

# SECTION 16

## DISABILITY, EQUALITY AND DIVERSITY



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# SECTION 16 - DISABILITY, EQUALITY AND DIVERSITY (EDI)

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## 16.2 Equality Act 2010

The Equality Act 2010 brought together and updated a wide range of laws passed since the 1970s into one place, to make things fairer for everyone. It sets out the personal characteristics that are protected by law and the behaviour that is unlawful.

The Act is a simplification of previous anti-discrimination laws and is not designed to create additional paper work.

The Equality Act covers 4 types of discrimination, and has 9 protected characteristics.

### 16.2.1 Types of discrimination

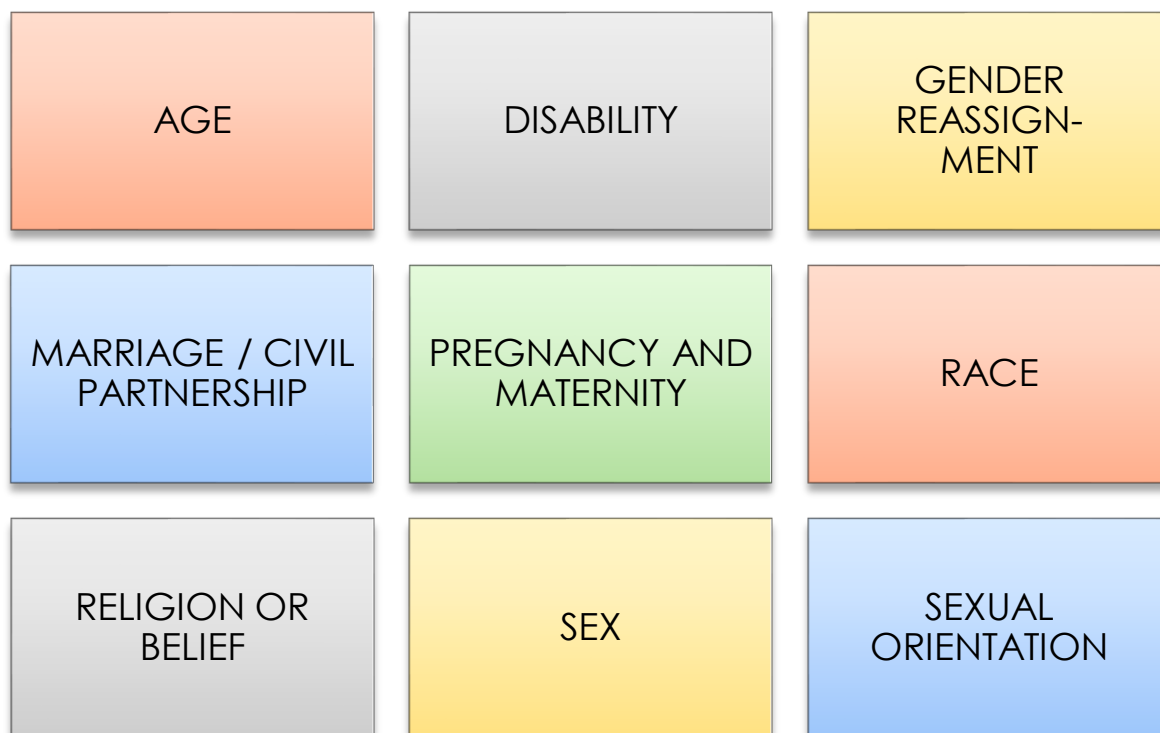
The four types of discrimination described under the Equality Act are:

- **Direct discrimination** - treating one person worse than another person because of a protected characteristic
- **Indirect discrimination** - when an organisation puts a rule or a policy or a way of doing things in place which has a worse impact on someone with a protected characteristic than someone without one
- **Harassment** – treating a person in such a way that violates their dignity, or creates a hostile, degrading, humiliating or offensive environment
- **Victimisation** – a person cannot be treated unfairly if they are taking action under the Equality Act, or support someone else who is doing so

### 16.2.2 Protected characteristics

Under The Equality Act 2010, people with certain 'characteristics' are legally protected from discrimination.

The 9 protected characteristics are:



### 16.2.3 Who has duties under the Act?

All service providers, whatever their size, are covered by the Act.

You are a service provider if you provide goods, facilities or services to the general public or a section of it, free or paid for. If you aren't providing services to the public, you still have responsibilities if you are a private club or association.

Any person or organisation providing goods, facilities or services to the public (service provider) must make sure that they do what equality law says in relation to:

- the behaviour of staff who are dealing with customers, clients, service users, club members, associate members or guests, or who are taking decisions about how they provide their goods, facilities or services to the public
- the building or other place where the services are delivered, if this is open to the public or a section of the public
- advertisements and marketing
- written materials, for example, leaflets the person or organisation provide as part of their service
- websites and internet services

- telephone access and call centres

You must avoid discrimination, harassment and victimisation of protected groups. Where necessary, you must also make reasonable adjustments for disabled people in all of these areas.

### 16.2.4 Who is protected by the Act?

Everyone in Britain is protected from unlawful behaviour by the Act. The 'protected characteristics' under the Act are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion and belief
- Sex

Fair treatment is:

- treating people as individuals without making judgments based on irrelevant personal characteristics
- creating a work environment free from discrimination, harassment, bullying and victimisation
- allowing all workers to work to their full potential
- making decisions based on merit

Discrimination occurs when someone is treated less favourably than others because they have a particular characteristic or belong to a particular group of people. Discrimination can be direct or indirect. Indirect discrimination is treatment which appears to be equal treatment but is unfair on certain people because of a particularly personal characteristic. To be unlawful it must also be unreasonable.

The following types of discrimination are also covered by the Act:

- religion
- medical record
- social origin
- political opinion (in employment only)
- irrelevant criminal record (in employment only)
- trade union activity (in employment only)



If you think you have been discriminated against on one of these grounds, you can lodge a complaint with the Human Rights Commission.

### **16.2.5 What is victimization?**

Victimisation is unfairly treating people for complaining or helping others to complain, either within an organisation or to the Equal Opportunity Commission.

Unlawful victimisation is unfair treatment for complaints about discrimination or sexual harassment.

It is against the law because it punishes people for speaking out and stops people from complaining.

## **16.4 Workplace bullying**

It is possible for a person to be bullied and discriminated at the same time. Workplace bullying is defined as repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety. Repeated behaviour refers to the persistent nature of the behaviour and can involve a range of behaviours over time. Unreasonable behaviour means behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimizing, humiliating, intimidating and threatening.

In the workplace, a bully is a person who appears to have greater strength or power than others and uses that strength or power to coerce others.

Bullying includes behaviours that intimidates, degrades or humiliates a worker (sometimes in front of others).

Assault, both physical and threatening, is an extreme expression of bullying. If workplace bullying behaviour involves violence (e.g. physical assault or the threat of physical assault), it should be reported to the police.

In other instances, the behaviour may be subtle and not easily observed by other people. It may include verbal abuse, behaviour which is intended to punish, constant 'put-downs', aggression, and poorly managed conflicts of opinion or 'personality clashes'.

Inappropriate comments about personal appearance and persistent, unreasonable criticism of work performance are also considered bullying.

Social media is sometimes used as a form of bullying. All workers need to understand the legal implication of bullying online.



Legitimate comment on performance or work-related behaviour is not unfair treatment. Managers can give full and frank feedback in a constructive and sensitive way, if it is carried out in a reasonable manner, taking the particularly circumstances into account.

A single incident of unreasonable behaviour is not considered to be workplace bullying; however, it may have the potential to escalate and should not be ignored.

Steps employers and managers can take include:

- Creating a Code of Conduct to establish expectations of appropriate behaviour. (NOTE: A policy to prevent workplace bullying may be a stand-alone policy or be incorporated into a broader code of conduct or work health safety policy)
- Establishing an equal opportunity policy to address all aspects of workplace discrimination, and effectively communicating these to all members of staff, including new staff through your induction program.
- Raising awareness in your workplace about what constitutes unacceptable behaviour (which might be identified as bullying)
- Monitoring the workplace for indications of workplace bullying, and investigating any issues identified – records such as work-related injuries, absenteeism, productivity, customer complaints, grievances, disciplinary actions etc. may assist with identification of an underlying problem

Bullying can be psychological or physical harassment and it can affect women and men at all levels of employment. The bully can be anyone within the organisation including a manager, a supervisor or a co-worker.



- Treating complaints seriously, acting immediately and firmly to address workplace bullying incidents. Effectively responding to issues when they are raised can stop the situation happening again and reinforce to workers that workplace bullying is treated seriously and consistently with the organisation. Responses to workplace bullying will vary depending on the situation, however, workplace bullying allegations of a serious or complex nature should always be investigated
- Develop complaint procedures and complaint handling and investigation procedure

- Provide clear job descriptions for specific roles in the company
- Maintain records of all investigations

It is reasonable to make sure all workers are aware and abide by the code of conduct, policies and procedure that relate to this. It is often a good idea to nominate a team member aside from the business owner as some workers may feel uncomfortable raising certain issues due to the employer/worker business relationship.



All workers need to be inducted and trained on the Code of Conduct, specific workplace policies & procedures on equal opportunity requirements and the prevention of workplace bullying.

## 16.5 Discrimination in the hair and beauty industry

The following are a few examples of where discrimination can occur in the Hair and Beauty industry:

### Sexual Harassment

Sexual harassment is sexual behaviour which makes people feel offended, afraid or humiliated and in the circumstances, it is reasonable to feel that way. Both men and women can sexually harass or be harassed. Sexual harassment is determined from the point of view of the person feeling harassed. It is how the behaviour is received not how it is intended that counts.

Sexual harassment can be:

- ❖ unwelcome touching or kissing
- ❖ comments or jokes, leering or staring
- ❖ sexual pictures, objects, emails, text messages or literature
- ❖ direct or implied propositions, or requests for dates
- ❖ questions about sexual activity.

Mutual attraction or friendship with consent is not sexual harassment.

### Pregnancy

- ❖ Pregnant or potentially pregnant workers should be treated in a fair and equitable manner
- ❖ Women who are pregnant should be able to continue to work in the same way and under the same conditions as other workers, unless there are valid medical or safety reasons. It is against the law to dismiss a woman because she is pregnant



- ❖ Where necessary, employers should make all reasonable adjustments to the workplace to accommodate a pregnant worker. Employers need to discuss the issues with the pregnant worker to find solutions e.g. providing a chair to sit on

## 4.2.7 Resources

For more information, see

[Equality Act 2010](#) (Equality and Human Rights Commission (EHRC))

[Equality Act 2010: Guidance](#) (Gov.uk)

[Equality and Human Rights Commission](#)

[INDG69, Violence at work: a guide for employers](#) (HSE)