



Shrewsbury Town IN THE **COMMUNITY**



Equality, Diversity & Inclusion Staff Guidance Handbook

June 2021

Equality, Diversity & Inclusion Staff Guidance Handbook

This **Equality, Diversity & Inclusion Staff Guidance Handbook** provides 28 bite-sized modules aimed at developing knowledge, understanding and awareness around the subject.

Whilst it is STitC's intention to guide all Trustees, Staff and Volunteers through these modules - both during induction and at regular team meetings - it is also each person's responsibility to work through each of the modules and help STitC live and breathe our commitment to equality, diversity, inclusion and anti-discrimination.

Should you need to seek further clarification or information on any of the guidance contained in this Handbook, please do not hesitate to speak to your **EDI Staff Lead**.

1.	Introduction to Staff Guidance Handbook	1
2.	The Difference Between Equality, Diversity and Inclusion	2
3.	Harassment versus Bullying	3
4.	Defining Victimisation & Detriment	4
5.	Understanding Discrimination & Protected Characteristics	5
6.	The Four Main Types of Discrimination	6
7.	Protected Characteristics: Age Discrimination	8
8.	Considerations to Reduce Instances of Age Discrimination	9
9.	Protected Characteristics: Disability	13
10.	Supporting People with Disabilities	16
11.	Protected Characteristics: Gender Reassignment	18
12.	Protected Characteristics: Marriage & Civil Partnership	22
13.	Some FAQ's About Marriage & Civil Partnership	24
14.	Protected Characteristics: Pregnancy & Maternity	26
15.	Pregnancy & Maternity Protections at Work	27
16.	Protected Characteristics: Race	31
17.	How the UK Monitors Ethnicity	33
18.	Protected Characteristics: Religion or Belief	35
19.	The Six Different Belief Systems	38
20.	A Brief Overview of 20 World Religions	39
21.	The World's 20 Largest Religions	41
22.	Protected Characteristics: Sex	43
23.	Considerations to Reduce Instances of Sex Discrimination	45
24.	The Top 10 Sex Discrimination Myths	46
25.	Protected Characteristics: Sexual Orientation	49
26.	Different Identities Associated with Sexual Orientation	51
27.	How to Help Stop Homophobia	53
28.	Eight Steps to Support of Inclusivity	56

An up to date version of this **Equality, Diversity & Inclusion Staff Guidance Handbook** is available from the STitC person responsible for HR.

1. Introduction to Staff Guidance Handbook

The Board of STitC are committed to Equality, Diversity & Inclusion at all levels throughout the organisation. This commitment supports STitC's stance on Anti-Discrimination, as well as supporting the work and progress being undertaken towards the achievement of the English Football Leagues (EFL) Equality Code of Practice.

In furtherance of achieving (and maintaining) compliance with the **EFL Equality Code of Practice**, STitC have developed a number of policies and procedures that underpin the approach to Anti-Discrimination - and these are detailed within STitC's **Equality, Diversity and Inclusion Policies & Procedures Handbook** and will form part of a new starters induction, as well as being regularly covered through on-going refresher training.

Please ensure that you are familiar with the above resource and comply with the requirements of those policies throughout your work for the organisation.

STitC believes it is essential that all of its staff (which includes Trustees, the Management Team and volunteers) receive the required information, guidance and support to be able to effectively deliver on the organisations commitment to embrace equality, diversity & inclusion - thus ensuring a zero tolerance policy towards discrimination.

To this end, this **Equality, Diversity & Inclusion Staff Guidance Handbook** has been developed to support and increase staff knowledge and awareness of equality and diversity, whilst raising awareness about the responsibilities and requirements of the **Equality Act 2010**. **This is achieved in the following three ways:**

Part 1

The first part of this Handbook will focus on clarifying the language most often used when talking about Equality, Diversity & Inclusion, as well as providing a succinct introduction to the Equality Act 2010 and the protected characteristics.

Part 2

The middle section of this Handbook provides greater clarity about the nine protected characteristics covered by the Equality Act.

Part 3

Finally, this Handbook wraps things up by introducing a few practical strategies that can be taken by everyone to help us all be more tolerant and inclusive - and by doing so live and breathe equality and diversity.

Reviewed & Updated: June 2021

STitC will review this [Equality, Diversity & Inclusion Staff Guidance Handbook](#) at least annually. In addition, more frequent reviews will be undertaken following any relevant change in legislation; as part of a process following the implementation of a new activity or service; and/or following any major equality, diversity and/or inclusion incidents within the CCO or Club.

2. The Difference Between Equality, Diversity and Inclusion

The first steps in better equality, diversity and inclusivity is through having a clear understanding about the terminology that is used when talking about this subject. Whilst it may seem that some of the words used might just be interchangeable - and therefore broadly describe the same thing - each has a defined meaning, which it is essential to understand. In this section of STitC's Equality, Diversity & Inclusion Staff Guidance Handbook we are going to take a look at some of these words in a little more detail.

Taking careful note of the following will prove useful and increase your understanding when these terms are used later in this Guidance Handbook.

If you are unclear on any of the descriptions and explanations that follow, please do not be afraid to seek further support from STitC's EDI Staff Lead.

Equality

For STitC, practicing equality is about ensuring that every individual has an equal opportunity to make the most of their lives and their talent; and a belief that no one should have a poorer life chance because of the way they were born, where they come from, what sex they are, what they believe - or whether they have a disability.

Equality is also about recognising that certain groups of people have historically experienced discrimination - and therefore, positive action is required from all concerned to address this lack of equality.

That action starts with you!

Diversity

When we say diversity we are simply talking about anything that can be used to differentiate individuals (or groups of people) from each other. STitC wants to embrace diversity in every area of its work and this means that the organisation needs to empower its people to respect and appreciate what it is about themselves (as well as others) that makes them different. This will include such differences like **age, gender, ethnicity, religion or belief, disability, sexual orientation, education, and/or national origin.**

Every person in our organisation brings with them a diverse set of perspectives, work and life experiences, as well as religious and cultural differences. However, the real power of diversity is only achieved - and the subsequent benefits reaped - when we recognise those differences and learn to respect and value each other irrelevant of backgrounds.

STitC's approach to diversity (and the main purpose of these resources) is to help staff go past just simple tolerance of those differences and instead, help everyone to truly understand each other and to genuinely value their differences.

Inclusion

In essence, inclusion is about a sense of belonging.

However, no one can ever feel like they belong if they are not respected and valued for who they are - whether that be as an individual or as a group. Therefore, STitC sees inclusion as the efforts we make to ensure that those individuals and groups (who have different backgrounds) are culturally and socially accepted, welcomed - and equally treated always.

The differences that are referred to above could include the perhaps more obvious areas such as age, gender, ethnicity, religion or belief, disability, sexual orientation, marital status and/or national origin; but also includes such inherent things like someone's educational background, training, job experience or personality **e.g.** by perhaps being an introvert or extrovert.

The evidence is undeniable - when individuals (and groups) feel the support and commitment from others - the difference is visible. People become engaged and motivated. The positive energy increases. Well-being and performance (across all measures) increases. Being inclusive demonstrates that people are valued!

By YOU making the decision to be inclusive to everyone, it will show that YOU value everyone!

3. Harassment versus Bullying

Harassment & bullying are frequently talked about as if they were the same thing - and the terms are often used interchangeably. However, there is a very important distinction between the two terms. Understanding this difference is useful. Harassment is considered unlawful under the Equality Act 2010, but bullying isn't. Therefore, whilst you could choose to take legal action against a person that was harassing you, you would not be able to do so as a result of being bullied.

Harassment

First and foremost it is important to remember that harassment is unlawful!

Harassment comprises of unwanted behaviour or conduct related to a protected characteristic - and the conduct or behaviour has the purpose (or effect) of **violating the other persons dignity**, or creating an **intimidating, hostile, degrading, humiliating or offensive** environment for that other person.

Unlawful harassment also occurs where a person engages in unwanted behaviour or conduct of a sexual nature, and the conduct has the purpose (or effect) of **violating the other persons dignity**, or creating an **intimidating, hostile, degrading, humiliating or offensive** environment for that other person.

In both of the above examples, unwanted behaviour or conduct could include physical gestures, abuse, jokes, spoken or written words, or offensive emails and expressions. The harassment may be obvious or insidious. However, a single incident can amount to harassment if it is sufficiently serious.

Behaviour, which a reasonable person would realise would be likely to offend another person, will always constitute harassment - without the need for the other person to make it clear that such behaviour is unacceptable **e.g.** touching someone in a sexual way.

However, conduct may be harassment even when the person had no intention to offend **i.e.** something intended as a **joke** or as **banter** may still have the effect of offending another person. This is because different people have different levels of what they consider to be acceptable behaviour - and most importantly, every person has the right to decide for themselves what behaviour they find acceptable to them. In these cases, the behaviour or conduct will constitute harassment if it continues after the person has made it clear - by words or conduct - that such behaviour or conduct is unacceptable to them.

The key to whether harassment has occurred is whether the comments or actions are looked upon as humiliating and unacceptable by the recipient.

Bullying

Bullying is any repetitive behaviour that is intended to hurt or intimidate another person and where the relationship involves an imbalance of power (or even a perception of an imbalance of power). Bullying can occur face to face, by letter and email, as well as online via social media (which is known as cyber-bullying). **Bullying includes the following types of behaviours:**

Verbal & Non Verbal Abuse	Emotional Abuse	Physical Assaults
Exclusion of the Person	Undermining Behaviour	Controlling Behaviour
Manipulating Behaviour	Silent, Hoax or Abusive Calls	Lying About Someone
Undermining Someone	Spreading Malicious Rumours	Cyber-Bullying

Whilst all of the above are also examples of how bullying can occur in the workplace, it more often takes the form of **offensive, abusive, malicious or intimidating behaviour (as a consequence of the misuse of power i.e. seniority) with the intention of undermining, humiliating or belittling the person that the behaviour is being directed towards. Bullying may be obvious or insidious.**

4. Defining Victimisation & Detriment

If you are treated badly - because you complain about discrimination, or as a consequence of you helping someone who has been discriminated against - this is called victimisation. Victimisation is unlawful under the Equality Act 2010 and you can take action in the civil courts if it happens. This is because the Equality Act 2010 recognises that you may be worried about complaining - and you are consequently afforded extra legal protection when you complain about discrimination.

Victimisation

Victimisation occurs if a person is subjected to a **detriment** because they have raised (or supported another person with) a grievance or complaint of unlawful discrimination. It also occurs if a person issues employment tribunal proceedings for unlawful discrimination, or they have given evidence in connection with unlawful discrimination proceedings brought by another person.

Detriment

A detriment quite simply means that a person has suffered a disadvantage of some sort, or has been put in a worse off position than they were before **e.g.** you have made a complaint of sex discrimination against your employer, who as a result denies you an opportunity of promotion. You have therefore suffered a detriment by virtue of **not getting promoted (Victimisation)**.

It is important to remember though, that a person is not protected under the Equality Act 2010 if they give false evidence or information, or make a false allegation - and they do so in bad faith.

No Time Limits

Importantly, there is no time limit within which the victimisation must happen after a person complained or did the protected act.

Therefore, if you are treated badly because of a protected act - even if that treatment happens years afterwards - you will have been victimised and will be able to bring your claim against the other person in a civil court.

5. Understanding Discrimination & Protected Characteristics

Prior to 2010, there were a raft of different Acts of Parliament that formed the basis of anti-discrimination law. On 1st October 2010, all of these previous Acts of Parliament were consolidated, updated and supplemented into the Equality Act 2010.

Discrimination

Discrimination means treating a person (or group of people) differently from others because of who they are, or because they possess a certain feature or quality - known as a characteristic. Treating any person or group unfairly because of who they are, or because they possess a certain characteristic, is unlawful.

This Equality Act 2010 identified the following nine characteristics that were protected from discrimination:

Age	Disability	Gender Reassignment
Marriage & Civil Partnership	Pregnancy & Maternity	Race
Religion or Belief	Sex	Sexual Orientation

Therefore, revisiting the opening sentence of this section, discrimination that occurs as a consequence of one or more of the above nine protected characteristic is unlawful under the Equality Act.

And it's important to remember that the Equality Act isn't about protecting **other people** - as because every single one of us has at least some of these nine characteristics (such as age, race or gender) the act is protecting every person (including YOU!) from being discriminated against.

Everyone is protected from discrimination in the following situations:

- **Within the workplace**
- **When using public services**
e.g. when visiting a doctor or the local hospital - or when accessing education e.g. at school, college **etc.**
- **When accessing services and goods provided by businesses and other organisations**
e.g. shops, restaurants, cinemas **etc.**
- **When using transport**
- **When joining a club or association**
e.g. local tennis club **etc.**
- **When having contact with public bodies**
e.g. local council or government departments.

The Act also goes so far as to protect a person from unfavourable treatment because someone thinks they belong to a particular group of people with protected characteristics **i.e.** even treating someone unfairly because you think they are gay (even though they are not) is unlawful discrimination.

6. The Four Main Types of Discrimination

Whilst you hopefully now have a better understanding of what discrimination is - as well as the settings it may (illegally) occur in - it will also help to appreciate the four main types of discrimination that occur:

Direct Discrimination

If a person with one or more of the protected characteristics outlined previously is treated less favourably than someone else in similar circumstances, then this would be called **Direct Discrimination**.

e.g. you have the required experience and qualifications for the job, but your application is rejected because you are considered either **too young** or **too old** (**Age Discrimination**).

Indirect Discrimination

If an employer establishes a rule or policy at work that results in placing a particular person at a disadvantage, compared to other colleagues, then this could be considered to be **Indirect Discrimination**.

e.g. if your employer requires all employees to work on Sundays, then as a Christian this would prevent you from attending church which is a day of worship for Christians (**Indirect Religious Discrimination**).

Discrimination by Association

If a person is treated unfairly because of someone that they know, or are associated with, has one of the protected characteristics, then this could be considered to be **Discrimination by Association**.

e.g. you are refused service in a restaurant because you are with someone who belongs to a particular race (**Race Discrimination**).

Discrimination by Perception

If a person receives unfair treatment because someone thinks that they belong to a group with protected characteristics, then this could be considered to be **Discrimination by Perception**.

e.g. even though you are heterosexual, a letting agent refuses to allow you to rent a property because they make an assumption that you are gay as a consequence of their misconceptions about how gay people look, dress or behave (**Sexual Orientation Discrimination**).

This brings us to the end of Part 1 of the Equality, Diversity & Inclusion Staff Guidance Handbook. In the next section, we are going to learn more about each of the nine protected characteristics - with some practical examples and information that will help widen your understanding and knowledge of diversity.

Protected Characteristics



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7. Protected Characteristics: Age Discrimination

Age discrimination occurs when a person is treated differently because of their age in one of the situations that is covered by the Equality Act (as outlined in the earlier section "Understanding Discrimination & Protected Characteristics"). The treatment can be a one-off action, or as a result of a rule or policy that has been based upon age. Most importantly, it does not have to be an intentional act to be unlawful discrimination.

Age Discrimination

It is illegal to discriminate against a person because:

1. They are (or are not) a certain age or in a certain age group.
2. A person thinks another person is (or is not) a specific age or in a specific age group (known as **Discrimination by Perception**).
3. A person is connected to another person of a specific age or in a specific age group (known as **Discrimination by Association**).

The term **specific age group** used above can be quite wide **e.g.** under 50's or under 18's - but can also be more specific **e.g.** people in their mid-40's **etc.** It's also important to not use language such as youthful, pensioner or elderly - as such words can convey age groups.

The Four Types of Age Discrimination

- Your employer refuses to allow you onto the management training programme because they consider that you are **too old**, but permits younger work colleagues onto the programme (**Direct Age Discrimination**).
- Your optician offers customers who are in employment the opportunity to pay for their glasses in instalments. Such a policy is likely to discriminate against older customers who are less likely to be working (**Indirect Age Discrimination**).
- During a training session the trainer makes comments about how slow you are at learning how to use the new software - and says they believe it is because you are an older student. If you became distressed at these comments, it could be considered to be an example of harassment (**Age Related Harassment**).
- A work colleague tells you that they are being called wrinkly by some of the other team members. You support your colleague to make a complaint to the line manager - who then treats you badly because you supported your colleague in making their complaint (**Age Related Victimisation**).

Examples of when Different Treatment due to Age is Permitted

- **A film company advertises for a young boy to play Oliver Twist.**

This is permitted different treatment by virtue of the need to belong to a particular age group being an **Occupational Requirement**.

- **A GP offers free flu jabs to over 65's.**

This different treatment is permitted because it is an **Age-Related Concession** and is allowed by the **Equality Act 2010**.

- **An organisation advertises in such a way as to encourage applicants from a certain under-represented age group.**

This different treatment is permitted as **Positive Action** under the **Equality Act 2010**.

- **An employer sets a compulsory retirement age that it is able to justify in respect of a given role.**

This is permitted different treatment allowed by the **Equality Act 2010** and is called **Objective Justification**.

8. Considerations to Reduce Instances of Age Discrimination

Age discrimination, apart from in very limited circumstances, is unlawful. It will also create problems and upset. In many cases, organisations unintentionally discriminate because they are unfamiliar with the law. Here are some key considerations to help you reduce the chance of age discrimination happening:

1.	Ageist remarks are likely to be discriminatory whether or not they are meant to be insulting - it's the effect they can have on the person hearing them that matters.
2.	Make sure job applicants and employees are not discriminated against because of their age, the age they are thought to be, or the age of someone they are linked with.
3.	Don't discriminate against a job applicant because of age at any point in a recruitment process - and this includes from job descriptions to job offers.
4.	Don't make age-based assumptions about what job applicants and staff are capable of and how they will behave. Such stereotyping is one of the most likely causes of age discrimination.
5.	Don't pressurise or bully an employee into retiring - and remember, that generally the law doesn't have a fixed retirement age for someone to retire by.
6.	Base an employee's pay, benefits and perks on their job and skills, not age. However, never forget that the law allows the improvement of pay, benefits and perks for service of up to five years and, where the employer can prove the need, for more than five years' service.
7.	Don't assume there is more value in training younger staff and no or little value in training older staff.
8.	Treat all staff consistently and fairly when assessing their performance and setting future goals, no matter what their age.
9.	Make sure policies and practices in the workplace don't put any staff member at a disadvantage because of age. Often this is unintentional, but it is still illegal.
10.	The law does allow different treatment because of age in limited circumstances, but these exceptions can be complicated to put into practice correctly. An employer would need to be fully informed about using an exception, able to prove there is a real and important requirement for using it - and then confident there was no other option.

8. The Top 10 Age Discrimination Myths

The following are 10 very common age discrimination myths that are perpetuated within the workplace generally, with the correct facts provided below them to ensure that you understand what evidence actually supports, as well as other ways you might tackle the myth within your own job role - where you are responsible for that area.

Myth	Some employers think older staff are more likely to be off work ill.
Fact	Research shows that sickness absence rates are similar across all age groups.

Myth	By older people staying in work it stops young people getting a job.
Fact	There is no evidence for this. Forecasts suggest more older staff will be needed to stay in work.

Myth	Talking to employees over 50 about their future work plans risks employers being accused of age discrimination.
Fact	An employer can ask an employee, regardless of their age, about their work plans in the short, medium and long-term. However, an employer must not design a different set of questions for an employee because of their age.

Myth	It's OK for an employer to ask a job applicant: 'Would you be able to manage a team of people older than you'.
Fact	This is the wrong question. Try asking: 'Tell me about your management experience', and 'Have you had to manage any difficult situations?'

Myth	An employer looking to fill a demanding position can decide to interview only people between 30 and 45 - so as to hire someone with a strong sense of responsibility.
Fact	No, it can't. Applicants must be selected for interview based on the skills, knowledge and experience necessary for the role.

Myth	Older employees are difficult to train and less able to learn new skills.
Fact	There is no evidence to support this. Rather, it has been found that with well-organised, planned and coherent training, employees adapt regardless of age.

The Top 10 Age Discrimination Myths continued...

Myth	An employer is unlikely to get investment back in training staff over 55 and under 25 - as they are both likely to move on in the near future.
Fact	As technology moves ever faster, most skill sets need updating frequently - while the shelf-life of training to get there gets less and less. So all staff, no matter what their age (and the organisation too) are likely to benefit from training.

Myth	The performance of employees tails off as they get older.
Fact	Research shows that there is no deterioration in performance (in most types of work) at least until 70. What does make a difference though, is whether older employees get the same training as younger colleagues.

Myth	An employee must retire once they start taking their State pension.
Fact	The law no longer sets a retirement age. This means most employees can decide when they will stop working and whether or not they take (or defer) their State pension.

Myth	It's OK for recruitment agencies to only send on applications from anyone under 50 - because they know the employer won't interview anyone older.
Fact	Apart from in very limited circumstances - e.g. where applicants need to be a particular age, or within a particular age range - an agency must not filter applications this way and should also <u>not</u> pass over details relating to an applicants' age. If it does, both the agency and the employer are likely to be discriminating.

The previous [Considerations to Reduce Instances of Age Discrimination](#) and the above [The Top 10 Age Discrimination Myths](#) were originally put together by ACAS. Further information about [Age Discrimination](#) is available from ACAS and can be found by clicking on the below link:

[Click to Find out More About Age Discrimination](#)

Protected Characteristics



DISABILITY

9. Protected Characteristics: Disability

Disability discrimination occurs when a person is treated less well, or put at a disadvantage as a consequence of a disability in one of the situations that is covered by the Equality Act (as outlined in the earlier section "Understanding Discrimination & Protected Characteristics"). The treatment can be a one-off action, as a result of the application of a rule or policy, or due to the existence of physical or communication barriers which make accessing something difficult or impossible. Most importantly, it does not have to be an intentional act to be unlawful discrimination.

Disability Discrimination

It is illegal to discriminate against a person because:

1. They have a disability.
2. A person thinks another person has a disability (known as **Discrimination by Perception**).
3. A person is connected to another person with a disability (known as **Discrimination by Association**).

However, it's important to know that it is not illegal discrimination to treat a disabled person **more favourably** than a non-disabled person.

What is a Disability?

- As far as the **Equality Act 2010** goes, a **disability** means a **physical** or a **mental condition** which has a **substantial and long-term impact** on a person's ability to **undertake normal day to day activities**.
- The **Equality Act 2010** also defines **progressive conditions**, such as HIV, cancer or multiple sclerosis as disabilities from the **point of diagnosis**, even if the condition hasn't (yet) impacted on the person's ability to carry out their normal day to day activities.
- Finally, the **Equality Act 2010** also provides protection to people who have **previously had a disability - e.g.** if you had a mental health condition in the past **which lasted for over 12 months** - but you since recovered - you are still protected from discrimination because of that disability.

And do not forget that not every disability/impairment is visible **e.g.** asthma and diabetes might not be obvious, but these can and do have an effect on a person's day-to-day activities. There is also no need for a person to have had a medically diagnosed cause for their impairment either. What matters is does the impairment have a substantial and long-term impact on a person's ability to undertake normal day to day activities.

Clarifying what is meant by a Physical or Mental Impairment

- **Physical Impairments can include:**

Sensory Impairments e.g. hearing or sight loss	Learning difficulties e.g. dyslexia or dyspraxia
Mobility difficulties	Limb Loss

- **Mental Impairments can include:**

Depression	Anxiety	Panic Attacks
Phobias	Obsessive Compulsive Disorders	Eating Disorders
Schizophrenia	Bipolar Affective Disorder	Narcolepsy

Some impairments (where they affect a person's ability to carry out normal day-to-day activities) might be both physical and mental **e.g.** genetic and progressive conditions such as motor neurone disease and muscular dystrophy.

Protected Characteristics: Disability continued...

Clarifying Substantial & Long-Term Adverse Effect

- **Substantial Adverse Effect:** This means something that is more than just minor or trivial and goes beyond the normal differences in ability which may exist between different people.
- **Long-Term Effect:** This means a condition or impairment which has lasted at least 12 months; or where the total period for which it will last is likely to be at least 12 months; or which is likely to last for the rest of a person's life.

Normal Day to Day Activities

- When the **Equality Act 2010** refers to **a person's ability to undertake normal day to day activities** it means the kind of things that people do on a regular or daily basis **e.g.** reading, writing, using the telephone, having a conversation, travelling by public transport **etc.**

The Six Types of Disability Discrimination

- During an interview a job applicant tells the interviewer that they have been diagnosed with cancer. Despite that person being the best candidate for the job, they do not get the role because the employer believes they will have a lot of time off work for medical treatments and appointments (**Direct Disability Discrimination**).
- A job advert stipulates that the successful applicant must possess a driving licence. Unless there was objective justification for that requirement **e.g.** the role was as a bus driver - an applicant with epilepsy would be unfairly disadvantaged (**Indirect Disability Discrimination**).
- A new library has opened and only has steps to access the building. A person with a mobility impairment would be unable to use the library service without ramp access - and whilst this could have been easily addressed at the building stage it wasn't (**Failure to make Reasonable Adjustments**).
- A nursery refuses to accept children who have not been toilet trained. When the parents explain that their child has Hirschsprung's Disease (a birth defect in which nerves are missing from parts of the intestine) the nursery still refuses to take the child (**Discrimination Arising from Disability**).
- A disabled person is sworn at and called names at work because of their disability (**Disability Related Harassment**).
- An employee complains of disability discrimination and they are then threatened with the sack unless they withdraw their complaint (**Disability Related Victimisation**).

Situations when Different Treatment due to Disability is Permitted

- **It is always lawful to treat a disabled person more favourably than a non-disabled person.**
- **Treating one disabled person more favourably than another disabled person can be lawful in certain circumstances.**

e.g. if an organisation that supports deaf people requires an employee - who will counsel British Sign Language users - to be a deaf British Sign Language user themselves this would be justified as an **Occupational Requirement**.

e.g. if an employer is aware that people with learning disabilities have a higher rate of unemployment and decides to set up a mentoring and job-shadowing programme for people with learning disabilities to help them prepare to apply for jobs then this would be justified as taking **Positive Action**.

Conditions which are not Impairments or Disabilities

Whilst an addiction to alcohol, nicotine - or any other substance for that matter - is not considered a disability under the **Equality Act 2010**, a person might still be disabled if the addiction has caused an impairment **e.g.** a person who had liver disease or depression - which had been caused by alcohol dependency - would have a protected impairment. The addiction could also be classed as a disability if it was originally caused by medical treatment or medically prescribed drugs.

Protected Characteristics: Disability continued...

The following conditions are not considered impairments or disabilities under the Equality Act 2010:

Hay Fever	Tattoos	Piercings
Voyeurism	Exhibitionism	Tendency to Set Fire to Things
Tendency to Steal Things	Tendency to Physically Abuse	Tendency to Sexually Abuse

Finally...

The **Equality Act 2010** specifically prohibits employers from asking any job applicant about their health or their disabilities - unless there are specific good reasons why this information is required during the application process, or for a requirement of the job role. **Consequently, health questions should not generally be asked of job applicants.**

10. Supporting People with Disabilities

Whilst the previous three pages will have given you an important understanding of how the Equality Act 2010 protects people with disabilities, it will be helpful to understand what we can all do to help support and include those with physical and/or mental impairments.

Positive Attitudes

One of the biggest issues affecting how someone will interact with a disabled person is our own attitudes towards people with disabilities. Everyone needs to adopt and maintain a positive attitude towards people with a disability.

We can do this if we:

▪ Accept and treat all people as equals	▪ Celebrate the individuality in everyone
▪ Use appropriate language	▪ Refrain from labelling people or situations
▪ Recognise that people with a disability are in charge of their own lives	▪ Focus on what people can do - not the disability or what they cannot do
▪ Respect an individual's rights and their entitlement to confidentiality	▪ Ensure that access to our services are provided to everyone
▪ Encourage and support participation and inclusion for all	▪ Speak to people directly about the issues that affect them

The Appropriate Language

A person with a disability has the same needs and expectations as anyone else does. They are members of our communities; they shop in the same stores; and they use the same public services - and therefore should be spoken to and interacted with in the same way that we would expect from any given situation. **We can do this by:**

▪ Not commenting on a person's disability - unless it's directly relevant to the conversation.
▪ Not using emotive language - e.g. not the employee who is suffering from cancer, but the person who has cancer.
▪ Always using people-first language - which means putting a person before the diagnosis - e.g. not a blind person, but a person with a sight impairment; not a paraplegic, but a person with a disability.
▪ Avoiding grouping people by using language like normal students and students with a disability - e.g. instead of commenting that the ramp to the building means that the building is accessible for students with a disability, as well as normal students, it would be more inclusive to say that the ramp makes the building accessible to everyone.

Not Making Assumptions

We can practice inclusivity if we make a conscious effort not to make assumptions about another person. **Think about the following examples:**

▪ A person who appears distracted may in fact be very anxious.
▪ A person asking the same question more than once may have problems retaining information because of a brain injury or a specific learning difference.
▪ A person that will not look at you directly may have an Autistic Spectrum Disorder (ASD) which might be making them feel very uncomfortable maintaining eye contact.

Final Thoughts

The above three techniques are actually useful - regardless of who we are communicating with. And as we all take in information in different ways and at different speeds, don't be afraid to try different communication methods and styles **e.g.** you tell someone, you can show them the information on a web page, or even write it down for them. Don't be the person that disadvantages someone, or make them disabled, by the way that you communicate and interact with them.

Protected Characteristics



GENDER REASSIGNMENT

11. Protected Characteristics: Gender Reassignment

Gender Reassignment discrimination occurs when a person is treated differently because they are transsexual in one of the situations that is covered by the Equality Act (as outlined in the earlier section "Understanding Discrimination & Protected Characteristics"). The treatment can be a one-off action, or as a result of a rule or policy. Most importantly, it does not have to be an intentional act to be unlawful discrimination.

Gender Reassignment

It is illegal to discriminate against a person because:

1. They are a transsexual.
2. A person thinks another person is transsexual as a consequence of that person occasionally cross-dressing or being gender variant (known as **Discrimination by Perception**).
3. A person is connected to another person who is a transsexual person, or connected to someone who is incorrectly thought to be a transsexual person (known as **Discrimination by Association**).

For a person to be protected from gender reassignment discrimination, they do not have to have undergone any specific treatment or surgery to change from their birth sex to their preferred gender. The reason for this is because someone choosing to change their physiological attributes (or other gender attributes) is considered a personal process - rather than a medical one. A person can also be at any stage of the transition process to be afforded the protection **e.g.** proposing to reassign their gender, undergoing a process to reassign their gender, or having completed it.

What is a Transsexual?

- A transsexual is defined as a person whose gender identity is different from the gender assigned to them at birth **e.g.** a person was born a male and decides to live the remainder of their life as a woman. This is known, within the **Equality Act 2010**, as gender reassignment - and all transsexual people share the common characteristic of gender reassignment. Some transsexuals may also prefer the description **Transgender Person** or **Trans Male** or **Trans Female**.
- Also, whilst a wide range of people are included in the terms **Trans** or **Transgender**, the protection against discrimination is only given to an individual who has **proposed to change their gender**, or **have in fact done so** - **e.g.** if a group of men on a stag do are turned away from a restaurant (because they have dressed in fancy dress as woman) they could not claim that they had been discriminated against as they are not transsexual.

N.B. Intersex people (which is the term used to describe a variety of conditions in which a person is born with a reproductive or sexual anatomy that doesn't fit the typical definitions of female or male) are not explicitly protected from discrimination by the Equality Act, but none-the-less must not be discriminated against because of their gender or their perceived gender **e.g.** 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** or **disability discrimination**, but it would not be protected by the gender reassignment discrimination.

The Four Types of Gender Reassignment Discrimination

- An employee informs their line manager that they intend to spend the rest of their life living as a different gender. The line manager takes the decision (against the employees wishes) to transfer them away from their customer facing role so that they no longer have customer contact (**Direct Gender Reassignment Discrimination**).

N.B: It would also be considered Direct Gender Reassignment Discrimination if an employee was off work as a consequence of undergoing gender reassignment and was treated less favourably than another employee who was perhaps off work due to sickness or illness and who received Company sick pay.

- The local health authority makes a decision not to fund breast implants. This decision results in a woman undergoing gender reassignment from receiving the breast implants she requires to make her look more feminine. Although this rule applies to all women seeking breast implants, it has a greater impact and disadvantages transsexuals more (**Indirect Gender Reassignment Discrimination**).

Protected Characteristics: Gender Reassignment continued...

- A transsexual man is eating with friends in a restaurant and the waitress continues to call him **madam** and referring to him as a **she** - even after he complains and asks the waitress to stop doing so (**Gender Reassignment Related Harassment**).
- A transsexual complains about a work colleague who is calling him names and harassing him (because he is under-going gender reassignment) and ends up getting sacked as a consequence of making the complaint (**Gender Reassignment Related Victimisation**).

When Different Treatment due to Gender Reassignment is Lawful

- **An employer encourages transsexuals to participate in a specific type of work role as they are under-represented.**

This different treatment is permitted as **Positive Action** under the **Equality Act 2010**.

Other situations in which different treatment of transsexuals may be permitted include:

- A sports organisation decides to restrict participation from trans women in a woman's sports event triathlon because it is felt that her strength gives her an unfair advantage. In this example, if the organisers could evidence that this was the only way to ensure a fair event for everyone, then it could be fair different treatment.

Gender Recognition Certificate

The **Gender Recognition Act 2004** enables transsexual people to apply to receive a **Gender Recognition Certificate**. Subject to meeting certain criteria, a transsexual can receive a Gender Recognition Certificate to be legally recognised in their acquired gender - and which will allow them to obtain a new birth certificate showing their recognised legal sex.

13. Breaking Down the Myths about Transsexuals

Gender Dysphoria

This is a condition where a person experiences distressing and uncomfortable feelings because there is a mismatch between their **Biological Sex** and their **Gender Identity**. This is also known as **Gender Incongruence**.

Biological Sex

- This is something that is assigned at birth and is dependent on the appearance of the genitals.

Gender Identity

- This is the gender that a person identifies with or feels themselves to be.

For the majority of people their **Biological Sex** and their **Gender Identity** are the same. However, this is not the case for everyone.

e.g. some people have the anatomy of a man, but identify themselves as a woman, whilst others may not feel they are definitively either male or female.

Whilst **Gender Dysphoria** is a recognised medical condition, for which treatment is sometimes appropriate, not all transsexuals necessarily live with dysphoria.

So let's now look at a few misconceptions about transsexuals that will help everyone be more understanding and inclusive...

All Transsexuals Transition

Transitioning refers to the process and/or the period of time during which gender reassignment occurs. However, transitioning can take place with, or without, medical intervention.

Not all people who undertake gender reassignment decide to undergo medical or surgical treatment to alter the body.

For some it can be vitally important to have treatment to make their physical appearance more consistent with their gender identity - and the process of doing so can take many years.

For others, it is simply a case of being able to live congruently and permanently in their acquired gender.

Transsexuals are Mentally Disturbed

A transsexual may be experiencing mental health issues (as do very many non-transsexual people), but they **do not** have a mental illness.

It can be extremely distressing to have a mismatch between ones biological sex and gender identity, but this is not something that can be **cured** or **treated** by therapy.

Transsexuals are Gay

Some are; but others aren't. Just like everyone else may or may not be.

Sexual orientation and being transgender are not connected. A person who undertakes gender reassignment should not be assumed to be gay or a lesbian, nor should it be assumed that following gender reassignment that their sexual orientation will change.

Sexual orientation is about who you are sexually or romantically attracted to - and that is something that will be unique to each individual.

Protected Characteristics

MARRIAGE



& CIVIL PARTNERSHIP

12. Protected Characteristics: Marriage & Civil Partnership

Marriage and Civil Partnership discrimination occurs when a person is treated differently at work because they are married or are in a civil partnership. The treatment can be a one-off action, or as a result of a rule or policy. Most importantly, it does not have to be an intentional act to be unlawful discrimination.

Marriage & Civil Partnership

It is illegal to discriminate against a person in employment because:

1. They are married.
2. They are in a civil partnership.

Does it apply to job applicants too?

Yes! You should not ask a prospective employee if they are married or in a civil partnership in a job interview.

Regardless of the reason behind the questions and what your views are, this line of questioning can amount to discrimination as it may imply that you think, for example, a married person is more reliable and committed than a single person. If the applicant voluntarily offers this information, you should not allow the information to influence your decision.

People who do not have this protected characteristic include those who are:

- Single
- Living with someone as a couple, but who are neither married nor civil partners
- Engaged to be married, but are not yet married
- Divorced, or a person whose civil partnership has been dissolved.

Defining Marriage

- Marriage can be between a man and a woman, or between partners of the same sex.

You are legally married if your union is recognised as a marriage under UK law, even if you didn't get married in the UK.

Defining Civil Partnership

- A civil partnership is a legal relationship which is registered by two people who are not related to each other
- Civil partnerships are available to both same-sex couples and opposite-sex couples.

Registering a civil partnership provides the relationship with legal recognition and therefore the individuals gain additional legal rights, as well as responsibilities. However, a civil partnership only exists once it has been registered. Once registered though, it confers the same rights and responsibilities as marriage does.

A civil partnership means a registered civil partnership under the Civil Partnership Act 2004. This also includes civil partnerships registered outside the UK.

The Three Types of Marriage or Civil Partnership Discrimination

- A single woman who has been working night shifts in a distribution centre is dismissed from her employment when she gets married because her employer believes that a married woman should be at home in the evenings (**Direct Marriage Discrimination**).
- You apply for a job, but when interviewed are told that the Company prefers recruiting employees without children. As it is more likely that married people will have children this would be unfair to married people (**Indirect Marriage or Civil Partnership Discrimination**).

Protected Characteristics: Marriage & Civil Partnership continued...

- You agree to act as a witness for a colleague who has complained about marriage or civil partnership related discrimination. As a consequence of supporting your colleague you are then passed over for a promotion you were the best candidate for (**Marriage or Civil Partnership Related Victimisation**).

N.B: You may have noted that whereas other protected characteristics afforded protection against harassment also, this does not apply to marriage or civil partnership. Therefore, whilst a complaint against harassment is not permissible on the grounds of marriage or civil partnership, if the treatment of a person (on the grounds of them being married or in a civil partnership) was hostile, intimidating, humiliating, degrading and/or was offensive, then that person could still choose to bring a claim for **Direct Marriage or Civil Partnership Discrimination** if it could be shown that they were treated worse than someone who was not in a marriage or civil partnership. Alternatively, it could be possible for a claim to be brought for **Sexual Orientation Harassment**.

When Different Treatment due to Marriage or Civil Partnership is Permitted

- **There are only very limited and specified circumstances when an employer can refuse to employ someone as a consequence of them being married or in a civil partnership.**
e.g. if an organised religion **i.e.** the Catholic church - wanted to recruit a Catholic priest.

13. Some FAQ's About Marriage & Civil Partnership

What are the differences between a Marriage and a Civil Partnership?

Marriage	Civil Partnership
May be religious	Remains secular
Prescribed form of words required	No vows spoken
Marriage Certificate signed	Civil Partnership Document signed
Can be annulled because of adultery	Cannot be dissolved by adultery
Divorce proceedings	Dissolution proceedings
In the event of death or divorce/dissolution there is no difference in the way that married couples and civil partners are treated.	

When & Why did the Law originate?

In 1975, Parliament introduced the **Sex Discrimination Act**, which afforded protection from discrimination to married persons. This law only really came about as a result of the not uncommon practice (at the time) which resulted in employers choosing to dismiss female employees once they got married. Whilst the protection has since been extended to men, it is thought to have been only as a consequence of formal equality, rather than a specific need.

Interestingly, whilst this Act was very much required back in the seventies, employers' views have very much changed since then. So much so, that Marriage Discrimination is rarely ever cited as a grounds for complaint these days.

Who can get married?

- In the **United Kingdom**, opposite sex couples can marry in a civil or religious ceremony.
- In **England and Wales** (since 29th March 2014) same sex couples can marry.

Same sex couples can marry in a civil ceremony, but can only get married in a religious ceremony if the religious organisation has agreed to marry same sex couples.

Same sex couples cannot marry in the Church of England or the Church in Wales.

- In **Scotland** (since 16th December 2014) same sex couples can marry.
- In **Northern Ireland**, same sex couples **cannot** marry.

This has the effect of meaning that same sex couples who marry in England and Wales will be treated as civil partners in Northern Ireland.

Since 13th March 2014, same sex couples who marry abroad under foreign law have been recognised as being married in England and Wales.

What about Transsexual people?

A transsexual person who has applied for and has been granted a **Full Gender Recognition Certificate** by the **Gender Recognition Panel** can get a new birth certificate which reflects their acquired gender. In **England and Wales**, they will then be able to marry someone of the opposite or same gender to their acquired gender, or in **Northern Ireland**, they will then be able to marry someone of the opposite gender.

However, if a transsexual person does not have a gender recognition certificate, they are legally considered to be the gender that is on their original birth certificate.

Protected Characteristics

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14. Protected Characteristics: Pregnancy & Maternity

Pregnancy & Maternity discrimination occurs when a person is treated unfairly - and consequently suffers a disadvantage (known as being treated unfavourably) - because they are pregnant, breast feeding or have recently given birth. Unfavourable treatment is when someone is worse off because of the discrimination. The unfavourable treatment can be a one-off action, or as a result of a rule or policy. Most importantly, it does not have to be an intentional act to be unlawful discrimination.

Definition of Pregnancy

- Pregnancy is the condition of **being pregnant** or **expecting a baby**.

Definition of Maternity

- Maternity refers to **the period after birth**. In a **work context** it is **linked to maternity leave**. In a **non-work context**, it protects a person against maternity discrimination **for a period of 26 weeks after giving birth**.

Protection against maternity discrimination also includes treating a woman less favourably because she is **breast feeding**.

Examples of Pregnancy & Maternity Discrimination in a non-work context

- The local supermarket refuses to sell a pregnant woman cigarettes because they are concerned about the risks of smoking during pregnancy. Regardless that the intention was well meaning, this would nonetheless be unlawful **Pregnancy Discrimination**.
- A ticket inspector on a train tells a woman who is breast feeding her 12 week old baby to stop, as other commuters have complained. Such a request would be unlawful **Breast Feeding Discrimination**.

Although in a non-work context a woman is only protected for the first 26 weeks after giving birth, if in the scenario above the baby had been nine months old - and the mother had been asked to leave the train at the next station if she didn't stop breast feeding - then the complaint would be of Direct Sex Discrimination if it could be shown that she would not have been asked to leave the train had she not been breast feeding.

Examples of Pregnancy & Maternity Discrimination at work

There are a number of circumstances where it is unlawful to discriminate against someone on the grounds of pregnancy and maternity. **These circumstances are because the person:**

1. **Is pregnant.**
2. **Has a pregnancy-related illness.**
3. **Is on maternity leave.**
4. **Has been on maternity leave.**
5. **Tries to take the maternity leave they were entitled to.**

When Different Treatment due to Pregnancy & Maternity is Lawful

- **A local health club has a rule that states pregnant women are not permitted to use the steam room.**

This different treatment is permitted **only** if it is as a consequence of **Health & Safety** concerns. However, for it to be lawful, they must also have rules in place that would treat other people differently for health & safety reasons too **e.g.** prohibiting people with a back condition **etc.**

Even if a baby is stillborn, as long as the pregnancy lasted until the 24th week, that person is still protected against pregnancy and maternity discrimination.

15. Pregnancy & Maternity Protections at Work

Who is protected from Pregnancy & Maternity Discrimination?

Employees	Casual Workers	Agency Workers	Freelancers
Self Employed	Job Applicants	Interviewees	Staff facing Redundancy

What situations is Pregnancy & Maternity Discrimination Unlawful?

Access to work related Benefits	Access to Training
Access to work related Services	Access to Promotion
Dismissal	Any other Disadvantage

When is a person Protected against Pregnancy & Maternity Discrimination?

Protection against pregnancy and maternity discrimination lasts for a specific period of time known as the **protected period**. The protected period **commences from when the person becomes pregnant** and - where they have the right to maternity leave - it **ends when either the maternity leave ends or they return to work**, if earlier than the end of the 12 month maternity leave.

In circumstances where there is **no entitlement to maternity leave** - i.e. where the person is not an employee, then the protected period **ends two weeks after the baby is born**.

Even when a person is treated unfairly - because of something to do with their pregnancy or maternity - outside of protected period, it could still amount to unlawful discrimination under the Equality Act 2010 and is likely to be **Direct Sex Discrimination.**

What are the Rights during Pregnancy?

A person has the following rights not to be treated unfavourably as a consequence of them being pregnant:

- Because they are unable to do the job they are employed to do
- Because they are unable to work if to do so would be a breach of health and safety regulations
- Because of the costs associated with covering their work
- Because they are absent as a consequence of a pregnancy related illness
- Because they cannot attend a disciplinary hearing due to morning sickness or other pregnancy related conditions
- Because their performance at work is affected due to morning sickness or other pregnancy related conditions.

An employer will be acting unlawfully against a person if they take the following action as a consequence of them being pregnant and/or on maternity leave:

- Dismiss them
- Refuse to recruit them
- Refuse to allow them reasonable paid time off work to attend ante-natal appointments
- Criticise them for taking time off work to attend ante-natal appointments

Pregnancy & Maternity Protections at Work continued...

- Fail to protect their health and safety
- Change or remove job responsibilities that are not as a consequence of a mutual agreement, health and safety reasons, or to arrange cover prior to maternity leave
- Discipline them (or treat them badly) as a consequence of pregnancy related illness
- Exclude them from business trips or other work related travel when it is still safe
- Refuse them the same training opportunities
- Not consider them for promotion
- Not tell them about suitable job opportunities
- Not consult them about reorganisations and/or redundancies
- Deny a pay rise or bonus
- Treat them unfavourably in some other way **e.g.** ignoring them or making hurtful comments related to their pregnancy or maternity.

What are the Rights during Maternity Leave?

All employers are legally required to allow a person on maternity leave the benefits of all their terms and conditions of employment (except pay). This includes the right to:

- Accrue holiday pay
- Full pension contributions for the 39 weeks of statutory maternity pay - and where the employer's contributions are based on what the normal pay would have been and the employee's contributions are based on their actual pay 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 was specifically provided for business use only
- Use of mobile phone and laptop - unless it was specifically provided for business use only
- The benefit of any pay rise due during the maternity leave period.

In some situations an employer is required to treat a person on maternity leave more favourably to remove any disadvantages they might suffer because of being on maternity leave. Accordingly, such a 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 was taken did not go beyond what was necessary to rectify the disadvantage - e.g. 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.

What are the Rights upon returning to work after Maternity Leave?

- **All employees returning to work from maternity leave within the 26 week ordinary maternity leave period are entitled to return to the same job.**

Pregnancy & Maternity Protections at Work continued...

- **All employees returning to work from maternity leave at any time during the next 26 week additional maternity leave period are entitled to return to the same job - unless the employer can show it is not reasonably practicable for them to return to the same job. In this case they must offer a suitable alternative job on the same terms, conditions and benefits previously enjoyed.**

A pregnant employee can also choose to end their maternity leave at any point from two weeks after the birth, so that you they can share what remains of the maternity leave with the child's father or their partner. This is called Shared Parental Leave. All employees who take shared parental leave have the same rights upon their return as were outlined above for maternity leave.

What are the Five Protections related to Pregnancy & Maternity?

- 1. Direct Sex Discrimination:** As mentioned within this Guidance Handbook this is where a woman is treated less favourably when compared to a man, but not because they are pregnant or on maternity leave.
- 2. Indirect Sex Discrimination:** This is where an employer applies a provision, criterion or practice to both women and men equally, but which has the effect of placing women at a disadvantage compared to men and where that provision, criterion or practice is not a necessary business need.
- 3. Victimisation:** This is where a woman is disadvantaged because they have made a complaint of discrimination on the grounds of pregnancy or maternity.
- 4. Protection from a Detriment:** This is where a woman has been disadvantaged as a consequence of their pregnancy, maternity leave or other type of family leave.
- 5. Automatic Unfair Dismissal:** This occurs when a woman is dismissed because she is pregnant or is taking, will take, or has taken a type of family leave.

Although an employee would generally need to have two years' continuous employment before they can claim unfair dismissal, this qualifying period does not apply to a pregnant employee. This means that an employee can make a claim from day one if they are discriminated against on the grounds of pregnancy or maternity.

Protected Characteristics



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16. Protected Characteristics: Race

Race discrimination occurs when a person is treated differently because of their race in one of the situations that is covered by the Equality Act (as outlined in the earlier section “Understanding Discrimination & Protected Characteristics”). The treatment can be a one-off action, or as a result of a rule or policy. Most importantly, it does not have to be an intentional act to be unlawful discrimination.

Race

It is illegal to discriminate against a person because of their Race. Race also refers to the following:

1. Colour.
2. Nationality - which includes Citizenship.
3. Ethnic or National Origins - and which is not necessarily the same as a person’s current nationality e.g. a person may have Indian origins, but is living in the UK and has a British passport.
4. Ethnic or Racial Group - which refers to a group of people who share the same protected characteristics of Ethnicity or Race.

N.B: A Racial Group can be made up of two or more distinct racial groups e.g. Black Britons, British Asians, Romany Gypsies, Irish Travellers etc.

A person may be discriminated against because of one or more aspects of their race e.g. someone born in Britain to Indian parents might be discriminated against because they are a British citizen or because of their Indian national origins.

Defining Race & Ethnicity

In general terms, **Race** refers to groups of people who have **biological differences and similarities** such as bone structure and skin, hair, or eye colour e.g. brown, white, or black skin.

Ethnicity is associated with **culture** and includes nationality and/or regional culture, ancestry and language e.g. Jewish people, Romany gypsies, members of the Irish traveller community and Sikhs etc. Whilst Muslims and Rastafarians have not been legally defined as ethnic, people from these groups are protected against discrimination because of religious belief.

Therefore, a person’s race is determined by how they look, while their ethnicity is determined based on the social and cultural groups they belong to. In this sense, ethnicity is something that is not always visible, as by looking at someone will not tell you about the language they speak, the religion they practice, or the country they come from etc. It is generally considered that a person could have more than one ethnicity, but every person only has one race - even if that is a mixed race.

The Four Major Races of the World Population

1. White/Caucasian	2. Mongoloid/Asian	3. Negroid/Black	4. Australoid
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As for ethnicity, there are more than 5,000 ethnic groups in the World.

Defining National Origin, Nationality & Citizenship

National Origins means the **country where a person was born**, or the **country where their family came from**. It can include a person’s **physical, cultural, or linguistic** (language) **characteristics**, as well as their traditions, history and other general similarities.

Nationality refers to **where a person was born**.

On the other hand, **Citizenship** may not refer to people of the same group e.g. a Jamaican may have British citizenship, but will not belong to the same group as a British national. Citizenship is a legal status and means that an individual has been registered with the government in a particular country.

Protected Characteristics: Race continued...

The Four Types of Race Discrimination

- A letting agency refuses to rent a flat to a person because of their race (**Direct Race Discrimination**).
- A hairdressing salon refuses to employ any stylist that covers up their own hair. This decision would disadvantage a Muslim woman or a Sikh man from being able to apply for a job as a stylist (**Indirect Race Discrimination**).
- A Jewish employee is being called racist names by his colleagues at work. Although the other employees say that it is only intended as banter, the Jewish employee is insulted and offended by the racist language he is being subjected to (**Race Related Harassment**).

Although harassment can never be justified, if the above employer could demonstrate that it had taken all steps possible to prevent its employees behaving in such a way i.e. through induction training and regular refresher training, then the Jewish employee would not be able to claim against the employer. However, they could make a claim against the person or persons who were using the racist names.

- The Jewish employee (from the above example) makes a complaint to his line manager about his work colleagues. The line manager, instead of dealing with the complaint, threatens to sack him unless he drops his complaint (**Race Related Victimisation**).

Examples of when Different Treatment due to Race is Permitted

- **A Domestic Violence Advice Service aimed at offering support to South Asian Woman wants to recruit a person of South Asian origins.**

This is permitted different treatment by virtue of the need to belong to a particular racial group being an **Occupational Requirement**.

- **A broadcaster is getting very few Black Caribbean applicants for its graduate recruitment programme, so decides to set up a work experience and mentoring programme for Black Caribbean students to encourage them into the sector.**

This different treatment is permitted as **Positive Action** under the **Equality Act 2010**.

- **A banks requirements that all applicants for a bank account must have been a resident in the UK for 12 months and that they must have a permanent address prevents asylum seekers from being able to open a bank account.**

Providing the bank can justify its policy i.e. for reasons of fraud prevention for which there was no practical alternative - this would then be permitted by the **Equality Act 2010** on the grounds of **Objective Justification**.

17. How the UK Monitors Ethnicity

Every 10 years in England and Wales, the Office for National Statistics conducts a Census of the entire population. The purpose is primarily to allow central and local government, health authorities - as well as other organisations - to target their resources more effectively and to assist in the planning of housing, education, health and transport services.

As part of the process, respondents were asked to first select a grouping from A to E and then to tick one box from that group which best described their ethnic group or background:

A	White	English/Welsh/Scottish/Northern Irish/British
		Irish
		Gypsy or Irish Traveller
		Write in any other White Background
B	Mixed/Multiple ethnic groups	White and Black Caribbean
		White and Black African
		White and Asian
		Write in any other Mixed/Multiple ethnic Background
C	Asian/Asian British	Indian
		Pakistani
		Bangladeshi
		Chinese
		Write in any other Asian Background
D	Black/African/Caribbean Black British	African
		Caribbean
		Write in any other Black/African/Caribbean Background
E	Other ethnic group	Arab
		Write in any other ethnic group

Stop to consider, that from just the above questions the 2011 Census identified that there were more than 250 different ethnic responses provided.

The UK certainly has a diverse and multi-ethnic population, but there's never been a more important time to ensure that we all practice equality, inclusion and anti-discrimination to embrace that diversity.

Protected Characteristics



**RELIGION
or BELIEF**

18. Protected Characteristics: Religion or Belief

Religion or Belief discrimination occurs when a person is treated differently because of their religion or belief - or because of their lack of religion or belief - in one of the situations that is covered by the Equality Act (as outlined in the earlier section "Understanding Discrimination & Protected Characteristics"). The treatment can be a one-off action, or as a result of a rule or policy. Most importantly, it does not have to be an intentional act to be unlawful discrimination.

Religion or Belief

It is illegal to discriminate against a person because:

1. They have Religion or Belief.
2. They lack a Religion or Belief.

Understanding what is meant by Religion

Whilst the **Equality Act 2010** does not provide a definition of what is meant by religion, it does state that **Religion** includes any religion of **sufficient seriousness** and **which has a clear structure and belief system**. Therefore, **the following are examples of Religions that are protected by the Act:**

Buddhism	Christianity	Hinduism
Islam	Judaism	Sikhism

However, it is very important to remember that you do not have to have heard of a religion for it to be considered both as a religion and for it to be protected by the Equality Act. **This means that all the following are also protected:**

Baha'i	Jainism	Paganism
Rastafarianism	Scientology	Zoroastrianism

Furthermore, protection is afforded to denominations and/or systems of belief within religions. **Examples of these include:**

Methodism or Sabbatarianism within Christianity	Sunni or Shia within Islam
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Finally, the protection of Religion and Belief extends to having a lack of Religion. **This means that all of the following are protected also under the Act:**

Atheists	Humanists	Secularists
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Taking not having a lack of religion to it's logical extension this means that a person with a particular religion will be protected against discrimination because they lack another, different religion.

Understanding what is meant by Belief

Belief refers to any **Religious** or **Philosophical** belief and incorporates **not having any belief**. However, in general terms - although there is no need for a belief to include faith or worship of a God or Gods - it should nonetheless **affect a person's life choices** and/or **the way that they live their life** for it to be included in the definition. **This means that the following beliefs are all protected under the Equality Act:**

Humanism	Pacifism	Vegetarianism
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Protected Characteristics: Religion or Belief continued...

What is Religious Belief?

When a person claims a **Religious Belief** what they mean is that they have a belief in a religion's central articles of faith **e.g.** a Christian believes that Jesus is the Son of God. However, religious belief also encompasses beliefs which exist within a religion, but which are not shared by everybody within that religion. **The following are some religious beliefs:**

- Some Christians believe that they should wear a cross as a symbol of their faith
- Within Islam, some believe that a woman should cover her head, or her whole body
- Believing in Creationism is a religious belief.

What qualifies as a Philosophical Belief?

As far as the **Equality Act 2010** goes, a **Philosophical Belief** must be **genuinely held** and be **more than just a person's opinion**. This means that the philosophical belief must **coherent, serious** and **apply to an important aspect of human life or behaviour**.

e.g. if a person believed strongly that climate change was man made and felt that they had a duty to live their life in a way that minimised their impact on the earth to help save it for future generations, this would be classed as a belief and therefore be protected under the Equality Act.

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

e.g. if a person believed that white people were a superior race to all others and chose to tell their work colleagues of their belief this would not be classed as a belief that would be protected under the Equality Act.

The differences between Faith & Belief

Faith	Belief
The strong trust & confidence in something or someone	The state or habit of mind in which trust or confidence is placed in some person or thing
Mostly used to refer to Religion	Mostly used in general contexts
Generally implies devotion	Does not imply devotion
Is a strong and unwavering trust in religion	May not be as strong as faith

The Six Types of Religion or Belief Discrimination

- An employer refuses to employ a job applicant because they are a Buddhist, despite that person being the best qualified candidate (**Direct Religion or Belief Discrimination**).

N.B: It would also be direct discrimination if an Atheist employee received a lower bonus than a Christian colleague - despite their performances being equal.

- A health club introduces a new rule requiring all personal trainers to wear a uniform that includes shorts - and there are no alternatives to shorts permitted. For some personal trainers, their religious beliefs require modesty in their dress and therefore such a rule would disadvantage them (**Indirect Religion or Belief Discrimination**).
- A Hindu couple go out to eat in a restaurant with another couple who are not Hindus. The restaurant owner refuses a table to them all because they are with the Hindu couple (**Religion or Belief Discrimination by Association**).

Protected Characteristics: Religion or Belief continued...

N.B: The Hindu couple would have a claim of direct religion or belief discrimination because they were refused a table because of their religion. The other couple would also have a claim of direct religion or belief discrimination because of their association with the Hindu couple.

- An employer rejects an application from a white woman because she has what they assume is a Muslim surname, despite the fact that she is not a Muslim (**Religion or Belief Discrimination by Perception**).

N.B: The job applicant now has a claim of direct religion or belief discrimination.

- Any person who engages in unwanted conduct related to religion or belief (or a lack of religion or belief) which has the purpose or effect of violating another person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person will have committed an unlawful act (**Religion or Belief Harassment**). **There are two types of unlawful harassment:**

- 1. Intended Harassment:** An employee sets up a weekly interfaith group for all employees, but uses the meeting to regularly criticise other staff members who do not attend - and warns them of the consequences of not having religion or belief.
- 2. Unintended Harassment:** This occurs when the conduct was not intended to harass another person, but that person complains that the unwanted conduct created an intimidating, hostile, degrading, humiliating or offensive environment for them.

N.B: Such comments will only be unlawful where it is reasonable for the comments to have had that effect. Therefore, whilst comments made in a one-off discussion between colleagues would be unlikely to be unlawful harassment, repeated comments ridiculing a person's belief, or comments expressed using derogatory language would be.

Although harassment can never be justified, if an employer could demonstrate that it had taken all steps possible to prevent its employees behaving in such a way i.e. through induction training and regular refresher training, then an employee would not be able to claim against the employer. However, they could make a claim against the person or persons who were responsible for the harassment.

- An employee works for a religious employer, but is discriminated against as a consequence of not having any religion or belief and raises a grievance because of it. At a later date she is refused an opportunity for promotion despite having all the necessary skills and experience - as she is now considered by the employer to be a troublemaker (**Religion or Belief Victimisation**).

Situations when Different Treatment due to Religion or Belief is Permitted

Unless there is an explicit exception in the Equality Act 2010, then direct religion or belief discrimination is not permitted.

- In very limited circumstances it can be lawful to specify that someone must have a particular religion or belief for a given job and this direct discrimination would then be justified as an **Occupational Requirement**.
- If an employer can satisfy a court or tribunal that a rule or policy is a proportionate means of achieving a legitimate aim then that indirect discrimination would then **Objectively Justified**.

e.g: to protect health and safety, to provide sufficient staff to meet legal requirements or business demands, to ensure compliance with equal opportunities **etc.**

While costs can be an additional factor for objective justification, it cannot be used solely - i.e. an employer cannot argue that it was cheaper to discriminate.

19. The Six Different Belief Systems

The majority of the worlds religious and spiritual movements can be grouped into one of six categories based on their fundamental beliefs. There is no suggestion that each believe the same thing, only that their belief structures have similarities. The following is a brief overview of the six belief systems and how they compare to each other.

1. Monotheism

Monotheistic religions acknowledge the existence of only one god. Monotheists may or may not also acknowledge the existence of lesser spiritual beings, such as angels, demons, and spirits. However, these are always subordinate to a single supreme being and are not deserving of the worship reserved for that god. **Examples of monotheistic religions include the following:**

Christianity	Islam	Judaism
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2. Dualism

Dualism recognises the existence of exactly two deities, which represent opposing forces. Believers only honour one as deserving of worship, generally associating them with goodness, order, sanctity, and spirituality. The other is rejected as a being of evil, corruption, and/or materiality. Although religions such as **Christianity** and **Zoroastrianism** recognise a single god, they also acknowledge a being of corruption, which should be rejected. However, in neither case is the corrupted being a god, but rather something of lesser status.

3. Polytheism

Polytheism is any religion that honours more than one god, but not in a dualistic relationship. Most polytheistic religions acknowledge dozens, hundreds, thousands, or even millions of deities. **Hinduism** is a perfect example, as are a number of lesser-known religions that have stemmed from its beliefs. Believing in multiple gods does not mean that a polytheist regularly worships all such deities. Rather, they approach the gods as needed, and may have one or several whom they feel particularly close to. Polytheistic gods are generally not omnipotent, unlike monotheistic gods who are often thought to have unlimited power. Rather, each god has his or her own spheres of influence or interest.

4. Atheistic

An **atheistic religion** is one that expressly states that there are no divine beings. The lack of supernatural beings, in general, is also commonly accepted but not specifically inherent in the term. The **Raelian Movement** is an actively atheistic movement. Formal acceptance into the religion involves a renouncing of previous religions and the embracing of the fact that there are no gods. Instead, the creation of the human race is credited to advanced life forms living beyond the planet Earth. It is their wishes, not the wishes of a supernatural being, which we should endeavour to embrace for the betterment of humanity.

5. Non-Theistic

A **non-theistic religion** does not centre upon the existence of any deities, but it does not deny their existence either. As such, members can easily be a collection of atheists, agnostics, and theists. Theist believers often integrate their beliefs in a deity or deities with the non-theistic religion, rather than dealing with the two beliefs as separate entities. **Unitarian Universalism** stresses many humanistic beliefs. A theistic Unitarian Universalist can easily understand these values as being the wish of God or being part of God's design.

6. Personal Development Movement

Personal Development Movements encompass a very wide range of beliefs and practices. Many are not distinctly religious, although some are. Personal Development Movements primarily focus on techniques for believers to better themselves in some way. When these techniques have a spiritual or supernatural component to their understanding, they are frequently categorised as religious. Some people look to Personal Development Movements to fix things - specifically within themselves such as health, ability, or intelligence. They may also be looking to improve their connection with the world, to attract more positive influences and to drive out negative ones. They may be looking for very tangible results, such as wealth and success. At the same time, they understand that some sort of change needs to occur within themselves in order for these desires to manifest.

20. A Brief Overview of 20 World Religions

Having benefitted from the previous introduction to the Six Different Belief Systems, you will now better appreciate and understand the following Brief Overview of 20 World Religions:

Religion	Brief Overview
Atheists	Atheists are people who believe that god or gods (or other supernatural beings) are man-made constructs, myths and legends or who believe that these concepts are not meaningful.
Bahá'í	The Bahá'í faith is one of the youngest of the world's major religions. It was founded by Baha'u'llah in Iran in the 19 th century.
Buddhism	Buddhism is a tradition that focuses on personal spiritual development. Buddhists strive for a deep insight into the true nature of life and do not worship gods or deities.
Candomblé	Candomblé is a religion based on African beliefs which is particularly popular in Brazil. It is also practised in other countries and has as many as two million followers.
Christianity	Christianity is the world's biggest religion, with over 2 billion followers worldwide. It is based on the teachings of Jesus Christ who lived in the Holy Land 2,000 years ago.
Hinduism	Hinduism is the religion of the majority of people in India and Nepal. It also exists among significant populations outside of the sub-continent. Unlike most other religions, Hinduism has no single founder, no single scripture, and no commonly agreed set of teachings.
Islam	Islam began in Arabia and was revealed to humanity by the Prophet Muhammad. Those who follow Islam are called Muslims. Muslims believe that there is only one God. The Arabic word for God is Allah.
Jainism	Jainism is an ancient religion from India that teaches that the way to liberation and bliss is to live a life of harmlessness and renunciation. The aim of Jain life is to achieve liberation of the soul.
Jehovah's Witnesses	Jehovah's Witnesses are members of a Christian-based religious movement probably best known for their door-to-door evangelistic work.
Judaism	Judaism is one of the oldest monotheistic religions and was founded over 3,500 years ago in the Middle East. Jews believe that God appointed the Jews to be his chosen people in order to set an example of holiness and ethical behaviour to the world.
Mormonism	Mormonism: The Church of Jesus Christ of Latter-day Saints was founded in 19 th Century America. The Church is centred on Christ, but has substantial differences in belief to the Catholic, Protestant, and Orthodox Christian Churches.
Paganism	Paganism encompasses a diverse community with some groups concentrating on specific traditions, practices or elements such as ecology, witchcraft, Celtic traditions or certain gods. Wiccans, Druids, Shamans, Sacred Ecologists, Odinists and Heathens all make up parts of the Pagan community.
Rastafari	Rastafari is a young, Africa-centred religion which developed in Jamaica in the 1930's, following the coronation of Haile Selassie I as King of Ethiopia in 1930. Rastafarians believe Haile Selassie is God, and that he will return to Africa members of the black community who are living in exile as the result of colonisation and the slave trade.

A Brief Overview of 20 World Religions **continued...**

Santeria	Santeria (Way of the Saints) is an Afro-Caribbean religion based on Yoruba beliefs and traditions, with some Roman Catholic elements added. The religion is also known as La Regla Lucumi and the Rule of Osha. Santeria is a syncretic religion that grew out of the slave trade in Cuba.
Shinto	Shinto has no known founder or single sacred scripture. Shinto is wholly devoted to life in this world and emphasises man's essential goodness.
Sikhism	Sikhism was founded in the Punjab by Guru Nanak in the 15 th Century and is a monotheistic religion. Sikhs think religion should be practised by living in the world and coping with life's everyday problems.
Spiritualist	The Modern Spiritualist movement dates from 1848 when the Fox sisters of Hydesville, New York produced knocking sounds that were alleged to be messages from a spirit. Spiritualists communicate with the spirits of people who have died.
Taoism	Taoism is an ancient tradition of philosophy and religious belief that is deeply rooted in Chinese customs and worldview. Taoist ideas have become popular throughout the world through Tai Chi Chuan, Qigong, and various martial arts.
Unitarianism	Unitarianism is an open-minded and individualistic approach to religion that gives scope for a very wide range of beliefs and doubts.
Zoroastrianism	Zoroastrianism is one of the world's oldest monotheistic religions. It was founded by the Prophet Zoroaster in ancient Iran approximately 3,500 years ago.

21. The World's 20 Largest Religions

Experts put the total number of religions of the world in excess of 4,300 and are divided into churches, denominations, congregations, religious bodies, faith groups, tribes, cultures, and movements. When you consider that 75% of the world's population practices one of the five most influential religions of the world (**Buddhism, Christianity, Hinduism, Islam, and Judaism**) it demonstrates the very significant number of much smaller religions that there are. However, as mentioned in the previous section, any religion that is of sufficient seriousness and which has a clear structure and belief system is protected by the Equality Act 2010. **Christianity** and **Islam** are the two religions that are most widely spread across the world and these two religions combined cover the religious affiliation of more than half of the world's population.

If all non-religious people in the world formed a single religion, it would be the world's third largest!

Whilst there is not enough space or time to list all 4,300 religions of the world, the following are the 20 largest world religions and their approximate number of believers:

Religion	Approximate Number of Believers
Christianity	2.42 billion
Islam	1.8 billion
Nonreligious Secular / Agnostic / Atheist)	1.1 billion
Hinduism	1.15 billion
Chinese traditional religion	394 million
Buddhism	376 million
Primal-indigenous	300 million
African traditional and Diasporic	100 million
Sikhism	23 million
Juche	19 million
Spiritism	15 million
Judaism	14 million
Bahai	7 million
Jainism	4.2 million
Shinto	4 million
Cao Dai	4 million
Zoroastrianism	2.6 million
Tenrikyo	2 million
Neo-Paganism	1 million
Unitarian-Universalism	800,000

Protected Characteristics



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X



22. Protected Characteristics: Sex

Sex discrimination occurs when a person is treated differently because of their sex in one of the situations that is covered by the Equality Act (as outlined in the earlier section "Understanding Discrimination & Protected Characteristics"). The treatment can be a one-off action, or as a result of a rule or policy. Most importantly, it does not have to be an intentional act to be unlawful discrimination.

Sex

It is illegal to discriminate against a person because:

1. They are (or are not) a particular sex.
2. A person thinks another person is of the opposite sex (known as **Discrimination by Perception**).
3. A person is connected to another person of a particular sex (known as **Discrimination by Association**).

When the Equality Act 2010 refers to sex it means either male or female, or a group of people like men or boys or women or girls.

The Four Types of Sex Discrimination

- A nightclub offers free entry to woman, but charge men an entrance fee (**Direct Sex Discrimination**).
- An employer changes shift working patterns so they end at 5:00pm instead of 3:00pm. Female employees who have childcare responsibilities are now unable to collect children from school or from childcare (**Indirect Sex Discrimination**).
- **There are three types of Sex Related Harassment:**
 1. **Harassment related to the protected characteristic of sex:** A line manager makes public comments at work about the pointlessness of promoting women because they end up getting pregnant and going off work. Whilst not directed at any particular female employee, if a female staff member is upset at these comments it could be considered as harassment.
 2. **Sexual harassment:** This is unwanted conduct of a sexual nature - whether verbal or physical - and includes sending emails of a sexual nature or putting up/sharing pornographic images/videos.

e.g. a University lecturer makes sexual jokes to a female student and suggest that she will pass her exams if she sleeps with him.
 3. **Unfair treatment because of a refusal to put up with sexual harassment:** A young male team leader refuses an invitation to go out for drinks after work with his female line manager. A few weeks later his application for a place on the Management Training Programme is rejected and he believes this is as a consequence of him having turned down his boss's proposition.

Although harassment can never be justified, if an employer could demonstrate that it had taken all steps possible to prevent its employees behaving in such a way i.e. through induction training and regular refresher training, then an employee would not be able to claim against the employer. However, they could make a claim against the person or persons who were responsible for the harassment.

- A male work colleague assists a female colleague with their claim of sex discrimination by making a statement at an Employment Tribunal hearing. The male colleague is subsequently sacked by their employer for no good reason (**Sex Related Victimisation**).

Examples of when Different Treatment due to Sex is Permitted

- **A health club advertises for a female to work as an attendant in a female changing room.**

Because this requirement is for reasons of privacy and decency it is permitted different treatment by virtue of the need for this person to belong to a particular sex being an **Occupational Requirement**.

Protected Characteristics: Sex continued...

- **An engineering firm advertises in such a way as to encourage female applicants (who it has recognised are under-represented) for a trainee engineer vacancy.**

This different treatment is permitted as **Positive Action** under the **Equality Act 2010**.

Other Exceptions that Permit Different Treatment due to Sex

- The armed forces can refuse to employ a woman - or are able to limit her access to training or promotion - if it means they can ensure the combat effectiveness of the armed forces.
- Organisers of a competitive sports event can hold separate events for men and woman because otherwise the differences in strength, stamina and physique would make the competition unfair.
- A women-only support service for female victims of domestic violence could lawfully justify providing a single sex service.
- A religious organisation can sometimes restrict employment to one sex only if the role is for religious purposes.
e.g. an orthodox synagogue can require a rabbi to be a man.

Some Important Clarifications

If you are discriminated against because you are a **Transgender person, this would be unlawful discrimination because of **Gender Reassignment** and is not **Sex** discrimination.**

Unfavourable treatment because of **Pregnancy or Maternity during the **Protected Period** is dealt with under **Pregnancy & Maternity Discrimination**. Less favourable treatment because a person is **Breastfeeding** is **Sex** discrimination.**

Unfavourable treatment after the **Protected Period has ended - e.g. you are treated less favourably by your employer because you have **Post-Natal Depression** - is **Sex** Discrimination**

23. Considerations to Reduce Instances of Sex Discrimination

Sex discrimination is one of the most common forms of workplace prejudice. It is also where employers and employees can struggle to understand the law. Here are some key considerations to help you reduce the chance of sex discrimination happening. However, remember that how these are handled is often just as important as making sure they happen:

1.	Make sure employees are not discriminated against because of their sex , because they are associated with someone of a particular sex or because they are thought - correctly or incorrectly - to be male or female.
2.	Make sure employees are not subjected to comments and behaviour regarding sex which they find offensive.
3.	Make sure policies and practices in the workplace don't put employees at a disadvantage because of their sex. Often this is unintentional.
4.	Be clear that it is not uncommon for a complaint of sex discrimination to also involve separate or overlapping complaints of pregnancy and maternity , and/or marriage and civil partnership discrimination.
5.	If an employee makes, supports or gives evidence about sex discrimination, make sure they don't suffer disadvantage, harm or loss for doing so.
6.	Do not ask a job candidate questions of a personal nature unrelated to the role and their application. They may imply potential discrimination.
7.	Do not suggest to a recruitment agency that candidates of a particular sex would be preferred. If this was to happen, both the employer and the agency would be liable in a claim of discrimination.
8.	Any employee can be dismissed for the correct reasons and with the correct process , but make sure that dismissals are not influenced by the employee's sex.
9.	Be very careful in managing a process to restructure an organisation where employees absent because of statutory adoption, maternity or shared parental leave are being considered for redundancy .
10.	Only consider making use of the complicated legal provisions of taking positive action , or claiming a core occupational requirement in circumstance when managers fully understand the law in these areas.

24. The Top 10 Sex Discrimination Myths

The following are 10 very common sex discrimination myths that are perpetuated within the workplace generally, with the correct facts provided below them to ensure that you understand what evidence actually supports, as well as other ways you might tackle the myth within your own job role - where you are responsible for that area.

Myth	The sex discrimination laws were drawn up to make it unlawful for men to treat women unfairly.
Fact	Sex discrimination against men is just as unlawful as sex discrimination against women. Also, it is unlawful for a woman to discriminate against another woman because of her sex, and for a man to discriminate against another man because of his sex.

Myth	These days, someone's sex usually isn't a factor in what job they do.
Fact	Currently, most engineers, IT staff and builders are men, while most nurses, and admin and sales staff are women. Further, the Office for National Statistics says men are in about two-thirds of managerial roles and make up the majority of the top ten per cent of earners. However, many job sectors, including those involving engineering, the sciences, technology and mathematics, are now endeavouring to attract more women and encourage a balance between the sexes.

Myth	In our 24/7 world, flexible working is now accepted as a 'norm'.
Fact	Only about one in 20 jobs (6.2%), which would have a salary of at least £19,500 if full-time, were advertised with an option to work flexibly, according to the Joseph Rowntree Foundation research charity. An employer overlooking the option to say in an ad that flexible working could be considered, where it would meet the requirements of the job, can particularly affect women. This includes because they tend to have most of the childcare responsibilities.

Myth	It's ok to give preference to women's requests for flexible working over men's, because women tend to be the main child carers.
Fact	An employer which thinks requests from men may be easier to turn down, or which prioritises requests from women, is likely to discriminate against men. It should handle requests consistently and individually, from everyone eligible to make one - and with regard to the needs of the business. And, of course, flexible working requests can be for reasons other than childcare.

Myth	It's acceptable for an employer to insist that a job can only be full-time, because that way it is not saying what the sex of the jobholder should be.
Fact	Yes, there can be circumstances where the demands of the job can mean that it needs to be full-time. However, insisting on full-time hours, without fairly considering possibilities for flexible working, may be discriminatory. This is because more women than men work part-time or in flexible working arrangements.

The Top 10 Sex Discrimination Myths continued...

Myth	If someone honestly sees their behaviour as 'just a joke', where they don't mean to offend or intimidate, they will not be harassing anyone.
Fact	In law, the impact of the behaviour - as perceived by the victim - tends to take precedence over the perception of the harasser and their intent. Whether it is reasonable for the complainant to feel the way they do is also taken into account.

Myth	It is OK for an employer to ask a woman of child-bearing age if she is thinking of having children.
Fact	It would be sex discrimination to ask that question, because an employer is highly unlikely to ask it of a man. An employer should not ask personal questions unrelated to the employee's role, or the job candidate's application.

Myth	Only a woman, who has been selected for redundancy and is taking statutory maternity leave, must be offered any suitable vacancy before any other employee.
Fact	Yes, this does apply to women, and it also applies if they are taking statutory adoption or shared parental leave. However, it also applies to men if they are taking statutory adoption or shared parental leave too.

Myth	It's women who want sex equality, not men.
Fact	Men are actually more likely to support sex equality in work opportunities than women themselves, with 86% of men in favour compared to 81% of women, according to a survey by women's rights charity the Fawcett Society.

Myth	The Gender Pay Gap Reporting regulations have been brought in to reinforce the equal pay laws.
Fact	The regulations require larger employers to provide statistics, but these will not indicate whether men and women are doing equal work, or whether they are being paid the same. However, they should encourage employers to embrace sex equality in pay policies, and point to the levels of seniority the sexes tend to reach in an organisation.

The previous [Considerations to Reduce Instances of Sex Discrimination](#) and the above [The Top 10 Sex Discrimination Myths](#) were originally put together by ACAS. Further information about [Sex Discrimination](#) is available from ACAS and can be found by clicking on the below link:

[Click to Find out More About Sex Discrimination](#)

Protected Characteristics

SEXUAL

ORIENTATION



25. Protected Characteristics: Sexual Orientation

Sexual Orientation discrimination occurs when a person is treated differently because of their sexual orientation in one of the situations that is covered by the Equality Act (as outlined in the earlier section "Understanding Discrimination & Protected Characteristics"). The treatment can be a one-off action, or as a result of a rule or policy. Most importantly, it does not have to be an intentional act to be unlawful discrimination.

Sexual Orientation

It is illegal to discriminate against a person because:

1. They are heterosexual, gay, lesbian or bisexual.
2. A person thinks another person has a particular sexual orientation (known as **Discrimination by Perception**).
3. A person is connected to another person who has a particular sexual orientation (known as **Discrimination by Association**).

In the Equality Act 2010, sexual orientation includes how a person chooses to express their sexual orientation - e.g. through their appearance, or via the places that they visit.

Introduction to the Basics

▪ Gender Identity	This is how a person feels inside and how they express those feelings through the way they act, talk, dress etc.
▪ Romantic Attraction	This is the romantic feelings that a person has towards other people and is unrelated to sexual attraction.
▪ Sexual Attraction	This is the sexual feelings that a person has towards other people and who they want to be with sexually.
▪ Sexual Identity	This is how a person chooses to label themselves e.g. queer, gay, lesbian, straight, bisexual etc.
▪ Sexual Behaviour	This is who a person has sex with and what kind of sex that they like.

What is Sexual Orientation?

Sexual orientation is a natural part of who a person is and is not a choice. Sexual orientation describes how a person feels inside, but is not necessarily static either as it can change over a person's lifetime. This is called fluidity.

What causes Sexual Orientation?

It is not fully understood why someone might be lesbian, gay, straight or bisexual. However, research shows that sexual orientation is likely to be caused, in part, by biological factors that start even before birth. People don't decide who they are attracted to and therefore no amount of therapy, treatment or persuasion can change a person's sexual orientation. It's also not possible to turn a person gay **e.g.** by exposing boys to toys traditionally made for girls such as dolls won't cause him to be gay.

Many people become aware of who they are attracted to at an early age. This isn't about sexual feelings, but more about who they found attractive and/or who they liked. Around puberty (sometimes earlier and sometimes later) people say that they knew they were lesbian, gay or bisexual.

Does everyone know what their Sexual Orientation is?

It is actually very common for people to be unsure of their sexual orientation. For some people, understanding their sexual orientation can take years, or even a lifetime.

Protected Characteristics: Sexual Orientation continued...

Can someone tell what another person's Sexual Orientation is?

The simple answer is no. A person could only be certain of another person's sexual orientation if they are told by that person. Whilst people can often think that they can guess if a person is lesbian, gay or bisexual - often based on superficial factors like how a person looks, dresses or behaves - these are just stereotypes and very simplified judgements related to how a lesbian, gay or bisexual person might act.

Using stereotypes to label someone else's sexual orientation is both inaccurate and hurtful. It is also very likely to put that person in breach of the Equality Act in relation to Sexual Orientation.

The Four Types of Sexual Orientation Discrimination

- An owner of a bed and breakfast accommodation refuses to provide an available room to two men who want to book it (**Direct Sexual Orientation Discrimination**).
- A members club provides free membership to all husbands and wives, which results in civil partners being disadvantaged (**Indirect Sexual Orientation Discrimination**).
- Work colleagues call a gay male worker by the feminine version of his name despite him asking them to stop and use his correct name. Although the other employees say that it is only intended as banter, the employee is upset and offended by it (**Sexual Orientation Related Harassment**).

Although harassment can never be justified, if an employer could demonstrate that it had taken all steps possible to prevent its employees behaving in such a way i.e. through induction training and regular refresher training, then an employee would not be able to claim against the employer. However, they could make a claim against the person or persons who were responsible for the harassment.

If a person is harassed, or receives offensive treatment, as a consequence of their sexual orientation (or their perceived sexual orientation) this is likely to be classed as Direct Sexual Orientation Discrimination.

- A gay staff member complains to his employer that he has been outed by his line manager. The employer dismisses the staff member (**Sexual Orientation Related Victimisation**).

Examples of when Different Treatment due to Sexual Orientation is Permitted

- **An employer wants to recruit a gay or lesbian telephone advice worker - who has experience of the challenges and difficulties of coming out - to provide support to a young person's LGBTQ+ helpline.**

This is permitted different treatment by virtue of the need to belong to a particular sexual orientation group being an **Occupational Requirement**.

- **An organisation is trying to encourage or develop gay, lesbian and/or bisexual people to participate in its training programme - who it has recognised are under-represented.**

This different treatment is permitted as **Positive Action** under the **Equality Act 2010**.

Other Exceptions that Permit Different Treatment due to Sexual Orientation

- A **Charity** could choose to provide services aimed at lesbians and gay men in certain circumstances.
- A **Religious or Belief organisation** could choose to exclude persons of a particular sexual orientation from its membership, or participation in its activities, or its provision of goods, facilities, or services - but only if the organisations purpose is to practice, promote or teach a religion or belief **and** if their sole or main purpose is not commercial. However, the restrictions that are imposed must be necessary to comply with the doctrine of the organisation, or to avoid conflict with the **strongly held religious convictions** of the religion's followers.

26. Different Identities Associated with Sexual Orientation

There are many different identities that are associated with sexual orientation. The following is an introduction to those identities to help increase your awareness:

Identity	Further Information
Straight/Heterosexual	These terms refer to people who are attracted to a different gender from their own e.g. women who are attracted to men, or men who are attracted to women.
Gay/Homosexual	This refers to people who are attracted to people of the same gender as their own.
Lesbian	This refers to women who are attracted only to other women.
Bisexual	People who are attracted to both men and women often call themselves bisexual. This term is used when a person is attracted to two or more genders and is generally used to describe being attracted to men and women. This term does not suggest that a person is attracted equally to each gender.
Monoamorous	This describes people who have (or are open to have) relationships with only one other person at a time. The term Monogamous is also sometimes used.
Polyamorous	This is an umbrella term referring to people who have (or are open to have) consensual relationships with multiple people at the same time.

Now that the above, perhaps more familiar, identities have been taken care of - the following table takes a look at some further identities that are also associated with sexual orientation:

Identity	Further Information
Allosexual	This describes someone who is not asexual and who experiences sexual attraction to at least one gender.
Androsexual	This refers to being attracted to masculine gender presentation.
Aromantic	This is used to describe someone who doesn't feel romantic attraction, or who doesn't want to be in romantic relationships.
Asexual/Ace	This refers to people who don't experience any sexual attraction for anyone. Whilst they may think other people are physically attractive, or they may want to be in romantic relationships with people, they're not interested in having sex or doing sexual things with other people. Asexual people sometimes use the word Ace for short. N.B: Asexuality has nothing to do with romantic attraction. Many asexual people feel romantically attracted to people, so they may identify as asexual, but also as gay, lesbian, bisexual, or straight.
Biromantic	This term refers to a person who is attracted to both men and women in a romantic way, but who is not interested in the sexual experiences that typically go along with being romantically involved with someone else.
Demi-sexual	This term is used for people who only experience sexual attraction after forming a strong emotional bond first, or a romantic bond.

Different Identities Associated with Sexual Orientation continued...

Identity	Further Information
Grey Asexual	This describes a person who only experience attraction rarely, on a very low scale, or only under certain circumstances.
Gynosexual	This refers to being attracted to feminine gender presentation.
Heteromantic	This term refers to a person who is attracted to the opposite sex in a romantic way, but who is not interested in the sexual experiences that typically go along with being romantically involved with someone else.
Homoromantic	This term refers to a person who is attracted to the same sex in a romantic way, but who is not interested in the sexual experiences that typically go along with being romantically involved with someone else.
LGBTQ+	This is an initialism that means L esbian, G ay, B isexual, T ransgender, Q ueer or Q uestioning - and is used to mean all of the sexual orientation communities.
Monosexual	This term describes a person who is attracted to only one gender.
Pansexual/Queer	<p>These terms are used to describe people whose attractions span across many different gender identities e.g. male, female, transgender, genderqueer, intersex etc. Pansexual can also be used by people who are not concerned about gender when they are attracted towards someone.</p> <p>N.B: In the past the word queer was a word used to hurt and insult people. Whilst some people still find it offensive (particularly those who remember when that word was used in a painful way) others now use the word with pride to identify themselves. It is best not to refer to someone as queer unless you know that is how they identify themselves. When talking to someone about their sexual orientation, use the terms that they use - and it's generally considered okay to ask someone what label they prefer.</p>
Perioriented	This describes when a person's sexual and romantic orientations target the same gender e.g. being heteromantic and heterosexual, or being biromantic and bisexual
Polysexual	This refers to a person who is attracted to many genders.
Questioning/Bicurious	<p>People who're unsure about their sexual orientation may refer to themselves as this.</p> <p>Questioning people are debating their own sexuality/gender, whilst Bicurious can be used by people who are open to experiment with genders that are not only their own, but who do not know if they are open to forming any sort of relationship with multiple genders.</p>
Varioriented	This describes when a person's sexual and romantic orientations target the same set of genders e.g. being heteromantic and bisexual, or being homoromantic and pansexual.

It's also important to note that some people don't think any of the above labels describe them accurately. Some people don't even like the idea of labels in the first place. Other people feel comfortable with certain labels, but not others. It's up to an individual to decide how you they choose to label themselves, if at all.

27. How to Help Stop Homophobia

What is meant by Homophobia, or Sexual Orientation Discrimination?

- **Homophobia** is the fear, hatred, discomfort with, or mistrust of people who are **lesbian, gay, or bisexual**.
- **Biphobia** is the fear, hatred, discomfort, or mistrust of specifically people who are **bisexual**.
- **Transphobia** is the fear, hatred, discomfort with, or mistrust of people who are **transgender, genderqueer, or don't follow traditional gender norms**.

Although Homophobia, Biphobia and Transphobia are similar, they're not the same thing. Both gay and straight people can be transphobic and biphobic - and people can be transphobic without being homophobic or biphobic.

Homophobia can take many different forms, including negative attitudes and beliefs about, aversion to, or prejudice against bisexual, lesbian, and gay people. It's often based in irrational fear and misunderstanding. Some people's homophobia may be rooted in conservative religious beliefs, whilst others may hold homophobic beliefs if they were exposed to such things by their parents and families.

How does Homophobia or Sexual Orientation Discrimination manifest itself?

- **Homophobic people** often use mean language and name-calling when they are speaking about gay and lesbian people.
- **Biphobic people** may tell bisexual people that it's just for attention, or that they are just inherently cheaters.

In its most extreme forms, homophobia and biphobia can cause people to bully, abuse, and inflict violence on lesbian, gay, and bisexual people.

Who is Responsible for Homophobia or Sexual Orientation Discrimination?

- Discrimination can come from any number of sources. Whilst any person could be discriminatory if they decided to be (and far too many are) discrimination also comes from such places as:
 - **Religious institutions**
 - **Companies and business**
 - **Local and National Government agencies.**
- However, there have been many positive steps taken against discrimination (in all of its forms) and this has seen legislation that provides for equality based upon sexual orientation - and covers many areas such as:
 - **Marriage**
 - **Employment**
 - **Housing**
 - **Healthcare**
 - **As well as protection from hate crimes.**

What can I do to Help Stop Homophobia or Sexual Orientation Discrimination?

No one has the right to discriminate against or bully another person, or to hurt them emotionally or physically. There are a number of positive steps that we can all take and practice to help stop homophobia, biphobia, and transphobia:

1. Ensure that you **never use negative or offensive language** to describe LGBTQ+ people.

How to Help Stop Homophobia continued...

2. Be careful of **how even casual language can hurt others** - **e.g.** saying such things as **that's so gay etc.**
3. **Don't believe stereotypes** about LGBTQ+ people, **or make assumptions** about them.
4. Be a **vocal supporter** of the LGBTQ+ community, regardless of your own sexual orientation and identity - this is called being an **Ally**.
5. Let any LGBTQ+ people in your life know that **you're a friend and ally**.
6. **Educate yourself** on LGBTQ+ issues.
7. **Respect** LGBTQ+ people's decisions **about when and where to come out**.
8. Remember that being LGBTQ+ is **just one part of a person's complex identity and life**.
9. **Show as much interest** in your LGBTQ+ friends' or family members' **partners** as you would show in a straight person's partner.
10. **If you feel safe doing so, speak up** when other people are being homophobic, biphobic or transphobic **e.g.** when you hear others making offensive jokes, using negative language, or bullying or harassing someone because of their sexual orientation or identity.

Helping to make a change always starts with us as individuals. Ensure you're practicing as many of the above positive steps as possible.

Steps to Support Inclusivity



28. Eight Steps to Support of Inclusivity

It is hoped that this Staff Guidance Handbook has been helpful in assisting you to better understand the many facets of Equality, Diversity, Inclusion and Anti-Discrimination. If you've worked through all of this Handbook, then you're already much more informed than many people will ever be. However, how we perform as an organisation against our commitment to achieving equality is going to be down to you and how much you believe in - and are committed to - our goals. We want to leave you with the following thoughts to help you champion equality:

1. Value Difference

An important part of developing a more tolerant outlook is learning to appreciate and value difference. People who value difference and diversity are generally more tolerant of others - and are less stressed by ambiguity and uncertainty.

Intolerance only serves to narrow down and simplify an ever-changing world, because by ignoring the variety and complex it can feel like it makes things easier to comprehend. However, by adopting a more open-minded outlook and exposing yourself to views and cultures that are different from your own, you can help yourself to become more tolerant.

Achieve this by making a conscious decision and the effort to talk to people you don't know (from a variety of different ages, cultures and backgrounds) as well as reading newspapers or websites that you don't normally look at.

2. Learn about other People & Cultures

A good way to become a more tolerant person is to make a conscious effort to educate yourself more deeply about other people and their cultures and backgrounds.

It's not uncommon for people - who display a lack of tolerance for others - to just be feeling alienated or uncertain about what the other person is doing or saying. Take the time to learn about different lifestyles, different cultures and different belief systems. Don't be afraid to ask questions, but always do this in a respectful and polite way.

Set yourself a goal - e.g. why not find out about how other people from differing backgrounds and cultures celebrate significant events in their lives? By exposing yourself to new experiences you will begin to demystify things that might have seemed strange or alien to you before.

3. Analyse your Intolerant Feelings

It can often help to understand the context and roots of your intolerant feelings, because if you do so - you are then able to recognise and challenge them better.

Consider why you have been judgmental toward others in the past. Were you raised to believe that certain people are inferior to you - or perhaps you had negative experience? Diagnose why you feel a certain way about a certain group (or groups) of people.

Perhaps you grew up in a household where it was common to hear derogatory comments about people of a certain race or religion or background. Or maybe you had some negative experiences with someone from a different background to yours which has contributed to your current ideas and thoughts about these particular people.

4. Foster your own Self-Esteem

Sometimes, people who don't feel happy in themselves - or who have low or negative self-esteem - are those most likely to be intolerant of others.

This intolerance can be a reflection of how somebody feels about themselves.

When you feel more secure and confident in yourself, you may find that you are more open-minded and tolerant of other people.

Steps to Support of Inclusivity continued...

5. Speak without Bias

Use inclusive language instead of derogatory terms. By consciously using accepting language you're already taking the very first step to being inclusive and open. Pay attention also to the terms that you use. Never use racial, sexual, or religious slurs.

This means learning to use - and then choosing to speak with - appropriate language when talking about disability, race, gender, age, sexual orientation, religion etc. Most minority communities have specific language preferences which are very important to them. So, if you're not sure what language a specific person prefers, don't be afraid to ask them.

If you're ever uncertain of a person's gender, stick to gender-neutral terms like **partner** instead of **boyfriend** or **girlfriend**. Use **they** instead of **he** or **she** - and **parent** instead of **mum** or **dad**. Always use your best judgment for when it is appropriate to use more gender-specific words.

And NEVER think that a derogatory term is alright to use just because a friend from a certain group might say it - because this does not necessarily mean that it is acceptable for you to use that term.

6. Listen to Others

When someone else is talking about their ideas or experience, let them talk. Avoid interrupting them. Consider their ideas, validate their experiences, and make sure they know that you appreciate what they say.

It is very common for certain groups of people to be silenced, ignored, or rejected because of their gender, race, religion, or identity etc.

Repeat back what people say so that they know you are listening. Even if you disagree with an idea, thank the person for giving it.

7. Avoid Assumptions

A person's appearance, voice, or clothing is not a good indicator of their identity - and if you think it is, then you're guilty of applying stereotypes. Make a decision not to be that person.

When meeting people, do not make comments about their background - unless they have specifically told you about it. Don't ask what country a person is from, just because you think they look or sound like an immigrant.

If you are ever asked to use certain pronouns to refer to a person - always respect their wishes. And if you're ever uncertain about something, then just ask politely - e.g. by asking, "Do you mind if I ask what terminology you prefer?"

8. Tell Appropriate Jokes

Whilst humour can lighten the mood, it's a fact that it is often taken at another person's expense. Avoid jokes that make fun of someone's ethnicity, race, gender, or sexuality **etc. Just because something is meant to be a joke doesn't mean that others won't find it offensive.**

One final suggestion: Try and socialise with as wide a variety of people as possible. Spending more time with a more diverse group of people can be very helpful at reducing your own biases and assist you in being so much more inclusive.

~ End of Equality, Diversity & Inclusion Staff Guidance Handbook ~