

Definition of terms used by the Equality Act

Protected characteristic

Age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

Direct discrimination

A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.

Indirect discrimination

A discriminates against B if without objective justification A applies a general provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's. For example, a practice of only offering full-time appointments may be perceived to indirectly discriminate against women who are more likely to have caring responsibilities and be unable to work full-time.

Discrimination by association

This is a form of direct discrimination where someone is discriminated against because s/he associates with another person who may have a protected characteristic (i.e. 'because of a protected characteristic'). For example, if A treats B less favourably because B cares for an elderly relative, A could be held to be discriminating against B 'on grounds of age', even though B's age is not the reason for the treatment. The Act extends discrimination by association to all the protected characteristics apart from marriage or civil partnership.

Discrimination by perception

Direct discrimination occurs where an individual is treated less favourably because s/he is perceived to have a protected characteristic (apart from marriage or civil partnership), even though s/he may not actually possess the characteristic.

Combined or dual discrimination

Claimants may (as now) bring claims of discrimination on grounds of more than one protected characteristic. The Equality Act contains specific provision relating to dual or combined discrimination, which have yet to be enacted.

Harassment

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

Harassment applies to all protected characteristics except pregnancy and maternity, and marriage and civil partnership.

Employees may complain of behaviour that they find offensive even if it is not directed at them, and complainants need not possess the relevant characteristic themselves.

Employees are also protected from harassment because of perception and association.

Third party harassment

In addition to sex, this has been extended by the Act to cover age, disability, gender reassignment, race, religion or belief, and sexual orientation. The University may be liable for harassment of its employees by other people, i.e. third parties, where harassment has occurred on at least two previous occasions, the employer is aware that it has taken place, and has not taken action to prevent it from happening again.

Victimisation

A victimises B if A subjects B to a detriment because B does a protected act (such as raising a grievance) or A thinks B has done, or may do, a protected act. An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint.