Equality and Discrimination: Understand the basics

The nine protected characteristics

The Equality Act 2010 defines nine protected characteristics:

• Age

• Disability

• Gender reassignment

• Marriage and civil partnership

• Pregnancy and maternity

• Race

• Religion or belief

• Sex

• Sexual orientation

In the Equality Act, no one protected characteristic has a higher priority than any other.

Discrimination claims can be made on the grounds of:

**1. a single protected characteristic** - for example, because an employee is female

**2. a number of single, but unrelated, characteristics** – for example because an employee is female and also because she is of a particular age (in these situations, each characteristic would be considered separately).

**Age**

The Equality Act protects employees from discrimination, harassment and victimisation because of age, which may include because they are ‘younger’ or ‘older’ than a relevant and comparable employee. For example, if an organisation has a training policy excluding employees aged 60 or more from applying for courses then this is likely to be discriminatory.

**Disability**

The Equality Act protects employees from discrimination - direct, including by association and by perception, indirect, harassment and victimisation - because of disability. For example, the dismissal of an employee because they are dyslexic could be potentially discriminatory.

Under the Act, a person is disabled if they have a physical or mental impairment which has a long-term (usually lasting more than a year) and substantial adverse effect on their ability to carry out normal day-to-day activities. A number of impairments, such as cancer, HIV and multiple sclerosis are automatically considered disabilities and other progressive conditions will be considered a disability as soon as the symptoms of that condition have an effect.

**Gender reassignment**

The Equality Act protects employees from discrimination, harassment and victimisation relating to gender reassignment. In the Act, someone who proposes to, starts, or has completed a process to change his or her gender is referred to as a ‘transsexual’.

Previously, people reassigning their gender had to be under medical supervision to be covered, but this is no longer the case. For example, a male employee who decides to live as a woman, but does not undergo any medical procedures, must not be harassed if the employee begins to use female toilet facilities.

**Marriage and civil partnership**

The Equality Act protects employees from direct discrimination (although not the forms by association or by perception), indirect discrimination and victimisation because of marriage or civil partnership.

For example, an employee must not be ignored for promotion because they are in a civil partnership. However, single people and couples in relationships which are not legally recognised are not protected.

**Pregnancy and maternity**

The Equality Act protects an employee from one type of direct discrimination and victimisation because of their pregnancy, or for taking/seeking to take maternity leave.

For example, an employer must not take into account pregnancy-related illness when considering other sickness absence or in making a decision about her employment. During this time, any other discrimination because of her sex would be a separate and overlapping matter which might amount to sex discrimination and/or sexual harassment.

**Race**

The Equality Act protects employees from discrimination, harassment and victimisation because of the protected characteristic of Race, which may include different elements that often merge:

• Race – an umbrella term for the other four aspects.

• Colour – like ‘race’ it tends to overlap, particularly with the concepts of ‘ethnic origin’ and ‘national origin’. Examples include black and white.

• Ethnic origin – may include racial, religious and cultural factors which give a group of people a distinct social identity with a long and shared history. Examples include Sikhs, Jews, Romany Gypsies and Irish Travellers.

• National origin –birthplace, the geographical area and its history can be key factors. Examples include Welsh and English.

• Nationality – usually the recognised state of which the employee is a citizen. In other words, what it says in their passport if they have one. For example, British citizen.

**Religion or belief**

The Equality Act protects employees from discrimination, harassment and victimisation because of religion or belief. For example, a manager should ensure that religiously offensive graffiti in a staff toilet is removed, and that the matter is thoroughly investigated and handled. The law also protects employees or job applicants if they do not follow a certain religion or belief, or have no religion or belief at all.

In the Act, religion means any religion with a clear structure and belief system. Belief means any religious or philosophical belief.

**Sex (Gender)**

The Equality Act protects both male and female employees from discrimination, harassment and victimisation because of sex (gender).

For example, an employer must ensure its managers do not favour team members of a particular gender.

**Sexual orientation**

The Equality Act protects employees from discrimination, harassment and victimisation because of sexual orientation. It applies equally to bisexual, gay, heterosexual and lesbian orientations. For example, an employer must ensure that an employee who is perceived to be bisexual (whether they are or are not is irrelevant) is not bullied by colleagues.

**Types of discrimination**

Under the Equality Act, there are four main types of discrimination:

• Direct discrimination

• Indirect discrimination

• Harassment

• Victimisation.