
Equalities Legislation

The principal pieces of legislation making discrimination unlawful in the UK are:

- * Age Discrimination Act 2006
- * Disability Discrimination Act 1995 and amendments 2006
- * Disability Discrimination Bill 2005
- * Employment Equality (Age) Regulations 2006
- * Employment Equality (Religion or Belief) Regulations 2003
- * Employment Equality (Sexual Orientation) Regulations 2003
- * Equal Pay Act 1970
- * Equality Act 2006
- * Equality Act (Sexual Orientation) Regulations 2007
- * Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002
- * Gender Recognition Act 2004
- * Human Rights Act 1998
- * Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000
- * Protection from Harassment Act 1997
- * Race Relations Act 1976 as amended by the Race Relation (Amendment) Act 2000
- * Sex Discrimination Act 1975 and amendments 2003

Prohibited grounds (unlawful acts)

Protection against discrimination is extensive in scope. The prohibited grounds are set out below.

Sex discrimination

Discrimination is unlawful on grounds:

- * of a person's sex, i.e. male or female; or
- * that a person is married or is a civil partner; or
- * of a person's gender reassignment status (see below); or
- * of pregnancy or maternity leave.

Gender reassignment status means intends to undergo gender reassignment, is undergoing gender reassignment or has completed gender reassignment.

Race discrimination

Discrimination is unlawful on racial grounds, which means any of the following grounds:

- * race – e.g. Jewish, Arab, Sikh, etc;
- * colour – e.g. black, white, yellow skin tint, etc;
- * nationality – e.g. a citizen of the UK, Germany, France, Australia, etc;
- * ethnic origin – e.g. Romany Gypsy;
- * national origin – e.g. English, Scottish, Irish, Welsh; a Greek Cypriot is Cypriot by nationality but Greek by national origin; a Vietnamese citizen who becomes a UK citizen is Vietnamese by national origin.

Disability discrimination

The legislation provides protection against unlawful discrimination because a person is disabled, or for a reason which relates to a disabled person's disability. A person is regarded as disabled if he or she has a physical or mental impairment which has a substantial and 'long-term' adverse effect

on his or her ability to carry out 'normal day-to-day activities'.

'Long-term' means effects which have lasted for at least 12 months, or are likely to last for 12 months or more.

'Day-to-day activities' are normal activities carried out by most people on a regular basis, and the impairment must result in an adverse effect on one or more of the following:

- * mobility;
- * manual dexterity;
- * physical co-ordination;
- * continence;
- * the ability to lift, carry or move everyday objects;
- * speech, hearing, or eyesight;
- * memory or ability to concentrate, learn or understand;
- * perception of the risk of physical danger.

Sexual orientation

Discrimination is unlawful on the grounds of a sexual orientation towards:

- * persons of the same sex – homosexuals;
- * persons of the same sex and of the opposite sex – bisexuals; or
- * persons of the opposite sex – heterosexuals.

Religion or belief

The Employment Equality (Religion or Belief) Regulations 2003 make discrimination unlawful on grounds of religion, any religious or philosophical belief.

Age

The Employment Equality (Age) Regulations 2006 make discrimination unlawful on grounds of a person's age, which includes apparent age where direct discrimination is concerned or a person's age group, where indirect discrimination is involved.

Direct discrimination

It is unlawful to discriminate directly against a person on one of the prohibited grounds by treating him or her less favourably than others in exactly the same situation.

Indirect discrimination

In all cases, other than disability, indirect discrimination occurs where an apparently neutral provision, criterion or practice is applied equally, but the provision, etc, particularly disadvantages people on one of the prohibited grounds. Indirect discrimination can be justified by showing that the provision, etc, was a proportionate means of achieving a legitimate aim. To be 'proportionate' the provision, etc, must:

- * actually contribute to the achievement of the legitimate aim;
- * be in proportion to the aim, i.e. a sledgehammer is not being used to crack a walnut – there is no other possible way of doing it; and
- * the benefits to the business must far outweigh any discriminatory effects on the individual.

To be 'legitimate' the aim must correspond to a real business need, i.e. it is absolutely essential for the effective running of the operation.

In disability cases, where a provision, criterion or practice is applied or any physical feature of premises places the disabled person concerned at a substantial disadvantage, the employer or service provider has a duty to take such steps as it is reasonable in all the circumstances of the case, to prevent the provision, criterion or practice, or physical feature, substantially disadvantaging the disabled person concerned.

If the duty applies and the employer or service provider fails to comply, this will constitute discrimination unless it can be shown that it was not reasonable to comply with the statutory duty to make a reasonable adjustment when considering all the circumstances.

Victimisation

Victimisation occurs where an individual is treated less favourably because he or she has made a discrimination complaint internally or to a service provider direct, made a discrimination claim to a tribunal or court or acted as a witness in relation to a complaint of discrimination.

Harassment

Harassment occurs where a person is subjected to unwanted conduct on one of the prohibited grounds which has the purpose (intentionally) or effect (unintentionally) of violating that person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

Instructions or pressure to discriminate

It is unlawful to give instructions to a person to commit an unlawful act of discrimination or bring pressure to bear on a person to discriminate. It is also unlawful for a person to aid another to commit an unlawful act.

Note: This information constitutes guidance. Employment law is subject to constant change either by statute or by interpretation by the courts. Specialist legal advice must be taken on any legal issues that may arise before embarking upon any formal course of action.