belief discrimination](#)
- [sex discrimination](#)
- [sexual orientation discrimination](#)

What you can do

If you think you've been victimised at work, you should raise the issue with your employer. You can raise the problem informally or formally.

If you're an employer, you should take any complaint of victimisation very seriously and look into it as soon as possible. You must follow a full and fair procedure.

If you think someone else at work is being victimised, there are actions you can take.

Find out more about:

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