

Equal
Opportunities:
guidance



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Prohibited conduct

Employees and job applicants are protected by the Equality Act 2010 from the following types of discrimination. Individuals can be personally liable for acts of discrimination.

Direct discrimination

Direct discrimination occurs where the reason for a person being treated less favourably than another is a protected characteristic.

There is no defence to direct discrimination if proved (save for age discrimination).

For example, George turns down Hannah's application for a promotion at work. George does this because he believes Hannah would be unable to manage, and obtain respect from, the all-male team because she is a woman. This is direct discrimination against Hannah because of her sex.

Indirect discrimination

Indirect discrimination occurs when there is a provision, criterion or practice applied by the employer which has a disproportionate adverse impact on a group who have a protected characteristic and the employee is an affected member of that group.

It is possible to defend a claim of indirect discrimination if the employer can show that the provision, criterion or practice is a proportionate means of achieving a legitimate aim.

For example, Daniel (in his twenties) is a fully qualified accountant and looking for a new job opportunity. He sees a job advertisement which states that candidates must have at least 10 years' experience. Daniel only has 8 years' experience. Unless the employer can justify the need for candidates to have at least 10 years' experience, this is likely to amount to indirect discrimination against younger candidates.



Harassment

Harassment is unwanted conduct that has the purpose or effect of violating a person's dignity, or which creates an intimidating, hostile, degrading, humiliating or offensive environment for that person having regard to all the circumstances.

Unlawful harassment in this context does not extend to the protected characteristics of marriage and civil partnership or pregnancy and maternity (although these may amount to sex or sexual orientation discrimination).

For example, Andrew could claim harassment against his employer and line manager Brian because he frequently teases and humiliates Andrew and makes inappropriate jokes about homosexuals. It is irrelevant whether or not Andrew is in fact gay, a perception or assumption is sufficient.

Victimisation

Victimisation occurs when a person has been subject to detriment because he has done (or intends to do) a protected act.

Protected acts include making an allegation that someone has contravened the Equality Act 2010, bringing proceedings under the Equality Act 2010 and giving evidence/information in connection with proceedings under the Equality Act 2010.

For example, Rachel makes a formal complaint against her line manager because she feels like she has been discriminated against because she is pregnant. Rachel's complaint is dealt with through the internal grievance procedure, however since the complaint she is constantly ignored and excluded from team meetings and is no longer invited to work events.

Disability

A person may have a disability if they have a physical or mental impairment which has a long term impact and a substantial adverse effect on normal day-to-day activities.

Failure to make reasonable adjustments

Where a provision, criterion or practice applied by the employer puts a disabled person at a substantial disadvantage the employer must take such steps as it is reasonable to take to avoid the disadvantage.

For example, the employer's policy is to only offer car parking spaces to senior managers. However Sophie, an office assistant, has mobility impairment and needs to park very close to the office. A reasonable adjustment would be to allocate Sophie a car parking space.

Discrimination arising from disability

An employer may discriminate against an individual if he treats that individual unfavourably because of something arising from his disability.

An employer may justify such treatment if he can show that it was a proportionate means of achieving a legitimate aim.

For example, Charlotte is dismissed from her employment because she has had 3 months sick leave. Charlotte's employer is aware she has multiple sclerosis and most of her sick leave is disability related. They would have to justify the dismissal as a proportionate means of achieving a legitimate aim.



Protected Characteristics

- ◆ Sex
- ◆ Sexual Orientation
- ◆ Pregnancy and Maternity
- ◆ Age
- ◆ Disability
- ◆ Gender Reassignment
- ◆ Marriage and Civil Partnership
- ◆ Race
- ◆ Religion or Belief



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