Equality Act 2010:
Summary Guidance on Employment
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Introduction

This summary guide is part of a series written by the Equality and Human Rights Commission (the Commission) to explain equality rights and duties. These guides support the implementation of the Equality Act 2010.

The full list of guides on employment covers the following, for employers and, separately, for workers:

- Recruitment
- Working hours, flexible working and time off
- Pay and benefits
- Career development – training, promotion and transfer
- Management issues
- Dismissal, redundancy, retirement and after a worker has left
- Equality policies, equality training and monitoring.
The legal status of this guidance

This guidance applies to England, Scotland and Wales. It draws on the Code of Practice on Employment.

The guide is based on equality law as it was at March 2014. You should check with the Commission in case it has been replaced by a more recent version.

At the end of this guide we have provided a list of words and key ideas to help you understand this guide – all words highlighted in **bold** are included in this list.
Who is protected by the Equality Act?

Protection from unlawful discrimination is provided by the Equality Act in relation to the following protected characteristics:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion and belief
- sex
- sexual orientation
What is meant by discrimination?

Unlawful discrimination can take a number of different forms:

- An employer must not treat a job applicant, employee or former employee worse than any other because of a protected characteristic (this is called direct discrimination).

Examples:

- An employer does not interview a job applicant because of the applicant’s ethnic background.
- An employer bases their decision on whether to agree to a request to work flexibly on the worker’s sex. The employer agrees a mother’s request but refuses a father’s request just because he is a man and the employer believes it is less important for him. This is probably direct sex discrimination and would also be a breach of the right to request flexible working.

In the case of pregnancy and maternity, direct discrimination can occur simply if the person has the protected characteristic without needing to compare treatment to someone else.

- An employer must not do something which has (or would have) a worse impact on a job applicant, employee or former employee and on other people who share a particular protected characteristic than on people who do not have that characteristic. Unless they can show that what they have done, or intend to do, is objectively justified, this will be indirect discrimination. ‘Doing something’ can include making a decision, or applying a rule or way of doing things.
Examples:

- An employer only offers applicants for a job one time for interview. One applicant is an observant Muslim who cannot attend at midday on Friday. Unfortunately, this is the only time they are offered for their interview. Unless the employer can objectively justify the lack of flexibility, this may be indirect discrimination because of religion or belief.

- An employer only allows workers who work full-time to apply for promotion. This has a worse impact on women workers, who are more likely to work part-time. Unless the employer can objectively justify the requirement to work full-time, this is very likely to be indirect discrimination because of sex.

- An employer must not treat a disabled job applicant, employee or former employee unfavourably because of something connected to their disability where they cannot show that what they are doing is objectively justified. This only applies if the employer knew or could reasonably have been expected to know that the applicant is a disabled person. The required knowledge is of the facts of the employee’s disability. The employer does not also need to realise that those particular facts are likely to meet the legal definition of disability. This is called discrimination arising from disability.

  Example: An employer tells a visually impaired person who uses an assistance dog that they are unsuitable for a job because the employer is nervous of dogs and would not allow it in the office. Unless the employer can objectively justify what they have done, this is likely to be discrimination arising from disability. The refusal to consider the visually impaired person for the job is unfavourable treatment which is because of something connected to their disability (their use of an assistance dog). It may also be a failure to make a reasonable adjustment.

- An employer must not treat a job applicant, employee or former employee worse than another because they are associated with a person who has a protected characteristic.
Example: An employer offers **flexible working** to all staff. Requests are supposed to be considered on the basis of the business needs of the organisation, but a manager decides that a man’s request to work flexibly to care for his 90-year-old father is more important than another man’s to care for his 50-year-old wife. If the manager’s decision is based on the age of the person being cared for, this is almost certainly discrimination because of age by association. (It would not be unlawful if the decision was **objectively justified**, since direct discrimination because of age, unlike other protected characteristics, is allowed if justified.)

- An employer must not treat a job applicant, employee or former employee worse than another because they incorrectly think they have a protected characteristic (**perception**).

Example: An employer does not give an applicant the job, even though they are the best-qualified person, because the employer incorrectly thinks the applicant is gay. This is still direct discrimination because of sexual orientation.

- An employer must not treat a job applicant, employee or former employee badly or **victimise** them because they have complained about discrimination or helped someone else complain or have done anything to uphold their own or someone else’s equality law rights.

The provisions relating to association, perception and victimisation can apply to anyone, even if they do not have one of the protected characteristics themselves.

Example: An employer does not shortlist a person for interview, even though they are well-qualified for the job, because last year the job applicant said they thought the employer had discriminated against them in not shortlisting them for another job.

- An employer must not harass a job applicant, employee or former employee.
Example: An employer makes a job applicant feel humiliated by telling jokes about their religion or belief during the interview. This may amount to harassment.

In addition, 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, an employer must make reasonable adjustments.

When an employer assesses a disabled job applicant’s suitability for a job, they must take account of any reasonable adjustments which are needed to enable them to do the job.

If, after taking reasonable adjustments into account, the disabled applicant would not be the best person for the job, the employer does not have to offer it to them.

But if they would be the best person with the reasonable adjustments in place, the employer must offer them the job. Of course it makes sense to do this, as an employer will want the best person for the job anyway.

Reasonable adjustments should also be put in place if someone becomes disabled while in work or if their needs change or they move to a different role.

Example: A disabled worker has to eat at set times to manage their blood sugar for their diabetes, which is only possible by taking their breaks at slightly different times (and therefore working slightly different hours) from those that usually apply within an organisation. This does not have a negative impact on the worker’s ability to do the job; quite the opposite, it removes a barrier which would otherwise stop them doing the job. If this is a reasonable adjustment, the employer must allow the change in hours.

For employment, the Government provides help for the extra costs of reasonable adjustments through the Access to Work scheme.
Exceptions

Sometimes there are situations where equality law applies differently. This guide refers to these as exceptions. There are several exceptions which apply to all employers. There are others that only apply to particular types of employer.

In addition to these exceptions, equality law allows an employer to:

- Treat disabled people better than non-disabled people.
- Use voluntary positive action.

Age

Age is different from other protected characteristics. If an employer can show that it is objectively justified, they can make a decision based on someone’s age, even if this would otherwise be direct discrimination.

However, there are only limited situations in which direct age discrimination will be objectively justified.

To show that something is objectively justified, you must be able to show that there is a good reason for doing what you are doing and that what you are doing is proportionate.

The test is not quite the same as for indirect discrimination. This is because for indirect discrimination you are allowed to rely on any reason for wanting to make a decision or apply a rule provided it represents a real objective consideration and it is proportionate.

When what you are doing is direct age discrimination you are only allowed to rely on a limited number of reasons. These are generally those that would be in the wider public interest, like promoting access to employment for younger people, or preserving the dignity of older workers as opposed to reasons particular to you. Even if you have a good reason, your actions must still be proportionate.
Employers should be careful not to use stereotypes about a person’s age to make a judgement about their fitness or ability to do a job.

**Examples:**
- An employer rejects an applicant for a management job because they are 25 years old and much younger than the people they would be managing.
- An employer only makes people over 50 do an aptitude test, because the employer believes that people over 50 do not have the mental agility to learn to do a job.

These are both examples of age discrimination which an employer would find it very difficult to objectively justify.

**Occupational requirements**

If an employer can show that a particular protected characteristic is central to a particular job, they can insist that only someone who has that particular protected characteristic is suitable for the job. This would be an ‘occupational requirement’.

**Example:** A women’s refuge may want to say that it should be able to employ only women as counsellors. Its client base is only women who are experiencing domestic violence committed by men. This would probably be a genuine occupational requirement.

**Obeying another law**

An employer can generally take into account a protected characteristic where not doing this would mean they broke another law.

**Example:** A driving school must reject a 19-year-old who applies for a job as a driving instructor because to offer them a job – even if they are otherwise the best candidate – would involve breaking the law, because a driving instructor must be aged at least 21.
National security

An employer can take a person’s protected characteristic into account if there is a need to safeguard national security and the discrimination is proportionate.

Exceptions that only apply to some employers

If an employer is a religion or belief organisation, they may be able to say that a job requires a person doing the job to hold a particular religion or belief. This will only apply if being of a particular religion or belief is a genuine requirement of the job and the requirement is objectively justified.

If the job is for the purposes of an organised religion, an employer may be able to say that a job or role requires a person to have or not have a particular protected characteristic or to behave or not behave in a particular way.

If any of the following:

- a job or role exists for the purposes of an organised religion, such as being a minister or otherwise promoting or representing the religion, and
- because of the nature or context of the employment, it is necessary to avoid conflict with the strongly held religious convictions of a significant number of the religion’s followers or to conform to the doctrines of the religion by applying a requirement to the job or role, then an employer may be able to refuse to employ a person because:
  - they are male or female
  - they are a transsexual person
  - they are married or in a civil partnership, including taking into account who they are married to or in a civil partnership with (such as someone who marries a divorced person whose former spouse is still alive)
  - they manifest a particular sexual orientation, for example, a gay or lesbian or bisexual person who is in a relationship with a same-sex partner.

This exception should only be used for a limited number of posts. For example, ministers of religion, and a small number of posts outside the clergy, such as those which exist to promote or represent the religion. The requirement must be a proportionate way of meeting the aims stated above.
• **An employment service provider** may be able to say that a person must have a particular protected characteristic to do **vocational training**, if the training leads to work for which having that characteristic is an occupational requirement.

• **An educational establishment** like a school or college may be able to say that someone has to be of a particular religion or belief, or must be a woman.

• Recruitment to the civil, diplomatic, armed or security and intelligence services and some other **public bodies**, can specify what nationality a person has to be.

• Recruitment for service in the **armed forces** may be able to exclude women and transsexual people if this is a proportionate way to ensure the combat effectiveness of the armed forces. In addition, age and disability are, in effect, not protected characteristics in relation to service in the armed forces. Disability can also be a reason to refuse someone work experience in the armed forces.

### Special treatment in connection with pregnancy and maternity

It is not sex discrimination against a man to provide special treatment for a woman in connection with pregnancy or childbirth.

**Example:** An employer allows a pregnant worker to have time off not just for ante-natal appointments (which is a legal requirement) but also to attend fitness classes for pregnant women at a nearby gym. The worker makes up the lost hours at another time, which she would not have to do for an ante-natal appointment. It would not be sex discrimination to refuse a man’s request to go to a fitness class during working hours.

However, when granting special treatment to a woman who has already given birth you must be sure that the treatment is a proportionate means of compensating a woman for the disadvantages occasioned by her being pregnant or having given birth. In other words, any special treatment cannot be too remote from the fact that the woman has had a baby. It will usually be proportionate to continue any benefits that the woman has received as part of her employment for the whole of the maternity leave period, and other steps may be required to ensure that she is not disadvantaged because of absence due to pregnancy or maternity leave. If it is possible this should be done in a way that does not disadvantage another worker, though, sometimes, preferential treatment, even where this results in a disadvantage
to another worker, will be necessary. As long as any special treatment does not go beyond what is necessary to rectify her disadvantage, it will not be sex discrimination against a man.
Positive action

Positive action means the steps that an employer can take to encourage people from groups experiencing disadvantage or low participation to take up employment opportunities, including jobs, training, promotion, transfer or other development opportunities. Equality law allows an employer to target opportunities at particular groups. This is not the same as ‘positive discrimination’, which equality law does not allow.

**Example:** A local fire service identifies from its monitoring data that women are under-represented as firefighters. The service makes clear in its next recruitment exercise that applications from women are welcome and holds an open day for potential women applicants at which they can meet women firefighters. However, the fire service must not guarantee that all women will get through the initial stages of the application process, regardless of their suitability.

In a situation where candidates are equally qualified, it is possible to appoint an applicant from a group sharing a protected characteristic if you reasonably believe this group to be disadvantaged or under-represented in the workforce or if their participation in an activity is disproportionately low.

**Example:** A housing advice service has no Muslim employees, even though it is located in an area where there is a high Muslim population. When a vacancy arises, there are two candidates of equal merit. One candidate is Muslim and the other is not. The advice service could choose to offer the job to the Muslim candidate under the positive action provisions, so that the non-Muslim candidate could not claim religious discrimination.

Equality law additionally allows an employer to treat a disabled person better, or more favourably, than a non-disabled person. This recognises the additional barriers to work that disabled people face.
Fuller guidance about the provisions of the Equality Act, including the Employment Code of Practice, is available from the Commission.
To which organisations does equality law apply?

This guide calls someone an employer if they are the person making decisions about what happens in a work situation. Most situations are covered, even if the employer doesn’t give their worker a written contract of employment or if they are a contract worker rather than a worker directly employed. Recruiting people to other positions like trainees, apprentices and business partners is also covered.

An employer can be held legally responsible for something that is unlawful discrimination, harassment or victimisation by another person who is:

- employed by the employer, or
- carrying out their instructions to do something (who the law calls the employer’s agent).

An employer must not instruct, cause or induce a worker employed by them or their agent to discriminate against, harass or victimise a job applicant, employee or former employee. This applies whether or not the instruction is carried out.
How your organisation should treat volunteers

Some volunteers have a contract to personally do work for an organisation and receive more than just their out-of-pocket expenses in exchange. In this case they may be protected as if they were the organisation’s employees.

In some cases an organisation may be providing a volunteering opportunity for someone and this counts as providing them with a service.

The Commission provides a number of guides to what equality law means for service providers.
The public sector equality duties

Public sector employers and other employers who carry out public functions on behalf of public authorities may have to have what the law calls ‘due regard’ to the need to eliminate the types of conduct which are prohibited under the Equality Act discussed in this guide, and to advance equality of opportunity and foster good relations between people who have particular protected characteristics and people who don’t. This is called the ‘public sector equality duty’. The three aims of the duty apply to all protected characteristics apart from marriage and civil partnership, which is only relevant to the first aim (eliminating discrimination). Thus a body subject to the duty must have due regard to the need to eliminate discrimination because of marriage or civil partnership in the context of employment, where it is prohibited under the Equality Act 2010.

Some public authorities are also subject to what are known as specific equality duties. These require those public authorities to which they apply to take specific steps which are designed to enable them to better perform the public sector equality duty. They include steps relating to their role as employers, like monitoring information about employees. The specific equality duties are different in Scotland, England and Wales. The public sector equality duties cover all protected characteristics and therefore also extends to equal pay.

In addition, public sector employers will be required to comply with the Human Rights Act 1998 and their employees may have rights against them under the Act.

Further information about the public sector equality duties and the Human Rights Act is available from the Commission.
Recruitment

Employers must avoid direct and indirect discrimination, discrimination arising from a disability, harassment and victimisation in all aspects of recruitment. They must also make reasonable adjustments for disabled people.

Employers are able to take ‘positive action’ before or at the application stage to encourage people from groups with a track record of disadvantage or low participation to apply for jobs.

Questions about health or disability

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

- offered a job either outright or on a conditional basis, or
- included in a pool of successful candidates to be offered a job when a position becomes available.

This includes asking such a question as part of the application process or during an interview. It also includes sending a questionnaire about health to fill in before a job offer. Questions relating to previous sickness absence count as questions that relate to health or disability.

No one else can ask these questions on behalf of the employer either. An employer 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.

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 previous sickness absence, which may well say nothing about whether they can do the job now.

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

If an employer asks questions about health or disability which are not allowed by equality law, the Commission can take legal action.

An employer can ask questions about health or disability when:

- They 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.
- They 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.
- They are asking the questions for monitoring purposes to check the diversity of applicants (although this information should be collected separately and must not form part of the recruitment process).
- They 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. Employers should make clear to job applicants that this is why they are asking the question.
- They are asking the question because having a specific impairment is an occupational requirement for a particular job.

**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.

Continued…
The questions relate to a requirement to vet applicants for the purposes of national security.

The questions relate 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 an employer would know if a person can carry out that function with reasonable adjustments in place, then they can ask the question.

**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 to a significant height. The ability to climb ladders to access scaffolding is a function that is intrinsic or fundamental to the job.

In practice, even if a function is intrinsic to the job, an employer 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.

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**Recruiting women who are pregnant or on maternity leave**

An employer must not refuse to employ a woman because she is pregnant, on maternity leave or because she has (or has had) an illness related to her pregnancy.

Equality law does not say that a woman applying for a job has to tell the employer that she is pregnant. This is because the employer must not base their decision about whether or not to employ her on whether she is pregnant but on whether she has the skills to do the job.

If a woman does not tell an employer that she is pregnant and is given the job, the employer must not dismiss her when she tells them about her pregnancy.

More help with this situation is available in the Commission’s guide ‘New and expectant parents toolkit’.

An employer also cannot ask a woman whether she intends to have children, whatever her age or marital status or even if it thinks she might be pregnant. This is
not something that should be taken into account in deciding whether a person has the skills needed for a particular job.

Fuller guidance about recruitment and the Equality Act is available from the Commission.
Working hours, flexible working and time off

Employers must avoid direct and indirect discrimination, discrimination arising from a disability, harassment and victimisation in making decisions about what hours an employee should work, whether to allow them to work flexibly and when to allow them time off. They must also make reasonable adjustments for disabled people.

What is ‘flexible working’?

By ‘flexible working’, this guide means any change from the usual working week of 35 or more hours worked between set times and at a set place. In practice, this might mean a worker:

- working part-time, working only during term time, or working from home some of the time
- adjusting their start and finish times
- adopting a particular shift pattern or working extended hours on some days with time off on others.

This guide is only about equality law. There is other legislation governing the ‘right to request’ flexible working which currently gives many employees with caring responsibilities for children, or adults in some cases, the right to have a request for flexible working considered according to set procedures. From 30 June 2014 new legislation will come into force which will mean that all workers with more than 26 weeks service will have the right to request flexible working for any reason.

There are two main legal rights to flexible working:

- the ‘right to request’ flexible working, and
- the right not to be directly or indirectly discriminated against under equality law
The ‘right to request’

Legislation governing the ‘right to request’ flexible working currently gives many employees with caring responsibilities (for children or, in some cases, for adults) the right to have a request for flexible working considered according to set procedures. Currently, if an employee qualifies for the right to request flexible working, you can refuse only on one of the business-related grounds set out in the statutory rules. If you do not follow the set procedures, you risk being taken to an Employment Tribunal and possibly having to pay compensation to the employee.

You will find at Acas (if you are in England and Wales) or Business Gateway Scotland (if you are in Scotland) more information on the right to request and what you must do if an employee who qualifies for the right to request asks you to allow them to work flexibly.

From 30 June 2014 new legislation will come into force which will mean that all workers with more than 26 weeks’ service will have the right to request flexible working for any reason. From 30 June 2014, employers who receive a request under the right to request scheme will no longer have to deal with requests for flexible working under the statutory regulations but will be under a duty to consider the request in a ‘reasonable’ manner. Acas has produced some non-statutory guidance on handling requests for flexible working under the new regime: 

The right not to be directly or indirectly discriminated against under equality law

Requests for changes to hours of work or flexible working based on association with a protected characteristic are governed by equality law as well as the right to request above.

An effective way to avoid discrimination when deciding who can change their working hours or work flexibly is to develop and follow a set procedure to manage flexible working requests.
Requests for changes to hours of work or flexible working relating to disability

Flexible working may be required as part of the duty to make reasonable adjustments to remove barriers for disabled people. However this does not apply to non-disabled workers, for example, if they ask to work flexibly to take care of a disabled person, but most will qualify for the ‘right to request’ flexible working above once they have worked for their employer for at least 26 weeks.

Requests for changes to hours of work or flexible working relating to religion or belief

Some religions or beliefs may require their followers to pray at certain times of the day, or to have finished work by a particular time.

If you apply a general rule about working hours that means a worker has to take rest breaks or finish work at a particular time, you need to be able to objectively justify the rule, as otherwise this may be indirect discrimination because of religion or belief. See our guidance: Religion or belief in the workplace: a guide for employers following recent European Court of Human Rights judgments.

Requests for changes to hours of work or flexible working relating to gender reassignment

If a request to work flexibly is because someone proposes to undergo, is undergoing or has undergone gender reassignment, you should consider the request on the same basis as you would consider any similar request to work flexibly for reasons not related to gender reassignment.

You should not refuse a request or treat it less seriously because a transsexual person is making it.

For more information on flexible working see the Commission’s ‘Working Better’ report.
Requests for changes to hours of work or flexible working on the basis of association with a protected characteristic

The duty to make reasonable adjustments to remove barriers for disabled people does not apply to non-disabled workers who require adjustments to take care of a disabled person with whom they are associated.

People in this position, and those assisting children or older relatives (whether or not they are disabled) with their day-to-day care needs, are often referred to as carers.

Most carers will qualify for the right to request flexible working once they have worked for their employer for at least 26 weeks.

The protected characteristic of the person with whom a worker is associated may be relevant if an employer makes a decision based on that protected characteristic.

A helpful approach for employers to take

An effective way for an employer to avoid discrimination when deciding who can change their working hours or work flexibly is to set up a process that does not start by looking at the reason for the worker’s request, but first considers whether the organisation would still be able to carry out its purpose if they agreed the request.

How employment law and equality law interact

Employment law (rather than the equality law, which is explained in this guide) sets out people’s rights to:

- a minimum number of days of paid time off
- paid and unpaid maternity leave
- paid paternity leave
- paid and unpaid adoption leave
- unpaid parental leave
- unpaid family emergency leave in certain circumstances (for example, if a worker’s usual childcare or care for other family members who depend on them is not available at short notice)
- paid or unpaid time off for public duties and trade union responsibilities.
More information about these rights is available at https://www.gov.uk/browse/employing-people/time-off

In general, equality law applies not to whether someone has a right to time off, but how their employer makes decisions about:

• who gets to take time off, when and how much
• whether the time off should be paid or unpaid
• how the employer records different types of absence.

Exceptions to this, where equality law does affect whether someone has a right to time off, are:

• time off as a reasonable adjustment to remove barriers for disabled people
• gender reassignment leave
• pregnancy-related absence

**Time off for sickness**

Employers sometimes use workers’ sickness absence records to help them make decisions about things like:

• promotion
• bonuses
• redundancy
• references

If an employer treats time off taken by a disabled person which relates to their disability in exactly the same way as they treat sickness absence taken by a worker who is not disabled, this may result in the disabled person being treated worse than another worker because of something arising from their disability.

Once an employer knows that someone comes within the definition of a ‘disabled person’, they must avoid:

• direct or indirect discrimination because of disability, or
• discrimination arising from disability.

They must also make sure that they have complied with the duty to make reasonable adjustments.
The employer should:

- Record disability-related time off separately from general sick leave.
- Stay in touch if someone is absent for a long period to find out how they are and to tell them what’s happening at work (though they should make it clear they don’t expect the person to come back to work before they are ready).
- Think about a plan for return to work, for example, arranging for the person to start work again gradually or to do some work at home before they come into the workplace, if this is possible in the particular job.
- Consider reasonable adjustments with the person and, if necessary, use expert advice to work out what adjustments can be made for when the person is ready to return to work. If a change is reasonable, the employer must make it.

Employers do not have to pay sick pay beyond what they normally pay just because time off is disability-related. But it may be a reasonable adjustment to:

- extend sick pay, or
- offer unpaid disability leave, or
- allow someone to take the extra time off as annual leave.

If the reason someone is absent is because of a delay by their employer in implementing a reasonable adjustment that would enable the person to return to the workplace, maintaining full pay may well be a further reasonable adjustment for the employer to make.

The employer could also change the targets expected of someone so that that person has an equal chance of earning bonuses.

**Pregnancy-related absences**

Special rules apply to sickness absence which is related to a woman’s pregnancy or to her having given birth. Employers should record pregnancy-related illness separately from other kinds of illness and should not count it towards someone’s total sickness record.

An employer should not pay a woman who is absent for a pregnancy-related illness less than the contractual sick pay she would receive if she was absent for any other illness with a statement of fitness to work (‘fit note’).
An employer must not take into account a period of absence due to pregnancy-related illness, or maternity leave, when making a decision about a woman’s employment, for example, for disciplinary purposes or if they are selecting workers for redundancy. Sickness absence associated with a miscarriage should be treated as pregnancy-related illness.

More information about what employers should do in this situation can be found in the Commission’s ‘Guidance on managing new and expectant parents’ and ‘Your rights to equality at work: pay and benefits’.

An employer must give a pregnant employee time off for ante-natal care. Ante-natal care can include medical examinations, relaxation and parenting classes.

The right for paid time off does not currently extend to the partners of pregnant women, although an employer could choose, as a matter of good practice, to allow someone to take annual leave or unpaid leave or to work flexibly to support their partner. The Government has now passed legislation which means that, from 2015, prospective fathers and partners will be able to take unpaid leave to attend up to two ante-natal classes.

**Maternity, paternity, adoption and parental leave**

When dealing with workers who request or take maternity, paternity, adoption or parental leave, an employer must make sure they do not discriminate against a person because of a protected characteristic.

**Example:** A lesbian has asked her employer for unpaid parental leave. She and her partner adopted a child two years ago and she wants to be able to look after her child for part of the summer holidays. The worker made sure the time she has requested does not conflict with parental leave being taken by other workers. In exercising their discretion whether to grant parental leave, the woman’s line manager refuses her request because they do not agree with same-sex couples being allowed to adopt children. This is likely to be direct discrimination because of sexual orientation.

Neither equality law nor employment law gives a woman a right to paid time off for in vitro fertilisation (IVF) or other fertility treatment. But in responding to any request,
the employer must not treat a woman worse than they would treat a man making an equivalent request for time off.

New laws are expected in April 2015 under which mothers, fathers, partners and adopters will be able to opt to share parental leave after their child’s birth or placement. It is intended that this will apply to babies whose expected week of birth begins on or after 5 April 2015 (or, in the case of adoption, children matched or placed for adoption on or after 5 April 2015).

From 2015, it is expected that parents in surrogacy and ‘foster to adopt’ arrangements will also qualify for adoption leave.

Fuller guidance about working hours, flexible working, time off and the Equality Act is available from the Commission.
Pay and benefits

Employers must avoid direct and indirect discrimination, discrimination arising from a disability, harassment and victimisation in pay and benefits. They must also make reasonable adjustments for disabled people.

There are different ways in which an employer might decide what to pay a person and what benefits to provide, such as:

- the going rate for the job in the relevant sector and/or area
- the skills and qualifications needed by someone when they do the job
- their performance in the job.

Employers must make sure that the way they work out and apply these criteria does not discriminate unlawfully.

Specific rules apply where pay or benefits are part of the worker’s contract of employment and women and men are being paid differently.

To help avoid discrimination, employers can:

- Make sure they know why they are paying people differently.
- Check that people who share a particular protected characteristic do not generally do worse than people who do not share it.
- Use an equal pay audit to check the impact of decisions on pay and benefits.
- Implement a transparent, structured pay system based on a sound job evaluation scheme, which is more likely to be free of bias than one that relies primarily on managerial discretion.

Employers should consider all aspects of pay and benefits in ensuring that they are complying with equality law, including:

- any service they give their workers as a benefit, such as group insurance
- the pay rate for men and women
- bonus payments
• occupational pension schemes
• health insurance.

The Commission has produced an equal pay audit toolkit, including a version especially for small businesses. There is also a Code of Practice on Equal Pay.

Fuller guidance about pay, benefits and the Equality Act is available from the Commission.


**Career development – training, promotion and transfer**

Employers must avoid direct and indirect discrimination, discrimination arising from a disability, harassment and victimisation in all aspects of career development. They must also make reasonable adjustments for disabled people.

**Training**

Employers can generally decide whether to offer training and, if they do offer it, who needs it. However, they must do this without unlawful discrimination, making reasonable adjustments if necessary.

Employers should consider all aspects of training, including:

- learning ‘on the job’
- coaching
- e-learning
- workshops
- induction programmes
- job shadowing
- mentoring
- networking and seminars
- formal classes on day release or out of work hours
- project work
- ‘buddying’
- secondments and sabbaticals.

Employers must not stop someone doing training because they are pregnant, on maternity leave or due to take maternity leave, or on pregnancy or maternity-related sickness absence, unless a specific risk to health and safety has been identified.
Promotion or transfer

An employer must offer opportunities for promotion, transfer or other career development without unlawful discrimination. Where necessary they must make adjustments for disabled people.

Promoting or transferring a worker is very similar to recruiting them in the first place.

An employer must not deny someone promotion opportunities because they are pregnant or on maternity leave. Employers should tell women about promotion opportunities when they are on maternity leave.

If a disabled person might be eligible for promotion, transfer or other development opportunity their employer should:

- not make assumptions about the person’s abilities or willingness to take on a new role
- consider whether particular qualifications are actually required or whether what they really need is a particular skill level
- not say or imply that it is unsuitable for a disabled person unless there is a clear role-related reason for this
- tell everyone, including workers who have a disability, about any promotion or transfer or other development opportunity, including giving them the information in the format they usually use at work, for example, large print or electronically
- make any reasonable adjustments needed to participate in an interview
- take account of how reasonable adjustments could enable someone to meet the new requirements when assessing their suitability for a new role.

If after working out how reasonable adjustments could enable the disabled person to meet the new requirements of a role to which they are considering promoting them, the employer decides they are not the best person for the promotion, they do not have to offer it to them.
Management issues

Employers must avoid direct and indirect discrimination, discrimination arising from disability, harassment and victimisation in all aspects of the management of employees. They must also make reasonable adjustments for disabled people.

Facilities

Facilities can be space or equipment necessary for a person or group of workers to carry out their work. They can include:

- access to computers, mobile phones and other technology
- toilet and washing facilities
- sleeping facilities
- kitchen or tea and coffee making facilities
- changing/locker rooms
- showers
- canteens
- parking for cars or bicycles
- prayer and quiet rooms
- facilities for breastfeeding mothers
- crèches and childcare
- social clubs
- sport and exercise facilities
- health clinics and occupational health services.

There are some particular circumstances where employers should take care to avoid unlawful discrimination.
**Sleeping accommodation**

In certain circumstances, employers are allowed to discriminate against men or women in providing communal accommodation or benefits, facilities or services linked to that accommodation. For reasons of privacy or because of sanitary arrangements, communal accommodation should be used only by workers of the same sex.

An employer is allowed to discriminate in the above circumstances against workers who are undergoing, have undergone or intend to undergo gender reassignment, but only if the employer can objectively justify doing so. The employer must consider on a case by case basis whether it is appropriate and necessary to exclude the transsexual person.

Where the transsexual person is post-operative and visually and for all practical purposes indistinguishable from a non-transsexual person of that gender, they should be treated in their acquired gender unless there are compelling reasons not to.

Where someone has a Gender Recognition Certificate they should be treated in their acquired gender for all purposes and therefore should not be excluded from single-sex communal accommodation.

**Single-sex facilities and workers’ religion or belief**

If workers are provided with changing facilities or showers, their employer must provide these in a way that avoids unlawful discrimination because of religion or belief.

**Facilities provided because of workers’ religion or belief**

It is not a legal requirement for an employer to provide facilities because of workers’ religion or belief, although in some circumstances it may be indirect discrimination if the employer fails to do so.

Many employers recognise that it is good practice to provide facilities which cater for the needs of staff with a particular religion or belief. These might include making a room available for prayer, providing separate fridge shelves for food that needs to be
kept separate and, if an organisation provides refreshments or meals for staff, meeting dietary requirements.

**Breastfeeding**

An employer has a legal duty to provide suitable rest facilities for breastfeeding women. Although there is no legal right for workers to take time off to breastfeed, employers should try to accommodate women who wish to do this, bearing in mind that:

- they have a legal duty of care to remove any hazards for a worker who is breastfeeding and this can include stress and fatigue, and
- a refusal to allow a woman to express milk or to adjust her working conditions to enable her to continue to breastfeed may amount to unlawful sex discrimination.

**Reasonable adjustments for disabled workers**

When an employer provides facilities for its workers, they must make reasonable adjustments if they are needed by a disabled person.

**Dress codes**

An employer must avoid unlawful discrimination in requiring workers to dress or modify their personal appearance in a particular way. This doesn’t stop an employer having a dress code but they must be careful that the code and the way it is applied does not discriminate. This is particularly relevant in relation to sex, disability and religion or belief.

**Management and appraisal**

Every organisation manages the performance of its workers to make sure that they are getting their job done in the way the employer wants them to. This can be formally through an appraisal scheme, with regular line management meetings and annual reports or it may be done informally, by talking over performance as the job is carried out.
Employers must avoid unlawful discrimination in the way that they manage and appraise performance and must make any adjustments that are reasonable to enable a disabled person to do their job.

**Disciplinary procedures**

Employers must avoid unlawful discrimination in the way that they discipline their workers (or tell them they need to improve something about their work).

The disciplinary process must be fair and reasonable adjustments must be made to it if necessary, for example:

- documents in different formats
- holding meetings in accessible rooms
- providing an interpreter for someone who is Deaf
- providing someone to complete a form if the person has severe dyslexia
- changes to the process such as more breaks to ask for an explanation from an official companion.

Fuller guidance about management issues and the Equality Act is available from the Commission.
Dismissing, redundancy, retirement and after a worker has left

Employers must avoid direct and indirect discrimination, discrimination arising from a disability, harassment and victimisation in all aspects of dismissal, redundancy, retirement and after a worker has left. They must also make reasonable adjustments for disabled people.

**Dismissal**

This guide is only about equality law. There are other laws that employers need to follow to make sure that dismissal is fair, in the sense that proper procedures have been followed. More information is available from Acas.

Employers must take extra steps if they want to dismiss someone who is disabled. If they wish to do this because they believe that the disabled person can no longer do the job, they need to:

- consider if there are reasonable adjustments that would mean a return to work (even if not in exactly the same job), and
- make sure that they can objectively justify doing so.

Reasonable adjustments vary enormously but could include:

- a phased return to work for someone who has been off for a while
- part-time or flexible hours
- changes to premises
- provision of additional equipment
- additional support, such as a part-time reader for someone with a visual impairment
• reassigning some elements of the job to another member of staff or transferring the person to another role in the organisation.

If they cannot retain the disabled person, a dismissal can be a ‘medical retirement’ or a ‘retirement on ill health grounds’ if there are benefits for them in retiring, such as a pension.

**Redundancy**

This guide is only about equality law. There are other laws which employers must follow to make sure redundancy dismissal is fair, in the sense that the proper procedures have been followed. More information about this is available from Acas.

Employers must make sure that the redundancy procedures they follow and the criteria they use do not unlawfully discriminate. Failing to make reasonable adjustments to redundancy criteria and procedures for a disabled person is a form of unlawful discrimination. This applies to voluntary or compulsory redundancy.

**Retirement**

Making someone retire at a particular age is, on the face of it, discrimination because of age. Equality law no longer makes an exception for retirement. It is now direct age discrimination to require a worker to retire unless the decision can be objectively justified.

To show that something is **objectively justified**, you must be able to show that there is a good reason for doing what you are doing and that what you are doing is **proportionate**.

The test is not quite the same as for **indirect discrimination**. This is because for indirect discrimination you are allowed to rely on any reason for wanting to make a decision or apply a rule provided it represents a real, objective consideration and it is **proportionate**.

When what you are doing is **direct** age discrimination you are only allowed to rely on a limited number of reasons. These are generally those that would be in the wider public interest, like promoting access to employment for younger people or
preserving the dignity of older workers, as opposed to reasons particular to you. Even if you have such a reason, your actions must still be proportionate.

**After someone has left a job**

Sometimes an employer’s responsibilities continue after a worker has stopped working for them. They must still not discriminate unlawfully against the worker, or victimise them, for example by providing a poor reference because the worker brought Tribunal proceedings against the employer.

Apart from references, other situations where someone might have a continuing relationship with an employer include if they are receiving continuing benefits.

Fuller guidance about dismissal, redundancy, retirement, after a worker has left and the Equality Act is available from the Commission.
Equality policies

An **equality policy** is the name people give to a written document used to set out an organisation’s commitment to tackling discrimination and promoting equality and diversity.

Equality law does not say that an employer has to have an equality policy. However, implementing good equality practices, guided by an equality policy, should greatly reduce the likelihood of acting unlawfully.

A policy might include:

- statements outlining the organisation’s commitment to equality
- identification of the types of discrimination that an employer (and, if this applies, a service provider) is required to combat
- statements outlining the type of work environment the 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 the employer will deal with any breaches of the policy by its workers, and how concerns and complaints will be dealt with, whether these come from workers or customers, clients or service users
- who is responsible for the policy
- how the employer will monitor the policy and when they will review it
- details covering how the policy is linked in with other policies.
Equality training

Equality training can be an important part of showing that an employer is preventing discrimination, harassment and victimisation. Organisations might choose to provide equality training:

- as part of the induction process
- during regular team meetings
- by asking staff to attend specific courses
- by asking staff to complete an online training package.

Monitoring

Organisations should be monitoring and reporting on a whole range of aspects of their activities, such as:

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

To fulfil their public sector equality duties, public authority employers may have to monitor recruitment, promotion, training, pay, grievances and disciplinary action by reference to the protected characteristics of their workers.

There is currently no legal requirement for most organisations, such as private sector businesses, small public bodies, voluntary and community sector organisations, to monitor and report on their staff profile.

However, doing so can help organisations to:

- recruit under-represented or disadvantaged groups
- promote people fairly
- check that women and men’s pay is comparable in similar or equivalent jobs
- make progress towards aims set out in their equality policy, if they have one.
Things to monitor include:

- How many people with a particular protected characteristic apply for each job, are shortlisted and are recruited or promoted.
- How many people in the workforce have a particular protected characteristic and at what levels within the organisation are they employed.
- The satisfaction levels of staff with a particular protected characteristic.
- Whether disciplinary action is disproportionately taken against workers with a particular protected characteristic.

Fuller guidance about equality policies, equality training, monitoring and the Equality Act is available from the Commission.
What happens if someone says they’ve been discriminated against?

If a job applicant, employee or former employee believes an employer has unlawfully discriminated against them, harassed or victimised them, or failed to make reasonable adjustments in relation to their employment relationship, they may:

- complain informally to the employer
- bring a grievance using the employer’s grievance procedures
- make a claim to the Employment Tribunal.

The person does not have to choose only one of these. They could try them in turn. If they cannot get their employer to put things right, they can make a claim to the Employment Tribunal. To make a claim to the Employment Tribunal, the claimant needs to tell the tribunal about their claim (by filling in a form) within three months (less one day) of what happened.

A person making a claim to an Employment Tribunal on or after 29 July 2013 has to pay a fee. Remission arrangements are in place, which mean that if a worker’s income is below a certain level (and this varies depending upon, for example, family size), the fee will be reduced or waived entirely.

The Government has published online guidance on fees: https://www.gov.uk/employment-tribunals/apply-to-the-tribunal

The Tribunal is likely to order you to pay the fee back to the person making the claim if you are unsuccessful in defending the claim.

A person does not have to go first to their employer before making a claim to the Employment Tribunal, although there are advantages in doing so. However, from 6 May 2014 all claimants (with very limited exceptions) have to contact Acas before they can make a claim to the Employment Tribunal. This ‘early conciliation process’ is explained in the section of this guidance called ‘Settling a dispute’.
Good practice tips on solving complaints

Defending or taking a claim in a tribunal can be lengthy, expensive and draining. It can also have a damaging impact on the reputation of an organisation. It is likely to be in everyone’s interest to try to put things right before a claim is made to a tribunal.

Sometimes simply apologising to the person who has complained for the way they were treated or the way something was done is sufficient. Employers should also consider changing the way they do things so the same thing does not happen again. They can consider equality training for their staff and think about having an equality policy.

There is currently a process for people who think they may have been treated unlawfully to obtain information about possible discrimination, harassment, victimisation or other prohibited conduct and about equality of terms (equal pay) complaints. This is known as the ‘questions procedure’. This works through two sets of forms, one for discrimination or other prohibited conduct complaints and the other for complaints about equality of terms. This questions procedure was abolished on 6 April 2014 but will still apply where the case is about events that happened before that date.

Where the case is about events that happen on or after 6 April 2014 it will still be good practice for people who think they may have been treated unlawfully to obtain information before issuing a formal claim and for the employer to respond as fully as they feel able. This may prevent the complaint escalating to a formal claim.

Acas has produced non-statutory guidance for employers and employees asking and answering questions after 6 April 2014. It is available at:

Time limits

The time limit for making a claim to the Employment Tribunal is within three months (less one day) of what happened.

In certain circumstances, the period may be longer, for example, if the employer has kept something relevant from the complainant or the complainant was under 18
years of age (16 in Scotland) or lacked capacity (as within the meaning of the Mental Capacity Act 2005 or Adults with Incapacity (S) Act 2000) at the relevant time or the case involves equal pay claims.

If the person is complaining about behaviour over a period of time then in certain circumstances the three months begins at the end of the period.

Where a person has to contact Acas before making a claim because the early conciliation procedure applies, there are special rules about time limits. The normal three month time limit is extended to allow conciliation to take place.

For more information see the Acas guidance on the early conciliation procedure: http://www.acas.org.uk/media/pdf/h/o/Early-Conciliation-explained.pdf

The rules are not straightforward and legal advice should be taken where there is any doubt about how the rules apply.

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 court or tribunal that their version of events is true.

If someone is claiming unlawful discrimination, harassment or victimisation, 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 the employer to show that they or someone whose actions or omissions they were responsible for did not discriminate, harass or victimise the person making the claim.
What the tribunal can order if someone wins an equality law employment case

The orders that the tribunal can make are called ‘remedies’. The main remedies available to the Employment Tribunal are to:

- make a declaration that the employer has discriminated
- award compensation to be paid for the financial loss the person has suffered (for example, loss of earnings), and damages for injury to feelings
- 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 someone to their job, if the tribunal thinks this would work despite the previous history
- at present, 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). The Employment Tribunal can make this kind of recommendation even if the person who has won their case no longer works for the employer. For example, it could recommend that the employer update its policies on equality and diversity and make sure its staff receive training on those policies. The Government has said it will abolish the Employment Tribunals’ power to make these kind of wider recommendations. If it may be relevant to a case in which you are involved, you will need to check whether it still exists.

The tribunal can also order an employer to pay the person’s legal costs and expenses, although this does not often happen in Employment Tribunal cases. However, the Tribunal is likely to order you to reimburse any fees the person had to pay the tribunal to bring their claim if you are unsuccessful in defending the claim.
From 6 April 2014, the Tribunal may also impose financial penalties of between £100 and £5,000 (payable to the Government) on employers if they lose and their case has ‘aggravating features’. These awards are only likely to be imposed sparingly in cases where the employer has behaved particularly badly.

The Government also intends to introduce legislation in October 2014 which will mean that an Employment Tribunal will have to order, subject to certain exceptions, an employer to carry out an equal pay audit where the Tribunal employer loses an equal pay case or the tribunal find it has discriminated because of sex in relation to pay.

Settling a dispute

Legal proceedings can be a stressful and time consuming experience. It may be in the best interest of everyone to try to agree to settle a dispute to avoid going to an Employment Tribunal or court hearing. There are three ways in which a dispute can be settled:

- Agreement between you and the worker
- Acas conciliation service
- Qualifying settlement agreement

Agreement between you and the worker

Before a claim is issued by your worker in the employment tribunal, you can agree to settle a dispute directly with them. An agreement to settle a dispute can include any terms that you agree with the worker and can cover compensation, future actions by you and the worker and other lawful matters.

Example: A worker raises a grievance with her employers alleging a failure to make reasonable adjustments. The employer investigates the worker's complaint and upholds her grievance. The employer agrees with the worker to put the reasonable adjustments in place and offers her a written apology, which she accepts.
From 6 May 2014, all claimants (with very limited exceptions) will have to comply with the Early Conciliation Procedure before they can make a claim to the Employment Tribunal. Under the procedure, a person wanting to bring a claim has to present a completed early conciliation form to Acas or telephone Acas giving their details and those of their employer. Acas will then offer a free conciliation service to try and help the parties resolve their dispute.

The time limit for bringing a claim will usually be extended to allow the conciliation to take place.

Early conciliation can be started by employers as well as individuals so you can contact Acas if you think someone might make a tribunal claim against you.

The prescribed notification form and guidance on the early conciliation procedure are available from the Acas website: http://www.acas.org.uk/index.aspx?articleid=4028

Example: A worker raises a grievance with her employer alleging sex discrimination. The employer dismisses her grievance. She decides to make a claim to the employment tribunal. Before doing so she fills in the early conciliation notification form and sends it to Acas. Acas contacts her employer and starts a conciliation process. Acas helps the worker and her employer reach an agreement to settle her claim so she does not have to make a claim to the Employment Tribunal.

Qualifying settlement agreement

You and the worker can also settle a claim or potential claim to the Employment Tribunal by way of a 'qualifying settlement' agreement’. There are specific conditions which must be satisfied if a claim is settled in this way:

- the agreement must be in writing
- the conditions in the agreement must be tailored to the circumstances of the claim
• the worker must have received legal advice about the terms of the agreement from an independent advisor who is insured against the risk of a claim arising from that advice

• the person who provides the worker with independent legal advice on the settlement agreement must be a lawyer; a trade union representative with written authority from the trade union or an advice centre worker with written authority from the centre to give this advice.
Further sources of information and advice

General advice and information

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. If you need expert information, advice and support on discrimination and human rights issues and the applicable law, especially if you need more help than advice agencies and other local organisations can provide, please contact the Equality Advisory and Support Service (EASS), below. EASS was commissioned by Government in 2012 to replace the EHRC Helpline, which is now closed. EASS is completely independent of the Commission.

Equality Advisory Support Service (EASS)
The Helpline advises and assists individuals on issues relating to equality and human rights, across England, Scotland and Wales. They can also accept referrals from organisations which, due to capacity or funding issues, are unable to provide face to face advice to local users of their services.

- Website: https://www.equalityadvisoryservice.com/
- Telephone: 0808 800 0082 (Mon to Fri 9am to 8pm and Sat 10am to 2pm)
- Text phone: 0808 800 0084 (Mon to Fri 9am to 8pm and Sat 10am to 2pm)

Acas
Acas (the Independent Advisory, Conciliation and Arbitration Service) aims to improve organisations and working life through better employment relations. It provides impartial advice, training, information and a range of problem resolution services.
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: https://www.gov.uk/access-to-work

London, East England and South East England
• Email: atwosu.london@jobcentreplus.gsi.gov.uk
• Telephone: 020 8426 3110
• Textphone: 020 8426 3133

Wales, South West England, West Midlands and East Midlands
• Email: atwosu.cardiff@dwp.gsi.gov.uk
• Telephone: 02920 423 291
• Textphone: 0845 602 5850

Scotland, North West England, North East England and Yorkshire and Humberside
• Email: atwosu.glasgow@jobcentreplus.gsi.gov.uk
• Telephone: 0141 950 5327

Advicenow
An independent, not-for-profit website providing accurate, up-to-date information on rights and legal issues.

• Website: www.advicenow.org.uk

Advice UK
A UK network of advice-providing organisations. They do not give out advice themselves, but the website has a directory of advice-giving agencies.

• Website: www.adviceuk.org.uk
• Email: mail@adviceuk.org.uk
• Telephone: 0300 777 0107 or 0300 777 0108
Age UK
Age UK aims to improve later life for everyone by providing information and advice, campaigns, products, training and research.

- Website: www.ageuk.org.uk
- Email: contact@ageuk.org.uk
- Telephone: 0800 169 6565

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
- Email: info@adp.org.uk
- Telephone: 01204 431638 (answerphone only service)
- Fax: 01204 431638

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
- Email: info@britishchambers.org.uk
- Telephone: 020 7654 5800
- Fax: 020 7654 5819

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
- Telephone: 020 7854 8900
- Fax: 020 7854 8901
Citizens Advice Bureau

Citizens Advice Bureaux offer free, confidential, impartial and independent advice from over 3,500 locations. These include high streets, community centres, doctors’ surgeries, courts and prisons. It is available to everyone.

Advice may be given face-to-face or by phone. Most bureaux can arrange home visits and some also provide email advice. A growing number are piloting the use of text, online chat and webcams.

- Website: http://www.citizensadvice.org.uk/getadvice.ihtml
- Telephone (England): 08444 111 444
- Telephone (Wales): 08444 77 20 20

Citizens Advice Scotland

- Website: http://www.cas.org.uk/
- Telephone: 0808 800 9060

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: https://www.gov.uk/government/organisations/department-for-business-innovation-skills
- Telephone: 020 7215 5000

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
- Twitter: @BITC1
- Email: information@bitc.org.uk
- Telephone: 020 7566 8650

Business Disability Forum (BFD):

BFD replaces the EFD and is the world’s leading employers’ organisation focused on disability as it affects business.
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
- 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.childcare.co.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.closethegap.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
- Telephone: 020 7379 7400
Disability Law Service (DLS):
The DLS is a national charity providing information and advice to disabled and Deaf people. It covers a wide range of topics including discrimination, consumer issues, education and employment.

- Website: www.dls.org.uk
- Telephone: 020 7791 9800
- Minicom: 020 7791 9801

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
- Telephone: 0845 250 1333

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
- Email: efa@efa.org.uk
- Telephone: 020 7922 7790

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
- Email: info@efbelief.org.uk
- Telephone: 0 020 7922 7790
Equality Britain
Equality Britain aims to promote opportunities in employment, education, housing and sport to people from ethnic minorities.

- Website: www.equalityuk.org

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
- Telephone: 0207 592 8100

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
- Email: info@gires.org.uk
- Telephone: 01372 801 554
- Fax: 01372 272 297

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
- Telephone: 01273 234024

GOV.UK
Gov.uk 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: https://www.gov.uk
See also the Gov.uk section on employing people, which took over from Business Link.

- Website: https://www.gov.uk/browse/employing-people

**Government Equalities Office (GEO)**
The GEO is the Government department responsible for equalities legislation and policy in the UK.

- Website: https://www.gov.uk/government/organisations/government-equalities-office
- Telephone: 02072116000

**Health and Safety Executive (HSE):**
The HSE provides information and guidance on health and safety.

- Website: www.hse.gov.uk
- Email: hseinformationservices@natbrit.com
- Telephone: 08701 545 500

**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
- Email: 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
- Email: info@investorsinpeople.co.uk
- Telephone: 020 7467 1900
**Law Centres Network**

The Law Centres Federation is the national co-ordinating organisation for a network of community-based law centres. Law centres provide free and independent specialist legal advice and representation to people who live or work in their catchment areas. The Federation does not itself provide legal advice, but can provide details of your nearest law centre.

- Website: www.lawcentres.org.uk
- Telephone: 0203 637 1330

**The Law Society**

The Law Society is the representative organisation for solicitors in England and Wales. Their website has an online directory of law firms and solicitors. You can also call their enquiry line for help in finding a solicitor. They do not provide legal advice.

- Website: www.lawsociety.org.uk
- Telephone: 020 7242 1222 (general enquiries)

They also have a Wales office:

- Email: wales@lawsociety.org.uk
- Telephone: 029 2064 5254
- Fax: 029 2022 5944

**Scottish Association of Law Centres (SALC)**

SALC represents law centres across Scotland.

- Website: www.scotlawcentres.blogspot.com
- Telephone: 0141 561 7266

**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
- Email: info@mindfulemployer.net
- Telephone: 01392 208 833
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.bitc.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.pfc.org.uk
- Email: office@pfc.org.uk
- Telephone: 08448 708165

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
- Telephone: 0207 566 8716

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
- 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.
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
- 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
- Telephone: 020 7636 4030

Scottish Trades Union Congress (STUC)

- Website: www.stuc.org.uk
- Email: info@stuc.org.uk
- Telephone: 0141 337 8100

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

- Website: 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
- Email: office@workingfamilies.org.uk
- Telephone: 0800 013 0313
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
- Email: enquiries@workwiseuk.org
- Telephone: 01252 311 557
Glossary

accessible venue 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.

Act A law or piece of legislation passed either by both Houses of Parliament and agreed to by the Crown, or by the Scottish Parliament or Welsh Assembly which then becomes part of statutory law (i.e. is enacted).

affirmative action 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.

age 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, ‘middle-aged people’ or people over 50).

agent A person who has authority to act on behalf of another (‘the principal’) but who is not an employee or worker employed by the employer.

all reasonable steps In relation to discriminatory actions by an employee, all the things that the employer could reasonably have done to have stopped the discriminatory acts if they are not responsible; in relation to reasonable adjustments, ‘reasonable steps’ is another term for the things that the employer could reasonably have done to remove the disadvantage.
alternative format  Media formats which are accessible to disabled people with specific impairments, for example Braille, audio description, subtitles and Easy Read.

armed forces  Refers to military service personnel.

associated with  This is used in a situation where the reason a job applicant or worker is discriminated against is not because they have a particular protected characteristic, but because they are ‘associated with’ another person who has that protected characteristic, eg the other person is their friend or relative. For example, an employer decides not to recruit a non-disabled worker because they have a disabled child. This is sometimes referred to as discrimination ‘by association’.

association, by  As in ‘discrimination by association’. See associated with.

auxiliary aid  Usually a special piece of equipment to improve accessibility.

auxiliary service  A service to improve access to something often involving the provision of a helper/assistant.

barriers  In this guide, this term refers to obstacles which get in the way of equality for disabled workers and other workers put at a disadvantage because of their protected characteristics. Unless explicitly stated, ‘barriers’ does not exclusively mean physical barriers. For more on barriers in relation to disabled workers, see duty to make reasonable adjustments.

Bill  A draft Act, not passed by Parliament.

burden of proof  This refers to whether, in an Employment Tribunal, it is for the worker to prove that discrimination occurred or it is for the employer to disprove it. Broadly speaking, a worker must prove facts which, if unexplained, indicate discrimination. The burden of proof then shifts to the employer to prove there was no discrimination. If the
employer cannot then prove that no discrimination was involved, the worker will win their case.

**charity**
A body (whether corporate or not) which is for a statutory charitable purpose that provides a benefit to the public.

**Code of Practice**
A statutory guidance document which must be taken into account by courts and tribunals when applying the law and which may assist people to understand and comply with the law.

**comparator**
A person with whom a claimant compares themselves to establish less favourable treatment or a disadvantage in a discrimination case. If a comparator does not exist it is often possible to rely on how a person would have been treated if they did not have the relevant protected characteristic (known as a ‘hypothetical’ comparator).

**contract worker**
Under the Equality Act, this has a special meaning. It means a person who is sent by their employer to do work for someone else (the ‘principal’), under a contract between the employer and the principal. For example, a person employed by an agency to work for someone else (‘an end-user’) or a person employed by a privatised company to work on contracted out services for a public authority, may be a contract worker. The Equality Act makes it unlawful for the principal to discriminate against the contract worker.

**data protection**
Safeguards concerning personal data are provided for by statute, mainly the Data Protection Act 1998.

**direct discrimination**
Less favourable treatment of a person compared with another person because of a protected characteristic. This may be their own protected characteristic, or a protected characteristic of someone else, e.g. someone with whom they are associated. It is also direct discrimination to treat someone less favourably because
the employer wrongly perceives them to have a protected characteristic.

**disability**

A person has a disability if they have 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. Sometimes people are treated as having a disability where they do not meet these criteria (e.g. asymptomatic cancer and HIV).

**disabled person**

Someone who has a physical or mental impairment that has a **substantial** and long-term adverse effect on their ability to carry out normal day-to-day activities. Sometimes people are treated as having a disability where they do not meet these criteria (e.g. asymptomatic cancer and HIV).

**disadvantage**

A detriment or impediment – something that the individual affected might reasonably consider changes their position for the worse.

**discrimination arising from disability**

When a person is treated unfavourably because of something arising in consequence of their disability, e.g. an employer dismisses a worker because of the length of time they have been on sick leave. The reason the worker has been off sick is because of their disability. If it is objectively justifiable to treat a person unfavourably because of something arising from their disability, then the treatment will not be unlawful. It is unlikely to be justifiable if the employer has not first made any **reasonable adjustments**. It is not necessary for the employer to know that the person is disabled according to the definition in the Equality Act, just that they possess a characteristic which makes them disabled.

**disproportionately low**

Refers to situations where people with a protected characteristic are under-represented compared to their numbers in the population or in the relevant workplace.
diversity

This tends to be used to refer to a group of people with many different types of protected characteristic, e.g. people of all ages, religions, ethnic background etc.

duty to make reasonable adjustments

This duty arises where (1) a physical feature of the workplace, or (2) a provision, criterion or practice applied by an employer puts a disabled worker or job applicant at a substantial disadvantage in comparison with people who are not disabled. It also applies where a worker or job applicant would be put at a substantial disadvantage but for the provision of an auxiliary aid. The employer has a duty to take reasonable steps to avoid 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. In many situations, an employer must treat the disabled worker or job applicant more favourably than others as part of the reasonable adjustment. More detail of the law and examples of reasonable adjustments are set out in subsection 3 of this guide.

educational establishments

Schools, colleges and higher educational institutions.

employee

A person who carries out work for a person under a contract of service or 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. This guide refers to someone in these categories as ‘workers’. See worker.

employer

A person who makes work available under a contract of employment, a contract of service, a contract of apprenticeship, the Crown or a relevant member of the Houses of Parliament staff.
employment service provider
A person who provides vocational training and guidance, careers services and may supply employers with workers.

employment services
Vocational training and guidance, finding employment for people, supplying employers with workers.

Employment Tribunal
Cases of discrimination in work situations (as well as unfair dismissal and most other employment law claims) are heard by Employment Tribunals. A full Hearing is usually handled by a three person panel – a Judge and two non-legal members.

equal pay audit
An exercise to compare the pay of women and men who are doing equal work in an organisation, and investigate the causes of any pay gaps identified; also known as an ‘equal pay review’. The provisions in the Equality 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.

equal work
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.

equality clause
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.

equality policy
A statement of an organisation’s commitment to the principle of equality of opportunity in the workplace.

equality training
Training on equality law and effective equality practice.

ET Tribunal
Abbreviation for Employment Tribunal
exceptions Where, in specified circumstances, a provision of the Act does not apply.

flexible working Alternative work patterns, such as working different hours or at home, including to accommodate disability or childcare commitments. See also right to request flexible working.

gender reassignment The process of changing or transitioning from one gender to another. The Equality Act prohibits discrimination against a person who is proposing to undergo, is undergoing or has undergone a process, or part of a process, for the purpose of reassigning their sex. See also transsexual person.

gender recognition certificate A certificate issued under the Gender Recognition Act to a transsexual person who seeks such a certificate and 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.

guaranteed interview scheme 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.

harass To behave towards someone in a way that violates their dignity, or creates a degrading, humiliating, hostile, intimidating or offensive environment for them.

harassment Unwanted behaviour that has the purpose or effect of violating a person’s dignity or creates a degrading, humiliating, hostile, intimidating or offensive environment for them. See also sexual harassment.

impairment A functional limitation which may lead to a person being defined as disabled according to the definition under the Act. See also disability.

indirect discrimination Where an employer applies (or would apply) a provision or criterion or practice which puts people with a
particular protected characteristic at a disadvantage compared with others who do not share that characteristic, unless applying the practice, provision or criterion can be **objectively justified** by the employer.

**instruction to discriminate** When someone who is in a position to do so instructs another to discriminate against a third party. For example, if a GP instructed their receptionist not to register anyone who might need help from an interpreter, this would amount to an instruction to discriminate.

**job evaluation scheme** See **job evaluation study**.

**job evaluation study** This is a study undertaken to assess the relative value of different jobs in an organisation, 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 also **equal work**.

**judicial review** A procedure by which the High Court or Court of Session supervises the exercise of public authority power to ensure that it remains within the bounds of what is lawful.

**knowledge** This refers to knowledge of a person’s disability which, in some circumstances, is needed for discrimination to occur. The required knowledge is of the facts of the person’s disability. An employer does not also need to realise that those particular facts meet the legal definition of disability.

**less favourably** Worse – so ‘less favourable treatment’ means the same as ‘worse treatment’.

**liability** Legal responsibility. An employer is legally responsible for discrimination carried out by workers employed by you or by your agents, unless you have taken all reasonable preventative steps.

**like work** See **equal work**.
marriage and civil partnership

In England and Wales marriage is no longer restricted to a union between a man and a woman but now includes a marriage between two people of the same sex. This will also be the case in Scotland when the relevant legislation is brought into force (expected to be in late 2014). Same-sex couples can also have their relationships legally recognised as 'civil partnerships'. Generally, civil partners must be treated the same as married couples on a wide range of legal matters.

maternity

See pregnancy and maternity.

maternity leave

Leave which a woman can take whilst she is pregnant and after the birth of her child. Statutory maternity leave is divided into compulsory, ordinary and additional maternity leave. How much leave a woman is entitled to, and how much of it is paid, will vary, but all women employees are entitled to 52 weeks.

monitoring

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.

monitoring form

A form which organisations use to collect equality monitoring data – from, for example, job applicants or employees. It records information about a person's protected characteristics. It is kept separately from any identifying information about the person.

more favourably

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. The law requires an employer to make reasonable adjustments for a disabled person to remove any disadvantage caused by their disability, and this often requires treating them more favourably. An employer can also chose to treat a disabled worker more
favourably in other ways, e.g. by automatically shortlisting them for a job, even if they are not at a particular disadvantage on the relevant occasion. The law can also require pregnant workers to be treated more favourably in some circumstances.

**national security**

The security of the nation and its protection from external and internal threats, particularly from activities such as terrorism and threats from other nations.

**normal retirement age**

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. Regardless of age, it must be objectively justified.

**objective justification**

See *objectively justified*.

**objectively justified**

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. See also *proportionate*.

**occupational health**

Occupational health has no legal meaning in the context of the Equality Act, but it can be used to refer to the ongoing maintenance and promotion of physical, mental and social wellbeing for all workers. The phrase is often used as a shorthand way of referring to *occupational health services* provided by the employer.

**occupational health practitioner**

A health professional providing occupational health services.

**occupational health service**

This usually refers to doctors or nurses employed in-house by an employer or through an external provider who the employer may ask to see workers and give medical advice on their health when workplace issues arise.

**occupational pension**

A pension which an employee may receive after retirement as a contractual benefit.
occupational requirement

An employer can discriminate against a worker in very limited circumstances where it is an 'occupational requirement' to have a particular protected characteristic and the application of the requirement is objectively justified. There are two particular occupational requirement exceptions where employment is for the purposes of an organised religion or the employer has an ethos based on religion or belief, but very specific requirements need to be fulfilled.

office-holders

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 person is appointed to a public office 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.

palantypist

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.

past disability

A person who has had a disability as defined by the Equality Act.

perception

This refers to a belief that someone has a protected characteristic, whether or not they do have it. Discrimination because of a perceived protected characteristic is unlawful. The idea of discrimination because of perception is not explicitly referred to in the Equality Act, but it is incorporated because of the way the definition of direct discrimination is worded.

physical barriers

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
physical features

Anything that forms part of the design or construction of a place of work, including any fixtures, such as doors, stairs etc.

positive action

If an employer reasonably thinks that people sharing a certain protected characteristic suffer a disadvantage connected to that characteristic or have different needs, or if their participation in work or other activity is disproportionately low, an employer can take any action (which would otherwise be discrimination against other people) which is a proportionate means of enabling or encouraging those people to overcome or minimise their disadvantage or to participate in work or other activities or meeting their needs. For example, an employer can put on training courses exclusively for workers with a particular protected characteristic. An employer is not allowed to give preference to a worker in recruitment or promotion because they have a protected characteristic.

positive discrimination

Treating someone with a protected characteristic more favourably to counteract the effects of past discrimination. It is generally not lawful, although more favourable treatment of workers because of their disability is permitted if the employer so wishes. Moreover, the duty to make reasonable adjustments may require an employer to treat a worker more favourably if that is needed to avoid a disadvantage.

pre-employment

Generally, an employer must not ask about disabilities or the health of a job applicant before they have been offered the job. If the employer does ask such questions and then fails to offer the applicant the job, the fact that the employer made such enquiries will shift the burden of proof if the applicant brings a claim for disability discrimination. The Equality and Human Rights Commission can also take legal action against the
employer if such enquiries are wrongly made. More detail is set out in the guide, ‘What equality law means for you as an employer: when you recruit someone to work for you’.

**pregnancy and maternity**

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 where special protections apply.

**Principal**

In the context of a contract worker, this is someone who makes work available for a worker who is employed by someone else and supplied by that employer under a contract between the employer and the principal. See contract worker.

**procurement**

The term used in relation to the range of goods and services a public body or authority commissions and delivers. It includes sourcing and appointment of a service provider and the subsequent management of the goods and services being provided.

**proportionate**

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.

**protected characteristics**

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.

**protected period**

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.
provision, criterion or practice

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.

public authority

For the purposes of this Guidance a 'public authority' means: government departments, local authorities, courts and tribunals, health authorities and hospitals, schools, prisons, and police.

public bodies

For the purpose of this Guidance 'public bodies' includes public authorities (as above) as well as organisations which have a role in the processes of national governments but are not a government department or part of one. They operate to a greater or lesser extent at arm's length from Ministers.

public functions

A 'public function' for the purposes of this Guidance is any act or activities of a public nature carried out by a public authority or public body or by the private or voluntary sectors which is not already covered by the other sections of the Act dealing with services, housing, education and employment. Specifically, in relation to the private and voluntary sectors it will cover certain acts or activities carried out on behalf of the state.

Examples of public functions include: determining frameworks for entitlement to benefits or services; law enforcement; receiving someone into prison or immigration detention facility; planning control; licensing; parking controls; trading standards; environmental health; regulatory functions; investigation of complaints; child protection. This is not an exhaustive list.

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, including, government policy-making or local authority planning services.
public sector equality duty

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.

questions procedure

A discrimination law procedure whereby written pre-action questions are issued to the respondent, i.e. the person or organisation against whom a discrimination claim may be made. The questions are usually put onto a standard written form which is often called a ‘questionnaire’. This procedure was abolished on 6 April 2014 except for events that happened before that date (see, section in the Guidance on ‘questions procedure’ for details).

race

Refers to the protected characteristic of race. It refers to a group of people defined by their colour, nationality (including citizenship), ethnic or national origins.

rated as equivalent

An equal pay concept – see equal work.

reasonable adjustment

See the duty to make reasonable adjustments.

regulations

Secondary legislation made under an Act of Parliament (or European legislation) setting out subsidiary matters which assist in the Act's implementation.

religion or belief

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.

religion or belief organisations

An organisation founded on an ethos based on a religion or belief. Faith schools are one example of a religion or belief organisation. See also religion or belief.

religious organisation

See religion or belief organisations.

retirement age

The age at which an employee retires or is expected to retire. This may be an age which is set in the employee’s contract of employment or the normal
**retirement age** in that employment. Employers must objectively justify any retirement age imposed, following the abolition of the default retirement age in 2011. The employer may also impose a retirement age on workers who are not employees, but this must also be objectively justified.

**right to request flexible working** Employees with at least 26 weeks' service have the right to request flexible working under a formal procedure for any reason. This is simply an entitlement to go through a formal procedure to have the request considered in a meeting and to receive written reasons for any refusal. A right to be allowed to work flexibly for care reasons applies more widely to workers and is covered by indirect sex discrimination law under the Equality Act.

**same employment** 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.

**service complaint** Where the discrimination occurred while the worker was serving as a member of the armed forces, an employment tribunal cannot decide the claim unless the worker has made a service complaint about the matter which has not been withdrawn.

**service provider** Someone (including an organisation) who provides services, goods or facilities to the general public or a section of it.

**sex** This is a protected characteristic. It refers to whether a person is a man or a woman (of any age).

**sexual harassment** Any conduct of a sexual nature that is unwanted by the recipient, including verbal, non-verbal and physical behaviour, and which violates the victim's dignity or creates an intimidating, hostile, degrading or offensive environment for them.
sexual orientation  Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.

single-sex facilities  Facilities which are only available to men or to women, the provision of which may be lawful under the Equality Act.

specific equality duties  These are duties imposed on certain public authorities. They are designed to ensure the better performance by a public authority of the public sector equality duty. These duties are different in Scotland, England and Wales. See also public sector equality duty.

stakeholders  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.

substantial  This word tends to come up most in connection with the definition of disability and the duty to make reasonable adjustments for disabled workers. The Equality Act says only that ‘substantial’ means more than minor or trivial.

terms of employment  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.

textphone  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.

trade unions  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.

transsexual person  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. Once a transsexual person has acquired a **gender recognition certificate**, it is probably the case that they should be treated entirely as their acquired gender.

**tribunal**

See **Employment Tribunal**.

**two ticks symbol**

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.

**UK Text Relay Service**

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.

**unfavourably**

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, or discrimination arising from disability.

**vicarious liability**

This term is sometimes used to describe the fact that an employer is legally responsible for discrimination carried out by its employees. See also **liability**.

**victimization**

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 proceedings; doing any other thing for the purposes or in connection with the Act; making an allegation that a person has contravened the Act.

**victimise**

The act of victimisation.
vocational service A range of services to enable people to retain and gain paid employment and mainstream education.

vocational training Training to do a particular job or task.

work of equal value See equal work.

Work Choice Work Choice provides support to disabled people in helping them get and keep a job. The type of support varies according to the help needed but can include training and developing skills; building confidence and interview coaching.

worker In this guide, ‘worker’ is used to refer to any person working for an employer, whether they are employed on a contract of employment (i.e. an ‘employee’) or on a contract personally to do work, or more generally as a contract worker. In employment law, the term ‘worker’ has a similar meaning to those people covered by the Equality Act. However, it is not quite identical to that and has its own definition; the term is used, for example, to people covered by the Working Time Regulations and the law on the minimum wage.
Contacts

This publication and related equality and human rights resources are available from the Commission’s website: www.equalityhumanrights.com.

For advice, information or guidance on equality, discrimination or human rights issues, please contact the Equality Advisory and Support Service, a free and independent service.

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