**Dignity and equality at work - NOTES**

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**Contents** page

[Discrimination definitions](#Definitions) 3

[Protected Characteristics](https://www.equalityhumanrights.com/en/equality-act/protected-characteristics)

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1. [Age](#Age) 4-5
2. [Disability](#Disability)  6-7
3. [Gender Reassignment](#GenderReassignment) 8-9
4. [Marriage & Civil Partnership](#Marriage) 10
5. [Pregnancy & Maternity](#Pregnancy)  11-16
6. [Race](#Race) 17-18
7. [Religion & Belief](#Religion) 19-21
8. [Sex](#Sex) 22-23
9. [Sexual Orientation](#SexualOrientation) 24-25

[Political Beliefs](#Political) & the Equality Act 2010 26-27

[What is ‘positive action’?](#Positiveaction) 28

[Transgender Names, Pronouns & Titles](#Transgendernames) (© 2017-2019 SEE change happen) 29-30

[Glossary of Terms](#Glossary) (© Stonewall 2017) 31-32

[Origin of negative words associated with disability](#Origin) (© Richard Rieser – World of Inclusion) 33-34

[Law on Cyberbullying](#Cyberbullying) 35-36

[The Genderbread Person v4](#Genderbread) ([Sam Killerman – hues.xyz](https://hues.xyz/)) 37

**PLEASE NOTE**: Terminology in the field of gender identity varies in its usage between individuals and groups, and is constantly shifting. The Office for National Statistics anticipates that at least 80 different self-descriptions will be submitted in answer to the question about **gender identity** in the 2021 census.

In addition, it is important to understand that ‘labels’, although essential to enable discussions about the following topics, are not always welcomed by those to whom they are applied. They should be used only when strictly necessary to clarify a point. *These labels must be chosen by the individuals concerned, not imposed by others****.***

This applies both to those outside the transgender community, as well as those within it. (<https://www.gires.org.uk/resources/terminology/>)

**Discrimination Definitions** *[back to contents](#Contents)*

Direct Discrimination

Direct Discrimination occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have (see Perceptive Discrimination below), or because they associate with someone who has a protected characteristic (see Associative Discrimination below).

Associative Discrimination

This already applies to Race, Religion or Belief and Sexual Orientation. It is now extended to cover Age, Disability, Gender Reassignment and Sex. This is direct discrimination against someone because they associate with another person who possesses a protected characteristic.

Perceptive Discrimination

This already applies to Age, Race, Religion or Belief and Sexual Orientation. It is now extended to cover Disability, Gender Reassignment and Sex. This is direct discrimination against an individual because others think they possess a particular protected characteristic. It applies even if the person does not actually possess the characteristic.

Indirect Discrimination

This already applies to Age, Race, Religion or Belief, Sex, Sexual Orientation and Marriage and Civil Partnership. It is now extended to cover Disability and Gender Reassignment.

Indirect Discrimination can occur when you have a condition, rule, policy or even a practice in your organisation that applies to everyone but particularly disadvantages people who share a protected characteristic.

Harassment

Harassment is "unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating intimidating, hostile, degrading, humiliating or offensive environment for that individual".

Employees will now be able to complain of behaviour that they find offensive even if it is not directed at them, and the complainant need not possess the relevant characteristic themselves. Employees are also protected from harassment because of perception and association.

Third Party Harassment

This already applies to Sex. It is now expected to cover Age, Disability, Gender Reassignment, Race, Religion or Belief and Sexual Orientation.

The Equality Act makes you potentially liable for harassment of your employees by people (third parties) who are not employees of your company, such as customers or clients.

Victimisation

Victimisation occurs when an employee is treated badly because they have made or supported a complaint or raised a grievance under the Equality Act; or because they are suspected of doing so. The Equality Act amends the definition 'victimisation', so that no longer needs to point to a comparator.

1. **[Age discrimination](https://www.equalityhumanrights.com/en/advice-and-guidance/age-discrimination)** (<https://www.equalityhumanrights.com/en/advice-and-guidance/age-discrimination#what>) [*back to contents*](#Contents)

The Equality Act 2010 says that you must not be discriminated against because:

* you are (or are not) a certain age or in a certain age group
* someone thinks you are (or are not) a specific age or age group, this is known as discrimination by perception
* you are connected to someone of a specific age or age group, this is known as discrimination by association

Age groups can be quite wide (for example, ‘people under 50’ or 'under 18s'). They can also be quite specific (for example, ‘people in their mid-40s’). Terms such as ‘young person’ and ‘youthful’ or ‘elderly’ and ‘pensioner’ can also indicate an age group.

Different types of age discrimination

There are four main types of age discrimination.

[Direct discrimination](https://www.equalityhumanrights.com/en/advice-and-guidance/what-direct-and-indirect-discrimination)

This happens when someone treats you worse than another person in a similar situation because of your age. For example:

* your employer refuses to allow you to do a training course because she thinks you are ‘too old’, but allows younger colleagues to do the training.

Direct age discrimination is permitted provided that the organisation or employer can show that there is a good reason for the discrimination.

This is known as objective justification. For example:

* you are 17 and apply for a job on a construction site. The building company refuses to employ under-18s on that site because accident statistics show that it can be dangerous for them. The company’s treatment of you is probably justified
* a guest house owner charges twice her normal rates for people under 21. She hopes it will deter young people from booking because a few have caused damage recently. A more appropriate alternative would be to ask for a deposit. It is unlikely that the guest house can justify charging the increased rates

[Indirect discrimination](https://www.equalityhumanrights.com/en/advice-and-guidance/what-direct-and-indirect-discrimination)

Indirect discrimination happens when an organisation has a particular policy or way of working that applies to everyone but which puts people of your age group at a disadvantage. For example:

* you are 22 and you find you are not eligible to be promoted because your employer has a policy that only workers with a post graduate qualification (such as a Masters) can be promoted. Although this applies to everyone it disadvantages people of your age because they are less likely to have that qualification
* an optician allows customers to pay for their glasses by instalments, provided they are in employment. This could indirectly discriminate against older people, who are less likely to be working

Like direct age discrimination, indirect age discrimination can be permitted if the organisation or employer is able to show that there is a good reason for the policy. This is known as objective justification.

[Harassment](https://www.equalityhumanrights.com/en/advice-and-guidance/what-harassment-and-victimisation)

Harassment occurs when someone makes you feel humiliated, offended or degraded. For example:

* during a training session at work, the trainer keeps commenting how slow an older employee is at learning how to use a new software package because of his age. The employee finds this distressing. This could be considered harassment related to age

Harassment can never be justified. However, if an organisation or employer can show it did everything it could to prevent people who work for it from behaving like that, you will not be able to make a claim for harassment against it, although you could make a claim against the harasser.

[Victimisation](https://www.equalityhumanrights.com/en/advice-and-guidance/what-harassment-and-victimisation)

This is when you are treated badly because you have made a complaint of age discrimination under the Equality Act. It can also occur if you are supporting someone who has made a complaint of age discrimination. For example:

* your colleague complains of being called a 'wrinkly' at work. You help them complain to your manager. Your manager treats you badly as a result of getting involved

Circumstances when being treated differently due to age is lawful

A difference in treatment may be lawful if:

* belonging to a particular age group is essential for a job: this is called an occupational requirement. For example, a film company making a film of Oliver Twist may lawfully hire a young boy to play Oliver
* an organisation is taking positive action to encourage or develop people in an age group that is under-represented or disadvantaged in a role or activity
* your employer has set a compulsory retirement age that it can clearly justify in respect of your role: this is known as objective justification
* the circumstances fall under one of the exceptions to the Equality Act that allow organisations to provide different treatment in employment or services based on age
* a service provider is making age-related concessions and benefits. For example, a cinema can offer over 60s cheap tickets and special screenings or a GP can offer flu jabs to over 65s
* the financial services sector (e.g. banks, building societies and insurance companies) is using age limits when deciding what services to offer. For example, a high street bank offers a ‘silver saver’ account for customers over 60, with higher interest rates. However, if they are using age to assess risk, for example only providing car insurance up to age 75 or charging more for insurance as a customer gets older, they would need up to date evidence from a reliable source, which shows that people over a certain age are a greater risk when driving

1. **[Disability discrimination](https://www.equalityhumanrights.com/en/disability-advice-and-guidance)** (<https://www.equalityhumanrights.com/en/disability-advice-and-guidance>) [*back to contents*](#Contents)

The Equality Act 2010 says that you must not be discriminated against because:

* You have a disability.
* Someone thinks you have a particular disability. This is known as discrimination by perception.
* You are connected to someone with a disability. This is known as discrimination by association.

In the Equality Act a disability means a physical or a mental condition which has a substantial and long-term impact on your ability to do normal day to day activities.

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

You are also covered by the Act if you had a disability in the past.

* For example, if you had a mental health condition in the past which lasted for over 12 months, but you have now recovered, you are still protected from discrimination because of that disability.

The Act does not protect non-disabled people from discrimination. So it is not discrimination to treat a disabled person more favourably than someone who is not disabled or someone who does not have the same disability.

* For example, if an employer decides to offer an apprenticeship to a disabled student. People who wanted to have the opportunity to be an apprentice but who are not disabled could not claim that they had been discriminated against.

**What is disability discrimination?**

This is when you are treated differently because of your disability in one of the [situations that are covered by the Equality Act](https://www.equalityhumanrights.com/your-rights/equal-rights/your-rights-under-equality-act-2010/#situ). The treatment could be a one-off action or as a result of a rule or policy. It doesn’t have to be intentional to be unlawful.

There are **six** main types of disability discrimination.

[Direct discrimination](http://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#dd)

This happens when someone treats you worse than another person in a similar situation because of your disability.

* For example, during an interview, a job applicant tells some employers that he has multiple sclerosis. The employers decides not to appoint him even though he’s the best candidate they have interviewed, because they assume he will need a lot of time off sick.

[Indirect discrimination](http://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#id)

Indirect discrimination happens when an organisation has a particular policy or way of working that has a worse impact on people who share your disability compared to people who don’t.

* For example, an employer requires all job applicants to use an online recruitment portal. The portal is not accessible for people with visual impairments and you cannot use screen reading software with it. Unless the employer offered alternative ways for job applicants to apply, this would be indirect discrimination.

Indirect disability discrimination can be permitted if the organisation or employer is able to show that there is a good reason for the policy. This is known as [objective justification.](http://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#oj)

Failure to make reasonable adjustments

Under the Act employers and organisations have a responsibility to make sure that disabled people can access jobs, education and services as easily as non-disabled people. This is the ‘duty to make reasonable adjustments’.

Disabled people can experience discrimination if the employer or organisation doesn’t make a reasonable adjustment. This is known as a ‘failure to make reasonable adjustments’.

* For example, an employee with a mobility impairment needs a parking space close to the office. However, her employer only gives parking spaces to senior managers and refuses to give her a designated parking space.

What is reasonable depends on a number of factors, including how big the organisation making the adjustment is. If an organisation already has a number of parking spaces it would be reasonable for them to designate one close to the entrance for the employee.

Discrimination arising from disability

The Act also protects people from discrimination arising from disability. This protects you from being treated badly because of something connected to your disability, such as having an assistance dog or needing time off for medical appointments. This does not apply unless the person who discriminated against knew you had a disability or ought to have known.

* For example, a private nursery refuses to give a place to a little boy because he is not toilet trained. His parents have told them that he isn’t toilet trained because he has Hirschsprung’s Disease, but they still refuse to give him a place. This is discrimination arising from the little boy’s disability.
* For example, in the workplace if an employer automatically excludes any employee with a high level of sickness absence from receiving a bonus.

But if the organisation or employer can show that there is a good reason for the way they treat you, then it will not be discrimination arising from disability.

* For example, an airline pilot whose eyesight has deteriorated is no longer allowed to fly planes. This is known as [objective justification](http://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#oj).

[Harassment](http://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#har)

Harassment occurs when someone treats you in a way that makes you feel humiliated, offended or degraded.

* E.g. a disabled woman is regularly sworn at and called names by colleagues at work because of her disability.

Harassment can never be justified. However, if an organisation or employer can show it did everything it could to prevent people who work for it from behaving like that, you will not be able to make a claim for harassment against it, although you could make a claim against the harasser.

[Victimisation](http://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#vic)

This is when you are treated badly because you have made a complaint of disability related discrimination under the Equality Act. It can also occur if you are supporting someone who has made a complaint of disability related discrimination.

* For example, an employee has made a complaint of disability discrimination. The employer threatens to sack them unless they withdraw the complaint.

What else does the Act protect me against?

The Act says that employers cannot ask job applicants about their health or disability until they have been offered a job unless certain exceptions apply.

* For example, a job applicant fills in an application form which asks people to state whether they are taking any medication. Unless there is a good reason why the employer needs to know this information, then the question should not be asked.

*Circumstances when being treated differently due to disability is lawful.*

The Act has some exceptions that allow employers or organisations to discriminate because of disability.

There is an exception called an [occupational requirement](http://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#or) which means that an employer can specify that someone needs to have a particular protected characteristic in order to do a job. However, the employer has to show that there is a genuine need for this.

1. **[Gender Reassignment discrimination](https://www.equalityhumanrights.com/en/advice-and-guidance/gender-reassignment-discrimination)**(https://www.equalityhumanrights.com/en/advice-and-guidance/gender-reassignment-discrimination**)**

[*back to contents*](#Contents)

The Equality Act 2010 says that you must not be discriminated against because you are transsexual - that is your gender identity differs from the gender assigned to you at birth.

* For example a person who was born female decides to spend the rest of his life as a man.

In the Equality Act it is known as gender reassignment. All transsexual people share the common characteristic of gender reassignment.

To be protected from gender reassignment discrimination, you do not need to have undergone any specific treatment or surgery to change from your birth sex to your preferred gender. This is because changing your physiological or other gender attributes is a personal process rather than a medical one. You can be at any stage in the transition process – from proposing to reassign your gender, to undergoing a process to reassign your gender, or having completed it.

The Equality Act says that you must not be discriminated against because:

* Of your gender reassignment as a transsexual. You may prefer the description transgender person or trans male or female. A wide range of people are included in the terms ‘trans’ or ‘transgender’ but you are not protected as transgender unless you propose to change your gender or have done so. For example, a group of men on a stag do who put on fancy dress as women are turned away from a restaurant. They are not transsexual so not protected from discrimination.
* Someone thinks you are transsexual, for example because you occasionally cross-dress or are gender variant. This is known as discrimination by perception.
* You are connected to a transsexual person, or someone wrongly thought to be transsexual. This is known as discrimination by association.

Inter-sex people are not explicitly protected from discrimination by the Act, but you must not be discriminated against because of your gender or perceived gender.

* For example, if a woman with an intersex condition is refused entry to a women-only swimming pool because the attendants think her to be a man, this could be [sex discrimination](http://www.equalityhumanrights.com/your-rights/equal-rights/sex-discrimination) or [disability discrimination](http://www.equalityhumanrights.com/your-rights/equal-rights/disability-discrimination).

What is gender reassignment discrimination?

This is when you are treated differently because you are transsexual, in one of the [situations that are covered by the Equality Act](https://www.equalityhumanrights.com/your-rights/equal-rights/your-rights-under-equality-act-2010/#situ). The treatment could be a one-off action or as a result of a rule or policy. It doesn’t have to be intentional to be unlawful.

There are some circumstances when being treated differently due to gender reassignment is lawful, explained below.

There are **four** types of gender reassignment discrimination.

[Direct discrimination](https://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#dd)

This happens when someone treats you worse than another person in a similar situation because you are transsexual.

* For example, you inform employer that you intend to spend the rest of your life living as a different gender. Your employer transfers you off your role against your wishes because they don’t want you to have client contact.

Absences from work

If you are absent from work because of gender reassignment, your employer cannot treat you worse than you would be treated if you were off:

* due to an illness or injury. For example your employer cannot pay you less than you would have received if you were off sick.
* due to some other reason. However in this case it is only discrimination if your employer is acting unreasonably. For example, if your employer would agree to a request for time off for someone to attend their child’s graduation ceremony, then it may be unreasonable to refuse you time off for part of a gender reassignment process. This would include, for example, time off for counselling.

[Indirect discrimination](https://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#id)

Indirect discrimination happens when an organisation has a particular policy or way of working that puts transsexual people at a disadvantage.

Sometimes indirect gender assignment discrimination can be permitted if the organisation or employer is able to show that there is a good reason for the discrimination. This is known as [objective justification](https://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#oj).

* For example a local health authority decides that it will not fund breast implants. As a result the health authority refuses to provide this treatment for a woman undergoing gender reassignment even though she considers it essential to make her look more feminine. The same policy is applied to all women but puts transsexuals at a greater disadvantage. The health authority may be able to justify its policy if it can prove that it has legitimate reasons.

[Harassment](https://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#har)

Harassment is when someone makes you feel humiliated, offended or degraded because you are transsexual.

* For example a transsexual woman is having a drink in a pub with friends. The landlord keeps calling her ‘Sir’ and ‘he’ when serving drinks, despite her complaining about it.

Harassment can never be justified. However, if an organisation or employer can show it did everything it could to prevent people who work for it from behaving like that, you will not be able to make a claim for harassment against it, although you could make a claim against the harasser.

[Victimisation](https://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#vic)

This is when you are treated badly because you have made a complaint of gender reassignment related discrimination under the Equality Act. It can also occur if you are supporting someone who has made a complaint of gender reassignment related discrimination.

* For example, a transsexual is being harassed by a colleague at work. He makes a complaint about the way his colleague is treating him and is sacked.

Circumstances when being treated differently due to gender reassignment is lawful

A difference in treatment may be lawful if:

* An organisation is taking [positive action](https://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#pa) to encourage or develop transsexuals to participate in a role or activity in which they are under-represented or disadvantaged.
* The circumstances fall under one of the exceptions to the Act that allow organisations to provide different treatment or services.
* **Competitive sports:** A sports organisation restricts participation because of gender reassignment. For example, the organisers of a women’s triathlon event decide to exclude a trans woman. They think her strength gives her an unfair advantage. However, the organisers would need to be able to show this was the only way it could make the event fair for everyone.
* A service provider provides **single-sex services**. If you are accessing a service provided for men-only or women-only, the organisation providing it should treat you according to your acquired gender. In very restricted circumstances it is lawful for an organisation to provide a different service or to refuse the service to someone who is undergoing or has undergone gender reassignment.

***Note****: In 2016 a Women and Equalities Committee report made over 30 recommendations calling for government action to ensure full equality for trans people. This included the view that the terms ‘gender reassignment’ and ‘transsexual’ in the Equality Act 2010 are outdated and misleading, something the EHCR fully agree with. The preferred umbrella term is trans. The recommendations in this report should be considered when setting trans policies.*

1. **[Marriage and Civil Partnership discrimination](https://www.equalityhumanrights.com/en/advice-and-guidance/marriage-and-civil-partnership-discrimination)** [*[back to contents](https://www.equalityhumanrights.com/en/advice-and-guidance/marriage-and-civil-partnership-discrimination)*](#Contents)

(https://www.equalityhumanrights.com/en/advice-and-guidance/marriage-and-civil-partnership-discrimination)

The Equality Act says you must not be discriminated against in employment because you are married or in a civil partnership.

In the Equality Act marriage and civil partnership means someone who is legally married or in a civil partnership. Marriage or civil partnership can either be between a man and a woman, or between partners of the same sex.

People do not have this characteristic if they are:

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

What is marriage and civil partnership discrimination?

This is when you are treated differently at work because you are married or in a civil partnership.

There are **three**types of marriage and civil partnership discrimination.

[Direct discrimination](http://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#dd)

This happens when you are treated worse than other workers in your workplace because you are married or in a civil partnership.

* For example, a woman works night shifts in a distribution warehouse but is dismissed when she gets married because her employer thinks a married woman should be at home in the evening.

[Indirect discrimination](http://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/id)

Indirect discrimination happens when an employer has a policy or way of working that puts people who are married or in a civil partnership at a disadvantage.

Such a policy is only permitted if your employer is able to show that there is a good reason for it and if the implementation of the policy is appropriate and necessary. This is known as [objective justification](http://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#oj).

[Victimisation](http://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/vic)

This is when you are treated badly because you have made a complaint of marriage or civil partnership related discrimination. It can also occur if you are supporting someone who has made a complaint of marriage or civil partnership related discrimination.

Circumstances when being treated differently due to marriage or civil partnership is lawful

The Act only protects you from discrimination at work because you are married or in a civil partnership.

In some specified circumstances an employer can refuse to employ you because you are married or in a civil partnership if the work is for the purposes of an organised religion, for example as a Catholic priest.

The harassment provisions that relate to other protected characteristics do not apply to marriage or civil partnership but if you are subjected to hostile, intimidating, humiliating, degrading or offensive treatment because you are married or a civil partner you could bring a claim for [direct discrimination](http://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#dd) if you can show that you have been treated worse than others who are not married/in a civil partnership.

Alternatively, you may be able to bring a claim for [sexual orientation harassment](http://www.equalityhumanrights.com/your-rights/equal-rights/sexual-orientation-discrimination).

1. **Pregnancy & Maternity discrimination** (<https://www.equalityhumanrights.com/en/pregnancy-and-maternity-workplace>) [*back to contents*](#Contents)

What is unlawful pregnancy and maternity discrimination during pregnancy?

* It is unlawful pregnancy discrimination if your employer treats you unfavourably:
	+ because you are pregnant
	+ for a reason related to your pregnancy, or
	+ because you are off work with illness related to your pregnancy.
* It is unlawful maternity discrimination if your employer treats you unfavourably because you are about to go on maternity leave.

For details of employment status and the rights of different types of workers see: <https://www.gov.uk/employment-status>.

For the rights of agency workers see: <https://www.gov.uk/agency-workers-your-rights/maternity-rights-for-agency-workers>.

Who is protected from pregnancy discrimination?

* All employees, casual workers, agency workers, freelancers and self-employed women (who are pregnant) are protected from pregnancy discrimination from the first day of their employment.
* You are also protected when you are applying for a job or attending an interview. Employers are legally required not take into account the fact that you are pregnant, or might become pregnant when making recruitment decisions.

In what situations is pregnancy and maternity discrimination unlawful?

Pregnancy and maternity discrimination is unlawful in the following situations:

* Access to work related benefits and services; you are entitled to all contractual benefits during maternity leave, except pay.
* Access to training and promotion.
* Dismissal.
* Any other disadvantage.

When are you protected from pregnancy discrimination?

For employees entitled to statutory maternity leave, the protection from pregnancy discrimination lasts from the beginning of your pregnancy until the end of your additional maternity leave entitlement, or when you return to work. You are protected from pregnancy discrimination as soon as your employer knows, believes or suspects that you are pregnant. You do not have to tell your employer you are pregnant until 15 weeks before the baby is due to be born. If you are not an entitled to maternity leave, you are protected from when your employer or prospective employer is aware of your pregnancy until two weeks after the end of your pregnancy. This is called the protected period.

Factory workers are prohibited from working for four weeks after giving birth regardless of whether they are entitled to maternity leave. For factory workers not entitled to maternity leave the first two weeks of that period will fall within the ‘protected period’ and they will be protected from pregnancy discrimination. Unfavourable treatment after the ‘protected period’ up to the end of their compulsory four-week absence is likely to be pregnancy and maternity or sex discrimination.

If you do not tell your employer you are pregnant, you will not be able to ask for time off for antenatal appointments or to ask your employer to look at the original risk assessment for your job, to identify if there is anything else your employer needs to do to make sure either you or your baby are not exposed to risk. You will also not be protected from being dismissed or disciplined if you take time off for pregnancy related illness.

What is unfavourable treatment?

Unfavourable treatment is where you are treated badly or poorly (unfavourably is the legal term) because of your pregnancy or pregnancy related illness or because you want to take maternity leave.

Your rights during pregnancy

You must not be treated unfavourably for any of the following reasons;

* You are temporarily unable to do the job for which you are employed whether permanently or on a fixed-term contract [CP4]; because of your pregnancy.
* You are temporarily unable to work because to do so would be a breach of health and safety regulations.
* There are costs to the business of covering your work.
* You are absent due to pregnancy related illness.
* You cannot attend a disciplinary hearing due to morning sickness or other pregnancy-related conditions.
* Your performance at work is affected by morning sickness or other pregnancy-related conditions.

An employer will be acting unlawfully if, because of your pregnancy, or pregnancy related illness they:

* Dismiss you.
* Refuse to recruit you because you are pregnant or on maternity leave.
* Refuse to allow you to take reasonable paid time off to attend antenatal appointments.
* Criticise you for taking time off to attend antenatal appointments.
* Fail to protect your health and safety where there are any risks [//www.hse.gov.uk/mothers/](http://www.hse.gov.uk/mothers/).
* Change or remove your job responsibilities unless:
	+ (i) it is necessary for health and safety reasons
	+ (ii) you agree, or
	+ (iii) to arrange cover just before your maternity leave.
* Discipline you or treat you badly because of pregnancy related illness.
* Exclude you from business trips or refuse to allow you to travel, when it is still safe.
* Refuse to let you have the same training opportunities as other employees.
* Do not consider you for promotion.
* Deny you a pay rise or bonus.
* Treat you unfavourably in another way, for example by ignoring you, or making hurtful comments about your pregnancy or maternity leave.

Other relevant legal provisions include protection from:

* Direct sex discrimination, which is where you are treated less favourably than a man is or would be because you are a woman (not because you are pregnant).
* Indirect sex discrimination which is where an employer applies a provision, criterion or practice to both women and men that puts women at a disadvantage compared to men and is not necessary for the business.
* Victimisation which is where you are disadvantaged because you have made a complaint of discrimination.
* Protection from a detriment (that is a disadvantage) which is where you are disadvantaged because of your pregnancy, maternity leave or other type of family leave.
* Automatic unfair dismissal which is where an employee is dismissed because she is pregnant or is taking, will take, or has taken a type of family leave. The usual rule that an employee has to have two years' employment before they can claim unfair dismissal does not apply to automatically unfair dismissals. For more information on unfair dismissal: <https://www.gov.uk/dismiss-staff/unfair-dismissals>.

What is unlawful maternity discrimination?

Unlawful maternity discrimination is discrimination that relates to an employee’s maternity leave.

There are three types of maternity leave:

* **compulsory maternity leave:** two weeks immediately after the birth, which all employees entitled to maternity leave must take
* **ordinary maternity leave:** the first 26 weeks of leave, including the compulsory maternity leave period
* **additional maternity leave:** a further 26 weeks of leave

 It is unlawful maternity discrimination if you are treated unfavourably because:

* you are on compulsory maternity leave
* you are taking or are trying to take ordinary or additional maternity leave
* you have taken or tried to take ordinary or additional maternity leave

There is also shared parental leave: leave of up to 50 weeks, which can be shared by parents (who are eligible employees).

Find out more about [shared parental leave on GOV.UK](https://www.gov.uk/shared-parental-leave-and-pay/overview).

If you are not sure whether taking shared parental leave is the right choice for you should seek advice.

To take shared parental leave you must bring your maternity leave to an end. The law is unclear as to whether unfavourable treatment because you took shared parental leave will count as maternity discrimination, although you must not be disadvantaged or dismissed for taking, looking to take, or your employer believes you are likely to take shared parental leave.

Who is protected from maternity discrimination?

Only **employees** are entitled to ordinary and additional maternity leave, so it is only employees who are protected from being treated unfavourably for taking ordinary and additional maternity leave.

Only **employees** are required to take compulsory maternity leave, so it is only employees who are able to claim maternity discrimination if treated unfavourably while on compulsory maternity leave.

What if I am not entitled to maternity leave?

Workers and job applicants not entitled to maternity leave are protected from pregnancy discrimination throughout their pregnancy and for two weeks immediately after their pregnancy ends. After that ‘protected period’ a worker (not entitled to maternity leave) who is treated less favourably than another worker because she has taken time off following the birth of her baby may be able to claim sex discrimination.

Factory workers are prohibited from working for four weeks after giving birth regardless of whether they are entitled to maternity leave. For factory workers not entitled to maternity leave the first two weeks of that period will fall within the ‘protected period’ and they will be protected from pregnancy discrimination. Unfavourable treatment after the ‘protected period’ up to the end of their compulsory four-week absence is likely to be pregnancy and maternity or sex discrimination.

When are you protected from maternity discrimination?

It is maternity discrimination to treat you unfavourably when you are on compulsory maternity leave.

It is maternity discrimination if you are treated unfavourably because of your ordinary or additional maternity leave, even if the treatment happens after that maternity leave has come to an end. For example, if your job is changed unfavourably on your return from leave because you have been on maternity leave, this would be unlawful maternity discrimination. This is different to protection from when pregnancy discrimination applies.

What is unfavourable treatment?

Unfavourable treatment is where you are treated badly (unfavourably is the legal term) because of taking, trying to take or having taken maternity leave. Some examples are where you are:

* dismissed
* made redundant; for example failing to consult you because you were on maternity leave, disadvantaging you in the selection process, not offering you suitable available work
* not promoted
* not offered training and this meant that you were not able to get a pay rise or move to the next level
* not told about suitable job opportunities
* not consulted about a re-organisation, which affects your job in a detrimental way
* denied the right to return to the same job or have some of your responsibilities taken away
* not considered for promotion because you took your full maternity leave, so are not seen as committed to the job

In some situations you may need to be treated more favourably by your employer to remove any disadvantages you might suffer because of being on leave.

Returning to work after leave

You are entitled to return to the same job during or at the end of 26 weeks (ordinary maternity leave). If you return during or at the end of more than 26 weeks (additional maternity leave) and your employer can show it is not reasonably practicable for you to return to the same job you must be offered a suitable alternative job.

You can also choose to end your maternity leave or pay, from two weeks after the birth, so that you can share the remaining leave with the child’s father or your partner. This is called shared parental leave. For employees who take shared parental leave the right to return to the same job, (or, if this is not possible, a suitable alternative job after leave of more than 26 weeks), is the same as returning after maternity leave.

See the [ACAS guidance on shared parental leave and pay](http://www.acas.org.uk/index.aspx?articleid=4911).

Flexible working requests

You can ask to return to work on a different working pattern. If you make a formal request under the flexible working procedure set out in the [ACAS code of practice on handling requests to work flexibly (PDF)](http://www.acas.org.uk/media/pdf/f/e/Code-of-Practice-on-handling-in-a-reasonable-manner-requests-to-work-flexibly.pdf), your employer must consider any request carefully, following the ACAS code. Refusal of a request, where this is not justified by business needs, may be indirect sex discrimination.

Unlawful maternity discrimination is discrimination that relates to an employee’s maternity leave. There are three types of maternity leave:

* Compulsory maternity leave, which is two weeks immediately after the birth which all employees entitled to maternity leave must take.
* Ordinary maternity leave, which is the first 26 weeks of leave, including the compulsory maternity leave period.
* Additional maternity leave, which is a further 26 weeks of leave.

It is unlawful maternity discrimination if you are treated unfavourably because:

* you are on compulsory maternity leave
* you are taking or are trying to take ordinary or additional maternity leave, and
* you have taken or tried to take ordinary or additional maternity leave.

In addition, there is shared parental leave where the expected week of childbirth is on or after 5 April 2015. This is leave of up to 50 weeks, which can be shared by parents (who are eligible employees). <https://www.gov.uk/shared-parental-leave-and-pay/overview>.

If you are not sure whether taking shared parental leave is the right choice for you should seek advice.

To take shared parental leave you must bring your maternity leave to an end. The law is unclear as to whether unfavourable treatment because you took shared parental leave will count as maternity discrimination, although you must not be disadvantaged or dismissed for taking, seeking to take, or because your employer believes you are likely to take shared parental leave.

Who is protected from maternity discrimination?

Only **employees** are entitled to ordinary and additional maternity leave so it is only employees who are protected from being treated unfavourably for taking ordinary and additional maternity leave.

Only **employees** are required to take compulsory maternity leave so it is only employees who are able to claim maternity discrimination if treated unfavourably while on compulsory maternity leave.

What if I am not entitled to maternity leave?

Workers and job applicants not entitled to maternity leave are protected from pregnancy discrimination throughout their pregnancy and for two weeks immediately after their pregnancy ends. After that ‘protected period’ a worker (not entitled to maternity leave) who is treated less favourably than another worker because she has taken time off following the birth of her baby may be able to claim sex discrimination.

Factory workers are prohibited from working for four weeks after giving birth regardless of whether they are entitled to maternity leave. For factory workers not entitled to maternity leave the first two weeks of that period will fall within the ‘protected period’ and they will be protected from pregnancy discrimination.  Unfavourable treatment after the ‘protected period’ up to the end of their compulsory four-week absence is likely to be pregnancy and maternity or sex discrimination.

Your rights during ordinary and additional maternity leave

Your employer is legally required to allow you the benefit of your terms and conditions (except pay) during your maternity leave. This includes, for example:

* Accruing holiday entitlement. If you take one year’s maternity leave you are entitled to your holiday entitlement for the year, which can be taken at a time agreed with your employer.
* Full pension contributions for the period of paid leave, which is likely to be 39 weeks of statutory maternity pay (SMP); your employer’s contributions are based on your normal pay but your contributions are based on your actual income during leave.
* Participation in share ownership scheme.
* Membership of a health club.
* Reimbursement of professional subscriptions.
* Health and life insurance.
* Use of company car, unless it is for business use only.
* Use of mobile phone and laptop unless it is for business use only.
* The benefit of any pay rise due during the maternity leave period.

Special provision for a woman on maternity leave

In some situations your employer must treat you more favourably to remove any disadvantages you might suffer because of being on maternity leave. Special provision for a woman in connection with her pregnancy, childbirth or maternity leave is not sex discrimination against a man provided that the action an employer takes does not go beyond what is necessary to rectify her disadvantage. For example, when carrying out a performance assessment exercise based on meeting annual targets an employer must find a proportionate way to adjust the scoring to compensate for the fact that a woman’s score would otherwise be lower because she was on maternity leave for part of the period being assessed.

Contact during maternity leave

Your employer may, and in some situations must, contact you during your maternity leave. For example, your employer must contact you to consult you about redundancies, job opportunities and access to training or promotion. It is advisable to discuss what level and type of contact you want before you go on maternity leave.  For example you may want continued access to your employer’s intranet, copies of notes from relevant meetings, access to email.

Keeping in touch (KIT) days

You can work up to 10 days during maternity leave, if you and your employer agree, without it affecting your statutory maternity pay. Your employer is not legally required to pay you for these days but it is good practice to do so. It is best to check with your employer what work you will be doing and what you will be paid. <https://www.gov.uk/employee-rights-when-on-leave>.

If you take shared parental leave (SPL) you can work up to 20 days during your SPL, with your employer’s agreement, and these should be paid. For information about SPL see:

[https://www.gov.uk/shared-parental-leave-and-pay/starting-shared-parental-leave](https://www.gov.uk/employee-rights-when-on-leave).

Other relevant laws

* **direct sex discrimination**: where you are treated less favourably than a man because you are a woman (not because you have been on maternity leave). For example, where a woman taking shared parental leave is treated less favourably than a man taking it
* **indirect sex discrimination:** where an employer applies a clause, standard or practice to both women and men that puts women at a particular disadvantage and it is not necessary for the business (this occurs most commonly where a woman is refused flexible working)
* **victimisation:**where you are disadvantaged because you have made a complaint of discrimination
* **protection from a detriment (that is a disadvantage):**where you are disadvantaged because of your pregnancy, maternity leave or other type of family leave
* **automatic unfair dismissal:**where you are dismissed because you are pregnant or taking, will take, or have taken a type of family leave. The usual rule that an employee has to have two years' employment before they can claim unfair dismissal does not apply to automatically unfair dismissals, which you can claim from day one. See [guidance on unfair dismissals on GOV.UK](https://www.gov.uk/dismiss-staff/unfair-dismissals)
* **unfair dismissal:**after two years employment with the employer, you can claim if there is no ‘fair’ reason for your dismissal or there has been an unfair dismissal procedure. See [guidance on unfair dismissals on GOV.UK](https://www.gov.uk/dismiss-staff/unfair-dismissals)

1. **[Race discrimination](https://www.equalityhumanrights.com/en/advice-and-guidance/race-discrimination)** (<https://www.equalityhumanrights.com/en/advice-and-guidance/race-discrimination>) [*back to contents*](#Contents)

The Equality Act 2010 says you must not be discriminated against because of your race.

In the Equality Act race can mean your colour, or your nationality (including your citizenship). It can also mean your ethnic or national origins, which may not be the same as your current nationality. For example, you may have Chinese national origins and be living in Britain with a British passport.

Race also covers ethnic and racial groups. This means a group of people who all share the same protected characteristic of ethnicity or race.

A racial group can be made up of two or more distinct racial groups, for example black Britons, British Asians, British Sikhs, British Jews, Romany Gypsies and Irish Travellers.

You may be discriminated against because of one or more aspects of your race, for example people born in Britain to Jamaican parents could be discriminated against because they are British citizens, or because of their Jamaican national origins.

What is race discrimination?

This is when you are treated differently because of your race in one of the [situations that are covered by the Equality Act](https://www.equalityhumanrights.com/your-rights/equal-rights/your-rights-under-equality-act-2010/#situ). The treatment could be a one-off action or as a result of a rule or policy based on race. It doesn’t have to be intentional to be unlawful.

There are some circumstances when being treated differently due to race is lawful, explained below.

There are **four** main types of race discrimination.

[Direct discrimination](https://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#dd)

This happens when someone treats you worse than another person in a similar situation because of your race.

* For example, if a letting agency would not let a flat to you because of your race, this would be direct race discrimination.

[Indirect discrimination](https://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#id)

This happens when an organisation has a particular policy or way of working that puts people of your racial group at a disadvantage.

* For example, a hairdresser refuses to employ stylists that cover their own hair. This would put any Muslim women or Sikh men who cover their hair at a disadvantage when applying for a position as a stylist.

Sometimes indirect race discrimination can be permitted if the organisation or employer is able to show to show that there is a good reason for the discrimination. This is known as objective justification.

* For example, a Somalian asylum seeker tries to open a bank account but the bank states that in order to be eligible you need to have been resident in the UK for 12 months and have a permanent address. The Somalian man is not able to open a bank account. The bank would need to prove that its policy was necessary for business reasons (such as to prevent fraud) and that there was no practical alternative.

[Harassment](https://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#har)

Harassment occurs when someone makes you feel humiliated, offended or degraded.

* For example a young British Asian man at work keeps being called a racist name by colleagues. His colleagues say it is just banter, but the employee is insulted and offended by it.

Harassment can never be justified. However, if an organisation or employer can show it did everything it could to prevent people who work for it from behaving like that, you will not be able to make a claim for harassment against it, although you could make a claim against the harasser.

[Victimisation](https://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#vic)

This is when you are treated badly because you have made a complaint of race related discrimination under the Equality Act. It can also occur if you are supporting someone who has made a complaint of race related discrimination.

* For example the young man in the example above wants to make a formal complaint about his treatment. His manager threatens to sack him unless he drops the complaint.

Circumstances when being treated differently due to race is lawful

A difference in treatment may be lawful in employment situations if:

* Belonging to a particular race is essential for the job. This is called an occupational requirement. For example, an organisation wants to recruit a support worker for a domestic violence advice service for South Asian women. The organisation can say that it only wants to employ someone with South Asian origins.
* An organisation is taking positive action to encourage or develop people in a racial group that is under-represented or disadvantaged in a role or activity. For example, a broadcaster gets hardly any applicants for its graduate recruitment programme from Black Caribbean candidates. It sets up a work experience and mentoring programme for Black Caribbean students to encourage them into the industry.

1. **[Religion or Belief discrimination](https://www.equalityhumanrights.com/en/religion-or-belief-workplace)** (<https://www.equalityhumanrights.com/en/religion-or-belief-workplace>) [*back to contents*](#Contents)

The Equality Act 2010 says you must not be discriminated against because:

* You are (or are not) of a particular religion.
* You hold (or do not hold) a particular philosophical belief.
* Someone thinks you are of a particular religion or hold a particular belief. (discrimination by perception.)
* You are connected to someone who has a religion or belief. (discrimination by association.)

In the Equality Act religion or belief can mean any religion, for example an organised religion like Christianity, Judaism, Islam or Buddhism, or a smaller religion like Rastafarianism or Paganism, as long as it has a clear structure and belief system.

The Act also covers non-belief or a lack of religion or belief.

* For example the Act protects Christians if they are discriminated against because of their Christian beliefs. The Act also protects people of other religions and those with no religion if they are discriminated against because of their beliefs.

What qualifies as a philosophical belief?

The Act says that a philosophical belief must be genuinely held and more than an opinion. It must be cogent, serious and apply to an important aspect of human life or behaviour.

* For example, an employee believes strongly in man-made climate change and feels that they have a duty to live their life in a way which limits their impact on the earth to help save it for future generations. This would be classed as a belief and protected under the Act.

The Act also says that a belief must also be worthy of respect in a democratic society and not affect other people’s fundamental rights.

* For example, an employee believes that white people are a superior race to others and tells their colleagues so. This would not be classed as a belief protected under the Act.

What is religion or belief discrimination?

This is when you are treated differently because of your religion or belief in one of the [situations that are covered by the Equality Act](https://www.equalityhumanrights.com/your-rights/equal-rights/your-rights-under-equality-act-2010/#situ). The treatment could be a one-off action or as a result of a rule or policy. It doesn’t have to be intentional to be unlawful.

There are some circumstances when being treated differently due to religion or belief is lawful, explained below.

There are **four** main types of religion or belief discrimination.

[Direct discrimination](http://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#dd)

This happens when someone treats you worse than another person in a similar situation because of your religion or belief.

* For example, a bank refuses you a loan because you're Jewish.

Discrimination can occur even where both the discriminator and the person being discriminated against hold the same religious or philosophical belief.

* For example a Hindu businessman interviews two women for a job as his personal assistant.  One is Hindu and the other is not religious. The Hindu woman is the best candidate at interview but he gives the job to the other woman because he thinks his clients (who are mainly Christian or have no religion or belief) will prefer it. This is direct discrimination because of religion or belief.

[Indirect discrimination](http://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#id)

Indirect discrimination happens when an organisation has a particular policy or way of working that applies to everyone but which puts you at a disadvantage because of your religion or belief.

* For example, you are Jewish and you finish early on Fridays in order to observe the Sabbath. Your manager has changed the weekly team meetings from Wednesday afternoons to Friday afternoons and you are therefore often absent.

Indirect religion or belief discrimination can be permitted but the organisation or employer must be able to show that the policy or way of working is necessary for the way the business operates. This is known as [objective justification](http://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#oj).

Can I object to a workplace dress code or uniform policy that is against my religion?

Everyone has a human right to manifest their religion or belief under the European Convention on Human Rights. That means you have the right to wear particular articles of clothing or symbols to show that you have a particular religion or belief at your workplace, even if other people of your religion don’t.

* For example some people wear a crucifix to show they are Christians, but not all Christians do.

However because that human right is a qualified right an employer can prevent you from wearing particular articles of clothing or symbols if it is necessary for the role you are doing.

* For example, a teacher is asked to stop wearing a floor length garment because it is a trip hazard. If this is necessary to protect health and safety in the workplace and there is no practical alternative, this may be justified.
* For example, a Sikh man works in food preparation. His employer has a policy that no headgear can be worn and staff must use hair nets. This would not be justified if there was a practical alternative that met the business’s health and safety requirements, such as wearing a new or freshly washed turban for each shift.

[Harassment](http://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#har)

Harassment in the workplace occurs when someone makes you feel humiliated, offended or degraded.

Harassment can never be justified. However, if an organisation or employer can show it did everything it could to prevent people who work for it from behaving like that, you will not be able to make a claim for harassment against it, although you could make a claim against the harasser.

The rules about Harassment don’t apply outside the workplace. However, if you are harassed or receive offensive treatment because of religion or belief outside the workplace this may be direct discrimination.

* For example, a Muslim man visits his local takeaway regularly. Every time he goes in, one of the staff makes comments about him being a terrorist. He finds this offensive and upsetting.

[Victimisation](http://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#vic)

This is when you are treated badly because you have made a complaint of religion or belief related discrimination under the Equality Act. It can also occur if you are supporting someone who has made a complaint of religion or belief related discrimination.

* For example, a woman at work has been harassed by a supervisor because she wears a hijab. Her co-worker saw this happen and is supporting her harassment claim. The co-worker is threatened with the sack. This would be victimisation because the co-worker is supporting her colleague’s claim of harassment.

Circumstances when being treated differently due to religion or belief is lawful

A difference in treatment may be lawful in employment situations if:

* Belonging to a particular religion is essential for the job. This is called an [occupational requirement](http://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#or). For example: a prison chaplain serving Methodist prisoners may need to be a member of that faith.
* An organisation is taking [positive action](http://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#pa) to encourage or develop a group of people with a religion or belief that is under-represented or disadvantaged in a role or activity.
* A faith school appoints some of their teaching staff on the basis of their religion.
* An organisation with an ethos based on religion or belief is restricting a job opportunity to people of their religion or belief. For example, a Humanist organisation which promotes Humanist principles and beliefs could specify that their Chief Executive must be a Humanist. However restricting a job opportunity to people of a certain religion or belief is not lawful unless the nature or context of the work demands it.
* The circumstances fall under one of the other exceptions to the Act that allow employers to provide different treatment or services based on religion or belief.

A difference in treatment may be lawful in situations outside the workplace such as if:

* A faith school is using religious criteria to give priority in admissions to children from a particular religion.
* A religious or belief organisation is restricting its membership or participation in its activities, or the provision of goods, facilities and services to persons of a particular religion or belief. This only applies to organisations whose purpose is to practice, promote or teach a religion or belief, whose sole or main purpose is not commercial.
* A restriction can only be imposed:
- if the purpose of the organisation is to provide services to one religion or belief or
- if it is necessary to avoid causing offence to persons with the same religion or belief as the organisation.
* An organisation is taking [positive action](http://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#pa) to encourage or develop a group of people with a religion and belief that is under-represented or disadvantaged in an activity.
* The circumstances fall under one of the other exceptions to the Act that allow organisations to provide different treatment or services based on religion or belief.

If you believe you have been discriminated against you can check in one of our [Codes of Practice](https://www.equalityhumanrights.com/legal-and-policy/legislation/equality-act-2010/equality-act-guidance-codes-practice-and-technical-guidance) to see whether any other exceptions apply.

1. **[Sex discrimination](https://www.equalityhumanrights.com/en/advice-and-guidance/sex-discrimination)** (<https://www.equalityhumanrights.com/en/advice-and-guidance/sex-discrimination>) [*back to contents*](#Contents)

The Equality Act 2010 says you must not be discriminated against because

* You are (or are not) a particular sex.
* Someone thinks you are the opposite sex. This is known as discrimination by perception.
* You are connected to someone of a particular sex. This is known as discrimination by association.

In the Equality Act sex can mean either male or female, or a group of people like men or boys, or women or girls.

What is sex discrimination?

This is when you are treated differently because of your sex in one of the [situations that are covered by the Equality Act](https://www.equalityhumanrights.com/your-rights/equal-rights/your-rights-under-equality-act-2010/#situ). The treatment could be a one-off action or as a result of a rule or policy based on sex. It doesn’t have to be intentional to be unlawful.

There are some circumstances when being treated differently due to sex is lawful, explained below.

There are **four** main types of sex discrimination.

[Direct discrimination](https://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/dd)

This happens when, because of your sex, someone treats you worse than someone of the opposite sex who is in a similar situation.

* For example, a nightclub offers free entry to women but charges men to get in.

[Indirect discrimination](https://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#id)

Indirect discrimination happens when an organisation has a particular policy or way of working that applies in the same way to both sexes but which puts you at a disadvantage because of your sex.

* For example, an employer decides to change shift patterns for staff so that they finish at 5 pm instead of 3pm. Female employees with caring responsibilities could be at a disadvantage if the new shift pattern means they cannot collect their children from school or childcare.

Indirect sex discrimination can be permitted if the organisation or employer is able to show that there is a good reason for the policy. This is known as objective justification.

[Harassment](https://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#har)

There are **three types**of harassment relating to sex.

The **first** type is the same for all of the protected characteristics.

This is when someone makes you feel humiliated, offended or degraded.

* For example, a manager makes comments that there is no point promoting women because they go off to have children. Even though he doesn't direct these comments at a particular female employee, one of his staff is very upset by this and worries about her career. This could be considered harassment.

The **second** type of harassment is called sexual harassment. This is when someone makes you feel humiliated, offended or degraded because they treat you in a sexual way.

This is known as 'unwanted conduct of a sexual nature' and covers verbal and physical treatment, like sexual comments or jokes, touching, or assault. It also covers sending emails of a sexual nature, or putting up pornographic pictures.

* For example, a university lecturer makes sexual jokes to one of his female students and implies that she will pass her exams if she sleeps with him.

The **third** type of harassment is when someone treats you unfairly because you refused to put up with sexual harassment.

* For example, a manager invites one of his female employees home after they have been out for a drink. She declines. A couple of weeks later she is turned down for a promotion. She believes this is because she turned down her boss's proposition.

It can also cover unfair treatment even if you had previously accepted sexual conduct.

* For example, the employee above did have a brief relationship with her boss. After it ended, she applied for a promotion but was turned down. She believes this is because the relationship with her manager had ended.

Harassment can never be justified. However, if an organisation or employer can show it did everything it could to prevent people who work for it from behaving like that, you will not be able to make a claim for harassment against it, although you could make a claim against the harasser.

[Victimisation](https://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#vic)

This is when you are treated badly because you have made a complaint of sex related discrimination under the Equality Act. It can also occur if you are supporting someone who has made a complaint of sex discrimination.

* For example, a male colleague is helping a female co-worker with their claim of sex discrimination and makes a statement at an Employment Tribunal. The male colleague is then sacked or treated badly by their employer. This is victimisation because of sex.

Circumstances when being treated differently due to sex is lawful

The Act has some exceptions that allow employers or organisations to discriminate because of your sex.

A difference in treatment may be lawful if:

* Being a particular sex is essential for a job. This is called an [occupational requirement](https://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#or). This includes some jobs which require someone of a particular sex for reasons of privacy and decency or where personal services are provided. For example: a gym could employ a changing room attendant that is the same sex as the users of that room. Similarly a women's refuge that only provides services to women could require its staff to be women.
* An organisation is taking [positive action](https://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#pa) to encourage or develop people of a sex that is under-represented or disadvantaged in a role or activity. For example: An engineering firm places a job advert for a trainee engineer stating that applications from women are welcome. This is because women are currently under-represented in the engineering industry.

Other exceptions

The **armed forces** can refuse to employ a woman, or limit her access to training or promotion if it means they can ensure the **combat effectiveness** of the armed forces.

In **competitive sports** the organisers can hold separate events for men and women because the differences in stamina, strength and physique would otherwise make the competition unfair.

There are several situations in which an organisation can lawfully provide **single sex services**. In all circumstances they must be able to justify it.

* For example, offering a women-only support service to women victims of domestic violence is likely to be justifiable even if there is no parallel service for men due to insufficient demand.

A religious organisation can sometimes restrict employment to one sex if the role is for religious purposes.

* For example, an orthodox synagogue can require its rabbi to be a man.

1. **[Sexual Orientation discrimination](https://www.equalityhumanrights.com/en/advice-and-guidance/sexual-orientation-discrimination)** (<https://www.equalityhumanrights.com/en/advice-and-guidance/sexual-orientation-discrimination>) [*back to contents*](#Contents)

The Equality Act 2010 says you must not be discriminated against because

* You are heterosexual, gay, lesbian or bisexual.
* Someone thinks you have a particular sexual orientation. This is known as discrimination by perception.
* You are connected to someone who has a particular sexual orientation. This is known as discrimination by association.

In the Equality Act sexual orientation includes how you choose to express your sexual orientation, such as through your appearance or the places you visit.

What is sexual orientation discrimination?

This is when you are treated differently because of your sexual orientation in one of the [situations that are covered by the Equality Act](https://www.equalityhumanrights.com/your-rights/equal-rights/your-rights-under-equality-act-2010/#situ). The treatment could be a one-off action or as a result of a rule or policy based on sexual orientation. It doesn’t have to be intentional to be unlawful.

There are some circumstances when being treated differently due to sexual orientation is lawful, explained below.

There are **four** main types of sexual orientation discrimination.

[Direct discrimination](https://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#dd)

This happens when someone treats you worse than another person in a similar situation because of your sexual orientation.

* For example, at a job interview, a woman makes a reference to her girlfriend. The employer decides not to offer her the job, even though she is the best candidate they have interviewed.
* For example, a hotel owner refuses to provide a double bedroom to two men.

[Indirect discrimination](https://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#id)

Indirect discrimination happens when an organisation has a particular policy or way of working that applies to everyone but which puts people of your sexual orientation at a disadvantage.

Indirect discrimination can be permitted if the organisation or employer is able to show that there is a good reason for the policy. This is known as [objective justification](https://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#id).

[Harassment](https://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#har)

Harassment in the workplace occurs when someone makes you feel humiliated, offended or degraded.

* For example colleagues keep greeting a male worker by the feminine version of his name although he has asked them to use his proper name. The colleagues say this is just banter but the worker is upset and offended by it.

Harassment can never be justified. However, if an organisation or employer can show it did everything it could to prevent people who work for it from behaving like that, you will not be able to make a claim for harassment against it, although you could make a claim against the harasser.

Outside the workplace, if you are harassed or receive offensive treatment because of your sexual orientation, this may be direct discrimination.

[Victimisation](https://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#vic)

This is when you are treated badly because you have made a complaint of sexual orientation related discrimination under the Equality Act. It can also occur if you are supporting someone who has made a complaint of sexual orientation related discrimination under the Act.

* For example a gay worker complains that he has been 'outed' by his manager against his wishes and his employer sacks him.

Circumstances when being treated differently due to sexual orientation is lawful

A difference in treatment may be lawful if:

* Belonging to a particular sexual orientation is essential for a job. This is called an [occupational requirement](https://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#or). For example, an employer wants to recruit an advice worker who has experience of coming out for a young person's LGBT helpline. The employer can specify that applicants must be lesbian or gay.
* An organisation is taking [positive action](https://www.equalityhumanrights.com/your-rights/equal-rights/commonly-used-terms-equal-rights/#pa) to encourage or develop gay, lesbian or bisexual people to participate in a role or activity.
* The treatment by an employer or organisation falls within one of the exceptions that permits people to be treated differently based on their sexual orientation. For example, a charity can provide a benefit only to lesbians and gay men in certain circumstances.
* A religious or belief organisation is excluding persons of a particular sexual orientation from its membership or participation in its activities, or its provision of goods, facilities and services. This only applies to organisations whose purpose is to practice, promote or teach a religion or belief, whose sole or main purpose is not commercial. The restrictions they impose must be necessary either to comply with the doctrine of the organisation, or to avoid conflict with the ‘strongly held religious convictions’ of the religion’s followers.

**Political Beliefs and the Equality Act 2010** [*back to contents*](#Contents)

The Equality Act 2010 ("the Act") prohibits direct discrimination, indirect discrimination, victimisation and harassment in the workplace in respect of religion, religious belief and philosophical belief (or lack of such beliefs).

However, the scope of "philosophical belief" has been the subject of numerous cases, and what has been relatively unclear is whether a political belief amounts to a philosophical belief for the purpose of bringing a discrimination claim under the Act. Indeed, prior to the Act coming into force, a government spokesperson stated that the Act was not intended to cover political beliefs.

When considering the scope of the Act, it had previously been held by the Employment Appeal Tribunal that a philosophical belief was one which:

* is genuinely held
* is a belief not an opinion or viewpoint
* is in relation to a weighty and substantial aspect of human life and behaviour
* attains a certain level of cogency, seriousness, cohesion and importance
* is worthy of respect in a democratic society but need not "allude to a fully-fledged system of thought"

The EAT further stated that while mere support of a political party would not qualify as a philosophical belief, a belief in a political philosophy or doctrine might amount to one.

A recent Employment Tribunal judgment has given some further guidance as to what amounts to a philosophical belief in the context of political views. In Olivier v Department of Work and Pensions, an employee who had strong ties to the Labour Party and a belief in "democratic socialism" was entitled to bring a discrimination claim on the basis that this amounted to a philosophical belief.

Mr Olivier worked for the DWP. He was elected as a Labour councillor during the course of his employment, and subsequently had a letter published in a local newspaper which criticised the government's taxation and benefits policies.

Allegedly as a result of this action, he was dismissed and raised a claim for unfair dismissal and a claim that he had been directly discriminated against on the grounds of a philosophical belief, namely his affiliation with the Labour party. He was of the view that the Labour party enshrined "democratic socialism" and that this was a set of core values by which he chose to live his life. Therefore, such belief, it was claimed, fell within the terms of the Act.

At a Preliminary Hearing, the employment tribunal held that this belief was one which was genuinely held; was worthy of respect in a democratic society; and it was not one which conflicted with the fundamental rights of others.

Mr Olivier's interest in the Labour party was more than a passing one - he was not simply supporting the party given his involvement with the party and his strong connection with its history. Mr Olivier was therefore allowed to continue with his claim to a full hearing to determine whether he was subject to discrimination.

As this is a tribunal decision and not a decision of an appellate court, it is not binding on other tribunals. Nor did the tribunal go so far as to say that membership or support of a political party itself will give rise to a 'philosophical belief'.

What it seems to suggest is that it is the nature of the employee's political affiliation and whether they strongly identify with the party's values (for example, through heavy involvement in party activity) will be taken into consideration when determining if there is a philosophical belief for the purposes of the Equality Act.

However, it does provide a well-timed warning to employers. Despite the decision not being a binding one, it may prove to be persuasive to other tribunals determining similar matters and, as such, with the Scottish Independence Referendum due to take place later in the year, employers must remember that workers who have strong political views may be protected under the Equality Act 2010.

Furthermore, it is useful to note here the recent change (further to the case of Redfearn v United Kingdom in the European Court of Human Rights) that the usual unfair dismissal qualifying period of 2 years has been removed by

The Enterprise and Regulatory Reform Act 2013 in cases where the reason, or principal reason, for the dismissal:

 *"is, or relates to, the employee's political opinions or affiliation".*

Again, this raises important considerations to be taken into account by employers when dismissing someone for reasons potentially in relation to their political views.

**What "positive action" is permitted under discrimination legislation?** [*back to contents*](#Contents)

It is lawful under s.158 of the Equality Act 2010 for an employer to take action to compensate for disadvantages that it reasonably believes are faced by people who share a particular protected characteristic (ie age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation). Separate provisions allowing positive action in relation to recruitment and promotion in limited circumstances are contained in s.159 of the Act.

Positive action is lawful if it is taken to:

* enable or encourage people who share a protected characteristic to overcome a disadvantage connected to the characteristic;
* meet the needs of people who share a protected characteristic where those needs are different to those of people who do not have the characteristic; or
* enable or encourage people who share a protected characteristic to participate in an activity in which their participation is disproportionately low.

The employer *can encourage* people from *disadvantaged groups* to apply for work, and can provide training to help equip them for the particular work, but the decision on *whom to select must be made on merit alone,* except in circumstances where the candidates are "as qualified as" each other and s.159 applies.

*For example*, an employer that has records that show that its employees from a particular racial group are under-represented at management level could run a management training course targeted at employees from that group. However, the employer could not favour candidates from that group, at the expense of other candidates, when recruiting managers (unless s.159 applies).

Section 159 of the Equality Act 2010 allows an employer to treat an applicant or employee with a protected characteristic (eg race, sex or age) *more favourably* in connection with recruitment or promotion than someone without that characteristic who is *as qualified* for the role. The employer must *reasonably think* that people with the protected characteristic suffer a disadvantage or are under-represented in that particular activity. Taking the positive action *must be a proportionate means* of enabling or encouraging people to overcome the disadvantage or to take part in the activity.

Employers *must not* have a policy of treating people who share a characteristic more favourably; they should decide whether or not to take positive action on a case-by-case basis.

The position in relation to positive action in favour of *disabled people is different* because it is *not unlawful* to discriminate in favour of a disabled person (s.13[3]) and employers have a positive duty to make reasonable adjustments to compensate for disadvantages related to disability.

**Transgender Names, Pronouns and Titles** [*back to contents*](#Contents)

When describing, referring to, or talking to transgender individuals, please use the correct term or terms to describe their gender identity and understand the person’s Names, Pronouns and Titles.

For example, a person who was assigned male at birth and transitions to living as a woman is a transgender woman, whereas a person who was assigned female at birth and transitions to living as a man is a transgender man. If someone prefers a different term, use it along with an explanation of what that term means to them.

Avoid pronoun confusion when examining the stories and backgrounds of transgender people prior to their transition. Ideally a story will not use pronouns associated with an individual’s sex assigned at birth when referring to the person’s life prior to transition. Try to write or tell a transgender person’s stories from the present day, instead of narrating them from some point in the past, thus avoiding confusion and potentially disrespectful use of incorrect pronouns.

It is commonly accepted that using the singular “they” to describe people who “identify as neither male nor female.” It is increasingly common for people who have a nonbinary gender identity to use they/them as their pronoun.

**Always use a transgender person's chosen name.**

Many transgender people are able to obtain a legal name change from a court. However, some transgender people cannot afford a legal name change or are not yet old enough to legally change their name. They should be afforded the same respect for their chosen name as anyone else who uses a name other than their birth name (e.g., celebrities).

#### Using the pronouns and titles that matches a person's gender identity.

A person who identifies as a certain gender, whether or not that person has taken hormones or undergone surgery, should be referred to using the pronouns appropriate for that gender. If you are not certain which pronoun to use, ask the person, “What pronouns do you use?”

As well as pronouns then the person’s title, such as; “Mr”, “Mrs”, “Miss” and “Ms” together with “Sir”, “Madam”, “Ladies”, “Gentlemen” etc… should also be understood and respected.

It is not appropriate to refer to a person’s pronouns as “preferred” – they don’t prefer pronouns, those are their pronouns.  It can be extremely disrespectful to misgender someone or to use incorrect pronouns and titles.

#### What if you don't know?

If it is not possible to ask a transgender person which pronoun they use, use the pronoun that is consistent their gender expression or if in doubt use the singular form of they.

For example, if a person wears a dress and uses the name Susan, feminine pronouns are usually appropriate, but never assume. It is also acceptable to use the singular they to describe someone when you don’t wish to assign a gender. For example: “Every individual should be able to express their gender in a way that is comfortable for them.”

You should avoid the use of gendered titles such as; “Sir” or “Madam” where the identities of individuals and their expression’s is unknown, especially on the phone when there is no visual indication.

Some people use the singular they to reflect their non-binary gender identity.

#### Every usage of gender neutral language

For example: “Somebody has dropped their £10 note on the pavement, I wonder if they have realised. When I find them I will give it back.”

We don’t know the identity or gender of the particular person; therefore, we instinctively use gender neutral language, we do this already and it is not foreign or strange to us.

#### Non-Binary and Gender Neutral Pronouns

It is increasingly common for people who have a non-binary gender identity to use they/them as their pronoun.

For example: “Jacob writes eloquently about their non-binary identity. They have also appeared frequently in the media to talk about their family’s reaction to their gender expression.”

It is never appropriate to put quotation marks around a transgender person’s chosen name or the pronoun that reflect their gender identity.”

(© 2017-2019 SEE Change Happen - <https://seechangehappen.co.uk/faqs/names-pronouns-title/>)

**Glossary of terms** [*back to contents*](#Contents)

**Ally**- a (typically) straight and/or cis person who supports members of the LGBTQ+ community.

**Asexual (or ace)**- someone who does not experience sexual attraction.

**Bi / bisexual**- refers to an emotional and/or sexual orientation towards more than one gender.

**Biphobia**- the fear or dislike of someone who identifies as bi.

**Cisgender**or **Cis**– someone whose gender identity is the same as the sex they were assigned at birth. Non-trans is also used by some people.

**Coming out** – when a person first tells someone/others about their identity as lesbian, gay, bi or trans.

**Deadnaming**- is calling someone by their birth name after they have changed their name. This term is often associated with trans people who have changed their name as part of their transition.

**Gay**– refers to a man who has an emotional, romantic and/or sexual orientation towards men. Also a generic term for lesbian and gay sexuality - some women define themselves as gay rather than lesbian.

**Gender**– often expressed in terms of masculinity and femininity, gender is largely culturally determined and is assumed from the sex assigned at birth.

**Gender dysphoria** – used to describe when a person experiences discomfort or distress because there is a mismatch between their sex assigned at birth and their gender identity. This is also the clinical diagnosis for someone who doesn’t feel comfortable with the gender they were assigned at birth.

**Gender expression** – how a person chooses to outwardly express their gender, within the context of societal expectations of gender. A person who does not confirm to societal expectations of gender may not, however, identify as trans.

**Gender identity** - a person’s innate sense of their own gender, whether male, female or something else (see non-binary below), which may or may not correspond to the sex assigned at birth.

**Gender reassignment** – another way of describing a person’s transition. To undergo gender reassignment usually means to undergo some sort of medical intervention, but it can also mean changing names, pronouns, dressing differently and living in their self-identified gender. Gender reassignment is a characteristic that is protected by the Equality Act 2010, and it is further interpreted in the Equality Act 2010 approved code of practice. It is a term of much contention and is one that Stonewall's Trans Advisory Group feels should be reviewed.

**Gender Recognition Certificate (GRC)** – this enables trans people to be legally recognised in their affirmed gender and to be issued with a new birth certificate. Not all trans people will apply for a GRC and you currently have to be over 18 to apply. You do not need a GRC to change your gender markers at work or to legally change your gender on other documents such as your passport.

**Gillick competence** – a term used in medical law to decide whether a child (under 16 years of age) is able to consent to his or her own medical treatment, without the need for parental permission or knowledge.

**Heterosexual / straight** - refers to a person who has an emotional, romantic and/or sexual orientation towards people of the opposite gender.

**Homosexual**– this might be considered a more medical term used to describe someone who has an emotional romantic and/or sexual orientation towards someone of the same gender. The term ‘gay’ is now more generally used.

**Homophobia**- the fear or dislike of someone, based on prejudice or negative attitudes, beliefs or views about lesbian, gay or bi people. Homophobic bullying may be targeted at people who are, or who are perceived to be, lesbian, gay or bi.

**Intersex**– a term used to describe a person who may have the biological attributes of both sexes or whose biological attributes do not fit with societal assumptions about what constitutes male or female. Intersex people may identify as male, female or non-binary. Stonewall works with intersex groups to provide its partners and stakeholder’s information and evidence about areas of disadvantage experienced by intersex people but does not, after discussions with members of the intersex community, include intersex issues as part of its current remit at this stage.

**LGBT**– the acronym for lesbian, gay, bi and trans.

**Lesbian**– refers to a woman who has an emotional, romantic and/or sexual orientation towards women.

**Neurodiverse**– a concept where neurological differences are recognised and respected in the same way as any other human difference.

**Non-binary**– an umbrella term for a person who does not identify as only male or only female, or who may identify as both.

**Outed**– when a lesbian, gay, bi or trans person’s sexual orientation or gender identity is disclosed to someone else without their consent.

**Person with a trans history** – someone who identifies as male or female or a man or woman, but was assigned differently at birth. This is increasingly used by people to acknowledge a trans past.

**Pansexual**- refers to a person whose emotional, romantic and/or sexual attraction towards others is not limited by biological sex, gender or gender identity.

**Passing** - if someone is regarded, at a glance, to be a cisgender man or cisgender woman. Cisgender refers to someone whose gender identity matches the sex they were ‘assigned’ at birth. This might include physical gender cues (hair or clothing) and/ or behaviour which is historically or culturally associated with a particular gender.

**Pronoun**– words we use to refer to people’s gender in conversation - for example, ‘he’ or ‘she’. Some people may prefer others to refer to them in gender neutral language and use pronouns such as they / their and ze / zir.

**Queer**– in the past a derogatory term for LGBT individuals. The term has now been reclaimed by LGBT young people in particular who don’t identify with traditional categories around gender identity and sexual orientation but is still viewed to be derogatory by some.

**Questioning**– the process of exploring your own sexual orientation and/or gender identity.

**Sex**–assigned to a person on the basis of primary sex characteristics (genitalia) and reproductive functions. Sometimes the terms ‘sex’ and ‘gender’ are interchanged to mean ‘male’ or ‘female’.

**Sexual orientation** – a person’s emotional, romantic and/or sexual attraction to another person.

**Trans**– an umbrella term to describe people whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth. Trans people may describe themselves using one or more of a wide variety of terms, including (but not limited to) Transgender, Transsexual, Gender-queer (GQ), Gender-fluid, Non-binary, Gender-variant, Crossdresser, Genderless, Agender, Nongender, Third gender, Two-spirit, Bi-gender, Trans man, Trans woman, Trans masculine, Trans feminine and Neutrois.

**Transgender man** – a term used to describe someone who is assigned female at birth but identifies and lives as a man. This may be shortened to trans man, or FTM, an abbreviation for female-to-male.

**Transgender woman** – a term used to describe someone who is assigned male at birth but identifies and lives as a woman. This may be shortened to trans woman, or MTF, an abbreviation for male-to-female.

​**Transitioning**– the steps a trans person may take to live in the gender with which they identify. Each person’s transition will involve different things. For some this involves medical intervention, such as hormone therapy and surgeries, but not all trans people want or are able to have this. Transitioning also might involve things such as telling friends and family, dressing differently and changing official documents.

**Transphobia**- the fear or dislike of someone based on the fact they are trans, including the denial/refusal to accept their gender identity.

**Transsexual**– this was used in the past as a more medical term (similarly to homosexual) to refer to someone who transitioned to live in the ‘opposite’ gender to the one assigned at birth. This term is still used by some although many people prefer the term trans or transgender.

(© Stonewall 2017)

**The origin of negative words associated with disability** [*back to contents*](#Contents)

**Afflicted** This implies that some higher being has cast a person down ('affligere' is Latin for to knock down, to weaken), or is causing them pain or suffering.

**Cripple** The word comes from Old English crypel or creopel, both related to the verb 'to creep'. These, in turn, come from old (Middle) German 'kripple' meaning to be without power. The word is extremely offensive.

**Dumb or Dumbo** a) Not to be able to speak. b) This has come to be seen as negative from the days when profoundly deaf people were thought of as stupid because non-deaf people did not understand their communication systems.

**Dwarf** Through folklore and common usage, has negative connotations. Use short people or short stature.

**Feeble-minded** The word feeble comes from old French meaning 'lacking strength' and before that, from Latin flebilis, which meant 'to be lamented'. Its meaning was formalised in the Mental Deficiency Act 1913, indicating not an extremely pronounced mental deficiency, but one still requiring care, supervision and control.

**Freak** Associated with freak show where people who were very small, tall, large or with other visible differences or impairments were put on display for the public gaze in 17th, 18th and 19th century. It means strange or abnormal. This should not be used.

**Handicapped** Having an imposed disadvantage. The word may have several origins:

a) from horse races round the streets of Italian City States, such as Sienna, where the best riders had to ride one-handed, holding their hat in their other hand to make the race more equal.

b) by association with penitent sinners (often disabled people) in many parts of Europe who were forced into begging to survive and had to go up to people 'cap in hand'.

c) from a 17th century game called 'cap i' hand' in which players showed they accepted or rejected a disputed object's valuation by bringing their hands either full or empty out of a cap in which forfeit money had been placed. This practice was also used in the 18th century to show whether people agreed to a horse carrying extra weight in a race (i.e. deliberately giving it a disadvantage).

**Idiot** The word dates from the 13th century and comes from the Latin word idiota, meaning 'ignorant person'. Again, it featured in the Mental Deficiency Act 1913 (see Feebleminded), where it denoted someone who was so mentally deficient that they should be detained for the whole of their lives.

**Imbecile** This word has been around since the 16th century and comes from the Latin, imbecillus, meaning 'feeble' (it literally meant 'without support' and was originally used mainly in a physical sense). It was similarly defined in the Mental Deficiency Act, as someone incapable of managing their own affairs.

**Invalid** Literally means not valid, from Latin 'invalidus'. In the 17th century it came to have a specific meaning, when referring to people, as infirm, or disabled.

**Lame** Coming from Old English lama Old German lahm and Old Norse lami meaning crippled, paralytic or weak. In Middle English came to mean ‘crippled’ in hands or feet. Lame duck is also used to mean any disabled person or thing or lame brain meaning learning difficulties. In modern slang ‘lame’ is used for someone or something that is un-cool, boring, not exciting, not funny, weak, annoying, inadequate or a loser. In this respect ‘lame’ is used like ‘gay’ and should be challenged. It is offensive.

**Mental, nutter, mad or crazy**

All these are informal (slang) and offensive words for people with mental health issues. One in four people have a major bout of mental distress or become mental health system users. The vast majority are not dangerous.

**Mentally handicapped** In the UK over 200,000 people with learning difficultywere locked away in Mental Handicap Hospitals becausetests showed they had low Intelligence Quotients (IQ).These tests have since been shown to be culturallybiased and only to measure one small part of how thebrain works. People with learning difficulties have chosenthe name “people with learning difficulties” forthemselves because they think that, through education,which they have largely been denied, they can improvetheir situation.

**Mong/Mongolian** Langdon Down was a doctor who worked at the London Hospital in Whitechapel in the 1860s. He noticed that around 1 in 800 babies were born with pronounced different features and capabilities. Their features reminded him of the Mongolian people's. He postulated that there was a hierarchy of races (in descending order) - European, Asian, African and Mongols. Each was genetically inferior to the group above them. This was a racist theory. People with Down's Syndrome find it extremely offensive.

**Moron / Moronic** Moron, Greek, meaning ‘foolish, dull, sluggish’

**People with disabilities** This phrase assumes that the *person* has the disability.

Under social model thinking, the person has an impairment and is disabled by oppressive barriers of attitude, structures and environments in society. 'Disabled people' is more acceptable. A disabled person is anyone with a long-term impairment, who is oppressed and discriminated against because of these barriers.

**Raspberry ripple** Cockney rhyming slang for 'cripple', and offensive.

**Retard** Still in common use in the USA for people with learning difficulty; from retarded or held back in development - offensive. On October 5, 2010, U.S. President Barack Obama officially signed bill S. 2781 into federal law. Rosa’s Law removes the terms “mental retardation” and "mentally retarded" from federal health, education and labour policy and replaces them with people first language “individual with an intellectual disability” and “intellectual disability”.

**Spazz, spazzie or spastic** People with cerebral palsy are subject to muscle spasmsor spasticity. These offensive words are sometimes usedin reference to this. People with this impairment wish tobe known as people with cerebral palsy or disabledpeople.

**The blind; The deaf; The disabled** To call any group of people 'the' anything is to dehumanise them. Use blind people, deaf people or disabled people.

**Victim or sufferer** Disabled people are not victims of their impairment because this implies they are consciously singled out for punishment by God or a higher being. Similarly, the word sufferer can imply someone upon whom something has been imposed as a punishment by a deity.

**Wheelchair-bound** Wheelchair users see their wheelchair as a means of mobility and freedom, not something that restricts them, apart from problems with lack of access.

(© Richard Rieser – World of Inclusion - <https://ukdhm.org/a-z-offensive-disablist-language-and-origins> )

**THE LAW ON CYBERBULLYING** [*back to contents*](#Contents)

Cyberbullying is the term used to describe any form of bullying that makes use of technology to deliberately upset or threaten a person. It can be conducted by a single person or a group of people, and can cause significant distress. In recent years, there have been several high-profile cases reported in the media of young people committing suicide as a direct result of being victims of cyberbullying.

In this guide, we will explore what constitutes cyberbullying and how the law on cyberbullying in the UK aims to protect victims and punish those that commit a criminal offence.

**WHAT IS CYBERBULLYING?**

Cyberbullying can be defined as the use of electronic communication devices to bully a person. Electronic communication can include the use of computers, mobile phones, tablets and games consoles. Cyberbullying can take place through the use of emails, text messages, social networking sites such as Facebook and Twitter, chat rooms, interactive video games and in many other areas too. As technology advances, more potential avenues for cyberbullying open up.

Examples of cyberbullying could include posting mean, offensive or embarrassing comments or photos on social networking websites, sending threatening or abusive emails, or creating fake online profiles to embarrass or belittle another person.

Unfortunately, cyber bullying is widespread on the internet, particular amongst young people. A national survey conducted by the charity [BullyingUK](http://www.bullying.co.uk/cyberbullying/what-is-cyberbullying/) (part of Family Lives) found that 42% of people under 25 years old have felt unsafe online. With 56% of under 25s saying they had witnessed others having been bullied online.

**IS CYBERBULLYING A CRIME**?

Cyberbullying in itself is not a crime, and is not covered by a specific law in the UK. However, by committing an act of cyber bullying, a person may be committing a criminal offence under a number of different acts. This include the following:

**PROTECTION FROM HARASSMENT ACT 1997**

Under the [Protection from Harassment Act 1997](http://www.legislation.gov.uk/ukpga/1997/40/contents) it is a criminal offence for a person to pursue a course of conduct which amounts to the harassment of another, which the perpetrator knows or ought to know amounts to harassment. This could include sending a person multiple abusive emails with the intention of causing alarm or distress. A person found guilty of this offence could receive up to six months imprisonment, a financial penalty or both.

Section 4 of the Protection from Harassment Act 1997 provides the potential for greater punishment to those found guilty of causing another person to fear, on at least two occasions, that violence will be used against them. A person found guilty of this offence could receive up to 5 years in prison, as well as a fine.

The 1997 Act also gives Courts the power to grant restraining orders against those found guilty of an offence in order to protect the victim.

**MALICIOUS COMMUNICATIONS ACT 1988**

Section 1 of the [Malicious Communications Act 1988](http://www.legislation.gov.uk/ukpga/1988/27/section/1) states that it is an offence for any person to send a communication that is "indecent or grossly offensive" for the purpose of causing "distress or anxiety to the recipient". The Act also extends to threats and information which is false and known or believed to be false by the sender of the communication. A person found guilty of this offence is liable to receive a prison sentence of up to 6 months, a fine (currently of up to £5,000) or even both.

**COMMUNICATIONS ACT 2003**

[Section 127 of the Communications Act 2003](http://www.legislation.gov.uk/ukpga/2003/21/section/127) makes it a criminal offence to send via any electronic communication network a message or other matter that is deemed "grossly offences or of an indecent, obscene or menacing character". If found guilty of an offence under section 127 of the Communications Act 2003, a person can receive up to six months in prison, a fine or both.

**OBSCENE PUBLICATIONS ACT 1959**

The Obscene Publications Act 1959 makes it an offence to publish an obscene article. An obscene article is classed as one whose effect is to deprave and corrupt persons likely to read, see or hear the matter contained or embodied in the article. Publishing includes circulating, showing, playing or projecting the article or transmitting the data.

**PUBLIC ORDER ACT 1986**

Under section 5 of the Public Order Act 1986, it is an offence to use threatening, abusive or insulting words, behaviour, writing or any visual representations likely to cause harassment, alarm or distress within the hearing or sight of a person. With regards to cyberbullying, this offence could apply where the camera or video functionality now found on the vast majority of mobile phones is used as a way of causing such harassment, alarm or distress.

**COMPUTER MISUSE ACT 1990**

If in the course of cyberbullying a person hacks into the victim's online accounts or personal computer, they may be committing an offence under the [Computer Misuse Act 1990](http://www.cps.gov.uk/legal/a_to_c/computer_misuse_act_1990/).

**CYBER BULLYING IN THE WORKPLACE**

Bullying in the workplace is an increasing problem, especially with regards to cyber bullying. One in five employees have experienced some form of workplace bullying, which can result in time off work due to illness and stress. Reports suggest that bullying in the workplace costs UK employers an estimated £2bn a year in lost productivity and sick pay.

Under the Health and Safety at Work Act 1974, all employers have a duty of care to provide employees with a safe working environment. If an employee is a victim of cyberbullying at work through the use of the company's computer equipment and infrastructure, the employer may be in breach of their duty to protect employees under the Health and Safety at Work Act.

[*back to contents*](#Contents)



*See also:* [*https://hues.xyz/*](https://hues.xyz/)

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