

# Discrimination in the workplace



**We all deserve to be treated fairly at work and be in an environment where we can feel respected, valued, and make the most of our hard work and talents. Unfortunately, many working people in the UK still face prejudice and discrimination in the workplace.**

You are legally protected from discrimination by the Equality Act 2010 if you live in England, Scotland or Wales. You are protected whether you are permanent, full-time, part-time or a locum.

In Northern Ireland, you are protected from discrimination under the Northern Ireland Act 1998. More information about discrimination in Northern Ireland can be found [here](#).

## **Types of discrimination (protected characteristics)**

It is against the law to discriminate against anyone because of their:

- age
- gender reassignment
- being married or in a civil partnership
- being pregnant or on maternity leave
- disability
- race including colour, nationality, ethnic or national origin
- religion or belief
- sex
- sexual orientation



If your employer or a colleague is treating you unfairly or harassing you because of any of these characteristics, they are breaking the law. What is more, your workplace should not be run in a way that stops people with protected characteristics from doing as well as anyone else.

It does not matter what size the company is or what kind of contract you are on – no boss is exempt from equality law.

## **Get Involved**

The PDA has four equality, diversity & inclusion (EDI) networks; the National Association of Women Pharmacists (NAWP), the Black Asian and Minority Ethnic Pharmacists' Network (BAME Network), the Disabled Pharmacists' Network (Ability Network) and the Lesbian, Gay, Bisexual and Transgender Pharmacists' Network (LGBT+ Network).

### **Join a PDA Equality Network today!**

For more information, visit: [www.the-pda.org/get-involved/networks](http://www.the-pda.org/get-involved/networks)

# Discrimination in the workplace

The law protects you against discrimination at work, including:

- dismissal
- employment terms and conditions
- pay and benefits
- promotion and transfer opportunities
- training
- recruitment
- redundancy



The treatment could be a one-off action or because of a rule or policy. It does not have to be intentional to be unlawful.

- **Direct discrimination** – this happens when someone treats you worse than another person in a similar situation because of a protected characteristic.
- **Indirect discrimination** – is when an organisation has a policy or way of working that puts people of a particular group at a disadvantage.
- **Harassment** - The term 'harassment' is often used loosely in a work setting to describe unpleasant or bullying behaviour. However, in the context of the Equality Act 2010, it has a specific meaning. The harassment banned by the Equality Act is any unwanted conduct that has the purpose or effect of violating someone's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person, related to a protected characteristic (e.g. sex, race, disability, etc.).
- **Victimisation** – this is when you are treated badly because you have made a complaint of discrimination under the Equality Act for example, bringing proceedings against your employer, giving evidence or supporting another member of staff suffering from discrimination and doing a protected act.

If you feel you are being discriminated against, you can take action to enforce your rights, but employers are most likely to pay attention when workers act together, especially through a trade union. It is the best way to bring about new policies and practices that make the workplace fairer for everyone.

You are also protected from discrimination if:

- you are associated with someone who has a protected characteristic, e.g. a family member or friend
- you have complained about discrimination or supported someone else's claim.

## Age discrimination

Treating you less favourably in similar circumstances than another colleague on grounds of your actual or apparent age, unless the employer can justify it.

You have specific protection from discrimination at work on the grounds of your age under the Equality Act 2010. You are protected from age discrimination before, during and after your employment. You should note that there is a statute of limitations on all discrimination cases of three months, less one day from the last act or last act in a continuous string of discrimination against you.

Discrimination because you are perceived as being a particular age, or because you associate with someone who is a particular age, is unlawful. Employers are permitted to discriminate on the grounds of age where they can justify the less favourable treatment, or the impact of the practice, or rule on you or your age group. For example, employment benefits related to service of no more than five years is permitted.

## Transgender discrimination

Gender reassignment is the medical and social process whereby you change your birth sex to match your gender identity. The term includes any part of the process.

Treating you less favourably at work than another colleague in similar circumstances on the grounds that you propose to undergo, are undergoing or have undergone gender reassignment is discriminatory. There is no need for you to show that you propose to or have undergone surgery or hormone treatment.

The protection extends specifically to absences from work to enable you to undergo gender reassignment. You must not be treated less favourably than you would have been treated had you been absent for another reason such as sickness or injury. Any rules on absences from work must be applied equally.

Protection starts from the time that you propose to undergo gender reassignment rather than when any treatment starts. You are protected from transgender discrimination before, during and after your employment.

## Marriage and civil partnership discrimination

You must not be discriminated against at work because you are married or in a civil partnership. In the Equality Act, marriage and civil partnership means someone who is legally married or in a civil partnership. Marriage can either be between a man and a woman, or between partners of the same sex. Civil partnership is between partners of the same sex.

People do not have this characteristic if they are:

- single
- living with someone as a couple neither married nor civil partners
- engaged to be married but not married
- divorced or a person whose civil partnership has been dissolved.



## Pregnancy and maternity discrimination

Once your employer knows that you are pregnant, you are protected from pregnancy discrimination at work, in addition to protection from sex discrimination, under the Equality Act 2010. You may have a claim for sex discrimination if you are treated less favourably for associating with a pregnant woman. For example, if your partner is pregnant. You are also protected from maternity discrimination if you are taking, seeking to take, or have taken statutory maternity leave.

Pregnancy or maternity discrimination would include treating you unfavourably at work for a reason related to your pregnancy or childbirth or because you are taking, seeking to take or have taken statutory maternity leave, which results in a loss or detriment to you. For example, loss of pay or injury to your feelings. You are also protected from sex discrimination.

Protection from pregnancy discrimination starts when your employer is aware that you are pregnant. It ends when your 52 weeks' statutory maternity leave ends or when you return to work, if you return to work before the end of 52 weeks.

# Disability discrimination

Disability discrimination is when you are treated less favourably or put at a disadvantage for a reason that relates to your disability in one of the circumstances covered by the Equality Act.

Many people do not appreciate the range of physical or mental health conditions that can be classed as a “disability”. Examples may include:

- Anxiety
- Depression
- Diabetes
- Autism Spectrum Disorder
- Epilepsy



Many disabilities are not visible. A significantly increased understanding of the subject is needed in workplaces and across society to underpin equality for people with disabilities.

A disability is defined in the Equality Act as: *'a physical or a mental condition which has a substantial and long-term impact on your ability to do normal day to day activities'*.

'Long term' refers to the physical or mental condition you are suffering from being present for 12 months or likely to last over 12 months.

You are covered by the Equality Act if you have a progressive condition like HIV, cancer, or multiple sclerosis, even if you are currently able to carry out normal day to day activities. You are protected as soon as you are diagnosed with any of these progressive conditions.

There are many physical disabilities; other less understood examples of disability can include:

- long-term medical conditions such as asthma and diabetes
- fluctuating or progressive conditions such as rheumatoid arthritis or motor neurone disease
- mental health conditions such as bipolar disorder or depression
- conditions including dyslexia and autism.

You may also be covered by the Equality Act if you had a disability in the past. For example, if you had a mental health condition in the past which lasted for over 12 months, but you have now recovered, you are still protected from discrimination because of that disability.

It is not discrimination if you treat a person with a disability more favourably than a non-disabled person.

## Learn more

For more information, visit:

- **The Equalities Act** - [www.gov.uk/guidance/equality-act-2010-guidance](http://www.gov.uk/guidance/equality-act-2010-guidance)
- **Equality and Human Rights Commission** - [www.equalityhumanrights.com/en](http://www.equalityhumanrights.com/en)

## Race discrimination

You are protected from discrimination at work on the grounds of race under the Equality Act 2010. You are protected regardless of your race, colour, nationality, or ethnic or national origins. Discrimination because you are perceived as belonging to a particular racial group, or because you associate with someone who belongs to a particular racial group, is unlawful.

An employer might apply to all staff a workplace policy or practice that you and other workers of the same racial group cannot comply with because of your racial group. This is indirect race discrimination if it puts you at a disadvantage unless the employer could justify the impact of the policy or practice.

Some discrimination is on the grounds of religion and race. The courts extended the definition of race discrimination to protect workers who are Jewish, Sikh, Romany Gypsies and Irish Travellers. It is likely that workers with these protected characteristics will continue to be protected from less favourable treatment on grounds of both race and religion or belief. The definition of race has not been extended to protect workers who follow other religions such as Christianity or Islam. All workers, including all religions, now have specific protection at work from discrimination at work on the grounds of religion, religious belief, philosophical belief, or lack of religion or belief under the Equality Act 2010.

## Religion or belief discrimination

You have specific protection from discrimination at work on the grounds of religion, religious belief, philosophical belief or lack of religion or belief under the Equality Act 2010. You are protected regardless of your religion or belief. Discrimination because you are perceived as having a particular religion or belief, or because you associate with someone who has a particular religion or belief, is unlawful.

Treating you less favourably than another colleague in similar circumstances on the grounds of religion or belief is direct discrimination. Applying to all staff a workplace policy or practice, that you or others with your religion or belief cannot comply with because of your religion or belief, is indirect discrimination if it puts you at a disadvantage, unless the employer could justify the impact of the policy or practice.

## Sex discrimination

Treating you less favourably than another worker in similar circumstances on the grounds of sex is direct sex discrimination. Applying to all staff a workplace policy or practice, that you and other workers of the same sex cannot comply with because of your sex, is indirect sex discrimination if it puts you at a disadvantage, unless the employer can justify the impact of the policy or practice.

Appointing a man, rather than a woman with superior qualifications and more experience, for a position on the assumption that a woman would not be up to the task, would be direct discrimination; bias whether conscious or unconscious can lead to discriminatory decisions.

An employer's failure to treat an employee's menopause in the same way as other medical conditions under its performance management policy could amount to both direct or indirect sex discrimination.

The Equality Act also states that all employment contracts include a sex equality clause which states that women doing equal work to men in the same employment are entitled to equal pay and contractual terms that are no less favourable than those of a man.

# Sexual orientation discrimination

You have specific protection from discrimination at work on the grounds of sexual orientation under the Equality Act 2010. You are also protected from discrimination on the grounds of civil partnership under this Act. You are protected whether you are gay, lesbian, bisexual or straight. Discrimination because you are perceived as having a particular sexual orientation, or because you associate with someone who has a particular sexual orientation, is unlawful.

Your colleagues and managers are prohibited from discriminating against you. Applying to all staff a workplace policy or practice, that you and other colleagues of the same sexual orientation cannot comply with because you are lesbian, gay, bisexual or straight, is indirect discrimination if it puts you at a disadvantage, unless the employer could justify the impact of the policy or practice.

You are protected from sexual orientation discrimination whether or not your work colleagues are aware of your sexual orientation. Subjecting a colleague to verbal or physical harassment on the grounds of sexual orientation in the workplace is unlawful.

## What you can do if you feel you are being discriminated against?

The Equality Act 2010 protects you from discrimination on the basis of a protected characteristic, i.e. age, disability, gender reassignment, marriage/ civil partnership, pregnancy/ maternity, race, religion/ belief, sex, or sexual orientation. If you feel that you are being discriminated against, we recommend that you do the following:

- Keep a record of the times and dates of any incidents
- Keep copies of any relevant emails and/or documents that support your case
- Note down the names of any witnesses
- Contact your PDA Rep for guidance and advice
- If there is no rep in your workplace, please contact the PDA directly.



PDA members should note that discrimination matters have a strict deadline of three months, less one day from the last act of discrimination or the last in a series of acts.

Mark Pitt, Director of Defence Services at the PDA, said: *“If a member feels that they have been discriminated against because of their race, or any other protected characteristic, then it is important to take advice from the PDA legal team as soon as possible, there are strict time limits for these types of matters.”*

All discrimination claims are complicated and so you should contact the PDA as soon as you believe that you are suffering discrimination of any kind.

You can contact the PDA team by calling our advice helpline on 0121 694 7000 or by emailing us at: [enquiries@the-pda.org](mailto:enquiries@the-pda.org).

If you are not yet a member of the PDA and would like support, join the PDA at: [www.the-pda.org/join](http://www.the-pda.org/join).

**This guide offers a general overview of your rights but should not be taken as legal or financial advice. Discrimination law is complex, and every case is different. Contact the PDA for further detailed information.**