

# 7. Good equality practice for employers: equality policies, equality training and monitoring.

Equality Act 2010 Guidance for employers.  
**Vol. 7 of 7.**

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# Introduction

This guide is one of a series written by the Equality and Human Rights Commission to explain what you must do to meet the requirements of equality law. These guides will support the introduction of the Equality Act 2010. This Act brings together lots of different equality laws, many of which we have had for a long time. By doing this, the Act makes equality law simpler and easier to understand.

There are seven guides giving advice on your responsibilities under equality law as someone who has other people working for you whether they are employees or in another legal relationship to you. The guides look at the following work situations:

1. When you recruit someone to work for you
2. Working hours and time off
3. Pay and benefits
4. Career development – training, development, promotion and transfer
5. Managing people
6. Dismissal, redundancy, retirement and after someone's left
7. Good practice: equality policies, equality training and monitoring

## Other guides and alternative formats

We have also produced:

- A separate series of guides which explain what equality law means for you if you are providing services, carrying out public functions or running an association.
- Different guides for individual people who are working or using services and who want to know their rights to equality.

If you require this guide in an alternative format and/or language please contact the relevant helpline to discuss your needs.

### **England**

Equality and Human Rights Commission Helpline

FREEPOST RRLG-GHUX-CTR

Arndale House, Arndale Centre, Manchester M4 3AQ

Telephone: 0845 604 6610

Textphone: 0845 604 6620

Fax: 0845 604 6630

### **Scotland**

Equality and Human Rights Commission Helpline

FREEPOST RSAB-YJEJ-EXUJ

The Optima Building, 58 Robertson Street, Glasgow G2 8DU

Telephone: 0845 604 5510

Textphone: 0845 604 5520

Fax: 0845 604 5530

### **Wales**

Equality and Human Rights Commission Helpline

FREEPOST RRLR-UEYB-UYZL

3rd Floor, 3 Callaghan Square, Cardiff CF10 5BT

Telephone: 0845 604 8810

Textphone: 0845 604 8820

Fax: 0845 604 8830

[www.equalityhumanrights.com](http://www.equalityhumanrights.com)

## The legal status of this guidance

This guidance applies to England, Scotland and Wales. It has been aligned with the Codes of Practice on Employment and on Equal Pay. Following this guidance should have the same effect as following the Codes. In other words, if a person or an organisation who has duties under the Equality Act 2010's provisions on employment and other work situations does what this guidance says they must do, it may help them to avoid an adverse decision by a court in proceedings brought under the Equality Act 2010.

This guide is based on equality law as it is at 1 October 2010. Any future changes in the law will be reflected in further editions.

This guide was last updated on 23 July 2010. You should check with the Equality and Human Rights Commission if it has been replaced by a more recent version.

# 1. Good equality practice for employers: equality policies, equality training and monitoring

## What's in this guide

If you are an employer, and you are:

- recruiting people to work for you or
- making any decisions about what happens to the people working for you, or
- taking action in relation to the people working for you,

equality law applies to you.

Equality law applies:

- whatever the size of your organisation
- whatever sector you work in
- whether you have one worker or 10 or hundreds or thousands
- whether or not you use any formal processes or forms to help you make decisions.

The other guides in this series tell you more about how you can avoid all the different types of unlawful discrimination (in other words, behaviour that is against equality law) in a range of situations you are likely to find yourself in as an employer. All the guides are listed in the introduction, with details of how you can get hold of them.

This guide explains three areas of equality good practice, with ideas of what to do if you want to go beyond what equality law says you must do:

- Equality policies
- Equality training
- Monitoring.

What is suggested in each of these areas is not a legal requirement.

While good practice may mean doing more than equality law says you must do, many employers find it useful in recruiting talented people to their workforce and managing them well so they want to stay, which can save you money in the long run. Sometimes equality law itself doesn't tell you exactly how to do what it says you must do, and you can use these good practice ideas to help you.

If you are a **public authority**, you are likely to be covered by the **public sector equality duties** and should have already developed more extensive policies, schemes and actions plans than the ones outlined in this chapter. You should refer to the Codes of Practice and guidance on the public sector equality duties to identify what you should be doing to comply with your legal obligations and implement good practice in respect of these duties.

### ***What else is in this guide***

This guide also contains the following sections, which are similar in each guide in the series, and contain information you are likely to need to understand what we tell you about good practice:

- A list of words and key ideas you need to understand this guide – all words highlighted in **bold** are in this list. They are highlighted the first time they are used in each section. Exceptions to this are where we think it may be particularly useful for you to check a word or phrase.
- Information on where to find more advice and support.

## Why bother with good practice?

If you implement good equality practices in your organisation, you should greatly reduce the likelihood that you will unlawfully discriminate.

In turn, this should make you significantly less likely to face legal claims against your organisation for unlawful discrimination.

By law, you *must* not discriminate against, harass or victimise people who work for you.

Often your intentions or wishes do not matter. What matters is whether you have acted unlawfully or not.

You may also be legally responsible for what your **employees** or **agents** do when working for you, even if they are doing something without your knowledge or approval. You can read more about this in the section of this guide *When you are responsible for what other people do*. You may be able to avoid being legally responsible if you can show that you have taken 'all reasonable steps' to prevent unlawful discrimination.

So it is important that you have a clear idea what is going on and are taking active measures to improve your organisation's equality performance. This may include:

- having and putting into action an equality policy
- providing equality training for your workers.

Workforce monitoring is one way of helping to make sure your equality policy and equality training are having an effect.

Good practice of the kind set out in this guide can also help you and your organisation do your core business better. Organisations have found that taking positive steps to promote equality and diversity has benefits which include:

- greater worker satisfaction, which helps attract new staff and retain those already there, reduced recruitment costs, and increased productivity
- improved understanding of the experience of their existing or potential customers, clients or service users
- filling skills gaps.

# Equality policies

An equality policy is the name people give to a written document you can use to set out your organisation's commitment to tackle discrimination and promote equality and diversity in areas such as recruitment, training, management and pay.

Equality law does not say you have to have an equality policy

However, having an equality policy shows your organisation's commitment to equality for your workers and, if this applies to you, for your customers, clients or service users too.

For example, someone applying for a job with you may look at your equality policy to see if you share their values.

Or someone who is thinking of getting you to do some work for them might look at your equality policy to see how they can expect to be treated as your customer or client.

An equality policy should apply to every aspect of employment, from recruitment through pay, access to facilities and employment benefits, discipline and grievance procedures and so on up to the end of the contractual relationship and beyond, for example, when you provide references.

A policy might include:

- statements outlining your organisation's commitment to equality
- identification of the types of discrimination that an employer (and, if this applies to you, a **service provider**) is required to combat across the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation
- statements outlining the type of work environment your organisation aims to create, including what is and is not acceptable behaviour at work (also referring to conduct near the workplace and at work-related social functions where relevant)
- information about how policy will be put into action, including how you will deal with any breaches of the policy by your workers, and how concerns and complaints will be dealt with, whether these come from your workers or (if you have them) from your customers, clients or service users
- who is responsible for the policy
- how you will monitor the policy and when you will review it
- details covering how the policy is linked in with your other policies.

Your equality policy could also describe the type of working environment you want to create.

For example:

'We aim to create a working environment in which:

- all people are able to give of their best
- there is no bullying and harassment or discrimination
- all decisions are based on merit.'

Alongside your equality policy, you can have a separate harassment and bullying policy, or you could put both policies together as a 'dignity at work' policy. You can read more about avoiding and dealing with harassment in the Equality and Human Rights Commission guide: *What equality law means for you as an employer: managing workers*.

To make sure an equality policy is put into practice in an organisation, there should be:

- A demonstrable commitment to the policy from the very top of your organisation.
- The agreement, understanding and support of all your staff and **stakeholders** (such as trade unions) for the policy's implementation.
- Involvement of your staff and stakeholders in the drafting of the policy.
- Extensive promotion of the policy both within your organisation and to potential workers, contractors and suppliers.
- Training provided to all your staff to explain what the equality policy says and what it means to them.
- Incorporation of the policy into your organisation's business strategy.
- An explicit willingness to challenge and, if necessary, discipline anyone not following the policy.
- Reference made to the equality policy in other policies within your organisation.
- An action plan in place which includes a commitment to a regular policy review. Your review should examine your progress in delivering the action plan and ensure that this information is shared.

## ***Who should have an equality policy?***

We suggest that every organisation has an equality policy and shares it with staff and (as appropriate) with customers, clients or service users and others who may be interested in it, such as organisations considering contracting with them.

Different sizes of organisations will want to think about what works for them. A large organisation with many different sites and layers of management at each site will need something more complex than an employer with five staff at a single site.

## ***Leadership***

It is important that senior management in your organisation actively support the equality policy action plan. Having the person at the top endorsing it and showing commitment to it makes it far more likely that the whole organisation will get behind the plan.

## ***Assessing the impact of workplace changes on equality***

Change is a part of business. Staff roles change, office or work areas are rearranged, new management systems are put in place and companies expand or downsize. All these changes may affect not only business outputs, but also staff and customers with protected characteristics.

When looking at the effects of change it is important to consider their impact on different groups of people. Your equality policy will help you do this. You should use the principles set out in your equality policy to make sure that what is done is done fairly.

For example:

An employer might plan to re-arrange the office in a way that would lead to a disabled staff member with a mobility impairment having to go further to reach the photocopier. It would be reasonable to make an adjustment to avoid this, and it would obviously be better to include this in the planning rather than having to make changes afterwards.

## *Telling people about the policy*

You should promote and publicise your equality policy as widely as possible and there are a number of ways this can be done. Promoting the policy is key to implementing it effectively and will help you demonstrate that you have taken all reasonable steps to prevent discrimination.

You might use any or all of the following, depending on which you have in your workplace:

- email bulletins
- intranet
- website
- application packs
- induction packs
- team meetings
- staff notice boards
- circulars and letters
- newsletters
- 'cascade' systems
- training
- contracts of employment
- handbooks
- annual reports.

## *Involvement and consultation*

How your organisation gathers the views of your workers will depend upon the type, size and structure of your organisation.

You might talk to trade union or HR representatives (if you have them) or to workers who share a particular protected characteristic. You might also use staff forums to discuss the policy. If your organisation is small, you could just ask for people to give their views during a one-to-one discussion or in writing.

Don't forget to consider **reasonable adjustments** for any of your workers who are disabled people and who need them to take part in your consultation.

## Staff forums

There are three main types of group that can be set up:

- Groups set up by organisations to help them become more 'equality aware'.
- Groups set up by organisations to discuss new policies, practices and procedures.
- Groups set up by staff who share a protected characteristic and want support from people with similar issues.

Often staff forums are a mixture of all three.

A good staff forum needs:

- Clear aims and objectives.
- A clear policy on how participants are selected. You cannot make employees participate or put pressure on them to do so.
- A good way of sharing what the group has discussed.
- Senior management representation.
- Support from the wider organisation such as agreement from line managers to allow staff to attend meetings.
- Administrative support and a budget.

## Equality training

If your workers are to understand what equality law means for them, they will need to be told about it. This is what is meant by 'equality training'.

Equality training can be an important part of showing that you are preventing discrimination, harassment and victimisation in your organisation.

Your organisation might choose to do this:

- as part of an induction process, or
- during regular team meetings, or
- by asking staff to attend specific whole or half day courses (even if they say they don't need or want to go on them), or
- by asking staff to complete an online training package.

Whatever the format you choose, you should also make sure that workers know about any changes and that anyone who joins the organisation (for example, who comes in after you have trained your workers) knows what is expected of them.

Training should include:

- The law covering all the protected characteristics and what behaviour is and is not acceptable.
- The risk of ignoring or seeming to approve inappropriate behaviour and personal liability.
- How discrimination can affect the way an employer functions and the impact that generalisations, stereotypes, bias, inappropriate language in day-to-day operations can have on people's chances of obtaining work, promotion, recognition and respect.
- Monitoring.
- Your equality policy, if you have one, why it has been introduced and how it will be put into practice.

## Workforce monitoring

### *Do I have to monitor equality?*

As a part of your routine practices, your organisation should be monitoring and reporting on a whole range of aspects of your activities including:

- income and expenditure
- health and safety
- sickness absence
- training
- environmental issues

and so on.

While there is currently no legal requirement on most organisations (including private sector businesses, smaller public bodies, voluntary and community sector organisations) to monitor and report on their staff profile, this can help an employer to assess whether, for example, they are:

- recruiting employees who are disadvantaged or under-represented
- promoting people fairly whatever their protected characteristic
- checking that women and men's pay is comparable in similar or equivalent jobs, or because the work they undertake is of equal value in relation to factors such as effort, skill and decision-making, and
- making progress towards the aims set out in their equality policy if they have one.

This is why many businesses and other organisations already carry out equality-related monitoring.

Monitoring of equality-related issues (and taking action where the information suggests there may be a cause for concern) can also be used as evidence that your organisation is doing what equality law says you must do if a job applicant, worker or former worker brings a tribunal case against you (provided that it is relevant to the issues raised by the person making the claim).

## ***Types of information to monitor***

You can monitor information about:

- How many people with a particular protected characteristic apply for each job, are shortlisted and are recruited.
- How many people in the workforce have a particular protected characteristic and the levels within the organisation that they are employed at.
- The satisfaction levels of staff with a particular protected characteristic.

There may be other equality-related areas you might wish to monitor and record. For example, if there has been a particular equality-related issue in your organisation, it might be useful to monitor the levels of internal complaints and/or the number of staff using the grievance or harassment and bullying procedures.

Some larger organisations choose to monitor this type of information as a matter of course, to check if any equality-related issues are a cause for concern.

## ***How much monitoring?***

It is important that you only collect information that you can use effectively. You need to be clear why you are asking applicants and workers for information and what you will use it for.

You also need to decide whether to collect information anonymously. If you do collect the information anonymously, then it is likely that you will get more information. However, there are also some times when this is not possible, for example, at the recruitment stage when disabled people are being asked if any reasonable adjustments are needed for their interview, when it is important that the right arrangements are made for a particular applicant.

## ***Who to tell and why?***

You need to tell applicants and workers the reason why you are asking them for monitoring information.

People may be worried about responding fully or honestly, perhaps because they are concerned the information will be used to discriminate against them or they've had a previous bad experience where the information was used in the wrong way. This may be especially true for job applicants and for particular characteristics, such as disabled people with a mental health condition.

You should provide details of the process for gathering, storing and using information in order to reassure people who give you information that you will:

- not use their information to discriminate against them, harass them or victimise them, and
- gather, keep and use information in a way that means this is true, for example, that monitoring forms completed by job applicants are separated from their application forms by someone who is not involved in the decision about who to shortlist and interview – or, if this is not possible because it is a very small organisation, that you do not look at monitoring forms until after you have decided whether to interview someone or not.

In most cases, no-one is required to supply you with any information at all, whether they are a job applicant or an existing worker.

If you are not clear to them about the purpose of your questions and how the information will be used, who will see it, how their privacy will be respected and so on, this makes it more likely that people will refuse to provide the information.

## *Can I ask about health or disability?*

In general, you must not ask a job applicant questions relating to health or disability. One of the exceptions to this rule applies to monitoring. You are allowed to ask questions about disability and health during recruitment if the point of this is to find out how many job applicants are disabled people and whether they are shortlisted or appointed.

Answers to monitoring questions about health or disability should be dealt with in the same way as the answers to other monitoring questions, in other words, they should be kept separately from the main application form. The person or people shortlisting and appointing should not see the information before deciding who to interview or appoint.

## *What you can do with the data once it has been collected*

You could use the data you collect in several ways. For example to:

- compare it with regional representational data to see how far your workforce reflects the local community
- compare it with industry standard data and see how you are doing compared to others in the sector
- (once you've been collecting it for long enough) compare it with last year's data and look for patterns or trends, such as whether all the people you recruit are very similar to one another or very different from the pool of people you're recruiting from (which might be the local population or everyone with a particular qualification), so you can consider if this is a cause for concern and what you need to do about it
- see whether your organisation has met its equality aims if it had any.

Such comparisons will also help the organisation to set appropriate targets for its equality policy action plan if it has one.

The data you collect could be used to:

- help you plan positive action campaigns. These might be targeted at existing staff or externally at the local community with the aim of increasing the talent pool from which you recruit
- plan ways to engage with more potential customers.

If your organisation tenders for work in the public and private sectors, demonstrating awareness of these issues may help you win contracts. Because of the **public sector equality duties**, equality has become increasingly important in **procurement**, having this data could (where equality issues are relevant) make the difference when contracts are being awarded.

## Privacy and confidentiality

You need to decide who can see the data that you collect. Individual data needs to be shared on a 'need to know' basis, and should be protected and securely stored in line with **data protection** rules.

- In particular, if someone is a transsexual person (someone with the protected characteristic of gender reassignment) who has a **Gender Recognition Certificate**, it may be a criminal offence to disclose this without permission, so you should be especially careful who knows this information and what is done with it.

You should organise the information so that it can be used in the future – there's no point collecting monitoring forms if, for example:

- no-one looks at them afterwards to see whether people with a particular protected characteristic were more or less likely to apply for a job, be shortlisted and be successful at interview, or
- no-one asks someone who is appointed to a job and who tells you at that stage that they have a disability if they need any adjustments when doing the job, so you can work out if they are reasonable, or
- no-one checks whether people with a particular protected characteristic are more likely to leave the organisation after a short time, or
- no-one considers if people with a particular protected characteristic are less likely to recommend the organisation to a friend as a place to work (if monitoring is done as part of a staff satisfaction survey).

If there are only a small number of people working for you or in a particular workplace or department, you need to be very careful about the level of detail you provide or even whether you share or publish information at all, even if it is 'anonymised' information. This is to avoid a situation where individuals are identified, even if their names are not used.

For example:

If your organisation reports that one gay person is employed in your finance department when there are only two people in the department in total and neither of them has said publicly that they are gay, this breaches anonymity; it would not be good practice to release this information in that form.

If you are interested in finding out if your organisation employs people with a range of characteristics, it is up to you to take steps which will give people confidence that they will not be discriminated against but instead valued as an individual whatever their protected characteristics.

## Reporting

The way in which you use any information gained as a result of equality monitoring is up to you – although you must not use it to discriminate against someone, or to harass or victimise them. Nor should anyone else in the organisation who sees it make it a source of speculation or gossip. In addition, if you do publish data, it is important that you do not breach workers' or applicants' confidentiality, or reveal anything which might enable someone to work out information about another person which was provided in confidence.

This is particularly important in relation to protected characteristics where there is more likely to be fear of discrimination: sexual orientation, religion or belief, gender reassignment and some disabilities, particularly mental health conditions or HIV status.

For example:

A company with a workforce of 10 people puts information about the diversity of its workers in its recruitment information to back up a statement that it is an organisation lots of different people want to work for. It does this in a way that does not identify anyone who does not want to be identified, so only publishes information about the sex, ethnic origin, age and visible disability of its staff, having checked with everyone that they are happy for this to happen.

## Recruitment information

The information monitoring policy and process you adopt should be set out clearly in your recruitment information.

Identifying how many people who share protected characteristics apply, get interviewed and are successful at interview can help you to ensure that you are recruiting without discriminating.

If you find any areas where there is under-representation of people with a particular protected characteristic, you might consider changing your recruitment methods. Such changes might include alterations to your advertising methods, your application processes and your interviewing methods.

If there are no gaps or obvious areas for improvement in your recruitment processes and yet the workforce is still not representative then you could consider taking '**positive action**' measures.

## ***Workforce information***

It might be useful for you to identify the proportions of people with different shared protected characteristics within your organisation. This can be further subdivided by examining this data in relation to:

- working hours
- grade
- length of service
- rates of promotion
- resignation rates and patterns
- contractors versus 'in house' staff.

This will tell you if people with a particular protected characteristic or characteristics are over- or under-represented and if you need to make changes to sort out any potential discrimination, which may well be unintended. You can use your equality policy and action plan to do this.

## 2. When you are responsible for what other people do

As an **employer** or in another **work situation**, it is not just how you personally behave that matters.

If another person who is:

- employed by you, or
- carrying out your instructions to do something (who the law calls your agent)

does something that is **unlawful discrimination**, **harassment** or **victimisation**, you can be held legally responsible for what they have done.

This part of the guide explains:

- When you can be held legally responsible for someone else's unlawful discrimination, harassment or victimisation
- How you can reduce the risk that you will be held legally responsible
- How you can make sure your employees and agents know how equality law applies to what they are doing
- When your employees or agents may be personally liable
- What happens if a person instructs someone else to do something that is against equality law
- What happens if a person helps someone else to do something that is against equality law
- What happens if you try to stop equality law applying to a situation

# When you can be held legally responsible for someone else's unlawful discrimination, harassment or victimisation

As an employer, you are legally responsible for acts of discrimination, harassment and victimisation carried out by your **employees** in the course of their employment.

You are also legally responsible as the 'principal' for the acts of your **agents** done with your authority. Your agent is someone you have instructed to do something on your behalf, but who is not an employee, even if you do not have a formal contract with them.

As long as:

- your employee was acting in the course of their employment – in other words, while they were doing their job, or
- your agent was acting within the general scope of your authority – in other words, while they were carrying out your instructions

it does not matter whether or not you:

- knew about or
- approved of

what your employee or agent did.

For example:

- A shopkeeper goes abroad for three months and leaves an employee in charge of the shop. This employee harasses a colleague with a learning disability, by constantly criticising how they do their work. The colleague leaves the job as a result of this unwanted conduct. This could amount to harassment related to disability and the shopkeeper could be responsible for the actions of their employee.
- An employer engages a head-hunter to work in-house to recruit a team of senior management. The head-hunter weeds out applications from women of child bearing age. This is almost certainly unlawful sex discrimination. Both the employer and the head-hunter (who is the employer's agent) would be legally responsible for the discrimination, except that the employer can show that they told the head-hunter to comply with equality law. This means that the authority given to the head-hunter as agent did not extend to acting in a discriminatory way, the agent acted outside the scope of the employer's authority and only the agent is liable for the discrimination.

However, you will not be held legally responsible if you can show that:

- you took **all reasonable steps** to stop an employee acting unlawfully.
- an agent acted outside the scope of your authority (in other words, that they did something so different from what you asked them to do that they could no longer be thought of as acting on your behalf).

How you can reduce the risk that you will be held legally responsible

You can reduce the risk that you will be held legally responsible for the behaviour of the people who work for you if you tell them how to behave so that they avoid unlawful discrimination, harassment or victimisation.

This does not just apply to situations where you and your staff are dealing face-to-face with other people in a work situation, but also to how you plan what happens.

When you or your employees or agents are planning what happens to people in a work situation, you need to make sure that your decisions, rules or ways of doing things are not:

- **Direct discrimination**, or
- **Indirect discrimination** that you cannot **objectively justify**, or
- **Discrimination arising from disability** that you cannot **objectively justify**, or
- **Harassment**

and that you have made **reasonable adjustments** for any disabled people who are working for you or applying for a job with you or in another work situation you are in charge of.

So it is important to make sure that your employees and agents know how equality law applies to what they are doing.

## How you can make sure your employees and agents know how equality law applies to what they are doing

Tell your employees and agents what equality law says about how they must and must not behave while they are working for you.

Below are some examples of reasonable steps you can take to prevent unlawful discrimination or harassment happening in your workplace:

- telling your employees and agents when they start working for you – and checking from time to time that they remember what you told them, for example, by seeing if/how it has made a difference to how they behave. This could be a very simple checklist you talk them through, or you could give them this guide, or you could arrange for them to have **equality training**
- writing down the standards of behaviour you expect in an **equality policy**
- including a requirement about behaving in line with equality law in every worker's **terms of employment** or other contract, and making it clear that breaches of equality law will be treated as disciplinary matters or breaches of contract.

## *Using written terms of employment for employees*

Employment law says you must, as an employer, give every employee a written statement of the main terms of their employment. So you could include a sentence in these written terms that tells the person working for you they must meet the requirements of equality law, making it clear that a failure to do so will be a disciplinary offence.

Obviously, if you do this, it is important that you also tell the employee what it means. You could use an equality policy to do this, or you could just discuss it with them, or you could give them this guide to read. But it is important that they are clear on what equality law says they must and must not do, or you may be held legally responsible for what they do.

Remember, if the employee is a disabled person, it may be a reasonable adjustment to give them the information in a way that they can understand.

If you receive a complaint claiming unlawful discrimination by one of your employees or someone else in a work situation you are in charge of, you can use the written terms to show that you have taken a reasonable step to prevent unlawful discrimination and harassment occurring. You may need to consider if other steps would also be reasonable, such as providing training.

If someone does complain, you should investigate what has taken place and, if appropriate, you may need to discipline the person who has unlawfully discriminated against or harassed someone else, give them an informal or formal warning, or provide training; the action you take will obviously vary according to the nature of the breach and how serious it was.

If you do find that an employee has unlawfully discriminated against someone else in a work situation, then look again at what you are telling your staff to make sure they know what equality law means for how they behave towards the people they are working with.

You can read more about what to do if someone says they've been discriminated against in Chapter 4.

### Good practice tip for how you and your staff should behave

Ideally, you want anyone who works for you to treat everyone they come across with dignity and respect. This will help you provide a good working environment (not just without discriminating but more generally) and can make your workers more productive.

If your staff do unlawfully discriminate against their fellow workers or others in a work situation, your reputation may suffer even if the person on the receiving end does not bring a legal case against you.

## When your employees or agents may be personally liable

Your employee or agent may be personally responsible for their own acts of discrimination, harassment or victimisation carried out during their employment or while acting with your authority. This applies where either:

- you are also liable as their employer or principal, or
- you would be responsible but you show that:
  - you took **all reasonable steps** to prevent your employee discriminating against, harassing or victimising someone, or
  - that your agent acted outside the scope of your authority.

For example:

A factory worker racially harasses their colleague. The employer would be liable for the worker's actions, but is able to show that they took all reasonable steps to stop the harassment. The colleague can still claim compensation against the factory worker in an Employment Tribunal.

But there is an exception to this. An employee or agent will *not* be responsible if their employer or principal has told them that there is nothing wrong with what they are doing and the employee or agent **reasonably** believes this to be true.

It is a criminal offence, punishable by a fine, for an employer or principal to make a false statement which an employee or agent relies upon to carry out an unlawful act.

## What happens if a person instructs someone else to do something that is against equality law

An employer or principal must not instruct, cause or induce their employee or agent to discriminate against, harass or victimise another person, or to attempt to do so.

'Causing' or 'inducing' someone to do something can include situations where someone is made to do something or persuaded to do it, even if they were not directly instructed to do it.

Both:

- the person who receives the instruction or is caused or induced to discriminate against, harass or victimise, and
- the person who is on the receiving end of the discrimination, harassment or victimisation

have a claim against the person giving the instructions if they suffer loss or harm as a result of the instructing or causing or inducing of the discrimination, harassment or victimisation.

This applies whether or not the instruction is actually carried out.

## What happens if a person helps someone else to do something that is against equality law

A person must not help someone else carry out an act which the person helping knows is unlawful under equality law.

However, if the person helping has been told by the person they help that the act is lawful and he or she **reasonably** believes this to be true, he or she will not be legally responsible.

It is a criminal offence, punishable by a fine, to make a false statement which another person relies on to help to carry out an unlawful act.

## What happens if you try to stop equality law applying to a situation

You cannot stop equality law applying to a situation if it does in fact apply. For example, there is no point in making a statement in a contract of employment that equality law does not apply. The statement will not have any legal effect. That is, it will not be possible to enforce or rely on a term in a contract that tries to do this. This is the case even if the other person has stated they have understood the term and/or they have agreed to it.

For example:

- A worker's contract includes a term saying that they cannot bring a claim in an Employment Tribunal. Their employer sexually harasses them. The term in their contract does not stop them bringing a claim for sexual harassment in the Employment Tribunal.
- A business partner's partnership agreement contains a term that says 'equality law does not apply to this agreement'. The partner develops a visual impairment and needs reasonable adjustments to remove barriers to their continuing to do their job. The other partners instead ask them to resign from the partnership. The partner can still bring a claim in the Employment Tribunal for a failure to make reasonable adjustments and unlawful disability discrimination.
- An applicant for a job is told 'equality law does not apply to this business, it is too small'. She still agrees to go to work there. When she becomes pregnant, she is dismissed. She can still bring a claim in the Employment Tribunal for pregnancy discrimination.

# 3. The duty to make reasonable adjustments to remove barriers for disabled people

Equality law recognises that bringing about equality for disabled people may mean changing the way in which employment is structured, the removal of physical barriers and/or providing extra support for a disabled worker.

This is the **duty to make reasonable adjustments**.

The duty to make reasonable adjustments aims to make sure that a disabled person has the same access to everything that is involved in getting and doing a job as a non-disabled person, as far as is reasonable.

When the duty arises, you are under a positive and proactive duty to take steps to remove or reduce or prevent the obstacles a disabled worker or job applicant faces.

Many of the adjustments you can make will not be particularly expensive, and you are not required to do more than what is reasonable for you to do. What is reasonable for you to do depends, among other factors, on the size and nature of your organisation.

If, however, you do nothing, and a disabled person can show that there were barriers you should have identified and reasonable adjustments you could have made, they can bring a claim against you in the Employment Tribunal, and you may be ordered to pay them compensation as well as make the reasonable adjustments.

In particular, the need to make adjustments for an individual worker or job applicant:

- must not be a reason not to appoint someone to a job or promote them if they are the best person for the job with the adjustments in place
- must not be a reason to dismiss a worker
- must be considered in relation to every aspect of a person's job

provided the adjustments are reasonable for you to make.

Many factors will be involved in deciding what adjustments to make and they will depend on individual circumstances. Different people will need different changes, even if they appear to have similar impairments.

You only have to make adjustments where you are aware – or should reasonably be aware – that an employee or applicant has a disability.

It is advisable for you to discuss the adjustments with the disabled person, otherwise the changes may not be effective.

The rest of this section looks at the detail of the duty and gives examples of the sorts of adjustments you could make. It looks at:

- Which disabled people does the duty apply to?
- Finding out if someone is a disabled person
- The three requirements of the duty
- Are disabled people at a substantial disadvantage?
- Changes to policies and the way your organisation usually does things
- Dealing with physical barriers
- Providing extra equipment or aids
- Making sure an adjustment is effective
- Who pays for reasonable adjustments?
- What is meant by 'reasonable'
- Reasonable adjustments in practice
- Specific situations
  - Employment services
  - Occupational pensions
- Questions about health or disability

## Which disabled people does the duty apply to?

The duty applies to any disabled person who:

- works for you, or
- applies for a job with you, or
- tells you they are thinking of applying for a job with you.

It applies to all stages and aspects of employment. So, for example, where the duty arises you must make reasonable adjustments to disciplinary or dismissal procedures and decisions. It does not matter if the worker was a disabled person when they began working for you, or if they have become a disabled person while working for you.

The duty may also apply after employment has ended.

The duty also applies in relation to **employment services**, with some differences which are explained later in this chapter.

Reasonable adjustments may also be required in relation to occupational pension schemes. This is explained later in this chapter.

## Finding out if someone is a disabled person

You only have to make these changes where you know or could reasonably be expected to know that a worker or job applicant is a disabled person. This means doing everything you can reasonably be expected to do to find out.

For example:

An employee's performance has recently got worse and they have started being late for work. Previously they had a very good record of punctuality and performance. Rather than just telling them they must improve, their employer talks to them in private. This allows the employer to check whether the change in performance could be for a disability-related reason. The employee says that they are experiencing a recurrence of depression and are not sleeping well which is making them late. Together, they agree to change the employee's hours slightly while they are in this situation and that the employee can ask for help whenever they are finding it difficult to start or complete a task. These are reasonable adjustments.

This does not, however, mean asking intrusive questions or ones that violate someone's dignity. Think about privacy and confidentiality in what you ask and how you ask.

Be aware that there are restrictions on when you can ask health- or disability-related questions before shortlisting someone or making a job offer. This is to make sure that job applicants are not discriminated against because of issues related to health or disability. The exceptions to the restriction are set out at the end of this part of this guide.

You can ask questions to find out if a job applicant needs reasonable adjustments for the recruitment process. But you must use their answers only for working out the adjustments they need and whether these are reasonable.

If the adjustments are reasonable, and you used the fact that the person needed them as a reason not to take them further into the recruitment process, this would be unlawful discrimination.

If a job applicant does not ask for adjustments in advance but turns out to need them, you must still make them, although what is reasonable in these circumstances may be different from what would be reasonable with more notice. You must not hold the fact that you have to make last minute adjustments against the applicant.

For example:

A job applicant does not tell an employer in advance that they use a wheelchair and the employer does not know about this. On arriving for the interview the applicant discovers that the room is not accessible. Although the employer could not have been expected to make the necessary changes in advance, it would be a reasonable adjustment to hold the interview in an alternative, accessible room if one was available without too much disruption or cost. Alternatively, it might be a reasonable adjustment to reschedule the interview if this was practicable.

There is more information about what this means in the Equality and Human Rights Commission guide: *What equality law means for you as an employer: when you recruit someone to work for you.*

## Good practice tip: be prepared for making reasonable adjustments

Equality law says that you must make reasonable adjustments if you know that a worker or job applicant is a disabled person, that they need adjustments and that those adjustments are reasonable.

You don't have to put reasonable adjustments in place just in case a disabled person applies for a job, or just in case one of your existing workers becomes a disabled person.

But you may want to be prepared:

- Think in advance about what the core tasks of a particular job are and what adjustments might be possible (before starting a recruitment or promotion exercise, for example).
- Ask job applicants if they need reasonable adjustments to take part in the recruitment process. Do bear in mind the restriction on asking health- or disability-related questions and make it clear to applicants that the only reason you are asking is to make sure that you remove any barriers during the recruitment process, so far as is reasonable (or if one of the other exceptions applies).
- Put in place a process for working out reasonable adjustments in the event of an existing employee becoming disabled or a disabled person starting work with the organisation, before being faced with an individual situation.
- Make sure you know in advance what support is available to disabled people from Access to Work.
- If you are making renovations or alterations to your building, thinking about how you can make the new parts of your building more accessible for disabled people will help you if you later employ a disabled person and will allow you to attract more potential employees.

As well as avoiding a possible Employment Tribunal claim, being open to making reasonable adjustments will mean you have a wider choice of workers. A disabled applicant may be the best person for the job. Or you may be able to avoid losing the skills of someone who already works for you who has become a disabled person just by making a few changes.

## The three requirements of the duty

The duty contains three requirements that apply in situations where a disabled person would otherwise be placed at a **substantial disadvantage** compared with people who are not disabled.

- The first requirement involves changing the way things are done (equality law calls this a **provision, criterion or practice**).

For example:

An employer has a policy that designated car parking spaces are only offered to senior managers. A worker who is not a manager, but has a mobility impairment and needs to park very close to the office, is given a designated car parking space. This is likely to be a reasonable adjustment to the employer's car parking policy.

- The second requirement involves making changes to overcome barriers created by the **physical features** of your workplace.

For example:

Clear glass doors at the end of a corridor in a particular workplace present a hazard for a visually impaired worker. Adding stick-on signs or other indicators to the doors so that they become more visible is likely to be a reasonable adjustment for the employer to make.

- The third requirement involves providing extra equipment (which equality law calls an **auxiliary aid**) or getting someone to do something to assist the disabled person (which equality law calls an **auxiliary service**).

For example:

An employer provides specialist software for a member of staff who develops a visual impairment and whose job involves using a computer.

Each of these requirements is looked at in more detail later in this part of the guide.

# Are disabled people at a substantial disadvantage?

The question you need to ask yourself is whether:

- the way you do things
- any physical feature of your workplace
- the absence of an auxiliary aid or service

puts a disabled worker or job applicant at a substantial disadvantage compared with a person who is not disabled.

Anything that is more than minor or trivial is a substantial disadvantage.

If a substantial disadvantage does exist, then you must make reasonable adjustments.

The aim of the adjustments you make is to remove or reduce the substantial disadvantage.

But you only have to make adjustments that are reasonable for you to make. There is more information about how to work out what is reasonable a bit later in this part of the guide.

## *Changes to policies and the way your organisation usually does things*

The first requirement involves changing the way things are done (equality law calls this a **provision, criterion or practice**).

This means looking at whether you need to change some written or unwritten policies, and/or some of the ways you usually do things, to remove or reduce barriers that would place a disabled person at a substantial disadvantage, for example, by preventing them from being able to work for you or applying for a job with you or stopping them being fully involved at work.

This includes your processes for deciding who is offered employment, criteria for promotion or training, benefits, working conditions and contractual arrangements.

For example:

- Supervisors in an organisation are usually employed on a full-time basis. The employer agrees to a disabled person whose impairment causes severe fatigue working on a part-time or job share basis. By doing this, the employer is making a reasonable adjustment.
- The design of a particular workplace makes it difficult for a disabled person with a hearing impairment to hear, because the main office is open plan and has hard flooring, so there is a lot of background noise. Their employer agrees that staff meetings should be held in a quieter place that allows that person to fully participate in the meeting. By doing this, the employer is making a reasonable adjustment.

## *Dealing with physical barriers*

The second requirement involves making changes to overcome barriers created by the **physical features** of your workplace.

This means you may need to make some changes to your building or premises for a disabled person who works for you, or applies for a job with you.

Exactly what kind of change you make will depend on the kind of barriers your premises present. You will need to consider the whole of your premises. You may have to make more than one change.

Physical features include: steps, stairways, kerbs, exterior surfaces and paving, parking areas, building entrances and exits (including emergency escape routes), internal and external doors, gates, toilet and washing facilities, public facilities (such as telephones, counters or service desks), lighting and ventilation, lifts and escalators, floor coverings, signs, furniture, and temporary or movable items (such as equipment and display racks). Physical features also include the sheer scale of premises (for example, the size of a building). This is not an exhaustive list.

- These could be something to do with the structure of the actual building itself like steps, changes of level, emergency exits or narrow doorways.
- Or it could be something about the way the building or premises have been fitted out, things like heavy doors, inaccessible toilets or inappropriate lighting.
- It could even be the way things are arranged inside the premises such as fixtures and fittings like shelf heights in storage areas or fixed seating in canteens.

For example:

An employer has recruited a worker who is a wheelchair user and who would have difficulty negotiating her way around the office. In consultation with the new worker, the employer rearranges the layout of furniture in the office. The employer has made reasonable adjustments.

## **Providing extra equipment or aids**

The third requirement of the duty involves providing extra equipment – which equality law calls **auxiliary aids** – and **auxiliary services**, where someone else is used to assist the disabled person, such as a reader, a sign language interpreter or a support worker.

An auxiliary aid or service may make it easier for a disabled person to do their job or to participate in an interview or selection process. So you should consider whether it is reasonable to provide this.

The kind of equipment or aid or service will depend very much on the individual disabled person and the job they are or will be doing or what is involved in the recruitment process. The disabled person themselves may have experience of what they need, or you may be able to get expert advice from some of the organisations listed in *Further sources of information and advice*.

## **Making sure an adjustment is effective**

It may be that several adjustments are required in order to remove or reduce a range of disadvantages and sometimes these will not be obvious to you. So you should work, as much as possible, with the disabled person to identify the kind of disadvantages or problems that they face and also the potential solutions in terms of adjustments.

But even if the disabled person does not know what to suggest, you must still consider what adjustments may be needed.

For example:

A disabled employee has been absent from work as a result of depression. Neither the employee nor their doctor is able to suggest any adjustments that could be made. Nevertheless the employer should still consider whether any adjustments, such as working from home for a time or changing working hours or offering more day-to-day support, would be reasonable.

You may be able to get expert advice from some of the organisations listed in *Further sources of information and advice*.

## Who pays for reasonable adjustments?

If something is a reasonable adjustment, you must pay for it as the employer or prospective employer. The cost of an adjustment can be taken into account in deciding if it is reasonable or not.

However, there is a government scheme called Access to Work which can help a person whose health or disability affects their work by giving them advice and support. Access to Work can help with extra costs which would not be reasonable for an employer or prospective employer to pay.

For example, Access to Work might pay towards the cost of getting to work if the disabled person cannot use public transport, or for assistance with communication at job interviews.

A person may be able to get advice and support from Access to Work if they are:

- in a paid job, or
- unemployed and about to start a job, or
- unemployed and about to start a Work Trial, or
- self-employed

and

- their disability or health condition stops them from being able to do parts of their job.

Make sure your worker or job applicant knows about Access to Work. Although the advice and support are given to the worker or job applicant themselves, you will obviously benefit too. Information about Access to Work is in *Further sources of information and advice*.

## What is meant by 'reasonable'

You only have to do what is reasonable.

Various factors influence whether a particular adjustment is considered reasonable and the responsibility for making the decision about reasonableness rests with you as the employer.

When deciding whether an adjustment is reasonable you can consider:

- how effective the change will be in avoiding the disadvantage the disabled person would otherwise experience
- its practicality
- the cost
- your organisation's resources and size
- the availability of financial support.

Your overall aim should be, as far as possible, to remove or reduce any disadvantage faced by a disabled worker or job applicant.

Issues to consider:

- You can treat disabled people better or 'more favourably' than non-disabled people and sometimes this may be part of the solution.
- The adjustment must be effective in helping to remove or reduce any disadvantage the disabled person is facing. If it doesn't have any impact then there is no point.
- In reality it may take several different adjustments to deal with that disadvantage but each change must contribute towards this.
- You can consider whether an adjustment is practical. The easier an adjustment is, the more likely it is to be reasonable. However, just because something is difficult doesn't mean it can't also be reasonable. You need to balance this against other factors.
- If an adjustment costs little or nothing and is not disruptive, it would be reasonable unless some other factor (such as impracticality or lack of effectiveness) made it unreasonable.
- Your size and resources are another factor. If an adjustment costs a significant amount, it is more likely to be reasonable for you to make it if you have substantial financial resources. Your resources must be looked at across your whole organisation, not just for the branch or section where the disabled person is or would be working. This is an issue which you have to balance against the other factors.
- In changing policies, criteria or practices, you do not have to change the basic nature of the job, where this would go beyond what is reasonable.

- What is reasonable in one situation may be different from what is reasonable in another situation, such as where someone is already working for you and faces losing their job without an adjustment, or where someone is a job applicant. Where someone is already working for you, or about to start a long-term job with you, you would probably be expected to make more permanent changes (and, if necessary, spend more money) than you would to make adjustments for someone who is attending a job interview for an hour.
- If you are a larger rather than a smaller employer you are also more likely to have to make certain adjustments such as redeployment or flexible working patterns which may be easier for an organisation with more staff.
- If advice or support is available, for example, from Access to Work or from another organisation (sometimes charities will help with costs of adjustments), then this is more likely to make the adjustment reasonable.
- If making a particular adjustment would increase the risks to the health and safety of anybody, including the disabled person concerned, then you can consider this when making a decision about whether that particular adjustment or solution is reasonable. But your decision must be based on a proper assessment of the potential health and safety risks.

If, having taken all of the relevant issues into account, you decide that an adjustment is reasonable then you must make it happen.

If there is a disagreement about whether an adjustment is reasonable or not, in the end, only an Employment Tribunal can decide this.

### **Providing information in an alternative format**

Equality law says that where providing information is involved, the steps which it is reasonable for the employer to take include steps to make sure that the information is provided in an accessible format.

For example:

- A job applicant asks for information about the job to be read onto an audio CD and sent to them. This is likely to be a reasonable adjustment that the employer must make.

# Reasonable adjustments in practice

Examples of steps it might be reasonable for you to have to take include:

- Making adjustments to premises.

For example:

An employer makes structural or other physical changes such as widening a doorway, providing a ramp or moving furniture for a wheelchair user; relocates light switches, door handles, or shelves for someone who has difficulty in reaching; or provides appropriate contrast in decor to help the safe mobility of a visually impaired person.

- Allocating some of the disabled person's duties to another person.

For example:

An employer reallocates minor or subsidiary duties to another employee as a disabled person has difficulty doing them because of their disability. For example, the job involves occasionally going onto the open roof of a building but the employer transfers this work away from an employee whose disability involves severe vertigo.

- Transferring the person to fill an existing vacancy.

For example:

An employer should consider whether a suitable alternative post is available for a worker who becomes disabled (or whose disability worsens), where no reasonable adjustment would enable the worker to continue doing the current job. This might also involve retraining or other reasonable adjustments such as equipment for the new post or a transfer to a position on a higher grade.

- Altering the person's hours of working or training.

For example:

An employer allows a disabled person to work flexible hours to enable them to have additional breaks to overcome fatigue arising from their disability. It could also include permitting part-time working, or different working hours to avoid the need to travel in the rush hour if this is a problem related to an impairment. A phased return to work with a gradual build-up of hours might also be appropriate in some circumstances.

- Assigning the person to a different place of work or training.

For example:

An employer relocates the work station of a newly disabled employee (who now uses a wheelchair) from an inaccessible third floor office to an accessible one on the ground floor. If the employer operates from more than one workplace, it may be reasonable to move the employee's place of work to other premises of the same employer if the first building is inaccessible and the other premises are not.

- Allowing the person to be absent during working or training hours for rehabilitation, assessment or treatment.

For example:

An employer allows a disabled person who has recently developed a condition to have more time off work than would be allowed to non-disabled workers to enable them to have rehabilitation. A similar adjustment would be appropriate if a disability worsens or if a disabled person needs occasional treatment anyway.

- Giving, or arranging for, training or mentoring (whether for the disabled person or any other person). This could be training in particular pieces of equipment which the disabled person uses, or an alteration to the standard employee training to make sure it is accessible for the disabled employee.

For example:

- All workers are trained in the use of a particular machine but an employer provides slightly different or longer training for an employee with restricted hand or arm movements, or training in additional software for a visually impaired person so that they can use a computer with speech output.
- An employer provides training for employees on conducting meetings in a way that enables a Deaf staff member to participate effectively.
- A disabled person returns to work after a six-month period of absence due to a stroke. Their employer pays for them to see a work mentor, and allows time off to see the mentor, to help with their loss of confidence following the onset of their disability.

- Acquiring or modifying equipment.

For example:

An employer might have to provide special equipment (such as an adapted keyboard for someone with arthritis or a large screen for a visually impaired person), an adapted telephone for someone with a hearing impairment, or other modified equipment for disabled workers (such as longer handles on a machine).

You do not have to provide or modify equipment for personal purposes unconnected with a worker's job, such as providing a wheelchair if a person needs one in any event but does not have one. This is because the disadvantages do not flow from things you have control over.

- Modifying instructions or reference manuals.

For example:

The format of instructions and manuals might need to be modified for some disabled people (such as being produced in Braille or on audio CD) and instructions for people with learning disabilities might need to be conveyed orally with individual demonstration or in Easy Read.

- Modifying procedures for testing or assessment.

For example:

A person with restricted manual dexterity would be disadvantaged by a written test, so the employer gives that person an oral test instead.

- Providing a reader or interpreter.

For example:

An employer arranges for a colleague to read hard copy post to a person with a visual impairment at particular times during the working day. Alternatively, the employer might hire a reader.

- Providing supervision or other support.

For example:

An employer provides a support worker or arranges help from a colleague, in appropriate circumstances, for someone whose disability leads to uncertainty or lack of confidence.

- Allowing a disabled worker to take a period of disability leave.

For example:

A worker who has cancer needs to undergo treatment and rehabilitation. Their employer allows a period of disability leave and permits them to return to their job at the end of this period.

- Participating in supported employment schemes, such as **Work step**.

For example:

A person applies for a job as an office assistant after several years of not working because of depression. They have been participating in a supported employment scheme where they saw the job advertised. As a reasonable adjustment the person asks the employer to let them make private phone calls during the working day to a support worker at the scheme.

- Employing a support worker to assist a disabled worker.

For example:

An adviser with a visual impairment is sometimes required to make home visits to clients. The employer employs a support worker to assist them on these visits.

- Modifying disciplinary or grievance procedures.

For example:

A person with a learning disability is allowed to take a friend (who does not work with them) to act as an advocate at a meeting with the person's employer about a grievance. The employer also makes sure that the meeting is conducted in a way that does not disadvantage or patronise the disabled person.

- Adjusting redundancy selection criteria.

For example:

A person with an autoimmune disease has taken several short periods of absence during the year because of the condition. When their employer is taking the absences into account as a criterion for selecting people for redundancy, they discount these periods of disability-related absence.

- Modifying performance-related pay arrangements.

For example:

A disabled person who is paid purely on their output needs frequent short additional breaks during their working day – something their employer agrees to as a reasonable adjustment. It is likely to be a reasonable adjustment for their employer to pay them at an agreed rate (e.g. their average hourly rate) for these breaks.

It may sometimes be necessary for an employer to take a combination of steps.

For example:

A woman who is blind is given a new job with her employer in an unfamiliar part of the building. The employer

- arranges facilities for her assistance dog in the new area
- arranges for her new instructions to be in Braille, and
- provides disability equality training to all staff.

In some situations, a reasonable adjustment will not work without the co-operation of other workers. Your other staff may therefore have an important role in helping make sure that a reasonable adjustment is carried out in practice. You must make sure that this happens. It is unlikely to be a valid 'defence' to a claim under equality law for a failure to make reasonable adjustments to argue that an adjustment was unreasonable because your other staff were obstructive or unhelpful when you tried to make an adjustment happen. You would at least need to be able to show that you took all reasonable steps to try and resolve the problem of the attitude of your other staff.

For example:

An employer makes sure that a worker with autism has a structured working day as a reasonable adjustment. As part of the reasonable adjustment, it is the responsibility of the employer to make sure that other workers co-operate with this arrangement.

If the worker does not agree to your involving other workers, you must not breach their confidentiality by telling the other workers about the disabled person's situation.

If a worker is reluctant for other staff to know, and you believe that a reasonable adjustment requires the co-operation of the worker's colleagues, explain that you cannot make the adjustment unless they are prepared for some information to be shared. It does not have to be detailed information about their condition, just enough to explain to other staff what they need to do.

## Specific situations

### *Employment services*

An employment service provider must not unlawfully discriminate against people who are using or want to use its services. There is more information about what this means in the list of words and key ideas.

In addition, an employment service provider has a duty to make reasonable adjustments, except when providing a **vocational service**.

For employment service providers, unlike for employers, the duty is 'anticipatory'. If you are an employment service provider, this means you cannot wait until a disabled person wants to use your services, but must think in advance (and on an ongoing basis) about what disabled people with a range of impairments might reasonably need, such as people who have a visual impairment, a hearing impairment, a mobility impairment, or a learning disability.

For example:

An employment agency makes sure its website is accessible to disabled people and that it can provide information about job opportunities in a range of alternative formats. It also makes sure its staff are trained to assist disabled people who approach it to find out about job opportunities.

## Occupational pensions

Occupational pension schemes must not unlawfully discriminate against people. There is more information about what this means in the Equality and Human Rights Commission guide: *What equality law means for you as an employer: pay and benefits*.

In addition, an occupational pension scheme must make reasonable adjustments to any provision, criterion or practice in relation to the scheme which puts a disabled person at a substantial disadvantage in comparison with people who are not disabled.

For example:

The rules of an employer's final salary scheme provide that the maximum pension receivable is based on the member's salary in the last year of work. Having worked full-time for 20 years, a worker develops a condition which leads them to reduce their working hours two years before their pension age. The scheme's rules put them at a disadvantage as a result of their disability, because their pension will only be calculated on their part-time salary. The trustees decide to convert the worker's part-time salary to its full-time equivalent and make a corresponding reduction in the period of their part-time employment which counts as pensionable. In this way, their full-time earnings will be taken into account. This is likely to be a reasonable adjustment to make.

## Questions about health or disability

Except in very restricted circumstances or for very restricted purposes, you are not allowed to ask any job applicant about their health or any disability until the person has been:

- offered a job either outright or on conditions, or
- included in a pool of successful candidates to be offered a job when a position becomes available (for example, if an employer is opening a new workplace or expects to have multiple vacancies for the same role but doesn't want to recruit separately for each one).

This includes asking such a question as part of the application process or during an interview. Questions relating to previous sickness absence count as questions that relate to health or disability.

No-one else can ask these questions on your behalf either. So you cannot refer an applicant to an **occupational health practitioner** or ask an applicant to fill in a questionnaire provided by an occupational health practitioner before the offer of a job is made (or before inclusion in a pool of successful applicants) except in very limited circumstances, which are explained next.

The point of stopping employers asking questions about health or disability is to make sure that all job applicants are looked at properly to see if they can do the job in question, and not ruled out just because of issues related to or arising from their health or disability, such as sickness absence, which may well say nothing about whether they can do the job now.

You can ask questions once you have made a job offer or included someone in a group of successful candidates. At that stage, you could make sure that someone's health or disability would not prevent them from doing the job. But you must consider whether there are reasonable adjustments that would enable them to do the job.

## ***What happens if I ask questions about health or disability?***

A job applicant can bring a claim against you if:

- you asked health- or disability-related questions of a kind that are not allowed, and
- they believe there has been unlawful discrimination as a result of the information that they gave (or failed to give) when answering such questions.

The Equality and Human Rights Commission can take legal action against you if you ask job applicants any health- or disability-related questions that are not allowed by equality law. This includes sending them a questionnaire about their health for them to fill in before you have offered them a job.

## When you are allowed to ask questions about health or disability

You can ask questions about health or disability when:

- You are asking the questions to find out if any applicant needs reasonable adjustments for the recruitment process, such as for an assessment or an interview.

For example:

An application form states: 'Please contact us if you need the application form in an alternative format or if you need any adjustments for the interview'. This is allowed.

- You are asking the questions to find out if a person (whether they are a disabled person or not) can take part in an assessment as part of the recruitment process, including questions about reasonable adjustments for this purpose.

For example:

An employer is recruiting play workers for an outdoor activity centre and wants to hold a practical test for applicants as part of the recruitment process. It asks a question about health in order to ensure that applicants who are not able to undertake the test (for example, because they are pregnant or have an injury) are not required to take the test. This is allowed.

- You are asking the questions for **monitoring** purposes to check the **diversity** of applicants.
- You want to make sure that an applicant who is a disabled person can benefit from any measures aimed at improving disabled people's employment rates. For example, the **guaranteed interview scheme**. Make it clear to job applicants that this is why you are asking the question.
- You are asking the question because having a specific impairment is an **occupational requirement** for a particular job.

For example:

An employer wants to recruit a Deafblind project worker who has personal experience of Deafblindness. This is an occupational requirement of the job and the job advert states this. The employer can ask on the application form or at interview about the applicant's disability.

- Where the questions relate to a requirement to vet applicants for the purposes of **national security**.
- Where the question relates to a person's ability to carry out a function that is intrinsic (or absolutely fundamental) to that job. Where a health- or disability-related question would mean you would know if a person can carry out that function with reasonable adjustments in place, then you can ask the question.

For example:

A construction company is recruiting scaffolders. The company can ask about health or disability on the application form or at interview if the questions relate specifically to an applicant's ability to climb ladders and scaffolding to a significant height. The ability to climb ladders and scaffolding is intrinsic or fundamental to the job.

In practice, even if a function is intrinsic to the job, you should ask a question about a disabled person's ability to do the job with reasonable adjustments in place. There will therefore be very few situations where a question about a person's health or disability needs to be asked.

Most of the time, whether on an application form or during an interview, you can ask a question about whether someone has the relevant skills, qualities or experience to do the job, not about their health or about any disability they may have.

For example:

An employer is recruiting a person as a cycle courier. They ask applicants to send in a CV setting out their relevant experience and a covering letter saying why they would be suitable for the job. The employer will score candidates on their experience of and enthusiasm for cycling. It is not necessary to ask applicants questions about health or disability. If the employer considers a health check is necessary, for example, for insurance purposes, this can be carried out once an applicant has been offered the job, and the job offer can be made conditional on the health check.

## 4. What to do if someone says they've been discriminated against

If a **worker** says that you or your **employee** or **agent** have **unlawfully discriminated** against them in a work situation, your responsibility is to deal with the complaint in a way that finds out if there has been unlawful discrimination and, if there has been, to put the situation right.

This guide focuses on the equality law aspects of dealing with a complaint from a worker. If a worker makes a complaint (which is often called 'bringing a grievance') about something else at work, which is not related to a **protected characteristic**, then you can get advice from the Arbitration and Conciliation Service (Acas) about how to deal with this. Contact details for Acas are in *Further sources of information and advice*.

A worker may:

- complain to you
- make a claim in the Employment Tribunal.

These are not alternatives, since the person complaining still has a right to make a claim in the Employment Tribunal even if they first complained to you.

This part of this guide covers:

- If a worker complains to you
  - Dealing with the complaint informally
  - If a worker makes a formal complaint
  - Getting more information about involving other people in sorting the situation out (this is often called alternative dispute resolution)
- What you can do if you find that there has been unlawful discrimination
- What you can do if you find that there wasn't any unlawful discrimination
- Monitoring the outcome
- The questions procedure, which someone can use to find out more information from you if they think they may have been unlawfully discriminated against, harassed or victimised

- Key points about discrimination cases in a work situation
  - Where claims are brought
  - Time limits for bringing a claim
  - The standard and burden of proof
  - What the Employment Tribunal can order you to do
- More information about defending an Employment Tribunal case

### **Good practice tips for avoiding and sorting out claims about discrimination at work**

A worker who believes they have experienced unlawful discrimination has a right to make an Employment Tribunal claim.

Defending an Employment Tribunal claim can be lengthy, expensive and draining, and it can have a damaging impact on the reputation of your organisation.

It is likely to be in everyone's interest to try to put things right before a claim is made to an Employment Tribunal.

If you have good procedures for sorting out complaints about discrimination, you may be able to avoid the person feeling it is necessary to bring a claim against you.

An important factor will be for your workers to be sure that complaints about unlawful discrimination will be taken seriously, even if they are raised less formally, outside your formal grievance procedures, and that something will happen to put the situation right if someone has discriminated unlawfully.

Tell your workers what the options are for bringing unlawful discrimination to your attention, and how to use your procedures, including:

- discussing the situation informally with you or a manager, and
- using your formal grievance procedures.

Make it clear what will happen if, after investigating, you find out that someone has discriminated unlawfully against someone else:

- that if necessary you will take any disciplinary action you decide is appropriate
- that if necessary you will change the way you do things so the same thing does not happen again, then do this.

Also:

- consider **equality training** for yourself and/or people working for you
- think about having an **equality policy**.

## If a worker complains to you

You have two ways of sorting out the situation:

- trying to deal with the complaint informally
- using your grievance procedures.

You may also want to use other people to help you sort the situation out through something like conciliation or mediation. This is often called 'alternative dispute resolution' and this guide tells you where you can find out more about it.

Make sure that in the way you respond to a complaint, you do not unlawfully discriminate against anyone.

For example:

An employer takes what a disabled person who has a learning disability says less seriously than what the person they say has unlawfully discriminated against them says. If the employer's attitude is because of the disabled person's learning disability, this is likely to be unlawful discrimination.

If anyone involved in a complaint is a disabled person who needs **reasonable adjustments** to remove barriers they would otherwise face in taking part in the complaints process, you must make these. You can read more about reasonable adjustments in Chapter 3.

## ***Dealing with the complaint informally***

It may be that you can look into the complaint and decide what to do without it being necessary for your worker to make a formal complaint.

If the complaint is about the way you or your organisation does something, think about getting it changed.

If it is about how the person's manager or colleagues are behaving towards them, it may help to speak informally to the person or people involved before getting into formal procedures.

This will only be possible if the person who has complained agrees that you should speak to the other person informally.

Make sure you tell the worker what the result of their informal complaint is, otherwise they may make a formal complaint or bring an Employment Tribunal claim.

## ***If a worker makes a formal complaint***

If a worker makes a formal complaint, this is often referred to as a 'grievance'.

You can find out about investigating and handling grievances (whether they relate to discrimination or to other workplace issues) from Acas. Contact details for Acas are in *Further sources of information and advice*.

If your worker is not happy about the outcome of a grievance procedure, then they have a right to appeal.

## ***Alternative dispute resolution***

If you want to get help in sorting out a complaint about discrimination, you could see if the person complaining will agree to what is usually called 'alternative dispute resolution' or ADR. ADR involves finding a way of sorting out the complaint without a formal tribunal hearing. ADR techniques include mediation and conciliation.

In complaints relating to work situations, this can happen:

- as part of an informal process
- when your formal grievance procedures are being used, or
- before an Employment Tribunal claim has been brought or finally decided.

There are different organisations who may be able to help with this:

- Trade Unions
- Acas
- ADRnow, an information service run by the Advice Services Alliance (ASA).

Details of how to contact these organisations are in *Further sources of information and advice*.

## ***What you can do if you find that there has been unlawful discrimination***

The action you take will depend on the specific details of the case and its seriousness. You should take into consideration any underlying circumstances and the outcome of previous similar cases. Actions you take could be:

- Some form of alternative dispute resolution (which is explained above).
- **Equality training** for the person who discriminated.
- Appropriate disciplinary action (you can find out more about disciplinary procedures from Acas).

## ***What you can do if you find that there wasn't any unlawful discrimination***

If your investigation and any appeal find that there was no unlawful discrimination, then you need to find a way for everyone to continue to work together.

You may be able to do this yourself, or it may be helpful to bring in help from outside as with alternative dispute resolution (which is explained above).

## ***Monitoring the outcome***

Whether you decide that there had been unlawful discrimination or not, make sure that you do not treat the person who complained badly. For example, forcing the person who complained to transfer to another part of your organisation (if it is big enough) may be **victimisation**. However, if they ask to be transferred, you should do this if you are sure this is what they really want, and it is not a sign that you have not dealt with their complaint properly.

Monitor the situation to ensure that the unlawful discrimination (if you found there was discrimination) has stopped and that there is no victimisation of the person who complained or anyone who helped them.

If your worker is not satisfied with what has happened, they may decide to bring a claim in the Employment Tribunal.

## ***The questions procedure***

If someone thinks they may have been unlawfully discriminated against, harassed or victimised against equality law, then they can obtain information from you to help them decide if they have a valid claim or not.

There is a set form to help them do this which you can see at: [www.equalities.gov.uk](http://www.equalities.gov.uk), but their questions will still count even if they do not use the form, so long as they use the same questions.

If you receive questions from someone, you are not legally required to reply to the request, or to answer the questions, but it may harm your case if you do not.

The questions and the answers can form part of the evidence in a case brought under the Equality Act 2010.

Someone can send you the questions before a claim is made to the Employment Tribunal, or at the same time, or after the claim has been sent.

If it is before, then you must receive the questions within three months of what the person complaining says happened that was unlawful discrimination. If a claim has already been made to the Employment Tribunal, then you must receive the questions:

- within 28 days of the claim being sent to the Employment Tribunal if the claim involves disability discrimination (including a failure to make **reasonable adjustments**) or
- within 21 days of the claim being sent to the Employment Tribunal in all other cases.

If you do not respond to the questionnaire within eight weeks of its being sent to you, the Employment Tribunal can take that into account when making its decision. The Employment Tribunal can also take into account answers which are evasive or unclear.

- There is an exception to this. The Employment Tribunal cannot take the failure to answer into account if a person or organisation states that to give an answer could prejudice criminal proceedings and this is reasonable. Most of the time, breaking equality law only leads to a claim in a civil tribunal or court. Occasionally, breaking equality law can be punished by the criminal courts. In that situation, the person or organisation may be able to refuse to answer the questions, if in answering they might incriminate themselves and it is reasonable for them not to answer. If you think this might apply to you, you should get more advice on what to do.

If someone who is working for you sends you questions, you must not treat them badly because they have done this. If you did, it would almost certainly be **victimisation**.

## Key points about discrimination cases in a work situation

The key points this guide explains are:

- Where claims are brought
- Time limits for bringing a claim
- The standard and burden of proof
- What the Employment Tribunal can order you to do

### *Where claims are brought*

An Employment Tribunal can decide a complaint involving unlawful discrimination in a **work situation**.

Employment Tribunals can also decide cases about:

- Collective agreements, which can cover any terms of employment, such as pay or other benefits or working conditions.
- Equal pay and occupational pensions cases, which you can read more about in the Equality and Human Rights Commission guide: *What equality law means for you as an employer: pay and benefits*.
- Requirements an employer places on someone to discriminate against people as part of their job, for example, if someone works in a shop, telling them not to serve customers with a particular protected characteristic.

If the complaint is about a health- or disability-related enquiry during recruitment, the Employment Tribunal cannot hear a case just because an enquiry was made. Only the Equality and Human Rights Commission can take up this sort of case.

But a job applicant who believes they were discriminated against because of disability, or for a reason connected with their disability, can bring a claim in the Employment Tribunal.

For example:

A job applicant who is a disabled person is asked questions about their health and disability during their interview. They do not get the job. They believe this is because of the answers they gave to the questions. They can bring a claim in the Employment Tribunal. However, only the Equality and Human Rights Commission could take up the wider case (in the County Court in England or Wales, and the Sheriff Court in Scotland) to challenge the employer just for asking the questions if no individual was personally affected.

An Employment Tribunal can only hear a case from a member of the armed forces if their **service complaint** has been decided.

### ***Time limits for bringing a claim***

A person must bring their claim within three months (less one day) of the claimed unlawful discrimination taking place.

There are two situations where this is slightly different:

- in equal pay cases, different time limits apply – see the Equality and Human Rights Commission guide: *What equality law means for you as an employer: pay and benefits*, and
- for cases involving the armed forces, the time limit is six months (less one day).

If a person brings a claim after this, it is up to the Employment Tribunal to decide whether it is fair to everyone concerned, including both the employer and the employee, to allow a claim to be brought later than this.

When a claim concerns behaviour over a length of time, the time limit starts when the behaviour has ended.

For example:

An employer operates a mortgage scheme for married couples only. Someone who is a civil partner would be able to make a claim for unlawful discrimination because of sexual orientation to a tribunal at any time while the scheme continues to operate in favour of married couples or within three months of the scheme ceasing to operate in favour of married couples.

If the person is complaining about a failure to do something, for example, a failure to make **reasonable adjustments**, then the three months begins when the decision was made not to do it. If there is no solid evidence of a decision, then the decision is assumed to have been made either:

- when the person who failed to do the thing does something else which shows they don't intend to do it, or
- at the end of the time when they might reasonably have been expected to do the thing.

For example:

A wheelchair-user asks their employer to install a ramp to enable them to get over the kerb between the car park and the office entrance more easily. The employer indicates that it will do so but no work at all is carried out. After a period in which it would have been reasonable for the employer to commission the work, even though the employer has not made a positive decision not to install a ramp, it may be treated as having made that decision. A court can hear a claim if it is brought outside this time limit if the court thinks that it would be 'just and equitable' (fair to both sides) for it to do this.

## ***The standard and burden of proof***

The standard of proof in discrimination cases is the usual one in civil (non-criminal) cases. Each side must try to prove the facts of their case are true on the balance of probabilities, in other words, that it is more likely than not in the view of the tribunal that their version of events is true.

If someone is claiming unlawful discrimination, harassment or victimisation against you, then the burden of proof begins with them. They must prove enough facts from which the tribunal can decide, without any other explanation, that the discrimination, harassment or victimisation has taken place.

Once they have done this, then, in the absence of any other explanation, the burden shifts onto you to show that you or someone whose actions or omissions you were responsible for did not discriminate, harass or victimise the person making the claim.

## *What the Employment Tribunal can order you to do*

What the tribunal can order if you lose your case is called a remedy.

The main remedies available to the Employment Tribunal are to:

- Make a declaration that you have discriminated.
- Award compensation to be paid for the financial loss the claimant has suffered (for example, loss of earnings), and damages for injury to the claimant's feelings. There is no legal upper limit on the amount of compensation.
- Make a recommendation, requiring the employer to do something specific within a certain time to remove or reduce the bad effects which the claim has shown to exist on the individual.

For example:

Providing a reference or reinstating the person to their job, if the tribunal thinks this would work despite the previous history.

The Employment Tribunal can also make a recommendation requiring the employer to do something specific within a certain time to remove or reduce the bad effects which the claim has shown to exist on the wider workforce (although not in equal pay cases). This might be particularly applicable where the claimant has already left that employer so any individual recommendation would be pointless.

For example:

- introducing an equal opportunities policy
- ensuring its harassment policy is more effectively implemented
- setting up a review panel to deal with equal opportunities and harassment/grievance procedures
- re-training staff, or
- making public the selection criteria used for transfer or promotion of staff.

If the recommendation relates to an individual and if an employer does not do what they have been told to do, the tribunal may order them to pay compensation, or an increased amount of compensation, to the claimant instead.

In cases of **indirect discrimination**, if you can prove that you did not intend what you did to be discriminatory, the tribunal must consider all of the remedies before looking at damages.

The tribunal can also order you to pay the legal costs and expenses of the person bringing the claim on top of your own legal costs and expenses, although this does not often happen in Employment Tribunal cases.

## ***More information about defending an Employment Tribunal case***

You can find out more about what to do if someone brings an Employment Tribunal case against you from:

- In England and Wales: Business Link – see *Further sources of information and advice* for contact details.
- In Scotland: Business Gateway Scotland – see *Further sources of information and advice* for contact details.

## 5. Further sources of information and advice

### **Equality and Human Rights Commission:**

The Equality and Human Rights Commission is the independent advocate for equality and human rights in Britain. It aims to reduce inequality, eliminate discrimination, strengthen good relations between people, and promote and protect human rights. The Equality and Human Rights Commission helplines advise both individuals and organisations such as employers and service providers.

Website: [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

### **Helpline – England**

Email: [info@equalityhumanrights.com](mailto:info@equalityhumanrights.com)

Telephone: 0845 604 6610

Textphone: 0845 604 6620

Fax: 0845 604 6630

08:00–18:00 Monday to Friday

### **Helpline – Wales**

Email: [wales@equalityhumanrights.com](mailto:wales@equalityhumanrights.com)

Telephone: 0845 604 8810

Textphone: 0845 604 8820

Fax: 0845 604 8830

08:00–18:00 Monday to Friday

### **Helpline – Scotland**

Email: [scotland@equalityhumanrights.com](mailto:scotland@equalityhumanrights.com)

Telephone: 0845 604 5510

Textphone: 0845 604 5520

Fax: 0845 604 5530

08:00–18:00 Monday to Friday

### **Acas – The Independent Advisory, Conciliation and Arbitration Service:**

Acas aims to improve organisations and working life through better employment relations. It provides impartial advice, training, information and a range of problem resolution services.

Website: [www.acas.org.uk](http://www.acas.org.uk)

Telephone: 08457 47 47 47 (Monday–Friday: 08:00–20:00; Saturday: 09:00–13:00)

## **Access to Work:**

Access to Work can help disabled people or their employers if their condition or disability affects the ease by which they can carry out their job or gain employment. It gives advice and support with extra costs which may arise because of certain needs.

Website:

[www.direct.gov.uk/en/disabledpeople/employmentsupport/workschemesandprogrammes](http://www.direct.gov.uk/en/disabledpeople/employmentsupport/workschemesandprogrammes)

London, East England and South East England:

Telephone: 020 8426 3110

Email: [atwosu.london@jobcentreplus.gsi.gov.uk](mailto:atwosu.london@jobcentreplus.gsi.gov.uk)

Wales, South West England, West Midlands and East Midlands:

Telephone: 02920 423 29

Email: [atwosu.cardiff@jobcentreplus.gsi.gov.uk](mailto:atwosu.cardiff@jobcentreplus.gsi.gov.uk)

Scotland, North West England, North East England and Yorkshire and Humberside:

Telephone: 0141 950 5327

Email: [atwosu.glasgow@jobcentreplus.gsi.gov.uk](mailto:atwosu.glasgow@jobcentreplus.gsi.gov.uk)

## **Association of Disabled Professionals (ADP):**

The ADP website offers advice, support, resources and general information for disabled professionals, entrepreneurs and employers.

Website: [www.adp.org.uk](http://www.adp.org.uk)

Telephone: 01204 431638 (answerphone only service)

Fax: 01204 431638

Email: [info@adp.org.uk](mailto:info@adp.org.uk)

## **British Chambers of Commerce (BCC):**

The BCC is the national body for a network of accredited Chambers of Commerce across the UK; each Chamber provides representation, services, information and guidance to its members.

Website: [www.britishchambers.org.uk](http://www.britishchambers.org.uk)

Telephone: 020 7654 5800

Fax: 020 7654 5819

Email: [info@britishchambers.org.uk](mailto:info@britishchambers.org.uk)

### **British Retail Consortium (BRC):**

The BRC is a trade association representing a broad range of retailers. It provides advice and information for its members.

Website: [www.brc.org.uk](http://www.brc.org.uk)

Telephone: 020 7854 8900

Fax: 020 7854 8901

### **Department for Business, Innovation and Skills (BIS):**

BIS is the UK government department with responsibility for trade, business growth, employment and company law and regional economic development.

Website: [www.bis.gov.uk](http://www.bis.gov.uk)

Telephone: 020 7215 5000

### **Business Gateway :**

Business Gateway provides practical help, advice and support for new and growing businesses in Scotland.

Website: [www.bgateway.com](http://www.bgateway.com)

Telephone: 0845 609 6611

### **Business in the Community:**

Business in the Community mobilises businesses for good, working to improve businesses in terms of their responsibilities to both the local and global community, helping to work towards a sustainable future.

Website: [www.bitc.org.uk](http://www.bitc.org.uk)

Telephone: 020 7566 8650

Email: [information@bitc.org.uk](mailto:information@bitc.org.uk)

Twitter: @BITC1

### **Business Link:**

Business Link is a free business advice and support service, available online and through local advisers.

Website: [www.businesslink.gov.uk](http://www.businesslink.gov.uk)

Telephone: 0845 600 9 006

Minicom: 0845 606 2666

### **Chartered Institute of Personnel and Development (CIPD):**

The CIPD is Europe's largest human resources development professional body, with over 135,000 members. It supports and develops those responsible for the management and development of people within organisations.

Website: [www.cipd.co.uk](http://www.cipd.co.uk)

Telephone: 020 8612 6208

### **ChildcareLink:**

ChildcareLink provides details of local childcare providers for employees and employers, as well as general information about childcare.

Website: [www.childcarelink.gov.uk](http://www.childcarelink.gov.uk)

Telephone: 0800 2346 346

### **Close the Gap Scotland:**

Close the Gap Scotland works to close the gender pay gap by working with companies and trade unions as well as carrying out research to illustrate the gender pay gap.

Website: [www.closesthegap.org.uk](http://www.closesthegap.org.uk)

Telephone: 0141 337 8131

### **The Confederation of British Industry (CBI):**

The CBI is the UK's leading business organisation, speaking for some 240,000 businesses that together employ around a third of the private sector workforce.

Website: [www.cbi.org.uk](http://www.cbi.org.uk)

Telephone: 020 7379 7400

### **Directgov:**

Directgov is the UK government's digital service for people in England and Wales. It delivers information and practical advice about public services, bringing them all together in one place.

Website: [www.direct.gov.uk](http://www.direct.gov.uk)

### **EEF:**

EEF is a membership organisation which provides business services to help members manage people, processes, environment and more, so that members can meet their regulatory commitments.

Website: [www.eef.org.uk](http://www.eef.org.uk)

Telephone: 020 7222 7777

Fax: 020 7222 2782

### **Employers Forum on Age (EFA):**

EFA is an independent network of leading employers who recognise the value of an age diverse workforce. In addition to supporting employers, the EFA influences Government, business and trade unions, campaigning for real practical change in preventing age discrimination at work and in the job market.

Website: [www.efa.org.uk](http://www.efa.org.uk)

Telephone: 0845 456 2495

Email: [efa@efa.org.uk](mailto:efa@efa.org.uk)

### **Employers Forum on Belief (EFB):**

EFB offers employers practical guidance and shares good practice around issues such as dress codes, religious holidays, the inter-relationship between religious belief and other diversity strands and conflict in the workplace. The forum is not affiliated to any religious group or philosophical belief.

Website: [www.efbelief.org.uk](http://www.efbelief.org.uk)

Telephone: 0207785 6533

Email: [info@efbelief.org.uk](mailto:info@efbelief.org.uk)

### **Employers Forum on Disability (EFD):**

EFD is the world's leading employers' organisation focused on disability as it affects business.

Website: [www.efd.org.uk](http://www.efd.org.uk)

Telephone: 020 7403 3020

Email: [enquiries@staging.efd.org.uk](mailto:enquiries@staging.efd.org.uk)

### **Equality Britain:**

Equality Britain aims to promote opportunities in employment, education, housing and sport to people from ethnic minorities.

Website: [www.equalitybritain.co.uk](http://www.equalitybritain.co.uk)

Telephone: 0151 707 6688

### **Federation of Small Businesses (FSB):**

The FSB works to protect, promote, and further the interests of the self-employed and small business sector. It provides a range of member services.

Website: [www.fsb.org.uk](http://www.fsb.org.uk)

Telephone: 01253 336 000

Fax: 01253 348 046

### **Flexible Support for Business:**

Flexible Support for Business provides information and advice for businesses in Wales across all areas of commerce, working with specialists within the Government to help businesses expand, save time and money with instant access to clear, simple and trustworthy advice.

Website: [www.business-support-wales.gov.uk](http://www.business-support-wales.gov.uk)

Telephone: 03000 6 03000

Email: [businesssupport@wales.gsi.gov.uk](mailto:businesssupport@wales.gsi.gov.uk)

### **The Gender Trust:**

The Gender Trust is the UK's largest charity working to support Transsexual, Gender Dysphoric and Transgender people or those who are affected by gender identity issues. It has a helpline and provides training and information for employers and organisations.

Website: [www.gendertrust.org.uk](http://www.gendertrust.org.uk)

Telephone: 0845 231 0505

### **Gender Identity Research and Education Society (GIRES):**

GIRES provides a wide range of information and training for Trans people, their families and professionals who care for them.

Website: [www.gires.org.uk](http://www.gires.org.uk)

Telephone: 01372 801 554

Fax: 01372 272 297

Email: [info@gires.org.uk](mailto:info@gires.org.uk)

### **Government Equalities Office (GEO):**

The GEO is the Government department responsible for equalities legislation and policy in the UK.

Website: [www.equalities.gov.uk](http://www.equalities.gov.uk)

Telephone: 020 7944 4400

### **Health and Safety Executive (HSE):**

The HSE provides information and guidance on health and safety.

Website: [www.hse.gov.uk](http://www.hse.gov.uk)

Telephone: 08701 545 500

Email: [hseinformationservices@natbrit.com](mailto:hseinformationservices@natbrit.com)

### **Healthy Minds at Work:**

Healthy Minds at Work is a Wales-based initiative to help prevent absence from work due to stress-related illnesses through improving the welfare of employees.

Website: [www.healthymindsatwork.org.uk](http://www.healthymindsatwork.org.uk)

Email: [info@healthymindsatwork.org.uk](mailto:info@healthymindsatwork.org.uk)

### **Investors in People (IiP):**

IiP offers a business improvement tool designed to help all kinds of organisations develop performance through their people. It provides tailored assessments designed to support organisations in planning, implementing and evaluating effective strategies and is relevant for organisations of all sizes and sectors.

Website: [www.investorsinpeople.co.uk](http://www.investorsinpeople.co.uk)

Telephone: 020 7467 1900

Email: [info@investorsinpeople.co.uk](mailto:info@investorsinpeople.co.uk)

### **Mindful Employer:**

Mindful Employer provides information, advice and practical support for people whose mental health affects their ability to find or remain in employment, training, education and voluntary work.

Website: [www.mindfulemployer.net](http://www.mindfulemployer.net)

Telephone: 01392 208 833

Email: [info@mindfulemployer.net](mailto:info@mindfulemployer.net)

### **Opportunity Now:**

Opportunity Now is a membership organisation representing employers who want to ensure inclusiveness for women, supporting their potential to be as economically active as men. Opportunity Now is part of Business in the Community.

Website: [www.opportunity.org.uk](http://www.opportunity.org.uk)

Telephone: 0207 566 8650

### **Press for Change (PfC):**

PfC is a political lobbying and educational organisation. It campaigns to achieve equality and human rights for all Trans people in the UK through legislation and social change. It provides legal advice, training and consultancy for employers and organisations as well as undertaking commissioned research.

Website: [www.transequality.co.uk](http://www.transequality.co.uk) / [www.pfc.org.uk](http://www.pfc.org.uk)

Telephone: 0161 432 1915 (10:00–17:00, Thursdays only until further notice)

Email: [transequality@pfc.org.uk](mailto:transequality@pfc.org.uk)

**Race for Opportunity (RfO):**

RfO is a network of private and public sector organisations working across the UK to promote the business case for race and diversity. It is part of Business in the Community.

Website: [www.raceforopportunity.org.uk](http://www.raceforopportunity.org.uk)

Telephone: 0207 566 8716

**Sainsbury Centre for Mental Health:**

The Sainsbury Centre for Mental Health works to improve the quality of life for people with mental health conditions. They carry out research, policy work and analysis to improve practice and influence policy in mental health as well as public services.

Website: [www.scmh.org.uk](http://www.scmh.org.uk)

Telephone: 020 7827 8300

Email: [contact@scmh.org.uk](mailto:contact@scmh.org.uk)

**Small Business UK:**

Small Business UK provides resources, products and services for small business owners and start-ups. It offers free online advice in the form of news articles, guides, tips and features to help people set up and run small businesses.

Website: [www.smallbusiness.co.uk](http://www.smallbusiness.co.uk)

Telephone: 020 7250 7010

**Stonewall:**

Stonewall is the UK's leading lesbian, gay and bisexual charity and carries out campaigning, lobbying and research work as well as providing a free information service for individuals, organisations and employers.

Website: [www.stonewall.org.uk](http://www.stonewall.org.uk)

Telephone: 08000 50 20 20

Email: [info@stonewall.org.uk](mailto:info@stonewall.org.uk)

**The Age and Employment Network (TAEN):**

An independent charity whose mission is to promote an effective job market that serves the needs of people in mid- and later life, employers and the economy.

Website: [www.taen.org.uk](http://www.taen.org.uk)

Telephone: 020 7843 1590

### **TUC – the Trades Union Congress (England and Wales):**

With 59 member unions representing over six and a half million working people, the TUC campaigns for a fair deal at work and for social justice at home and abroad.

Website: [www.tuc.org.uk](http://www.tuc.org.uk)

Telephone: 020 7636 4030

### **Scottish Trades Union Congress (STUC):**

Website: [www.stuc.org.uk](http://www.stuc.org.uk)

Telephone: 0141 337 8100

Email: [info@stuc.org.uk](mailto:info@stuc.org.uk)

### **Train to Gain:**

Advice and resources for businesses looking for support in training their staff.

Website: [www.traintogain.gov.uk](http://www.traintogain.gov.uk)

Telephone: 0845 600 9006

### **Working Families:**

Working Families is a work–life balance organisation, helping children, working parents and carers and their employers find a better balance between responsibilities at home and work.

Website: [www.workingfamilies.org.uk](http://www.workingfamilies.org.uk)

Telephone: 0800 013 0313

Email: [office@workingfamilies.org.uk](mailto:office@workingfamilies.org.uk)

### **Workwise:**

Workwise aims to make the UK one of the most progressive economies in the world by encouraging the widespread adoption of smarter working practices in order to gain better productivity and to balance work–life pressures.

Website: [www.workwiseuk.org](http://www.workwiseuk.org)

Telephone: 01252 311 557

Email: [enquiries@workwiseuk.org](mailto:enquiries@workwiseuk.org)

## 6. Glossary

<b>accessible venue</b>	A building designed and/or altered to ensure that people, including disabled people, can enter and move round freely and access its events and facilities.
<b>Act</b>	A law or piece of legislation passed by both Houses of Parliament and agreed to by the Crown, which then becomes part of statutory law (ie is <i>enacted</i> ).
<b>affirmative action</b>	Positive steps taken to increase the participation of under-represented groups in the workplace. It may encompass such terms as positive action and positive discrimination. The term, which originates from the United States of America, is not used in the Equality Act.
<b>age</b>	This refers to a person belonging to a particular age group, which can mean people of the same age (e.g. 32-year-olds) or range of ages (e.g. 18–30-year-olds, or people over 50).
<b>agent</b>	A person who has authority to act on behalf of another ('the principal') but who is not an employee.
<b>all reasonable steps</b>	In relation to harassment by an employee, all the things which the employer could reasonably have done to stop it; in relation to reasonable adjustments, 'reasonable steps' is another term for the things that the employer could reasonably have done to remove the disadvantage.
<b>alternative format</b>	Media formats which are accessible to disabled people with specific impairments, for example Braille, audio description, subtitles and Easy Read.
<b>anticipatory duty</b>	For service providers, the duty to make reasonable adjustments is anticipatory; within reason, it is owed to all potential disabled customers and not just to those who are known to the service provider.
<b>armed forces</b>	Refers to military service personnel.

<b>associate members</b>	A person who has access to some or all of an association's benefits, facilities and services because they are a member of another associated private club.
<b>associated with</b>	Where a victim of discrimination does not have a protected characteristic but is discriminated against because of their association with someone who does e.g. the parent of a disabled child.
<b>association</b>	An association of people sharing a particular characteristic or interest which has at least 25 members, where admission to membership is regulated and involves a process of selection.
<b>association with</b>	See associated with.
<b>auxiliary aid</b>	Usually a special piece of equipment to improve accessibility.
<b>auxiliary service</b>	A service to improve access to something often involving the provision of a helper/assistant.
<b>Bill</b>	A draft Act, not passed or in force.
<b>breastfeeding</b>	When a woman feeds her baby with breast milk. Breastfeeding is specifically protected for the first 26 weeks after birth by the pregnancy and maternity discrimination provisions in relation to non-work cases.
<b>by association</b>	In the Act, this refers to discrimination against a person who does not have a protected characteristic but because of their association with someone who has a protected characteristic. See <i>also</i> 'associated with'.
<b>charity</b>	A body (whether corporate or not) which is for a statutory charitable purpose that provides a benefit to the public.
<b>civil, diplomatic, armed or security and intelligence services</b>	Respectively, this refers to (i) the civil service, (ii) the diplomatic service (iii) the armed forces, (iv) organisations responsible for internal security and counter-intelligence (but not civil police forces).
<b>clients</b>	A customer or patron of a service or organisation, generally where the service provider is professional and is in a position of trust and confidence.

<b>Code of Practice</b>	A statutory guidance document which must be taken into account by the Courts when applying the law and which may assist people to comply with the law.
<b>Comparator</b>	A person with whom a claimant compares themselves to establish less favourable treatment in a discrimination case.
<b>customers</b>	People who buy or use goods or services.
<b>Data Protection</b>	Safeguards concerning personal data provided for by statute, mainly the Data Protection Act 1998.
<b>different needs</b>	Refers to the different requirements that people with protected characteristics may have which either must or should be met to provide equality, including equality of opportunity and access.
<b>direct discrimination</b>	Less favourable treatment of a person compared with another person because of a protected characteristic.
<b>directly discriminatory</b>	See direct discrimination.
<b>disability</b>	A person has a disability if he or she has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.
<b>disabled person</b>	Someone who has a physical or mental impairment that has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities.
<b>disadvantage</b>	A detriment or impediment – something that the individual affected might reasonably consider changes their position for the worse.
<b>disadvantaged</b>	When someone suffers a detriment or finds an impediment to enjoying a benefit in comparison with others because of a characteristic of theirs; encountering a pre-existing barrier which is inherent in their workplace but which doesn't have the same effect on others.
<b>discriminate unlawfully</b>	See unlawful discrimination.

<b>discriminating directly or indirectly</b>	Refers to discrimination because of a person's protected characteristic (direct); or discrimination that occurs when a provision, criteria or practice is applied that creates disproportionate disadvantage for a person with a protected characteristic as compared to those who do not share that characteristic (indirect).
<b>discrimination arising from disability</b>	When a person is treated unfavourably because of something arising in consequence of their disability.
<b>disproportionately low</b>	Refers to situations where people with a protected characteristic are under-represented (e.g. in the workforce or among service users) compared to their numbers in the population.
<b>diversity</b>	Where many different types of people are included.
<b>duty to make reasonable adjustments</b>	Where a disabled person is at a substantial disadvantage in comparison with people who are not disabled, there is a duty to take reasonable steps to remove that disadvantage by (i) changing provisions, criteria or practices, (ii) altering, removing or providing a reasonable alternative means of avoiding physical features, and (iii) providing auxiliary aids.
<b>educational establishments</b>	Schools, colleges and higher educational institutions.
<b>employee</b>	A person who carries out work for a person under a contract of service, a contract of apprenticeship, or a contract personally to do work; or a person who carries out work for the Crown or a relevant member of the Houses of Parliament staff. See <i>also</i> worker.
<b>employer</b>	A person who makes work available under a contract of service, a contract of apprenticeship, the Crown or a relevant member of the Houses of Parliament staff.
<b>employment service provider</b>	A person who provides vocational training and guidance, careers services and may supply employers with workers.
<b>employment services</b>	Vocational training and guidance, finding employment for people, supplying employers with workers.

<b>equal pay audit</b>	Comparing the pay of women and men who are doing equal work in an organisation, and investigating the causes of any pay gaps by gender or working pattern. The provisions in the Act directly relating to equal pay refer to sex equality but an equal pay audit could be applied to other protected characteristics to help an employer equality proof their business.
<b>equal work</b>	A woman's work is equal to a man's in the same employment (and vice versa) if it is the same or broadly similar (like work); rated as equivalent to his work under a job evaluation scheme or if she can show that her work is of equal value to his in terms of the demands made of her.
<b>equality clause</b>	A sex equality clause is read into a person's contract of employment so that where there is a term which is less favourable than that enjoyed by someone of the opposite sex doing equal work, that term will be modified to provide equal terms.
<b>equality policy</b>	A statement of an organisation's commitment to the principle of equality of opportunity in the workplace.
<b>equality training</b>	Training on equality law and effective equality practice.
<b>exceptions</b>	Where, in specified circumstances, a provision of the Act does not apply.
<b>flexible working</b>	Working different hours or at home, including to accommodate disability or childcare commitments.
<b>gender reassignment</b>	The process of changing or transitioning from one gender to another. <i>See also</i> transsexual person.
<b>Gender Recognition Certificate</b>	A certificate issued under the Gender Recognition Act to a transsexual person who has, or has had gender dysphoria, has lived in the acquired gender throughout the preceding two years, and intends to continue to live in the acquired gender until death.
<b>goods, facilities or services</b>	Goods refer to moveable property; facilities to opportunities to enjoy a benefit or do something; and services to provisions for meeting people's needs. Goods, facilities and services are available to the public or any part of it.

<b>guaranteed interview scheme</b>	This is a scheme for disabled people which means that an applicant will be invited for interview if they meet the essential specified requirements of the job.
<b>guests</b>	People invited to enjoy an association's benefits, facilities or services by that association or a member of it.
<b>harass</b>	To behave towards someone in a way that violates their dignity, or creates a degrading, humiliating, hostile, intimidating or offensive environment.
<b>harassment</b>	Unwanted behaviour that has the purpose or effect of violating a person's dignity or creates a degrading, humiliating, hostile, intimidating or offensive environment. <i>See also</i> sexual harassment.
<b>impairment</b>	A functional limitation which may lead to a person being defined as disabled according to the definition under the Act. <i>See also</i> disability.
<b>indirect discrimination</b>	The use of an apparently neutral practice, provision or criterion which puts people with a particular protected characteristic at a disadvantage compared with others who do not share that characteristic, and applying the practice, provision or criterion cannot be objectively justified.
<b>indirectly discriminatory</b>	<i>See</i> indirect discrimination.
<b>Information Society Service Provider (ISSP)</b>	A service provider which provides electronic data storage, usually for payment, for example, selling goods online.
<b>instruction to discriminate</b>	When someone who is in a position to do so instructs another to discriminate against a third party. For example, if a GP instructed her receptionist not to register anyone who might need help from an interpreter, this would amount to an instruction to discriminate.
<b>insurance business</b>	An organisation which provides financial protection against specified risks to clients in exchange for payment.

<b>job evaluation study</b>	This is a study undertaken to evaluate jobs in terms of the demands made on a person, using factors such as effort, skill and decision-making. This can establish whether the work done by a woman and a man is equal, for equal pay purposes. See <i>also</i> equal work.
<b>judicial review</b>	A procedure by which the High Court supervises the exercise of public authority power to ensure that it remains within the bounds of what is lawful.
<b>less favourably</b>	Worse, not as well as.
<b>like work</b>	See equal work.
<b>manifest</b>	Refers to the appearance or expression of a protected characteristic. For example manifestations of sexual orientation can include the person's appearance, the places they visit or the people they mix with.
<b>manifestation</b>	Appearance or expression. See manifest.
<b>marriage and civil partnership</b>	Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must not be treated less favourably than married couples.
<b>maternity</b>	See pregnancy and maternity.
<b>maternity leave</b>	Leave which a woman can take whilst she is pregnant and after the birth of her child divided into compulsory, ordinary and additional maternity leave. How much leave a woman is entitled to will vary, but all women employees are entitled to 26 weeks.
<b>members</b>	People who have been formally accepted into membership of an association.
<b>minister</b>	Someone who is authorised to perform religious functions, such as weddings.
<b>monitor</b>	See monitoring.
<b>monitoring</b>	Monitoring for equality data to check if people with protected characteristics are participating and being treated equally. For example, monitoring the representation of women, or disabled people, in the workforce or at senior levels within organisations.

<b>monitoring form</b>	A form which organisations use to collect equality monitoring data – from, for example, job applicants or service users. It records information about a person’s sex, age, disability, race, religion, or sexual orientation. It is kept separately from any identifying information about the person.
<b>more favourably</b>	To treat somebody better than someone else. This is unlawful under the Act if it is because of a protected characteristic except in very limited circumstances e.g. the duty to make reasonable adjustments for a disabled person. The law can require pregnant workers to be treated more favourably in some circumstances.
<b>national security</b>	The security of the nation and its protection from external and internal threats, particularly from activities such as terrorism and threats from other nations.
<b>needs that are different</b>	See different needs.
<b>Normal retirement age</b>	This is the retirement age at which, in practice, employees in a particular job and workplace would normally expect to retire. Normal retirement age can differ from the contractual retirement age. If it is under 65, it must be objectively justified.
<b>objective justification</b>	When something (e.g. an otherwise discriminatory action) can be objectively justified. <i>See also</i> objectively justified.
<b>objectively justified</b>	When something can be shown to be a proportionate means of achieving a legitimate aim – that is, the way of achieving the aim is appropriate and necessary.
<b>occupational health</b>	Occupational health can be defined as the ongoing maintenance and promotion of physical, mental and social wellbeing for all workers.
<b>occupational health practitioner</b>	A health professional providing occupational health services.
<b>occupational pension</b>	A pension which an employee may receive after retirement as a contractual benefit.

<b>occupational requirement</b>	Where having a protected characteristic is an occupational requirement, certain jobs can be reserved for people with that protected characteristic (e.g. Women support workers in women's refuges; Ministers of Religion).
<b>office-holders</b>	There are personal and public offices. A personal office is a remunerated office or post to which a person is appointed personally under the direction of someone else. A public office is appointed by a member of the government, or the appointment is recommended by them, or the appointment can be made on the recommendation or with the approval of both Houses of Parliament, the Scottish Parliament or the National Assembly for Wales.
<b>organised religion</b>	Refers to a religion which manifests its beliefs through organised worship.
<b>palantypist</b>	Also known as 'Speech to Text Reporter'. A palantypist reproduces speech into a text format onto a computer screen at verbatim speeds for Deaf or hard of hearing people to read.
<b>past disability</b>	A person who has had a disability as defined by the Equality Act.
<b>perception</b>	In the Equality Act, the belief that someone has a protected characteristic, whether or not they do have it.
<b>physical barriers</b>	A physical feature of a building or premises which places disabled people at a substantial disadvantage compared to non-disabled people when accessing goods, facilities and services or employment. <i>See also</i> physical features.
<b>physical features</b>	Anything that forms part of the design or construction of a place of work, including any fixtures, such as doors, stairs etc. Physical features do not include furniture, furnishings, materials, equipment or other chattels in or on the premises.

<b>positive action</b>	Refers to a range of lawful actions that seek to overcome or minimise disadvantages (e.g. in employment opportunities) that people who share a protected characteristic have experienced, or to meet their different needs.
<b>positive discrimination</b>	Treating someone with a protected characteristic more favourably to counteract the effects of past discrimination. It is generally not lawful although the duty to make reasonable adjustments is an exception where treating a disabled person more favourably may be required by law.
<b>practicable</b>	Capable of being carried out or put into effect.
<b>pregnancy and maternity</b>	Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.
<b>pregnant</b>	See pregnancy and maternity.
<b>private disposals</b>	When an owner-occupier disposes of property (i.e. sells or leases etc.) without using an estate agent or publishing an advert in connection with the 'disposal'.
<b>procurement</b>	The term used in relation to the range of goods and services a public body or authority requires and delivers. It includes sourcing and appointment of a service provider and the subsequent management of the goods and services being provided.
<b>professional organisations</b>	A body of persons engaged in the same profession, formed usually to provide advice, maintain standards, and represent the profession in discussions with other bodies about professional concerns.
<b>proportionate</b>	This refers to measures or actions that are appropriate and necessary. Whether something is proportionate in the circumstances will be a question of fact and will involve weighing up the discriminatory impact of the action against the reasons for it, and asking if there is any other way of achieving the aim.

<b>protected characteristics</b>	These are the grounds upon which discrimination is unlawful. The characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
<b>protected period</b>	This refers to the time in a work context when the specific prohibition against unfavourable treatment of expectant and new mothers applies. The period begins at the start of a woman's pregnancy and continues until the end of her maternity leave.
<b>provision, criterion or practice</b>	Identifying a provision, criterion or practice is key to establishing indirect discrimination. It can include, for example, any formal or informal policies, decisions, rules, practices, arrangements, criteria, conditions, prerequisites or qualifications.
<b>public authority</b>	Organisations and individuals that carry out public functions – this would include, for example, government departments, local authorities, health authorities and hospitals, schools, prisons, and police.
<b>public bodies</b>	Public bodies are defined as bodies which have a role in the processes of national Government but are not a Government department or part of one. They operate to a greater or lesser extent at arm's length from Ministers.
<b>public functions</b>	Any act or activity undertaken by a public authority in relation to delivery of a public service or carrying out duties or functions of a public nature e.g. the provision of policing and prison services, healthcare, including residential care of the elderly, government policy-making or local authority planning services.
<b>public sector equality duty</b>	The duty on a public authority when carrying out its functions to have due regard to the need to eliminate unlawful discrimination and harassment, foster good relations and advance equality of opportunity.
<b>qualifications bodies</b>	An authority or body which can confer qualifications.

<b>questions procedure</b>	A discrimination law procedure whereby a pre-action questionnaire is issued to the respondent/defendant, i.e. the person or organisation against whom a discrimination claim may be made.
<b>race</b>	Refers to the protected characteristic of race. It refers to a group of people defined by their race, colour, nationality (including citizenship), ethnic or national origins.
<b>rated as equivalent</b>	An equal pay concept – see equal work.
<b>reasonable</b>	What is considered reasonable will depend on all the circumstances of the case including the size of an organisation and its resources, what is practicable, the effectiveness of what is being proposed and the likely disruption that would be caused by taking the measure in question as well as the availability of financial assistance.
<b>reasonable adjustment</b>	See the duty to make reasonable adjustments.
<b>reasonable steps</b>	See the duty to make reasonable adjustments.
<b>reasonably</b>	See reasonable.
<b>reasonably believe</b>	This refers to a belief based on objective grounds.
<b>regulations</b>	Secondary legislation made under an Act of Parliament (or European legislation) setting out subsidiary matters which assist in the Act's implementation.
<b>religion or belief</b>	Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.
<b>religion or belief organisations</b>	An organisation founded on an ethos based on a religion or belief. Faith schools are one example of a religion or belief organisation. See <i>also</i> religion or belief.
<b>religious organisation</b>	See religion or belief organisations.

<b>retirement age</b>	The age at which an employee retires. This may be the national default retirement age, if there is one, or an age which is set in the contract of employment but which must be capable of being objectively justified.
<b>right to request flexible working</b>	The legal right that qualifying employees, e.g. carers of children have, to request flexible working, e.g. a change in the way you work or the hours you work.
<b>same employment</b>	An equal pay concept (see equal work). Generally, women and men can compare their pay and other conditions with those employed by the same or an associated employer.
<b>separate services</b>	Services only provided for one sex.
<b>service complaint</b>	A complaint about service delivery.
<b>service provider</b>	Someone (including an organisation) who provides services, goods or facilities to the general public or a section of it. See <i>also</i> goods, facilities and services.
<b>service users</b>	Those accessing or using a particular service. See <i>also</i> goods, facilities and services.
<b>services</b>	See goods, facilities and services.
<b>services, goods or facilities</b>	See goods, facilities and services.
<b>sex</b>	This is a protected characteristic. It refers to whether a person is a man or a woman (of any age).
<b>sexual harassment</b>	Any conduct of a sexual nature that is unwanted by the recipient, including verbal, non-verbal and physical behaviours, and which violates the victim's dignity or creates an intimidating, hostile, degrading or offensive environment for them.
<b>sexual orientation</b>	Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.
<b>single-sex facilities</b>	Facilities which are only available to men or to women, the provision of which may be lawful under the Equality Act.

<b>single-sex services</b>	A service provided only to men or women. It is not always discriminatory to provide single-sex services, for example provision of single-sex changing facilities in a leisure centre.
<b>small premises</b>	Premises are small if they are not normally sufficient to accommodate more than two other households (and no more than six people in addition to the owner-occupier and/or their relatives and/or close relations).
<b>stakeholders</b>	People with an interest in a subject or issue who are likely to be affected by any decision relating to it and/or have responsibilities relating to it.
<b>substantial disadvantage</b>	A disadvantage which is more than minor or trivial.
<b>terms of employment</b>	The provisions of a person's contract of employment, whether provided for expressly in the contract itself or incorporated by statute, custom and practice or common law etc.
<b>textphone</b>	A type of telephone for Deaf or hard of hearing people which is attached to a keyboard and a screen on which the messages sent and received are displayed.
<b>trade unions</b>	These are organisations formed to represent workers' rights and interests to their employers, for example in order to improve working conditions, wages or benefits. They also advocate more widely on behalf of their members' interests and make recommendations to government, industry bodies and other policy makers.
<b>transsexual person</b>	Refers to a person who has the protected characteristic of gender reassignment. This may be a woman who has transitioned or is transitioning to be a man, or a man who has transitioned or is transitioning to be a woman. The law does not require a person to undergo a medical procedure to be recognised as a transsexual person.
<b>Two Ticks symbol</b>	A sign awarded by Jobcentre Plus to employers who are positive about employing disabled people and are committed to employing, keeping and developing disabled staff.

<b>UK Text Relay Service</b>	Text Relay is a national telephone relay service for Deaf, deafened, hard of hearing, deafblind and speech-impaired people. It lets them use a textphone to access any services that are available on standard telephone systems.
<b>unfavourably</b>	The term is used (instead of less favourable) where a comparator is not required to show that someone has been subjected to a detriment or disadvantage because of a protected characteristic – for example in relation to pregnancy and maternity discrimination.
<b>unlawful</b>	Not permitted by law (as distinct from illegal which means 'forbidden by law'). On occasions, unlawful and illegal may be synonymous, but unlawful is more correctly applied in relation to civil (as opposed to criminal) wrongs.
<b>unlawful disability discrimination</b>	See unlawful discrimination and discrimination arising from disability.
<b>Unlawful discrimination</b>	When an employer or service provider has engaged in prohibited conduct against someone with a protected characteristic (discriminated against them) and does not have a valid defence.
<b>unlawful discrimination because of disability</b>	See unlawful discrimination and discrimination arising from disability.
<b>unlawful indirect discrimination</b>	See indirect discrimination.
<b>unlawfully discriminated</b>	See discriminate unlawfully and unlawful discrimination
<b>unlawfully discriminated</b>	See unlawful discrimination
<b>unreasonable</b>	Not reasonable, beyond what's practicable. <i>See also</i> reasonable.
<b>victimisation</b>	Subjecting a person to a detriment because they have done a protected act or there is a belief that they have done a protected act i.e. bringing proceedings under the Equality Act; giving evidence or information in connection with proceedings under the Act; doing any other thing for the purposes or in connection with the Act; making an allegation that a person has contravened the Act.

<b>victimise</b>	The act of victimisation.
<b>vocational service</b>	A range of services to enable people to retain and gain paid employment and mainstream education.
<b>vocational training</b>	Training to do a particular job or task.
<b>work of equal value</b>	See equal work.
<b>work situation</b>	Refers to the employment and workplace context – if disputes or discrimination complaints arise in relation to work they will be heard in the Employment Tribunal.
<b>WORKSTEP</b>	The WORKSTEP employment programme provides support to disabled people facing complex barriers to getting and keeping a job. It also offers practical assistance to employers.
<b>worker</b>	The definition of 'employee' given above also encompasses that of 'worker'. However, in employment law, worker is generally a wider category than employee and includes a contract personally to do work.
<b>worse</b>	When someone is treated less favourably they are treated worse than someone else, literally something which is not as good as someone or something else.

This guide is one of a series written by the Equality and Human Rights Commission to explain your responsibilities under equality law if you are a person or organisation employing people to work for you.

There are 7 guides:

1. What equality law means for you as an employer: when you recruit someone to work for you
2. What equality law means for you as an employer: working hours, flexible working and time off
3. What equality law means for you as an employer: pay and benefits
4. What equality law means for you as an employer: training, development, promotion and transfer
5. What equality law means for you as an employer: managing workers
6. What equality law means for you as an employer: dismissal, redundancy, retirement and after a worker has left
7. Good equality practice for employers: equality policies, equality training and monitoring

We have also produced:

- A separate series of guides explaining the responsibilities people and organisations have if they are providing services, carrying out public functions or running an association
- Different guides which explain people's rights at work and in relation to people and organisations providing services, carrying out public functions or running an association

If you would like a copy of any of these guides or require this guide in an alternative format, please call our helpline on **0845 6046610** Monday to Friday 8am to 6pm or see our website **[www.equalityhumanrights.com](http://www.equalityhumanrights.com)**.