

2. What equality law means for you as an employer: working hours, flexible working and time off.

Equality Act 2010 Guidance for employers.
Vol. 2 of 7.

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Introduction

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

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

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

Each of these guides is self-contained. In other words, everything you need to know in the situation you are interested in finding out about is in this guide. However, this means that some of the information is repeated in each guide. If you would find it useful, you can print off a full version of these guides without any repeated information from the Equality and Human Rights Commission website.

Other guides and alternative formats

We have also produced:

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

All these guides are available in a range of alternative formats and in Welsh.

To get hold of any of these guides, please go to:

www.equalityhumanrights.com

Or contact:

England

Equality and Human Rights Commission Helpline

FREEPOST RRLG-GHUX-CTR

Arndale House, Arndale Centre, Manchester M4 3AQ

Telephone: 0845 604 6610

Textphone: 0845 604 6620

Fax: 0845 604 6630

Scotland

Equality and Human Rights Commission Helpline

FREEPOST RSAB-YJEJ-EXUJ

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

Telephone: 0845 604 5510

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Wales

Equality and Human Rights Commission Helpline

FREEPOST RRLR-UEYB-UYZL

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

Telephone: 0845 604 8810

Textphone: 0845 604 8820

Fax: 0845 604 8830

The legal status of this guidance

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

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

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

1. What equality law means for you as an employer: working hours, flexible working and time off

What's in this guide

If you are an employer and are making decisions about your workers' hours, whether they can work flexibly or have time off, equality law applies to you.

Equality law applies:

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

This guide tells you how you can avoid all the different types of unlawful discrimination. It recognises that smaller and larger employers may operate with different levels of formality, but makes it clear how equality law applies to everyone, and what this means for the way you (and anyone who already works for you) must do things.

It covers the following situations and subjects (we tell you what any unusual words mean as we go along):

- Making a decision about a person's hours of work or request for flexible working:
 - Avoiding direct and indirect discrimination
 - Making reasonable adjustments to remove barriers for disabled people and avoiding discrimination arising from disability
 - Considering requests for changes to hours of work or flexible working on the basis of association with a protected characteristic
 - Considering requests for changes to hours of work or flexible working relating to a worker's religion or belief
 - Considering requests for changes to hours of work or flexible working relating to a worker's gender reassignment

- Making a decision relating to time off:
 - Avoiding direct and indirect discrimination
 - The specific age exception allowing different levels of annual leave based on length of service of up to five years
 - Making reasonable adjustments to remove barriers for disabled people and avoiding discrimination arising from disability
 - Considering requests for time off relating to a worker's religion or belief
 - Considering requests for time off relating to a worker's gender reassignment
 - Pregnancy-related absences
 - Sickness absence
 - Ante-natal care
 - Maternity, paternity and adoption leave

What else is in this guide

This guide also contains the following sections, which are similar in each guide in the series, and contain information you are likely to need to understand what we tell you about making decisions about working hours, flexibility and time off:

- Information about when you are responsible for what other people do, such as your employees.
- Information about making reasonable adjustments to remove barriers for disabled people who work for you or apply for a job with you.
- A list of words and key ideas you need to understand this guide – all words highlighted in **bold** are in this list. They are highlighted the first time they are used in each section. Exceptions to this are where we think it may be particularly useful for you to check a word or phrase.
- Advice on what to do if someone says they've been discriminated against.
- Information on where to find more advice and support.

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

Making sure you know what equality law says you must do as an employer

Are you an employer?

This guide calls you an **employer** if you are the person making decisions about what happens in a **work situation**. Most situations are covered, even if you don't give your worker a written **contract of employment** or if they are a **contract worker** rather than an **employee**. Other types of worker such as **trainees**, **apprentices** and **business partners** are also covered. If you are not sure, check under 'work situation' in the List of words and key ideas. Sometimes, equality law only applies to particular types of worker, such as employees, and we make it clear if this is the case.

Protected characteristics

Make sure you know what is meant by:

- **age**
- **disability**
- **gender reassignment**
- **marriage and civil partnership**
- **pregnancy and maternity**
- **race**
- **religion or belief**
- **sex**
- **sexual orientation.**

These are known as protected characteristics.

What is unlawful discrimination?

Unlawful discrimination can take a number of different forms:

- You must not treat a person **worse** than someone else just because of a protected characteristic (this is called **direct discrimination**).

For example:

An employer is considering two requests for flexible working, from workers who do not qualify for the statutory employment **right to request flexible working**. One worker is a Christian and the other is not. The employer decides to agree only to the Christian's request, believing they will use the time in a more worthwhile way. This will probably be direct discrimination against the non-Christian because of religion or belief. The correct approach is for the employer to consider the requests by looking at the impact of the proposed working pattern on the organisation, and not at the protected characteristics of the person making the request. This may or may not lead to the same result, but the decision would not have been made because of the protected characteristic of religion or belief, so neither worker would have a claim for unlawful discrimination because of their religion or belief.

- In the case of women who are **pregnant** or on **maternity leave**, the test is not whether the woman is treated worse than someone else, but whether she is treated **unfavourably** from the time she tells you she is pregnant to the end of her maternity leave (equality law calls this the **protected period**) because of her pregnancy or a related illness or because of maternity leave.
- You must not do something to someone in a way that has a worse impact on them and other people who share a particular protected characteristic than on people who do not have that characteristic. Unless you can show that what you 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.

For example:

An employer says that senior managers at an office cannot work flexibly. This is likely to have a worse impact on women who are more likely to be combining work with childcare responsibilities. Unless the employer can objectively justify the requirement, this may be indirect discrimination because of sex.

- You must not treat a disabled person **unfavourably** because of something connected to their disability where you cannot show that what you are doing is **objectively justified**. This only applies if you know or could **reasonably** have been expected to know that the person is a disabled person. This is called **discrimination arising from disability**.

For example:

An employer insists that all employees have to be in the office by 9am or face disciplinary action. An employee has a mobility impairment that makes travelling in the rush hour difficult. Unless the employer can objectively justify the requirement to be in at that time, this may be discrimination arising from disability, because the disabled person would be treated unfavourably (being disciplined) for something connected to their disability (the inability to travel in the rush hour). This may also be a failure to make reasonable adjustments.

- You must not treat a person worse than someone else because they are **associated with** a person who has a protected characteristic.

For example:

An employer allows all staff with children to leave work early one afternoon before Christmas to attend their children's school play or show. They assume that an employee with a disabled child will not need this time off so do not give them the same concession. This is likely to be direct discrimination because of disability on the basis of the employee's association with their disabled child.

- You must not treat a person **worse** than someone else because you incorrectly think they have a protected characteristic (**perception**).
- You must not treat a person badly or **victimise** them because they have complained about discrimination or helped someone else complain or done anything to uphold their own or someone else's equality law rights.

For example:

When an employee asks to work flexibly, their employer refuses because the employee helped a colleague with a complaint about discrimination. This is almost certainly victimisation.

- You must not **harass** a person.

For example:

An employee is given permission by their manager to take annual leave but only after offensive questioning related to their sexual orientation which has made them feel humiliated. This is likely to be harassment

- In addition, to make sure that disabled people have the same access, as far as is reasonable, as a non-disabled person to everything that is involved in getting and doing a job (including flexible working and time off), you must make **reasonable adjustments**.

For example:

An employer has a written policy which covers all types of leave, including what to do if workers are too ill to come to work, how decisions will be made about when annual leave is taken, and on flexible working. As a reasonable adjustment for a disabled worker who has a visual impairment, the employer reads the policy onto a CD and gives it to the worker.

- You must make reasonable adjustments to what you do as well as the way that you do it.

For example:

A worker who has a learning disability has a contract to work from 9am to 5.30pm but wishes to change these hours. This is because the friend who accompanies the worker to work is no longer available before 9am. Allowing the worker to start later is likely to be a reasonable adjustment for that employer to make.

You can read more about making reasonable adjustments to remove barriers for disabled people in Chapter 3.

Situations where equality law is different

Sometimes there are situations where equality law applies differently. This guide refers to these as **exceptions**.

There are two exceptions which are relevant to decisions about working hours, flexible work and time off. These apply to all employers:

- The possibility that direct age discrimination can be **objectively justified**.
- Special treatment for women in connection with pregnancy and maternity.

We only list the exceptions that apply to the situations covered in this guide. There are more exceptions which apply in other situations, for example, when you are recruiting someone to do a job. These are explained in the relevant guide in the series.

In addition to these exceptions, equality law allows you to:

- Treat disabled people better than non-disabled people.
- Use voluntary **positive action** in the way workers are managed. While positive action is most often seen as applying in recruitment, promotion and training, it can also be helpful in addressing workers' different needs when you are managing them.

Age

Age is treated differently from other protected characteristics. If you can show that it is **objectively justified**, you can make a decision based on someone's age, even if this would otherwise be direct discrimination.

For example:

An employer decides to allow workers over the age of 55 to ask to work flexibly, regardless of whether they qualify for the **right to request flexible working**. This is so that they can retain the skills of their older workers in the organisation by fitting in with the older workers' desire to work fewer hours. A younger worker says that they should also be able to work flexibly even if they do not qualify for the right to request. Provided the employer can objectively justify their decision, equality law would allow this difference of treatment based on age.

There is a specific age exception allowing different levels of annual leave based on length of service of up to five years. This is explained at page 26.

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.

For 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.

Positive action

'Positive action' means the steps that you can take as an employer to address the different needs or past track record of disadvantage or low participation of people who share a particular protected characteristic.

Although most often thought of in the context of recruitment, promotion or training, positive action is available to you in all employment situations, although you have to go through a number of tests to show that positive action is needed.

Taking positive action is voluntary. You do not have to take positive action. However:

- Meeting the different needs of your workforce can help make your staff more productive.
- If you are a **public authority**, positive action may help you meet the **public sector equality duty**.

If you want to know more about taking voluntary positive action in relation to how you manage your workers, read the Equality and Human Rights Commission's guide: *What equality law means for you as an employer: managing workers*.

Treating disabled people better than non-disabled people

As well as these exceptions, equality law allows you to treat a disabled person better – or **more favourably** – than a non-disabled person. This recognises that disabled people face a lot of barriers to participating in work and other activities.

What's next in this guide

The next part of this guide tells you more about how you can avoid all the different types of unlawful discrimination in the following situations:

- Making a decision about a person's hours of work or request for flexible working:
 - Avoiding direct and indirect discrimination
 - Making reasonable adjustments to remove barriers for disabled people and avoiding discrimination arising from disability
 - Considering requests for changes to hours of work or flexible working on the basis of association with a protected characteristic
 - Considering requests for changes to hours of work or flexible working relating to a worker's religion or belief
 - Considering requests for changes to hours of work or flexible working relating to a worker's gender reassignment
- Making a decision relating to time off:
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 - Pregnancy-related absences
 - sickness absence
 - ante-natal care
 - Maternity, paternity and adoption leave

Decisions about hours of work and flexible working

Flexible working and the 'right to request'

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.

For more information on how flexible working can benefit employers and workers, see the Equality and Human Rights Commission's Working Better report.

What is 'the right to request'?

This guide only tells you about equality law. There are other laws giving many employees with caring responsibilities for children or particular adults the right to have a request for flexible working considered according to set procedures (this is the 'right to request').

If an employee who has worked for you for at least 26 weeks 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 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 at Business Link (if you are in England and Wales) or Business Gateway Scotland (if you are in Scotland).

Contact details for these organisations are in *Further sources of information and advice*.

You must avoid unlawful discrimination when you make decisions about what hours someone should work and whether to allow them to work flexibly.

First, use the information earlier in this guide to make sure you know what equality law says you must do as an employer.

This section of the guide covers the following:

- Avoiding direct and indirect discrimination
- Making reasonable adjustments to remove barriers for disabled people and avoiding discrimination arising from disability
- Considering requests for changes to hours of work or flexible working on the basis of association with a protected characteristic
- Considering requests for changes to hours of work or flexible working relating to a worker's religion or belief
- Considering requests for changes to hours of work or flexible working relating to a worker's gender reassignment.

Avoiding direct and indirect discrimination

Unless the situation comes into one of the exceptions where you are specifically allowed to take someone's protected characteristic into account, do not allow your decision about working hours or flexible working to be influenced by someone's protected characteristic.

If you do, it is likely to be direct discrimination, which cannot be justified (unless the protected characteristic is **age** – this is explained at page 10).

For example:

An employer bases their decision whether to agree to a request to work flexibly on the worker's sex. The employer agrees a mother's request to work flexibly 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 it would also be a breach of the right to request flexible working if the father had applied under that procedure.

Do not make a decision that has, or would have, a worse impact on a person with a particular protected characteristic and other people who share that characteristic than it has on people who do not share it. Unless you can show that what you have done is **objectively justified**, this will be indirect discrimination.

For example:

- A woman returns from maternity leave and asks to work part-time using the right to request flexible working, for which she qualifies. Her employer turns down the request because none of the jobs similar to hers at the organisation are done part-time. The employer must:
 - follow the procedures set out in the law on the right to request flexible working, including basing the decision on business reasons, and
 - be able to **objectively justify** the refusal, as the decision to require that the jobs be done full-time has a worse impact on her and on other women, who are more likely to be combining paid work with caring responsibilities. If the employer cannot objectively justify the refusal and the application of the rule (about no part-time work in that job), this is likely to be indirect sex discrimination.
- An employee who is caring for her disabled partner applies to work flexibly using the right to request, for which she qualifies. She is turned down. She makes another request six months later, suggesting a different working pattern that could easily be accommodated. Her employer does not have to use the procedures set out under the right to request, because these requests only have to be considered at 12 month intervals. However, if the employer refuses to look at her request altogether or if they refuse her again, this may be indirect sex discrimination, unless the employer can objectively justify what they have done. This is because a refusal to consider a change in the woman's working arrangements would have a worse impact on both the individual employee and on women generally, as they are more likely to combine paid work with caring responsibilities.
- A woman who works part-time is required by her employer to change to full-time hours when her job-share partner resigns. She is told that if she does not agree to this she will be dismissed. The employer does not consider recruiting another job-share partner and argues that there are business reasons for no longer allowing her to work part-time. This may be a breach of the right to request if the employer cannot show a genuine business need for the decision, and indirect sex discrimination, because the requirement to work full-time has a worse impact on women.

This does not just apply to existing employees who request flexible working (whether or not they qualify for the right to request). If a rule about working hours prevents more women than men from *applying* for a job, this may be unlawful sex discrimination, unless you can **objectively justify** the rule. This may result in your having to agree to a request to work flexibly from the time a woman starts working for you.

For example:

- A woman is unable to apply for a job for which she is well-qualified because the employer requires all staff to work a rotating shift pattern. The woman is unable to work during all the shift patterns because she needs to look after her 80-year-old mother at particular times of the day. No allowances are made because of this need. Such a requirement would put the woman and other women at a disadvantage because women are more likely to combine paid work with caring responsibilities. The employer will have indirectly discriminated against the woman because of her sex unless the requirement can be objectively justified.
- A woman is put off applying for a job to work in a small newsagent's and convenience store because the job requires working hours of 7am to 3pm, and she cannot combine the early start with her childcare responsibilities. Because it is essential to the very nature of the business is to open early, it is likely that the employer would be able to **objectively justify** the requirement for the early start.

However, the woman and a friend in a similar situation apply to do the job between them. One will take on the early morning childcare for both of them one week while the other works, and then they will swap over. In this situation, if they are between them the best person for the job, it may be indirect discrimination to refuse to allow this arrangement unless the employer can objectively justify the refusal. Of course, as a matter of good practice, the employer themselves could open the job up to flexible working of this kind.

Although it is more likely that women will be combining paid work with caring responsibilities, avoid making assumptions about who has responsibilities for caring for children or adults. If you act on an assumption based on a person's protected characteristics, for example, that a gay man's request for particular working hours is less important than a straight woman's, this may result in direct or indirect discrimination.

Making reasonable adjustments to remove barriers for disabled people and avoiding discrimination arising from disability

It may be a reasonable adjustment for you to allow a disabled person to work flexibly if this removes a barrier to their being able to do the job. If the change in hours is a reasonable adjustment, you must agree to it.

You must make the change from the first point at which the duty to make reasonable adjustments arises, in other words, either when the worker starts working for you or (if they already work for you) when they become a disabled person. This applies if you know or ought reasonably to have known that the worker is a disabled person.

For example:

A disabled person 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.

Whether or not you would allow a non-disabled person to work flexibly in the particular job is not relevant, as:

- you are under a duty to make reasonable adjustments, and
- you are allowed to treat a disabled person better than a non-disabled person.

To avoid discrimination arising from disability, you must also avoid treating a disabled person **unfavourably** when making a decision about their working hours or considering their request to work flexibly if:

- this is because of something connected to their disability, and
- you cannot show that what you are doing is **objectively justified**, and
- you know or could reasonably be expected to know that the person is a disabled person.

Considering 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 people who are associated with a disabled person. People in this position, and those assisting older relatives 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.

You also need to think about whether refusing a request for flexible working may be direct or indirect discrimination, as explained earlier.

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

For 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.

If the manager made their decision based on the fact the person with whom the worker was associated was a disabled person rather than an older person, that too might be direct discrimination by association. The manager should base any decision on the business needs of the organisation, not on the protected characteristics of the people making the requests.

Considering requests for changes to hours of work or flexible working relating to a worker's religion or belief

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

For example:

Some Jews will finish work before sunset on Friday in order to avoid working on the Jewish Sabbath, and will not work again until after sunset on Saturday.

If you apply a rule, such as refusing to allow a worker to take particular rest breaks or to finish work by a particular time, you need to **objectively justify** what you are doing, as otherwise this may be indirect discrimination because of religion or belief.

For example:

- An employer imposes a permanent work rota requiring occasional Sunday working. One employee is an active Christian. When the woman accepted the job six months earlier she had told her company that she was unable to work on a Sunday because of her faith. This was accepted at the time. She resigns when told that the change to working Sundays is non-negotiable. This rule has a worse impact on the woman and other Christians for whom Sunday observance is a **manifestation** of their religion. Applying the rule will be indirect discrimination because of religion or belief unless the employer can objectively justify it.
- A small manufacturing company needs its staff to take their breaks at set times because of the manufacturing process which requires that a process has to be complete before equipment can be left. A worker for whom praying at particular times of the day is a requirement of their religion asks if they can take their breaks at the times when they need to pray, making up the time over the course of the rest of the day. The company considers the request by looking at the impact on the business. Refusing the request may be indirect discrimination because of religion or belief unless the employer can objectively justify it, which it may be able to do if, for example, there is no alternative way of doing the work.

Some religions require extended periods of fasting. If you choose to make special arrangements to support workers through a fasting period, this would be a matter of good practice. You are not required to do this. However, if you do put special arrangements in place, you need to be careful that you are not disadvantaging other workers.

Not only might this cause resentment by the workers who are not receiving the special support, it may amount to worse treatment of those workers because of religion or belief and give rise to claims of discrimination.

For example:

A large catering company employs a large number of Muslim workers. During Ramadan, when the Muslim workers are fasting as an integral part of their religion, the employer takes on additional temporary staff. Each Muslim worker is given a non-Muslim assistant as the employer does not expect the fasting workers to be able to work as hard. The employer is trying to be considerate of their Muslim staff, but this approach may be both unnecessary and discriminatory. A better approach would be for the employer to consult all staff, and the recognised trade union if they have one, about how to accommodate the needs of the Muslim staff fairly and effectively. For example, it might be possible to take on a smaller number of additional staff to help out anyone who needs help to finish a task in time, regardless of their religion or belief.

Considering requests for changes to hours of work or flexible working relating to a worker's gender reassignment

If a worker's request to work flexibly is because they propose to undergo, are undergoing or have undergone gender reassignment, you should consider their request on the same basis as you would consider any similar request which was not made under the right to request flexible working.

Don't refuse a request or treat it less seriously because it is being made by a transsexual person.

For example:

A transsexual person asks their employer if they can compress their working hours into 9 days out of every 10. This is so that on the tenth day they can attend an appointment related to the process of gender reassignment. The employer decides to agree to the request. This is because they have looked at their organisation's needs and would have agreed such a request if it had been made by someone who was not undergoing gender reassignment. If they had refused because the worker is a transsexual person, this would be direct discrimination because of gender reassignment.

Equality good practice: what you can do if you want to do more than equality law requires

The benefits of flexible working

Some employers allow all staff to request flexible working subject to the needs of their organisation, even though the law does not require them to do this.

Doing this helps employees balance the demands of their work and their life outside work, and employers who offer it report benefits including:

- greater employee satisfaction and loyalty
- higher staff retention
- lower recruitment and training costs, and
- reduced absenteeism and workplace stress.

Think about how the following steps will help you and your organisation benefit from flexible working and avoid unlawful discrimination:

- Develop a policy on flexible working so that all employees understand what it is, who can apply for it and under what circumstances, whether this is:
 - those people who qualify under employment law for the right to request flexible working, and anyone with a protected characteristic which might require you to consider or allow flexible working, or
 - everyone in your organisation.

Tell your workers what the process is for making a request and how it will be decided.

- Make sure you (and anyone else who is making a decision about a right to request flexible working) understand who has a legal right to request flexible working and what you or they need to do in such circumstances. If, for example, you employ a manager and they do not understand this, and refuse to consider or, in some situations, allow a request, you may be liable for the manager's failure. You can read more about when you are responsible for what other people do in Chapter 2.

Going beyond the right to request

- Think about offering everyone who works for you flexibility from the day they start work, provided this fits in with the requirements of your organisation to achieve its aims.

For example:

- An employer advertises all jobs as being open to flexible working arrangements, unless they have worked out a good reason why a particular job is unsuitable. They offer to discuss this as part of the application process or when someone is appointed.
- Don't assume that certain jobs are not suitable for flexible working. Reasons employers may think this are:
 - the job is a senior role and therefore needs someone to be present at all times
 - introducing flexible working for one person would mean that everyone would want to work flexibly
 - managing someone who works flexibly would be too hard
 - customers would not like it.

However, many employers who have introduced flexible working have not found these to be obstacles and have found that there are advantages.

For example:

- An employer allows employees the flexibility to swap shifts amongst themselves. This helps the organisation to cover for unforeseen emergencies and at particularly busy times.

For more information on how flexible working can benefit employers and workers, see the Equality and Human Rights Commission's *Working Better* report.

The importance of using the right process

One important way you can avoid discrimination when deciding who can change their working hours or work flexibly is to set up a process which does not look at the reason for the worker's request but looks at whether your organisation would still be able to carry out its purpose if you agreed the request.

So look at the impact on the person's work and on your organisation, not at the impact on the individual worker's personal circumstances (unless the reason for the request is as a reasonable adjustment for a disabled person, or is, for example, in connection with a woman's return from maternity leave or her childcare responsibilities).

This is the approach you *must* take if the worker who makes the request uses the right to request flexible working under employment law.

But it is also a helpful approach to take if you decide to offer flexible working to a wider range of workers.

For example:

- An employer does not need to know that it is important to a worker to accompany a relative to kidney dialysis sessions on a Wednesday afternoon, just that they wish to adjust their hours to avoid working at that time.

If you make sure that all your workers understand how you will be making the decisions, this will:

- help you avoid making decisions based on a protected characteristic where doing this might result in unlawful discrimination
- help your workers make their request in a way that answers questions you may have about the impact on your organisation if you agreed their request, rather than having to tell you about their personal circumstances, and
- help avoid situations where one worker feels less valued than another because you have made a judgement about it being more important for one person to be able to work flexibly based on their personal circumstances.

Making a decision relating to time off

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.

You can find out more about these rights at Business Link (if you are in England and Wales) or Business Gateway Scotland (if you are in Scotland).

Contact details for these organisations are in *Further sources of information and advice*.

In general, equality law applies not to whether people have a right to time off, but how you make your decisions about:

- who gets to take time off, when and how much
- whether the time off should be paid or unpaid
- how you record 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

These situations are explained in the next section of this guide.

Avoiding unlawful discrimination when you make a decision relating to workers' time off

You must avoid unlawful discrimination when you make a decision about a worker's time off. Decisions about time off might range from who takes their holiday when to how you record worker's absences.

First, use the information earlier in this guide to make sure you know what equality law says you must do as an employer.

This section of the guide covers the following:

- Avoiding direct and indirect discrimination
 - The specific age exception allowing different levels of annual leave based on length of service of up to five years
- Making reasonable adjustments to remove barriers for disabled people and avoiding discrimination arising from disability
- Considering requests for time off relating to a worker's religion or belief
- Considering requests for time off relating to a worker's gender reassignment
- Pregnancy-related absences
 - sickness absence
 - ante-natal care
- Maternity, paternity and adoption leave

Some types of leave, such as holiday, count as a benefit and are treated in the same way as pay. You can read more about what this means in the Equality and Human Rights Commission guide: *What equality law means for you as an employer: pay and benefits*.

Avoiding direct and indirect discrimination

If you:

- refuse someone's request for leave because of a protected characteristic, or
- pay some people more than others during their time off because of a protected characteristic, or
- give some people more leave than others because of a protected characteristic

this is likely to be direct discrimination, unless employment law or equality law specifically allows you to do this (as it does with maternity leave, for example).

If you:

- say that everyone has to take leave at a particular time of year, or
- set conditions on when someone qualifies for extra leave

this may have a worse impact on a person with a particular protected characteristic and others with that characteristic than it would have on people who do not have the characteristic. Unless you can **objectively justify** what you are doing, this may be indirect discrimination.

The specific age exception allowing different levels of annual leave based on length of service of up to five years

Equality law allows you to make a distinction between workers in pay and benefits based on length of service, including how much annual leave they get.

You can give workers with less than five years' service different holiday entitlements to those with more than five years without having to **objectively justify** this.

For example:

To encourage workers to stay with them for more than two years, an employer gives workers an extra day's paid annual leave for each complete year of service, up to five years. The exception allows the employer to do this without having to objectively justify the practice. This applies even though it is harder for younger employees to qualify for the extra leave and is therefore, on the face of it, indirect age discrimination against the younger workers.

You can work out length of service in one of two ways:

- by the length of time that the employee has been working for you at or above a particular level, or
- by the length of time the employee has been working for you in total.

If you use length of service of more than five years to award or increase a benefit, this falls outside the exception.

But there is a further difference: you may still be able to use length of service of more than five years to make decisions about holiday entitlement if you **reasonably** believe that using length of service in this way fulfils a business need. You may believe it rewards higher levels of experience, encourages loyalty, or increases or maintains your workers' motivation.

This is a less difficult test than the general test for **objective justification** for indirect discrimination. However, you still have to have evidence to support your belief that it did fulfil a business need. Examples of the sort of evidence you could use include:

- monitoring
- staff surveys
- individual or group discussions with staff.

For example:

An employer wants to give an extra five days' annual leave to workers after ten years' service. The employer can only do this if they **reasonably believe** this practice fulfils a business need.

Making reasonable adjustments to remove barriers for disabled people and avoiding discrimination arising from disability

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

- promotion
- bonuses
- redundancy
- references.

If you treat time off taken by a disabled person which relates to their disability in exactly the same way as you 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 connected to their disability.

For example:

A worker who is a disabled person requires a day off every month for physiotherapy related to their condition. The employer records these days off as sickness absence. When the employer is deciding which staff to pay an annual bonus to, one of the tests is having had fewer than five days' sickness absence in the year. The disabled person is therefore not eligible for the bonus. They have been treated worse than other employees for a reason arising from their disability (the need to take time off for physiotherapy). To avoid this being unlawful, the employer must be able to **objectively justify** it.

Instead of trying to objectively justify the application of the rule in this way, the employer decides to record the absence related to the worker's disability separately from ordinary sickness absence. The employer excludes these days from the worker's sickness absence record when working out eligibility for the bonus. Recording the leave separately like this would probably be a reasonable adjustment.

Once you know that a worker comes within the definition of a disabled person avoid:

- direct or indirect discrimination because of disability, or
- discrimination arising from disability

and to make sure that you have complied with the duty to make reasonable adjustments you should:

- Record the worker's disability-related time off separately from general sick leave. This will mean that you are not calculating bonuses or making other pay or employment decisions in a way that unlawfully discriminates against them.
- 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 make it clear you don't expect them to come back to work before they are ready).
- Think about a plan for their return to work, for example, arranging for them to start work again gradually or to do some work at home before they come into the office, if this is possible in their job.
- Consider reasonable adjustments with them and, if necessary, use expert advice to work out what reasonable adjustments can be made for when the worker is ready to return to work. If a change is reasonable, you must make it.

You do not have to pay sick pay beyond what you normally pay just because the person's time off is disability-related. But it may be a reasonable adjustment to:

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

If the reason the worker is absent is because of a delay in implementing a reasonable adjustment that would enable the worker to return to the workplace, maintaining full pay would almost certainly be a reasonable adjustment for the employer to make.

For example:

A woman who has a visual impairment needs work documents to be enlarged. Her employer fails to make arrangements to provide her with these. As a result, she has a number of absences from work because of eye-strain. After she has received full sick pay for four months, the employer is considering a reduction to half-pay in line with its sickness policy. It is likely to be a reasonable adjustment to maintain full pay as her absence is caused by the employer's delay in making the original adjustment.

You could also change the targets expected of someone so that they have an equal chance of earning bonuses.

For example:

A worker in sales takes every Thursday afternoon as unpaid leave for a disability-related reason. As a reasonable adjustment, their employer reduces their sales target to reflect their absence. Their team's target is also reduced by a proportionate amount.

Considering requests for time off relating to a worker's religion or belief

If a worker's religion or belief has special festival or spiritual observance days, they may ask for time off at a particular time in order to celebrate festivals or attend ceremonies.

You do not have to give a worker extra leave, either paid or unpaid, because of their religion or belief. You could require workers to use annual leave instead.

If you do decide to give some people extra leave because of their religion or belief, this may be direct discrimination against people of another religion or belief or none, who will be getting less time off.

A worker may want to use a month's leave all at once for a religious occasion, such as a pilgrimage. This is a situation where you should consider your options carefully to avoid discriminating against workers who follow a different religion or belief, or none:

- If you place a limit on the number of weeks' leave that can be taken together, this may be indirect discrimination against the workers who want to go on pilgrimage. This is because it stops them doing this, thus having a worse impact on them than on people who do not share their religion or belief. To avoid a refusal being indirect discrimination, you need to be able to **objectively justify** the refusal.
- If you grant a request from a person who is making a request relating to their religion or belief and refuse other requests for extended time off (for example, to spend three weeks as a spectator at an overseas football tournament), this may be indirect discrimination against the person whose request you refuse if you could not **objectively justify** your decision.
- Alternatively, you could allow any worker to make a request for an extended period of leave and to look at the needs of your organisation when deciding whether to grant it or not, with a presumption that you grant the request unless there is a good reason not to.

If you tell your workers that they must take leave during an annual closedown, you need to think about whether this has a worse impact on workers sharing a protected characteristic who need annual leave at other times, for example, during religious festivals. Unless you can **objectively justify** your practice, it may amount to indirect discrimination because of religion or belief.

On the other hand, if you need staff to be working for you at particular times of year, you may be able to **objectively justify** refusing a request for leave, even though this has a worse impact on people who share the protected characteristic of the person making the request.

For example:

A small toy shop employing four staff may be unable to release an individual for a religious festival in the busy pre-Christmas period. The employer may well be able to **objectively justify** refusing a request for such an absence because of the needs of the business.

Considering requests for time off relating to a worker's gender reassignment

You must not treat someone who is a transsexual person worse for being absent from work because they propose to undergo, are undergoing or have undergone gender reassignment than you would treat them:

- if they were absent because they were ill
- if they were absent for any other reason, and it is **unreasonable** to treat them worse.

This includes not treating the person worse when you make a decision about what time off they should have. If you would agree to a request for time off for someone to recover from an injury, then don't refuse someone who asks for time off for part of a process of gender reassignment. The request does not have to relate to a medical process. It could, for example, be for electrolysis to remove hair, or for counselling.

Pregnancy-related absences

Sickness absence

Special rules apply to sickness absence which is related to a woman's pregnancy or to her having given birth.

You should record pregnancy-related illness separately from other kinds of illness and should not count it towards someone's total sickness record.

You 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').

You 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 you're selecting workers for redundancy. Treat sickness absence associated with a miscarriage as pregnancy-related illness.

For example:

A worker has been off work because of pregnancy complications since early in her pregnancy. Her employer has now dismissed her in accordance with the sickness policy which allows no more than 20 weeks' continuous absence. This policy is applied regardless of sex or pregnancy and maternity. The dismissal is unfavourable treatment and would be unlawful even if a man would be dismissed for a similar period of sickness absence, because the employer took into account the worker's pregnancy-related sickness absence in deciding to dismiss.

You can find out more about what to do in this situation using the Equality and Human Rights Commission's Guidance on managing new and expectant parents.

You can read more about pay during a woman's pregnancy and maternity leave in the Equality and Human Rights Commission guide: *What equality law means for you as an employer: pay and benefits*.

Ante-natal care

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

For example:

A pregnant employee has booked time off to attend a medical appointment related to her pregnancy. Her employer insists this time must be made up for through flexi-time arrangements or her pay will be reduced to reflect the time off. This is unlawful: a pregnant employee is under no obligation to make up time taken off for ante-natal appointments and an employer cannot unreasonably refuse paid time off to attend such appointments.

The right for paid time off does not extend to the partners of pregnant women, although you 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.

If you do allow this, make sure that you do not discriminate unlawfully in your approach.

For example:

An employer allows a man whose female partner is pregnant to take annual leave to attend ante-natal appointments with her. The employer refuses a similar request from a woman whose female partner is pregnant. This is likely to be direct discrimination because of sexual orientation.

Good practice tip

Even if the test you use is whether the business needs of your organisation can still be met if you grant a particular person's request for time off, it is a good idea to keep a note of when requests are made, by which employee, and what your decision was.

You could then look at your and your organisation's decisions over a particular period. If you **monitor** your workers' protected characteristics, you could use this information to check if any particular group is more likely to have its requests turned down.

If you find it is, look again at the criteria you are using to decide which requests to allow.

Maternity, paternity, adoption and parental leave

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

For 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.

You can find practical guidance on dealing with maternity, paternity, parental and adoption leave in the Equality and Human Rights Commission's *Guidance on managing new and expectant parents*.

Equality good practice: what you can do if you want to do more than equality law requires

- Tell your workers when they start working for you what the process is for requesting time off and how decisions are made.
- Include annual leave and other sorts of time off such as maternity, paternity and adoption leave, parental leave and time off for emergencies. You could include this information in an employee's written terms of employment or contract and/or put it in a staff handbook if your organisation has one.
- Try to be flexible about when annual holidays are taken and make sure your workers know how much notice you require to be able to work out how to meet as many people's needs as possible (for example, if you have to ask other people to cover their work).
- There may be some jobs where it is not possible to be flexible but explanation and discussion may enable a compromise to be achieved. You do not have to accept unreasonable disruption to your organisation's activities.
- While it may be practical for one person or even a small number to be absent, it might be difficult for you if lots of people ask for the same time off. If this happens, you should discuss this with the people making the request (and with a recognised trade union if there is one) with the aim of balancing the needs of the organisation and of your workers.

Your questions answered

Q. Is it unlawful sex discrimination if I don't allow a woman time off to have fertility treatment?

A. Neither equality law nor employment law gives a woman a right to paid time off for in vitro fertilisation (IVF) or other fertility treatment.

Of course, after a fertilised embryo has been implanted, a woman is legally pregnant and from that point is protected from unfavourable treatment because of pregnancy, including pregnancy-related sickness. She would also be entitled to time off for ante-natal care.

It is good practice (though not a legal requirement) for you to treat sympathetically any request for time off for IVF or other fertility treatment, and consider working out a procedure to cover this situation. This could include allowing women to take annual leave or unpaid leave when receiving treatment and designating a member of staff whom they can inform on a confidential basis that they are undergoing treatment.

For example:

A female worker who is undergoing IVF treatment has to take time off sick because of its side effects. Her employer treats this as ordinary sickness absence and pays her contractual sick pay that is due to her. Had contractual sick pay been refused, this could amount to sex discrimination.

2. When you are responsible for what other people do

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

If another person who is:

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

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

This part of the guide explains:

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

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

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

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

As long as:

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

it does not matter whether or not you:

- knew about or
- approved of

what your employee or agent did.

For example:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

You can read more about equality training and equality policies in the Equality and Human Rights Commission guide: *Good equality practice for employers: equality policies, equality training and monitoring*.

Using written terms of employment for employees

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

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

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

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

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

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

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

Good practice tip for how you and your staff should behave

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

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

When your employees or agents may be personally liable

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

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

For example:

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

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

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

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

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

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

Both:

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

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

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

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

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

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

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

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

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

For example:

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

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

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

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

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

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

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

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

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

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

provided the adjustments are reasonable for you to make.

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

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

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

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

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

Which disabled people does the duty apply to?

The duty applies to any disabled person who:

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

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

The duty may also apply after employment has ended.

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

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

Finding out if someone is a disabled person

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

For example:

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

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

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

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

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

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

For example:

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

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

Good practice tip: be prepared for making reasonable adjustments

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

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

But you may want to be prepared:

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

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

The three requirements of the duty

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

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

For example:

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

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

For example:

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

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

For example:

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

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

Are disabled people at a substantial disadvantage?

The question you need to ask yourself is whether:

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

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

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

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

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

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

Changes to policies and the way your organisation usually does things

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

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

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

For example:

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

Dealing with physical barriers

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

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

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

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

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

For example:

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

Providing extra equipment or aids

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

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

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

Making sure an adjustment is effective

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

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

For example:

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

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

Who pays for reasonable adjustments?

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

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

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

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

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

and

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

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

What is meant by 'reasonable'

You only have to do what is reasonable.

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

When deciding whether an adjustment is reasonable you can consider:

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

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

Issues to consider:

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

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

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

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

Providing information in an alternative format

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

For example:

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

Reasonable adjustments in practice

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

- Making adjustments to premises.

For example:

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

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

For example:

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

- Transferring the person to fill an existing vacancy.

For example:

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

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

For example:

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

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

For example:

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

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

For example:

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

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

For example:

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

- Acquiring or modifying equipment.

For example:

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

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

- Modifying instructions or reference manuals.

For example:

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

- Modifying procedures for testing or assessment.

For example:

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

- Providing a reader or interpreter.

For example:

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

- Providing supervision or other support.

For example:

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

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

For example:

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

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

For example:

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

- Employing a support worker to assist a disabled worker.

For example:

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

- Modifying disciplinary or grievance procedures.

For example:

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

- Adjusting redundancy selection criteria.

For example:

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

- Modifying performance-related pay arrangements.

For example:

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

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

For example:

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

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

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

For example:

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

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

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

Specific situations

Employment services

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

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

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

For example:

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

Occupational pensions

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

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

For example:

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

Questions about health or disability

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

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

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

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

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

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

What happens if I ask questions about health or disability?

A job applicant can bring a claim against you if:

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

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

When you are allowed to ask questions about health or disability

You can ask questions about health or disability when:

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

For example:

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

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

For example:

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

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

For example:

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

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

For example:

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

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

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

For example:

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

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

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

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

A worker may:

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

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

This part of this guide covers:

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

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

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

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

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

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

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

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

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

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

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

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

Also:

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

If a worker complains to you

You have two ways of sorting out the situation:

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

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

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

For example:

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

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

Dealing with the complaint informally

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

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

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

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

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

If a worker makes a formal complaint

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

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

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

Alternative dispute resolution

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

In complaints relating to work situations, this can happen:

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

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

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

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

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

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

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

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

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

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

Monitoring the outcome

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

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

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

The questions procedure

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

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

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

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

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

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

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

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

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

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

Key points about discrimination cases in a work situation

The key points this guide explains are:

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

Where claims are brought

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

Employment Tribunals can also decide cases about:

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

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

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

For example:

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

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

Time limits for bringing a claim

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

There are two situations where this is slightly different:

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

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

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

For example:

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

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

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

For example:

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

The standard and burden of proof

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

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

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

What the Employment Tribunal can order you to do

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

The main remedies available to the Employment Tribunal are to:

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

For example:

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

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

For example:

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

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

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

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

More information about defending an Employment Tribunal case

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

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

5. Further sources of information and advice

Equality and Human Rights Commission:

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

Website: www.equalityhumanrights.com

Helpline – England

Email: info@equalityhumanrights.com

Telephone: 0845 604 6610

Textphone: 0845 604 6620

Fax: 0845 604 6630

08:00–18:00 Monday to Friday

Helpline – Wales

Email: wales@equalityhumanrights.com

Telephone: 0845 604 8810

Textphone: 0845 604 8820

Fax: 0845 604 8830

08:00–18:00 Monday to Friday

Helpline – Scotland

Email: scotland@equalityhumanrights.com

Telephone: 0845 604 5510

Textphone: 0845 604 5520

Fax: 0845 604 5530

08:00–18:00 Monday to Friday

Acas – The Independent Advisory, Conciliation and Arbitration Service:

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

Website: www.acas.org.uk

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

Access to Work:

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

Website:

www.direct.gov.uk/en/disabledpeople/employmentsupport/workschemesandprogrammes

London, East England and South East England:

Telephone: 020 8426 3110

Email: atwosu.london@jobcentreplus.gsi.gov.uk

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

Telephone: 02920 423 29

Email: atwosu.cardiff@jobcentreplus.gsi.gov.uk

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

Telephone: 0141 950 5327

Email: atwosu.glasgow@jobcentreplus.gsi.gov.uk

Association of Disabled Professionals (ADP):

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

Website: www.adp.org.uk

Telephone: 01204 431638 (answerphone only service)

Fax: 01204 431638

Email: info@adp.org.uk

British Chambers of Commerce (BCC):

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

Website: www.britishchambers.org.uk

Telephone: 020 7654 5800

Fax: 020 7654 5819

Email: info@britishchambers.org.uk

British Retail Consortium (BRC):

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

Website: www.brc.org.uk

Telephone: 020 7854 8900

Fax: 020 7854 8901

Department for Business, Innovation and Skills (BIS):

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

Website: www.bis.gov.uk

Telephone: 020 7215 5000

Business Gateway :

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

Website: www.bgateway.com

Telephone: 0845 609 6611

Business in the Community:

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

Website: www.bitc.org.uk

Telephone: 020 7566 8650

Email: information@bitc.org.uk

Twitter: @BITC1

Business Link:

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

Website: www.businesslink.gov.uk

Telephone: 0845 600 9 006

Minicom: 0845 606 2666

Chartered Institute of Personnel and Development (CIPD):

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

Website: www.cipd.co.uk

Telephone: 020 8612 6208

ChildcareLink:

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

Website: www.childcarelink.gov.uk

Telephone: 0800 2346 346

Close the Gap Scotland:

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

Website: www.closesthegap.org.uk

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

Directgov:

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

Website: www.direct.gov.uk

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: 020 7222 7777

Fax: 020 7222 2782

Employers Forum on Age (EFA):

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

Website: www.efa.org.uk

Telephone: 0845 456 2495

Email: efa@efa.org.uk

Employers Forum on Belief (EFB):

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

Website: www.efbelief.org.uk

Telephone: 0207785 6533

Email: info@efbelief.org.uk

Employers Forum on Disability (EFD):

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

Website: www.efd.org.uk

Telephone: 020 7403 3020

Email: enquiries@staging.efd.org.uk

Equality Britain:

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

Website: www.equalitybritain.co.uk

Telephone: 0151 707 6688

Federation of Small Businesses (FSB):

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

Website: www.fsb.org.uk

Telephone: 01253 336 000

Fax: 01253 348 046

Flexible Support for Business:

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

Website: www.business-support-wales.gov.uk

Telephone: 03000 6 03000

Email: businesssupport@wales.gsi.gov.uk

The Gender Trust:

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

Website: www.gendertrust.org.uk

Telephone: 0845 231 0505

Government Equalities Office (GEO):

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

Website: www.equalities.gov.uk

Telephone: 020 7944 4400

Health and Safety Executive (HSE):

The HSE provides information and guidance on health and safety.

Website: www.hse.gov.uk

Telephone: 08701 545 500

Email: hseinformationservices@natbrit.com

Healthy Minds at Work:

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

Website: www.healthymindsatwork.org.uk

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

Telephone: 020 7467 1900

Email: info@investorsinpeople.co.uk

Mindful Employer:

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

Website: www.mindfulemployer.net

Telephone: 01392 208 833

Email: info@mindfulemployer.net

Opportunity Now:

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

Website: www.opportunity.org.uk

Telephone: 0207 566 8650

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

Sainsbury Centre for Mental Health:

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

Website: www.scmh.org.uk

Telephone: 020 7827 8300

Email: contact@scmh.org.uk

Small Business UK:

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

Website: www.smallbusiness.co.uk

Telephone: 020 7250 7010

Stonewall:

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

Website: www.stonewall.org.uk

Telephone: 08000 50 20 20

Email: info@stonewall.org.uk

The Age and Employment Network (TAEN):

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

Website: www.taen.org.uk

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

Telephone: 0141 337 8100

Email: info@stuc.org.uk

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

Telephone: 0800 013 0313

Email: office@workingfamilies.org.uk

Workwise:

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

Website: www.workwiseuk.org

Telephone: 01252 311 557

Email: enquiries@workwiseuk.org

Contact us

The Equality and Human Rights Commission aims to reduce inequality, eliminate discrimination, strengthen good relations between people, and promote and protect human rights.

You can find out more or get in touch with us via our website at www.equalityhumanrights.com or by contacting one of our helplines below. If you require this publication in an alternative format and/or language please contact the relevant helpline to discuss your needs.

Equality and Human Rights Commission helpline – England

Telephone: 08456 046 610

Textphone: 08456 046 620

Fax: 08456 046 630

8am–6pm, Monday to Friday

Equality and Human Rights Commission helpline – Scotland

Telephone: 08456 045 510

Textphone: 08456 045 520

Fax: 08456 045 530

8am–6pm, Monday to Friday

Equality and Human Rights Commission helpline – Wales

Telephone: 08456 048 810

Textphone: 08456 048 820

Fax: 08456 048 830

8am–6pm, Monday to Friday

www.equalityhumanrights.com

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