

Community  
Legal Service



# Equal opportunities

Dealing with discrimination

CLS information  
leaflet number

# 15

There are many situations where you might be discriminated against because of your age, or your sex, or because you are gay or lesbian, for example. This leaflet explains when there are laws to protect you from discrimination, and what you can do if you are discriminated against.

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The leaflets in this series give you an outline of your legal rights. They are not a complete guide to the law and are not intended to be a guide to how the law will apply to you or to any specific situation. The leaflets are regularly updated but the law may have changed since this was printed, so information in it may be incorrect or out of date.

If you have a problem, you will need to get more information or personal advice to work out the best way to solve it. Further help' on page 15 for sources of information and advice.

## When discrimination can happen

Discrimination happens when someone is treated worse ('less favourably' in legal terms) than another person in the same situation. Discrimination may happen:

At work. For example, a black person might be refused a job without good reason, or be racially harassed by other employees. A woman might have a problem about equal pay, or the way she is treated if she is pregnant or has a child to care for.

When you are buying or using goods and services. For example, a person in a wheelchair might be told that they can't go into a restaurant because their wheelchair takes up too much space.

When you are buying or renting somewhere to live. For example, a landlord might refuse to let their flat to an Asian person.

At a school or college. For example, a school might treat a black child differently from a white child when deciding whether to exclude (remove) them.

You may suffer discrimination for a number of reasons. In many cases it is because of:

- your race;
- your sex; or
- because you have a disability.

But it might also be because:

- you are elderly;
- of your religious beliefs; or
- you are gay or lesbian (your sexual preference or sexual orientation).

The protection you have in law depends on who you were discriminated against. In the case of sex discrimination, for example, there are specific laws setting out when it is unlawful for someone to discriminate against you because of your sex.

In these situations, you have the right to go to an employment tribunal or to court if you have been treated unfairly. You may get equal compensation for loss of earnings or if your feelings have been hurt, depending on the kind of discrimination you've suffered. Also, taking someone to court or to a tribunal may change the way an organisation behaves so that other people aren't discriminated against.

With other types of discrimination, such as discrimination because of your age, there are no specific laws, though there are things that you may be able to do, to stop the discrimination happening. And there are changes in the laws planned which should give you more protection against discrimination.

This leaflet begins with how the law on equal opportunities and anti-discrimination works, and what types of discrimination you are protected from. It also looks in more detail at the laws covering discrimination because of sex, and explains what you can do if you have been discriminated against. Finally, it looks at the more limited rights you have if you are discriminated against because of your age, religious beliefs or sexual preference.

## Types of discrimination

There are separate Community Legal Service leaflets, 'Racial discrimination' and 'Rights for people with disabilities', which deal with those areas in more detail.

Sometimes, someone may be discriminated against for more than one reason. If you think that you are in this position, you may need to get advice about the best course of action to take. You can get advice from a:

- trade union (if you belong to one);
- law centre;
- Citizens Advice Bureau; or
- solicitor.

See 'Further help' on page 15 for more about where to get advice.

**Direct discrimination**, which is when you are treated less favourably simply because, for example, you are black, or you are a woman.

**Indirect discrimination**, which can happen where there are rules or conditions which apply to everyone but affect one group of people more than others, without a good reason. For example, a company rule that says that employees must do night shifts could exclude women who have children to care for.

The law covers certain cases where what seems like discrimination is allowed. For example, it is not against discrimination laws to insist that a counsellor working in a women's refuge should be a woman. And it might be legal to say that a particular job was not suitable for a person with a disability for safety reasons.

### Victimisation

If you want to complain about being discriminated against (or if you are helping a colleague who is complaining), you may fear that your employer may treat you less favourably for this reason. If they do, this is called victimisation, and it is unlawful (illegal) in the same way discrimination is.

## Sex discrimination

There are two laws which make sure that men and women are treated equally:

The Sex Discrimination Act 1975 (as amended 1986) makes it unlawful to discriminate against men or against women in employment, education, housing, or providing goods and services, and also in advertisements for these things. It's also against the law to discriminate against someone because they are married, divorced or in work-related matters.

The Equal Pay Act 1970 (as amended 1984) says that women must be paid the same as men when they are doing the same (or broadly similar) work, or work which is of equal value. European law also says that women and men should receive equal pay for equal work. For more about this, see 'Equal pay' on page 7.

### Applying for a job

The Sex Discrimination Act makes it unlawful for an employer to discriminate because of your sex or whether you're married when choosing someone for a job. It covers three areas:

When deciding who should be offered the job. This includes the job description, the 'person specification' (the description of the skills, experience and qualifications needed to do the job), the application form, the short-listing process, interviewing and final selection.

The terms and conditions of the job, such as pay, holidays or working conditions.

By deliberately not considering your application.

The Sex Discrimination Act covers contract and part-time workers as well as full-time or permanent staff.

An example of direct sex discrimination would be refusing to consider you for a job just because you are a woman, or because you are a man (for example, refusing to consider a man for a job as a secretary).

An example of indirect sex discrimination would be saying, without good reason, that everyone applying for a job must have been in the armed forces. Because fewer women than men have been in the armed forces, a woman would be less likely to get the job.

Treating a married person less favourably than a single person of the same sex is also unlawful under the Sex Discrimination Act. It would be 'direct marriage discrimination' if an employer refused to employ a married woman just because they thought that she would be more likely than a single woman to leave to have a baby.

'Indirect marriage discrimination' could happen if, for example, an employer said that everyone applying for a job must move to a new location.

This could discriminate against married staff unless the employer could show that moving was essential to the job.

## When an employer is allowed to discriminate

In some cases employers are allowed to discriminate against men or women when dismissing people or job only to men, or only to women. This is called a 'genuine occupational qualification' (GOQ). The main cases where an employer is allowed to do this are:

- for privacy and decency, for example, employing a male care assistant because he has to help men dress or use the toilet;
- for personal welfare services, for example, employing women counsellors for a women's welfare charity;
- where the employee has to live on work premises and there aren't separate sleeping areas for men and women;
- for some jobs in single-sex institutions, such as hospitals and prisons;
- for some jobs in private homes, such as a live-in carer;
- where the job has a real physical need, such as to model women's clothing, or for reasons of authenticity - such as in a dramatic performance;
- in some cases, where the job is outside the UK; and
- where the job requires a married couple.

However, employers cannot use a need for strength or stamina in a job as a reason for looking at applications from women, for example.

## Being dismissed or made redundant

An employer cannot discriminate against women or men when dismissing people or making them redundant. This means that, for example, it would be against discrimination laws to:

- dismiss a man if he took time off work to care for a sick child, if a woman wouldn't have been dismissed for the same reason;
- dismiss someone for being frequently late for work if someone of the opposite sex who was late just as often was not dismissed; or
- have a company policy which says that staff with the shortest length of service are to be the first in line for redundancy, because women are more likely to have taken a career break for family reasons.

For more information about your rights if you are dismissed, or facing redundancy, see the Community Legal Service leaflet, 'Employment'.

## Having a child

Discrimination laws could be broken where a woman is pregnant, or needs to care for her children, and she is:

- dismissed or made redundant;
  - refused promotion; or
  - treated differently in some other way.
- Examples of this kind of discrimination include:
- if a woman is moved to a less rewarding job when she comes back to work after having a baby; and
  - if a breast-feeding mother was told she could come back to work only if she worked

fixed full-time hours. The employer would like-work claim first and, if that fails, it will have to show that she really needed to work full-time and that, for example, she could not do part of her job at home.

### Equal pay

The Equal Pay Act entitles you to claim equal-value work, the employer may be able to convince them that there is a 'material factor' (a good reason other than your sex) why you are paid less. You can get more details and advice about the process from the Equal Opportunities Commission (see 'Further help' on page 15 for details).

is the same or broadly similar (known as 'like work') to that done by someone of the opposite sex (known as the 'comparator'). The comparator must be working for the same employer as you; or even though it may be quite different, it is of 'equal value' to the comparator's job in terms of the demands on you.

The Equal Pay Act also covers most other terms of your employment, for example: working hours; holidays; sick pay; and pensions.

The Equal Pay Act also covers most other terms of your employment, for example:

- working hours;
- holidays;
- sick pay; and
- pensions.

Most equal-pay complaints are by women, but the law also applies to men who are paid less than women for the same work.

If you believe that you are not being paid the same as someone else of the opposite sex doing the same work, you should first take up the complaint with your employer, through their grievance procedure (if they have one).

If that doesn't work, you can take an equal pay claim to an employment tribunal. If the jobs being compared are fairly similar, it is usually best to make a 'like-work' claim as well as an 'equal-value' claim. The tribunal will examine

### Part-time work

The Sex Discrimination Act and the Equal Pay Act cover all workers, including people who work:

- part time; or
- on casual or temporary contracts.

In an equal-pay claim, a part-time job can be compared with a similar full-time job on a pro rata basis (that is, based on the number of hours each of you work).

Because most part-time workers are women, they are treated worse than full-time workers. This could amount to indirect discrimination under the Sex Discrimination Act. If you want to work part-time (or flexitime, at home, or in a job share), because, for example, you need to care for a child, and your employer refuses without good reason, you might have a claim for indirect discrimination.

Part-time workers are also protected by the law says that employers are responsible for discrimination by their employees or their clients. Many employers treat sexual harassment by their staff as a disciplinary offence, and they should discipline the person harassing you. If your employer does not do anything, you can take a claim against them to an employment tribunal. In many cases you can also take the person harassing you, or your employer, to court.

For more on this, see the Community Legal Service leaflet, 'Employment'.

### Sexual harassment

Sexual harassment is unwanted physical or non-physical behaviour of a sexual nature towards you. At work, it can include:

- comments about the way you look;
- indecent (offensive) remarks;
- requests for sex (sometimes in return for a promotion or other benefit); and
- any similar behaviour which creates an intimidating, hostile or humiliating atmosphere at work.

Sexual harassment usually counts as direct sex discrimination under the Sex Discrimination Act because you are being treated in a way that someone of the opposite sex would not be. If someone is harassing you and they don't stop when you ask them to, you should tell your employer (unless, of course, they are the person doing it).

You could also go to court if you're sexually harassed by someone unconnected with your workplace. But in some cases there may be a special complaints procedure to follow (for example, if the person who has harassed you was your doctor). You should get expert legal advice if you are in this position (see 'Further help' on page 15 for details).

### If you are having a relationship with someone at work

Some employers won't employ:

- the husband or wife;
- the partner; or
- a relative;

if someone working for them.

Some employers also don't allow workplace affairs'. This is not against the Sex Discrimination Act, as long as men and women and married and unmarried staff, are treated equally. Otherwise it could be considered discrimination. An example of discrimination is if a woman was transferred to another office department when she didn't want to be because she was having a relationship at work when a man would not have been transferred in the same circumstances.



## **If you are buying or renting a house or flat**

If you feel your child is facing sex discrimination, you should first try to discuss the problem with the teacher or headteacher. If that doesn't solve the problem, you should complain to the school governors or the local education authority.

It is illegal to discriminate against someone because of their sex when selling or letting a house or flat. It is also illegal for a landlord to treat tenants differently because of their sex. However, the Sex Discrimination Act does not apply where the landlord (or a close relative of theirs) lives in the same building and shares some of the living areas (including a kitchen or bathroom, but not a hall or stairway) with the tenant.

It's also illegal for a bank or building society to treat someone less favourably in granting a loan because of their sex, or because they are pregnant. If, for example, a couple apply for a joint mortgage and the woman earns more than the man, the lender must use her income as the higher one in working out how much they will lend. And offering mortgages only to people who work full time is also seen as discrimination, because more women than men work part time.

## **Buying and using goods and services**

The Sex Discrimination Act makes it unlawful for businesses to discriminate against men or women in the 'goods, facilities and services' they provide. This means refusing a service, or deliberately not providing it on the same terms and of the same quality. It covers things which are free, as well as those you pay for. The main ones are:

- shops;
- public places, such as hotels, restaurants, bars, nightclubs and leisure centres (for example, only offering women free or cheaper admission or drinks would be a breach of the Sex Discrimination Act);
- banks accounts, loans, credit cards and insurance;
- travel and transport services that are either public or offered by private companies and travel agents; and
- services supplied by local authorities (such as leisure services).

There are several exceptions to the law if your problem is about sex discrimination or discrimination against men or women on equal pay, contact the Equal Opportunities Commission, a body set up by the government to promote equal opportunities for men and women. These are:

- private members' clubs;
- services which are only for men or only for women, to avoid 'serious embarrassment' (for example, women-only saunas);
- insurance policies where it can be shown that women are a better or a worse insurance risk than men; and
- voluntary organisations, care homes and charities which provide services only for men or only for women.

## What you can do about discrimination

If you have been discriminated against, first think about what you want to be done. Depending on how you were discriminated against, you may want:

- your job back;
- compensation;
- an apology; or
- a clear sign that an organisation won't discriminate in the same way in future.

Whatever you want, it is usually best to first try to resolve the matter with the person or organisation that has discriminated against you (your employer, or the service provider, for example).

If complaining in this way doesn't get you what you want, you may be able to take your case to:

- an employment tribunal if it is about a job; or
- the county court.

The Equal Opportunities Commission can tell you more about your rights under the Sex Discrimination Act and the Equal Pay Act. It can also advise you about how to deal with a complaint, including going to a tribunal or to court.

You can also get help from:

- your trade union, if you have one (if your problem is about a job);
- your local law centre;
- a Citizens Advice Bureau; or
- a solicitor.

See 'Further help' on page 15 for contact details.

The Advisory, Conciliation and Arbitration Service (ACAS) may also be able to help with a claim of discrimination at work. If you and your employer are both willing to try conciliation, an ACAS officer will try to help you reach a settlement without the need for a hearing. If you or they do not want to do this, or you cannot agree, the case can still go to an employment tribunal. However, there are time limits for doing this (see 'Going to an employment tribunal', below).

If the tribunal or court rules that you have been unlawfully discriminated against, it can award you compensation for:

- actual or possible loss of earnings;
- injury to feelings; or
- personal injury, if it was caused by discrimination.

## Going to an employment tribunal

If you want to make a complaint under the Sex Discrimination Act or Equal Pay Act, you must send your complaint either on form ET1 or in a letter to the Regional Office of Employment Tribunals. You can get this from your local Jobcentre Plus, Citizens Advice Bureau, the Equal Opportunities Commission or online from the Employment Tribunal Service (see 'Further help' on page 15 for details).

Under the Sex Discrimination Act, you must make your complaint within three months, minus one day, from when you first knew about the discrimination, unless the discrimination is continuing, in which case special rules may apply. Under the Equal Pay Act, you can make your complaint at any time during your employment or within six months, minus one day, of your employment ending. The cost of going to a tribunal is low. Even if you lose your case, you will not have to pay the other side's costs unless the tribunal decides you were being unreasonable in bringing the claim.

If you do want to take a complaint to an employment tribunal, you would normally send a special form, called a questionnaire, to the employer. You can get this form from:

- a Jobcentre Plus; or
- the Equal Opportunities Commission.

This form asks the employer to give more reasons for the treatment you received. For example, if you believe that you didn't get a job because of your sex, you can ask for details

of the employer's selection procedures; and

the qualifications and experience of the person who got the job, to see how they compare with your own.

If you believe you may not be receiving equal pay, this form will also help you find out whether this is the case and, if so, why.

You must send the form to the employer within three months of when the discrimination happened (or no more than 21 days after your complaint was received by the employment tribunal).

You don't have to use the questionnaire procedure, but it will normally help your case. In the same way, the employer doesn't legally have to fill in the form, but if they don't, it may harm their case. And if you do use it, you can still withdraw your complaint before your case is dealt with if you want to.

If you, or your employer, are unhappy about how the tribunal reached its decision, you may be able to appeal to the Employment Appeals Tribunal. But you can appeal only on whether the law was applied correctly, not on whether you thought the tribunal's decision was wrong. You have 42 days after the decision to lodge an appeal.

## Going to court

If you want to take a case to court, you must start your case within six months minus one day from when the discrimination happened. The court can give you copies of the claim form N1 and more information about procedures.

## How will I pay for my case?

If you are claiming more than £5,000, you need to think carefully about how you will pay for your case, because the costs can be very high. If you cannot afford to pay for court action yourself, there are several ways you may be able to pay for your case:

The Equal Opportunities Commission may take on your case, for example, as a 'test case'. You may be able to get funding from the Community Legal Service (formerly called Legal Aid), provided you meet certain conditions. See 'The Community Legal Service' on page 15 for how to find out more about this.

You may be able to find a solicitor who will take on your case under a 'no-win, no-fee' agreement. See the Community Legal Service leaflet 'No-win, no-fee actions' for more about this.

## The Human Rights Act

The Human Rights Act 1998 covers many different types of discrimination - including those which are not covered by other discrimination laws. However, it can be used only when one of the other 'articles' (the specific principles) of the act applies, such as the right to 'respect for private and family life'. Also, rights under the act can only be used against a public authority (for example, the police or a local council or Jobcentre Plus), and not a private company. However, court decisions on discrimination will generally have to take into account what the Human Rights Act says.

## Discrimination because of your religious beliefs

There is currently no law to protect you or your organisations from discriminating against you because of your religious beliefs, though new laws come into force in December 2003 which will make discrimination at work because of religious belief illegal. Until then, you may still be able to bring a claim under the Race Relations Act if you are discriminated against because of your national or ethnic origin, as well as your religion (for example, if you are Muslim and Pakistani). For more information about bringing a claim under the Race Relations Act, see the Community Legal Service leaflet, 'Racial discrimination'.

At work, your employer may have their equal opportunities policy which covers religious discrimination. If they do, and they don't follow it, they could be breaking your contract of employment and you could bring a claim either through an employment tribunal or through the courts.

If you think you have been sacked or made redundant unfairly because of your religious beliefs, you can also take a case of unfair dismissal to an employment tribunal or court under the Employment Rights Act ('Going to an employment tribunal' on page 11).

If you are a public-sector employee (you work for the Government or a local council, for example) you may also have a claim under the Human Rights Act (see 'The Human Rights Act' on page 12).

## Discrimination because of your age

There are currently no laws to stop people or organisations from discriminating against you because of your age. At work, for example, employers are allowed to take into account people's ages when recruiting, or when choosing workers for promotion or redundancy. If you are under 65 and have worked for an organisation for at least two years, you are legally entitled to redundancy pay. But an employer can insist that you retire when you reach a certain age (usually 60 or 65).

The 'Code of Practice on Age Diversity in Employment' is a set of government guidelines about how employers should not discriminate because of age. It is not law, but it sets out what

employers should do to be fair to people of all ages in:

- recruitment;
- promotion;
- training;
- making staff redundant; and
- dealing with retirement.

It covers things like how jobs are advertised and how interviews are carried out. See 'Further help' on page 15 for how to find out more about the Code.

If you are already in work, your employer may also have their own equal opportunities policy which covers age discrimination. If they do, and they don't follow it, they could be breaking your contract of employment, and you could bring a claim either through an employment tribunal, or through the courts.

Early in 2001 the Government announced that it would be introducing laws on age discrimination at work, to keep to the European Union Equal Treatment Directive. This is meant to stop discrimination in all European Union countries. But these new laws are not due to come into force until December 2006.

However, if you think you were sacked or redundant unfairly because of your age, you can still take a case of unfair dismissal to an employment tribunal or to court under the Employment Rights Act (see 'Going to an employment tribunal' on page 11). If you are a public-sector employee (that is, you work for the Government or a local council, for example) you may also have a claim under the Human Rights Act (see 'The Human Rights Act' on page 12).

## Discrimination against gay and lesbian people

There are no laws at the moment to protect gay and lesbian people from discrimination, but new laws come into force in December 2009 making discrimination at work because of sexual orientation illegal.

At work, your employer may have their own equal opportunities policy which covers discrimination against gay and lesbian people.

If they do, and they don't follow it, they may be breaking your contract of employment. If you could bring a claim either through an employment tribunal, or through the courts.

If you have HIV or AIDS, you may also face discrimination because of this. Someone living with HIV or AIDS (whether they are gay or not) may have protection under the Disability Discrimination Act. See the Community Legal Service leaflet 'Rights for people with disabilities' for more information about this.

## Transgender people

People who have had 'gender reassignment' (often called a sex change) do have some legal protection against discrimination. The Sex Discrimination Act was changed in 1999 to protect 'transgendered' people against discrimination in employment and work training. But these regulations don't cover health, education or services.

The regulations cover anyone who is about to go through, is going through, or has gone through gender reassignment. If you are discriminated against because of one of these, you will have a claim under the Sex Discrimination Act. Apart

from avoiding discrimination in recruitment, dismissal and so on, your employer should allow you time off work for necessary medical treatment just as they would allow time off for other kinds of necessary medical treatment.

They should also take action if you are harassed by other employees because of your gender reassignment.

The procedure for taking a case is the same as for any other Sex Discrimination Act claim (see 'What you can do about discrimination' on page 10).

The Equal Opportunities Commission has a guide 'Sex Equality and Transsexualism', which deals, in detail, with this kind of discrimination including examples of case decisions which may help you.

## Further help

### Community Legal Service Direct

To find details of quality assured advice providers:  
phone: 0845 608 1122 (minicom 0845 609 6677)

To search for details of quality assured advice providers and find links to over 300 carefully selected legal information websites log on at:  
[www.justask.org.uk](http://www.justask.org.uk)

### Equal Opportunities Commission

phone: 08456 015 901  
[www.eoc.org.uk](http://www.eoc.org.uk)

### Advisory Centre for Education

For advice on discrimination in schools  
Helpline open Monday to Friday 2pm to 5pm  
phone: 0808 800 5793  
[www.ace-ed.org.uk](http://www.ace-ed.org.uk)

### The Advisory, Conciliation and Arbitration Service (ACAS)

To find your nearest public inquiry point  
phone: 08457 47 47 47  
[www.acas.org.uk](http://www.acas.org.uk)

### Age Concern

phone: 0800 00 99 66  
[www.ace.org.uk](http://www.ace.org.uk)

### Employment Tribunal Service

Employment Tribunal enquiry line 08457 95 9775  
[www.employmenttribunals.gov.uk](http://www.employmenttribunals.gov.uk)

### The Gender Trust

For transgendered people  
phone: 07000 790 347  
[www.gendertrust.org.uk](http://www.gendertrust.org.uk)

### Stonewall

For lesbians, gay men and bisexual people  
phone: 020 7881 9440  
[www.stonewall.org.uk](http://www.stonewall.org.uk)

### Terrence Higgins Trust Lighthouse

For people living with HIV or AIDS  
phone: 0845 12 21 200  
[www.tht.org.uk](http://www.tht.org.uk)

### Third Age Employment Network

phone: 020 7843 1590  
[www.taen.org.uk](http://www.taen.org.uk)

For the Code of Practice on Age Diversity in Employment, contact the Age Positive team within the Department for Work and Pensions  
phone: 0845 330 360  
[www.dfee.gov.uk/agediversity](http://www.dfee.gov.uk/agediversity)

## The Community Legal Service (CLS)

The Community Legal Service has been set up to help you find the right legal information and advice to solve your problems.

You can get help through a national network of organisations including Citizens Advice Bureaux, Law Centres, many independent advice centres and thousands of high street solicitors. All of these services meet quality standards set by the Legal Services Commission, look for the Community Legal Service logo shown on the front of this leaflet.

Many of the organisations offer some or all of their services for free. If you cannot afford to pay for advice you may be eligible for financial support through the Community Legal Service Fund (Legal Aid). You can order leaflets about funding from the LSC Leaflet line on 0845 3000 343.

## The Legal Services Commission (LSC)

The Community Legal Service and the Community Legal Service Fund are managed by the Legal Services Commission. To find out more about us visit our website [www.legalservices.gov.uk](http://www.legalservices.gov.uk) or find the details for your local Legal Services Commission office in the phone book.



EQUAL  
OPPORTUNITIES  
COMMISSION

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This leaflet was written in association  
with the Equal Opportunities Commission

**This leaflet is one of a series produced by the Legal Services Commission (LSC).  
The leaflets are also available in Welsh, Braille and Audio versions.  
You can view English and Welsh versions of the leaflets on the CLS website at  
[www.justask.org.uk](http://www.justask.org.uk).**

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To order any of these leaflets contact the  
LSC Leaflet line on 0845 3000 343 or  
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Fax: 01732 860 270

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