3. What equality law means for you as an employer: pay and benefits.

Equality Act 2010 Guidance for employers.
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Contents

Introduction **1**

Other guides and alternative formats 1

The legal status of this guidance 3

1. What equality law means for you as an employer: pay and benefits **4**

What's in this guide 4

What else is in this guide 6

Making sure you know what equality law says you must do as an employer 7

Are you an employer? 7

Protected characteristics 7

What is unlawful discrimination? 8

Situations where equality law is different 11

Young workers 11

Differences in pay and benefits linked to length of service 13

Marriage and civil partnership 14

Treating disabled workers better than non-disabled workers 15

What's next in this guide 15

Avoiding unlawful discrimination when you decide what pay and benefits workers will receive 17

Who is responsible for a service you give your workers as a benefit 18

Bonuses 20

Occupational pension schemes 21

Health insurance and disabled workers 21

Pay discussions 22

Making sure you are giving women and men equal pay and benefits 23

Sex equality clause 24

Equal work 26

The employer's defence of 'material factor' 28

Pay protection schemes 30

Pay, benefits and bonuses during maternity leave 30

What to do if someone says you are paying them less than someone else because of a protected characteristic 35

What the Employment Tribunal has to decide in an equal pay case 36

Which claims the Employment Tribunal can hear 37

Time limits 37

Equal pay claims may also be brought in the High Court and for this the time limit is six years (5 years in Scotland) from the alleged breach. 39

Burden of proof 39

Assessment as to whether the work is of equal value 39

What the Employment Tribunal can decide in cases where money is owed 40

Pension cases 41

2. When you are responsible for what other people do 42

When you can be held legally responsible for someone else's unlawful discrimination, harassment or victimisation 43

How you can reduce the risk that you will be held legally responsible 44

How you can make sure your workers and agents know how equality law applies to what they are doing 45

Using written terms of employment for employees 46

When your workers or agents may be personally liable 47

What happens if a person instructs someone else to do something that is against equality law 48

What happens if a person helps someone else to do something that is against equality law 48

What happens if you try to stop equality law applying to a situation 49

3. The duty to make reasonable adjustments for disabled people 50

Which disabled people does the duty apply to? 52
Finding out if someone is a disabled person 52
The three requirements of the duty 54
Are disabled people at a substantial disadvantage? 55
Changes to policies and the way your organisation usually does things 55
Dealing with physical barriers 56
Providing extra equipment or aids 57
Making sure an adjustment is effective 57
Who pays for reasonable adjustments? 58
What is meant by 'reasonable' 58
Reasonable adjustments in practice 61
Specific situations 67
Employment services 67
Occupational pensions 68
4. What to do if someone says they've been discriminated against 69
If a job applicant complains to you 71
Dealing with the complaint 72
What you can do if you find that there has been unlawful discrimination 72
Monitoring the outcome 72
The questions procedure 72
Key points about discrimination cases in a work situation 73
Where claims are brought 73
Time limits for bringing a claim 74
The standard and burden of proof 75
What the Employment Tribunal can order you to do 76
Settling a dispute 77
More information about defending an Employment Tribunal case 78

5. Further sources of information and advice 79

6. Glossary 88

Introduction

This guide is one of a series written by the Equality and Human Rights Commission to explain what you must do to meet the requirements of equality law. These guides support the introduction of the Equality Act 2010. This Act brings together lots of different equality laws, many of which we have had for a long time. By doing this, the Act makes equality law simpler and easier to understand.

There are seven guides giving advice on your responsibilities under equality law as someone who has other people working for you whether they are employees or in another legal relationship to you. The guides look at the following work situations:

1. When you recruit someone to work for you
2. Working hours and time off
3. Pay and benefits
4. Career development – training, development, promotion and transfer
5. Managing people
6. Dismissal, redundancy, retirement and after someone's left
7. Good practice: equality policies, equality training and monitoring

Other guides and alternative formats

We have also produced:

- A separate series of guides which explain what equality law means for you if you are providing services, carrying out public functions or running an association.
- Different guides for individual people who are working or using services and who want to know their rights to equality.

If you require this guide in an alternative format and/or language please contact the relevant helpline to discuss your needs.

England

Equality and Human Rights Commission Helpline

FREEPOST RRLL-GHUX-CTRX

Arndale House, Arndale Centre, Manchester M4 3AQ

Telephone: 0845 604 6610

Textphone: 0845 604 6620

Fax: 0845 604 6630

Scotland

Equality and Human Rights Commission Helpline

FREEPOST RSAB-YJEJ-EXUJ

The Optima Building, 58 Robertson Street, Glasgow G2 8DU

Telephone: 0845 604 5510

Textphone: 0845 604 5520

Fax: 0845 604 5530

Wales

Equality and Human Rights Commission Helpline

FREEPOST RRLR-UEYB-UYZL

3rd Floor, 3 Callaghan Square, Cardiff CF10 5BT

Telephone: 0845 604 8810

Textphone: 0845 604 8820

Fax: 0845 604 8830

www.equalityhumanrights.com

The legal status of this guidance

This guidance applies to England, Scotland and Wales. It has been aligned with the Codes of Practice on Employment and on Equal Pay. Following this guidance should have the same effect as following the Codes and may help you avoid an adverse decision by a court in proceedings brought under the Equality Act 2010.

This guide is based on equality law as it is at 1 October 2010. Any future changes in the law will be reflected in further editions.

This guide was last updated in July 2011. You should check with the Equality and Human Rights Commission if it has been replaced by a more recent version.

1. What equality law means for you as an employer: pay and benefits

What's in this guide

If you are an employer and are making decisions about your workers' level of pay or deciding what benefits to give them, equality law applies to you.

Equality law applies:

- whatever the size of your organisation
- whatever sector you work in
- whether you have one worker or ten or hundreds or thousands
- whether or not you use any formal processes or forms to help you make decisions.

This guide tells you how you can avoid all the different types of unlawful discrimination. It recognises that smaller and larger employers may operate with different levels of formality, but makes it clear how equality law applies to everyone, and what this means for the way you (and anyone who already works for you) must do things.

Pay and benefits include:

- basic pay
- non-discretionary bonuses
- overtime rates and allowances
- performance-related benefits
- severance and redundancy pay
- access to pension schemes
- benefits under pension schemes
- hours of work
- company cars
- sick pay
- 'fringe benefits' such as travel allowances.

You cannot stop workers discussing their pay with someone else if this is for the purpose of finding out if there may be unlawful pay discrimination, for example, where they are trying to find out whether people from different ethnic backgrounds are being paid differently from one another.

Specific rules apply where the pay or benefits are part of a worker's contract of employment and any difference is because of the worker's sex, in other words, where there are differences between women's pay and men's pay. This is usually called 'equal pay'.

There are also some differences in the procedures that apply if someone brings an Employment Tribunal case against you for equal pay.

This guide covers the following situations and subjects (we explain what any unusual words mean as we go along):

- Avoiding unlawful discrimination when you decide what pay and benefits workers will receive
    - Who is responsible for a service you give your workers as a benefit
    - Bonuses
    - Occupational pension schemes
    - Health insurance and disabled workers
    - Pay discussions
- Making sure you are giving women and men equal pay and other benefits
    - Sex equality clause
    - Equal work
    - Like work
    - Work that is rated as equivalent
    - Work that is of equal value
    - The employer's defence of 'material factor'
    - Pay protection schemes
    - Pay, benefits and bonuses during maternity leave

- What to do if someone says you are paying them less than someone else because of a protected characteristic
    - What the Employment Tribunal has to decide in an equal pay case
    - Which claims the Employment Tribunal can hear
    - Time limits
    - Burden of proof
    - Assessment as to whether the work is of equal value
    - What the Employment Tribunal can decide in cases where money is owed
    - Pension cases.

What else is in this guide

This guide also contains the following sections, which are similar in each guide in the series, and contain information you are likely to need to understand what we tell you about making decisions about pay and benefits:

- Information about when you are responsible for what other people do, such as your employees.
- Information about making reasonable adjustments to remove **barriers** for disabled people who work for you or apply for a job with you.
- A Glossary containing a list of words and key ideas you need to understand this guide – all words highlighted in **bold** are in this list. They are highlighted the first time they are used in each section and sometimes on subsequent occasions.
- Advice on what to do if someone says they've been discriminated against.
- Information on where to find more advice and support.

Throughout the text, we give you some ideas on what you can do if you want to follow equality good practice. While good practice may mean doing more than equality law says you must do, many employers find it useful in recruiting talented people to their workforce and managing them well so they want to stay, which can save you money in the long run. Sometimes equality law itself doesn't tell you exactly how to do what it says you must do, and you can use our good practice tips to help you.

Making sure you know what equality law says you must do as an employer

Always remember that specific rules apply to equal pay between women and men where pay or benefits are part of the worker's contract of employment. If the reason for a difference in pay or benefits is or might be the worker's sex, in other words, the fact that they are a man or a woman, you should read the information at page 23: 'Making sure you are giving women and men equal pay and benefits' to understand what the rules are.

Are you an employer?

This guide calls you an **employer** if you are the person making decisions about what happens in a work situation. Most situations are covered, even if you don't give your worker a written contract of employment or if they are a **contract worker** rather than a **worker** directly employed by you. Other types of worker such as trainees, apprentices and business partners are also covered. Sometimes, equality law only applies to particular types of worker, such as employees, and we make it clear if this is the case.

Protected characteristics

Make sure you know what is meant by:

- **age**
- **disability**
- **gender reassignment**
- **marriage and civil partnership**
- **pregnancy and maternity**
- **race**
- **religion or belief**
- **sex**
- **sexual orientation**.

These are known as protected characteristics.

What is unlawful discrimination?

Unlawful discrimination can take a number of different forms:

- You must not treat a worker worse than another worker because of a protected characteristic (this is called **direct discrimination**).

  For example:

  > An employer is deciding how much to pay two trainees who are starting work. Both trainees will be doing the same job. If the employer decided to pay one of the trainees less because they were a disabled person, this would almost certainly be unlawful discrimination because of disability.

  - In the case of women who are **pregnant** or on **maternity leave**, the test is not whether the woman is treated worse than someone else, but whether she is treated **unfavourably** from the time she tells you she is pregnant to the end of her maternity leave (equality law calls this the **protected period**) because of her pregnancy or a related illness or because of maternity leave.

- You must not do something which has (or would have) a worse impact on a worker and on other people who share a particular protected characteristic than on people who do not have that protected characteristic. Unless you can show that what you have done, or intend to do, is **objectively justified**, this will be **indirect discrimination**. 'Doing something' can include making a decision, or applying a rule or way of doing things.

  For example:

  > An employer provides a company car only to workers for whom insurance costs are below a certain limit. Because insurance costs for younger drivers are generally higher, this may mean that younger workers are not eligible for a company car. Unless the employer can objectively justify their company car policy, this may be indirect discrimination because of age.

- You must not treat a disabled worker unfavourably because of something connected to their disability where you cannot show that what you are doing is **objectively justified**. This only applies if you know or could reasonably have been expected to know that the person is a disabled worker. This is called **discrimination arising from disability**.

  For example:

  > An employer gives workers a bonus if they have not taken more than three days off sick in the previous year. They do not separately record time off for sickness and time off for medical appointments taken by disabled people. A worker who is a newly disabled person because of an amputation has to attend a clinic once a month to have their prosthetic leg checked. They have to take half a day's leave each time and this has been recorded as six days' sickness absence over the course of the year. Unless the employer can objectively justify using sickness absence as a test for whether workers receive the bonus, this is likely to be discrimination arising from disability, as the disabled worker has been treated unfavourably (not receiving the bonus) for a reason connected with or arising from their disability (the need for time off for the appointments).

- You must not treat a worker worse than another worker because they are **associated with** a person who has a protected characteristic.

  For example:

  > A small chain of fast food restaurants gives staff with children vouchers so that they can take their children for cheap meals. One member of staff has a disabled child and does not receive the vouchers because their manager assumes that the child will not be able to go to the restaurant. This is probably direct discrimination because of disability by association.

- You must not treat a worker worse than another worker because you incorrectly think they have a protected characteristic (**perception**).

  For example:

  > A small employer has one Asian member of staff who they assume is a Muslim. Because of this, they do not offer the worker an opportunity to attend a networking event which would benefit them in their career, because it is a dinner where alcohol will be served and they are also unsure whether a Muslim's dietary requirements will be accommodated. She is not a Muslim but has been denied an opportunity based on an incorrect assumption about her religion or belief. This is probably direct discrimination because of religion or belief by perception. Instead, the employer should discuss the opportunity with the worker, which would sort out any misunderstandings.

- You must not treat a worker badly or **victimise** them because they have complained about discrimination or helped someone else complain, or done anything to uphold their own or someone else's equality law rights.

  For example:

  > A worker who complains unsuccessfully but in good faith of sexual harassment by their manager is not given a bonus at the end of the year. If the reason for denying them the bonus is the complaint, this would almost certainly be victimisation.

This also includes treating a worker badly because they have discussed with anyone (including a colleague, former colleague or trade union representative) whether they are paid differently because of a protected characteristic.

For example:

> A worker who is of Bangladeshi origin thinks he may be being underpaid because of his race compared with a white colleague. He asks the white colleague what he is being paid and the colleague tells him, even though his contract forbids him from disclosing his pay to other staff. The employer takes disciplinary action against the white colleague as a result and dismisses him. This would be treated as victimisation.

- You must not **harass** a worker.

  For example:

  > A worker is denied a bonus because she refuses to submit to sexual harassment by her manager and instead reports him. The withholding of the bonus is a further act of harassment under the equality law definition as it is less favourable treatment because of that refusal to submit.

In addition, to make sure that a disabled worker has the same access, as far as is reasonable, to everything that is involved in doing a job (including pay and benefits) as a non-disabled worker, you must make **reasonable adjustments**.

You must make reasonable adjustments to what you do as well as the way that you do it.

You can read more about making reasonable adjustments to remove **barriers** for disabled people in Chapter 3.

Situations where equality law is different

Sometimes there are situations where equality law applies differently. This guide refers to these as **exceptions**.

We only list the exceptions that apply to the situations covered in this guide. There are more exceptions which apply in other situations, for example, when you are recruiting someone to do a job or calculating redundancy payments. These are explained in the relevant guide in the series.

There are specific exceptions in relation to pay and benefits for:

- Young workers
- Differences in pay and benefits linked to length of service
- Marriage and civil partnership

Young workers

If you employ young workers aged between 16 and 21, you can base your pay structures for them on the age bands set out in the National Minimum Wage Regulations 1999.

These Regulations set minimum wage rates and have lower minimum wage rates for younger workers aged 16 and 17, and for those aged 18 to 21.

You can either use the rates of pay set out in the Regulations or you can pay higher wages as long as they are linked to the same age bands. This assumes that you are paying younger workers less. You do not have to set different rates for workers of different ages; you could decide to pay everyone the same hourly rate regardless of age.

If you do use the national minimum wage age bands, the rates of pay themselves do not have to be related to the national minimum wage. In other words, the differences between the different bands do not have to relate to the level of the national minimum wage in that band.

For example:

A supermarket decides to review its pay scales. It must pay at least the national minimum wage. If it decides to pay more, and to pay different rates to younger employees, it can do this, as long as it bases what it does on the age bands used for the national minimum wage. The supermarket opts for the following rates which would be allowed:

- 16–17 years of age – 20p per hour more than the national minimum wage for employees in that age band
- 18–21 years of age – 45p per hour more than the national minimum wage for employees in that age band, and
- 22 years of age or over – 70p per hour more than the national minimum wage for employees aged 22 or over.

Always remember that specific rules apply where pay or benefits are part of the worker's contract of employment and women and men are being paid differently. If this is the case (for example, if the jobs for which you are paying younger workers at different rates are mainly done by young women or mainly done by young men), you should also read the information at page 23: 'Making sure you are giving women and men equal pay and benefits'.

Differences in pay and benefits linked to length of service

In addition, you may be allowed to give workers different pay and benefits based on how long they have worked for you, even though this would otherwise be indirect discrimination because of age (as younger workers are likely to have been at work for a shorter time).

For length of service up to five years, you do not have to justify differences at all.

For example:

> For junior office staff, an employer operates a five point pay scale to reflect growing experience over the first five years of service. Equality law would allow this.

Length of service can be worked out in one of two ways:

- by the length of time someone has been working for you at or above a particular level, or
- by the length of time someone has been working for you in total.

If you use length of service of more than five years to award or increase a benefit, this falls outside the exception.

But there is a further difference: you may still be able to use length of service to set pay and benefits after workers have been with you for more than five years if you reasonably believe that using length of service in this way fulfils a business need. You may believe it rewards higher levels of experience, encourages loyalty, or increases or maintains workers' motivation.

This is a less difficult test than the general test for **objective justification** for indirect discrimination. However, you must still have evidence on which to base your belief. Examples of the sort of evidence you could use include:

- monitoring
- staff surveys
- individual or group discussions with staff.

Always remember that specific rules apply where pay or benefits are part of the worker's contract of employment and women and men are being paid differently. If, for example, the jobs for which you are providing increased pay or benefits based on length of service are mainly done by men, so that they end up significantly better off than the women you employ, you should also read the information at page 23: 'Making sure you are giving women and men equal pay and benefits'.

Marriage and civil partnership

You must not treat workers who are married or in a civil partnership worse than you treat workers who are not married or not in a civil partnership.

However, you can treat them better. This will not be unlawful discrimination against workers who are not married or in a civil partnership.

But you must treat workers who are married and workers who are in a civil partnership the same.

For example

> An employer gives an additional week's honeymoon leave to a woman who is getting married. Last year, her lesbian colleague who was celebrating a civil partnership was given only one extra day's leave to go on honeymoon. This is almost certainly unlawful discrimination because of sexual orientation.

If you extend a benefit to partners of the people who work for you, for example, allowing them to drive a company car, or giving them staff discounts on your services, these benefits must be offered on the same terms to same-sex partners and opposite-sex partners.

You must be consistent about whether you require partners to be married or in a civil partnership to receive a benefit. If you give benefits to unmarried opposite-sex partners, you must give them on the same terms to same-sex partners who are not in a civil partnership. Not to do so would almost certainly be unlawful discrimination because of sexual orientation.

The only exception to this is if a benefit was provided just for married workers before 5 December 2005 or applies to a time when someone was working for you before that date.

Always remember that specific rules apply where pay or benefits are part of the worker's contract of employment and women and men are being paid differently. If, for example, the jobs for which you are providing a benefit based on whether a worker is married or in a civil partnership are mainly done by women or mainly done by men, so that people of one sex end up significantly better off than the other, you should also read the information at page 23: 'Making sure you are giving women and men equal pay and benefits'.

Treating disabled workers better than non-disabled workers

As well as these exceptions, equality law allows you to treat a disabled worker better – or **more favourably** – than a non-disabled worker. This can be done even if the disabled worker is not at a specific disadvantage because of their disability in the particular situation. The reason the law was designed this way is to recognise that in general disabled people face a lot of **barriers** to participating in work and other activities.

More information:

When you are responsible for what other people do

Making reasonable adjustments to remove barriers for disabled people

What to do if someone says they've been discriminated against

List of words and key ideas

Where to find more advice and support

For more information on equality law, you can read what the **Code of Practice** on Employment says. For more information on equal pay for men and women, you can read the Code of Practice on Equal Pay.

What's next in this guide

The next part of this guide looks first at the general rules on avoiding unlawful discrimination when setting levels of pay and benefits. It then explains the specific rules on equal pay between women and men, what to do if someone says you are paying them less than someone else because of a protected characteristic, and the specific rules that apply in equal pay cases in the Employment Tribunal. It covers:

- Avoiding unlawful discrimination when you decide what pay and benefits workers will receive
    - Who is responsible for a service you give your workers as a benefit
    - Bonuses
    - Occupational pension schemes
    - Health insurance and disabled workers
    - Pay discussions

- Making sure you are giving women and men equal pay and benefits
  - Sex equality clause
  - Equal work
  - Like work
  - Work that is rated as equivalent
  - Work that is of equal value
  - The employer's defence of 'material factor'
  - Pay protection schemes
  - Pay, benefits and bonuses during maternity leave
- What to do if someone says you are paying them less than someone else because of a protected characteristic
  - What the Employment Tribunal has to decide in an equal pay case
  - Which claims can the Employment Tribunal hear?
  - Time limits
  - Burden of proof
  - Assessment as to whether the work is of equal value
  - What the Employment Tribunal can decide in cases where money is owed
  - Pension cases

Avoiding unlawful discrimination when you decide what pay and benefits workers will receive

There are different ways you might decide what to pay a person and what benefits to provide, such as:

- the going rate for the job in your sector and/or area
- the skills and qualifications needed by someone when they do the job
- their performance in the job.

You must make sure that the way you work out and apply these criteria does not discriminate unlawfully.

Always remember that specific rules apply where pay or benefits are part of the worker's contract of employment and women and men are being paid differently. If, for example, the jobs for which you are paying workers at different rates are mainly done by women or mainly done by men, you should also read the information at page 23: 'Making sure you are giving women and men equal pay and benefits'.

Good practice tips for avoiding unlawful discrimination in pay and benefits

- Make sure you know why you are paying people differently.
- Check that people who share a particular protected characteristic do not generally do worse than people who do not share it.
- Use an **equal pay audit** to check the impact of your decisions on pay and benefits.
- A transparent, structured, pay system based on a sound **job evaluation scheme** is more likely to be free of bias than one that relies primarily on managerial discretion.
- There is useful guidance in part 2 of the Code of Practice on Equal Pay, 'Good equal pay practice'.

Who is responsible for a service you give your workers as a benefit

If you are an organisation that provides services, goods or facilities (which this part of the guide calls ‘a service’) to the public or a section of the public, you may give your workers access to that service either on the same basis as the public or on special terms, such as a staff discount.

Or you may pay someone else to provide your workers with a service.

There are five questions to think about in this situation:

- Do you provide a service to your workers in exactly the same way you provide it to members of the public (for example, they can hire a function room from you on the same terms as a member of the public)?
- Do you provide a service to your workers which is almost the same as a service you give the public but in a special way because they work for you (for example, they receive a staff discount when they buy something from you)?
- Does someone else provide a service on your behalf?
- Are you supplying group insurance?
- Does equal pay law apply?

Do you provide the service to your workers in exactly the same way you provide it to members of the public?

You may be providing a service to your workers in exactly the same way you provide it to members of the public. For example, they can hire a function room from you on the same terms as a member of the public.

If this is the situation and a worker says you’ve discriminated against them in that situation, you should read the Equality and Human Rights Commission guide: *What equality law means for your business* or the equivalent guide for other types of organisations. The introduction to this guide tells you how to get hold of this information.

Do you provide a service to your workers which is almost the same as a service you give the public but in a special way because they work for you?

You may be providing a service to your workers in almost the same way you provide it to members of the public, but with special arrangements because the person works for you. For example, they receive a staff discount on the service.

If this is the situation and a worker says you've discriminated against them, this is the right guide for you to be reading.

Does someone else provide a service on your behalf?

Sometimes, you might arrange for someone else to provide a service to a group of your workers.

If the person or organisation providing the service discriminates unlawfully against one of your workers, it will be the service provider who is responsible. Your workers would have a claim in the county court (in England or Wales) or the sheriff court (in Scotland) against the service provider, just like any other member of the public using that service, and not against you.

But if it is your behaviour that amounts to unlawful discrimination, the worker's claim would be against you, and this is the right guide for you to read.

Are you supplying group insurance?

Some employers offer their workers insurance-based benefits such as life assurance or accident cover under a group insurance policy. Equality law allows employers to provide for different premiums or benefits based on sex, whether people are married or in a civil partnership, pregnancy and maternity or gender reassignment. However the difference in treatment must be reasonable, and be done by reference to actuarial or other data from a source on which it is reasonable to rely.

In this situation, it is you as the employer, not the insurer, who is responsible for making sure that provision of benefits under group insurance schemes is not unlawfully discriminatory.

For example:

> An employer arranges for an insurer to provide a group health insurance scheme to workers in their company. The insurer refuses to provide cover on the same terms to one of the workers because she is a transsexual person. The employer, who is responsible for any discrimination in the scheme, would only be acting lawfully if the

difference in treatment is reasonable in all the circumstances, and done by reference to reliable actuarial or other data.

Does equal pay law apply?

Remember that special rules apply where the service you are providing as a benefit is part of the worker's contract of employment and there is a difference between the benefits men and women get (for example, if the jobs in relation to which you provide the service as a benefit are mainly done by women or mainly done by men). You should also read the information at page 23: 'Making sure you are giving women and men equal pay and benefits'.

Bonuses

Bonus payments are payments made on top of basic salary, and are usually designed to motivate employees by rewarding them for achieving particular targets or standards.

Sometimes, a bonus will be set out in a worker's contract. Sometimes it will be up to you as the employer if a bonus is paid (this is often referred to as a 'discretionary bonus'). Many schemes are a mixture of both types, so that a worker has the right to be considered for a bonus, but you have the final say as to whether to pay out.

You must avoid unlawful discrimination in awarding bonus payments. This includes all the different types of unlawful discrimination.

This might mean, for example, making reasonable adjustments for a worker who is a disabled person.

For example:

A worker in sales takes every Thursday afternoon as unpaid leave for a disability-related reason. As a reasonable adjustment, their employer reduces their sales target to reflect their absence. Their team's target is also reduced by a proportionate amount.

You can read more about making reasonable adjustments to remove **barriers** for disabled people in Chapter 3.

Always remember that specific rules apply where pay or benefits are part of the worker's contract of employment and women and men are being paid differently. If, for example, the jobs for which you are providing a bonus are mainly done by women or mainly done by men, or bonuses are set in a way that means generally people of one sex end up significantly better off than the other, you should also read the information at page 23: 'Making sure you are giving women and men equal pay and benefits'.

Occupational pension schemes

If you provide an occupational pension or work or company pension scheme to your employees (or one is provided on your behalf), those running the scheme must avoid unlawful discrimination in how they run it. This includes all the different types of unlawful discrimination in the list described earlier in this guide.

For example:

> A pension scheme that offers benefits to opposite-sex partners must give the same benefits to same-sex partners. If people have to be married to receive benefits, then the same benefits must be offered to civil partners. Not doing so would be discrimination because of sexual orientation.

The duty to make reasonable adjustments to remove barriers for disabled people applies to pension schemes. You can read more about making reasonable adjustments to remove barriers for disabled people in Chapter 3.

Specific rules apply where membership of an occupational pension scheme is part of the worker's contract of employment and women and men are treated differently by the scheme.

You can find out more about how equality law applies to occupational pensions in the Codes of Practice on Employment and on Equal Pay. If you are concerned about whether your occupational pension scheme may be unlawfully discriminating against workers, you should get specialist advice.

Health insurance and disabled workers

If you offer private health insurance to your workers as a benefit, you and the insurer must not exclude a worker who is a disabled person or offer them different terms, unless you can objectively justify any difference in treatment.

Equality good practice: what you can do if you want to do more than equality law says you must

Make sure that all employees are made aware of any new benefits or changes to existing provision, including anyone temporarily out of the workplace, for example, who is on maternity leave or absent because of a disability.

Look from time to time at who is using which benefits. If people with a particular protected characteristic are not actually using a benefit, they may be receiving a worse benefits package. This may be indirect discrimination unless you can objectively justify it. Keeping track of whether benefits are being used and seeing if

there are any patterns relating to protected characteristics (for example, through **monitoring**) will help you avoid this.

If you make changes to the benefits you offer your workers, think about whether it may be less valuable to people who share a particular protected characteristic than it is to those who don't. Unless you can objectively justify what you are doing, this could be indirect discrimination. Think about this in advance, and consider offering an alternative of equal value to the people who are unlikely to use a particular benefit.

Pay discussions

Some employers make it a condition in contracts of employment that their employees must not talk about their pay with colleagues or anyone else. This is sometimes called a 'secrecy clause' or 'gagging clause'. It means employees cannot check if they are being paid the same as others for the same or similar work.

Equality law says that, regardless of what someone's contract says, a person is allowed to tell anyone about their pay including:

- colleagues,
- former colleagues, or
- (for example) a trade union representative

provided this is to find whether or to what extent there is a connection between pay and having (or not having) a protected characteristic. A worker can also try and obtain pay information from a colleague, or former colleague, with this aim. Equality law calls all these discussions 'relevant pay disclosures'.

In other words, a gagging clause in a contract will not have any legal effect to stop these kinds of pay discussions taking place.

The discussion can relate to any protected characteristic, not just equal pay between women and men.

For example:

A discussion between a worker who is a disabled person and a non-disabled colleague for the purpose of establishing whether the non-disabled person is being paid more than the disabled person could involve a relevant pay disclosure. However, two non-disabled colleagues simply comparing their respective salaries are unlikely to be making a relevant pay disclosure, unless they are investigating pay disparities which may be linked to sex, race or another protected characteristic.

You must not treat anyone badly because they have talked to someone about their pay in order to find out if their pay may be different because of a protected characteristic. This would be **victimisation**.

Making sure you are giving women and men equal pay and benefits

The term ‘equal pay’ is used specifically to mean making sure that women and men who are doing **equal work** receive the same rewards under their contracts of employment.

Equal pay applies to everything the employee receives under their contract, not just money paid to them, such as holiday entitlement.

Equal pay applies to **workers**, **office-holders**, police officers and people serving in the armed forces. This guide refers to all these people as ‘employees’ for convenience. Similarly, people who recruit or ‘employ’ these people are referred to as ‘employers’.

If:

- the person you are paying is not in one of these relationships with you but is in another work situation, or
- the unlawful discrimination is because of a protected characteristic other than sex, or
- the pay or benefits are not part of the employee’s contract

then you must still not discriminate unlawfully against them, but the special equal pay laws and procedures do not apply, and the first half of this guide applies to the situation instead.

Note: Because it is much more often the case that women are paid less than men, this guide generally refers to the person claiming equal pay as being a woman. But equal pay law protects men and women equally, so if a man is being paid less than a woman for equal work, the following applies to him too.

This section of the guide looks at some of the rules in more detail, including:

- Sex equality clause
- Equal work
- Like work
- Work that is rated as equivalent
- Work that is of equal value
- The employer's defence of 'material factor'
- Pay protection schemes
- Pay, benefits and bonuses during maternity leave

However, although the reason the law exists is simple – to make sure women and men receive the same rewards for equal work – the law itself can be complicated. This guide tells you the general outline of the law, but if you are concerned about equal pay, you should get other help and advice, for example, from:

- the Equality and Human Rights Commission
- Acas.

For contact details, see *Further sources of information and advice*. In particular, the Equality and Human Rights Commission has produced an **equal pay audit** toolkit, including a version especially for small businesses, which you may find useful. You can also read the **Code of Practice** on Equal Pay.

Sex equality clause

You must pay women and men doing equal work the same and give them the same benefits. The only exception to this is if you can show that there is a reason for the pay difference that has nothing to do with the sex of the workers. This is called the 'material factor defence' and is explained in more detail at page 28: 'The employers' defence of material factor'.

Every woman's contract of employment is automatically read as if it contains a term or clause which has the effect of making sure her pay and all other contractual terms are no worse than a man's where they are doing equal work. It does not matter if the contract is written down or not.

This applies to all the parts of the contract including:

- wages and salaries
- non-discretionary bonuses
- holiday pay
- sick pay
- overtime
- shift payments
- occupational pension benefits, and
- non-monetary terms such as holiday or other leave entitlements or access to sports and social benefits (for example, a gym membership if that is something the employee's contract entitles them to).

Remember: if aspects of pay and benefits are not part of the employee's contract of employment, you must still not discriminate unlawfully against someone because of sex, but the special equal pay law and procedures do not apply. This includes purely discretionary bonuses, promotions, transfers and training and offers of employment or appointments to office.

For example:

> A female sales manager is entitled under her contract of employment to an annual bonus calculated by reference to a specified number of sales. She discovers that a male sales manager working for the same employer and in the same office receives a higher bonus under his contract for the same number of sales. She would bring her claim under the equality of terms (equal pay) provisions.
>
> However, if the female sales manager is not paid a discretionary Christmas bonus that the male manager is paid, she could bring a claim for unlawful sex discrimination rather than an equal pay claim because it is not about a contractual term.

Equal work

There are three kinds of equal work. All of these require a woman to compare herself to a man in the **same employment**. He is called a 'comparator'.

- The first is when a woman is doing work that is the same as or broadly similar to the work her comparator is doing. This is called 'like work'.
- The second is when although their work is different, a **job evaluation study** shows that a man's and a woman's jobs are rated as equal. This is called work that is 'rated as equivalent'.
- The third is when the man's and woman's jobs are different but are equal in value in terms of the demands or skills that are needed. This is called 'work of equal value'.

Like work

If the jobs are exactly the same, it is easy to say this is 'like work'. If they aren't exactly the same, then you should consider the differences between them. If these aren't of practical importance then the jobs are broadly similar and still count as 'like work' so the two workers should be paid the same.

For example:

Depending on the exact circumstances, these male and female workers could be considered to be doing 'like work':

- Male and female drivers, where the men are more likely to work at week-ends.
- A woman cook preparing lunches for directors and a male chef cooking breakfast, lunch and tea for employees.
- Male and female supermarket workers carrying out similar tasks even though the men may lift heavier objects from time to time.

It is what happens in practice that counts. A contractual obligation on a male worker to do other duties does not count if these are not in fact carried out.

For example:

Men but not women workers do the same job, but under their contracts, only the men have to work compulsory overtime and can be required to transfer to different duties. This difference is not of practical importance if the flexibility is not called upon in practice.

Work that is rated as equivalent

Job evaluation is a way of systematically assessing the relative value of different jobs.

If you carry out (or get someone to carry out for you) a job evaluation study and this gives an equal value to the woman's work and her comparator's, then her work is rated as equivalent to the man's. The value of the work will be measured by looking at the demands made on the workers, using factors such as effort, skill and decision-making.

Because the focus is on the demands of the job rather than the nature of the job overall, jobs which may seem to be of a very different type can be rated as equivalent.

For example:

> The work of an occupational health nurse might be rated as equivalent to that of a production supervisor when components of the job such as skill, responsibility and effort are assessed by a valid job evaluation scheme.

If a job evaluation study has assessed the woman's job as being of lower value than her male comparator's job, then an equal value claim by the woman will fail. It will only not fail if the Employment Tribunal hearing the claim has reasonable grounds for suspecting that the evaluation was itself discriminatory in the way it was carried out or in the measurement it used or that it was in some other way unreliable.

There has historically been a tendency to undervalue or overlook qualities inherent in work traditionally undertaken by women (for example, caring).

A job evaluation scheme which results in different points being allocated to jobs because it values certain demands of work traditionally undertaken by women differently from demands of work traditionally undertaken by men would be discriminatory.

A scheme like this will not prevent a woman claiming that her work may be equal to that of a male comparator.

For example:

> A job evaluation study rates the jobs of female classroom teaching assistants and their better paid male physical education instructors as not equivalent. This is because the study gives more points to the physical effort involved in the men's jobs than to the intellectual and caring work involved in the jobs predominantly done by women. Because it uses a sex-biased points system, this job evaluation study would not prevent the women succeeding in an equal pay claim.

A woman may also bring a claim for equal pay where her job is rated higher than that of a comparator under a job evaluation scheme but she is paid less.

Detailed guidance on designing, implementing and monitoring non-discriminatory job evaluation schemes is available from the Equality and Human Rights Commission.

Work that is of equal value

If you have not carried out (or got someone else to carry out) a job evaluation study, a woman can still claim equal pay with a man if she can show that her work is of equal value with his in terms of the demands made on her. Instead of the assessment being done by you as the employer as part of the job evaluation study, the assessment whether the work is of equal value takes place as part of the woman's claim to the Employment Tribunal.

Jobs being of equal value means that the jobs done by a woman and her male comparator are different but can be regarded as being of equal worth, having regard to:

- the nature of the work performed
- the training or skills necessary to do the job
- the conditions of work, and
- the decision-making that is part of the role.

In some cases, the jobs being compared may appear fairly equivalent (such as a female head of personnel and a male head of finance). More commonly, entirely different types of job (such as manual and administrative) can turn out to be of equal value when analysed in terms of the demands made on the employee.

More detailed guidance on how to tell if jobs are of equal value is available from the Equality and Human Rights Commission.

The employer's defence of 'material factor'

Once a woman has shown that she is doing equal work with her male comparator, the equality clause will take effect unless you can prove that:

- the difference in pay or other contractual terms is due to a material factor, and
- this factor does not itself discriminate against her either directly or indirectly because of her sex.

You must say what the factor(s) are and prove that each factor:

- is the real reason for the difference in pay and not a sham or pretence
- actually causes the difference in pay between the woman and her comparator
- is material; that is, significant and relevant
- does not involve direct or indirect sex discrimination.

For example:

> An employer argues that it is necessary to pay a male comparator more because of a skills shortage. To succeed, the employer must provide evidence of actual difficulties in recruiting and retaining people to do the job being done by the higher-paid man.

Possible material factors include:

- personal differences between the employees concerned such as experience and qualifications
- geographical differences, for example, London weighting
- unsocial hours, rotating shift work and night working.

Whether you are able to defend the pay difference will depend on the specific circumstances in each case.

To be a valid defence, the material factor must not itself be directly or indirectly discriminatory.

A material factor will be directly discriminatory where it is based on treating women and men differently because of their sex. This cannot provide a defence to an equal pay claim, and it is not open to an employer to justify the discrimination.

For example:

> Male maintenance workers in a bank are paid more than female administrators because the bank has always regarded and rewarded men as family breadwinners. This is directly discriminatory and cannot be justified.

Even if an employer can show that a material factor is not directly discriminatory, a woman claiming equal pay may be able to show that it is indirectly discriminatory.

Indirect discrimination happens where a pay system, policy or arrangement has a worse impact on women compared to their male comparators. If the employer cannot **objectively justify** what they have done, they will not succeed in the material factor defence.

For example:

> Women employed as carers by a local authority, whose work is rated as equivalent to men employed as street cleaners and gardeners, are paid at a lower rate. The difference is due to a productivity bonus scheme which does not apply to carers, who

were predominantly women. As the scheme has a disproportionately adverse effect on the women, the employer has to provide objective justification for it.

Pay protection schemes

Many employers have recognised that women have historically been paid less than men for work of equal value and some have put in place ‘pay protection schemes’ as part of what they are doing to sort out the situation. These schemes temporarily continue an inequality in pay, for example by allowing men to continue on higher pay while steps are taken to raise the women’s pay. Equality law says that an employer’s long-term objective of reducing pay inequality between women and men is always to be regarded as a legitimate aim.

However, for a scheme like this to qualify as a ‘material factor’ defence, there will need to be evidence that the employer is moving to close the pay gap, rather than indefinitely continuing the inequality between men’s and women’s pay.

More detailed guidance to help you decide whether a proposed pay protection scheme is lawful is available from the Equality and Human Rights Commission.

Pay, benefits and bonuses during maternity leave

You must not give a pregnant woman lower pay or worse contractual terms for a reason relating to her pregnancy. If you do, she will have an equal pay claim.

However, when a woman goes on **maternity leave**, unless her contract provides for maternity-related pay, you do not have to carry on her usual pay and any benefits with a transferable cash value (such as a car allowance). She is still entitled to any non-cash benefits she has.

Maternity-related pay means pay other than statutory maternity pay to which a woman who is pregnant or on maternity leave is entitled under her contract. Many employers, as a matter of good business practice, provide a more generous maternity pay scheme than the one the law sets as a minimum and do continue to provide benefits, including those with a transferable cash value.

When a woman is on maternity leave, a ‘maternity equality clause’ is automatically read into her contract, which covers:

- the calculation of any maternity-related pay the woman is entitled to under her contract
- bonus payments during maternity leave, and
- pay increases following maternity leave.

Unlike other types of equal pay claim, the woman does not need a male comparator where her claim relates to these three things (or to other forms of pregnancy and maternity discrimination).

Any pay increase a woman receives or would have received had she not been on maternity leave must be taken into account in the calculation of her maternity-related pay.

For example:

> Early in her maternity leave, a woman receiving maternity-related pay becomes entitled to an increase in pay (because there has been a pay rise across the organisation she works for). If her terms of employment do not already provide for the increase to be reflected in her maternity-related pay, the employer must recalculate her maternity pay to take account of the pay increase.

You must also pay any contractual bonus payment awarded to a woman during her maternity leave period, or that would have been awarded had she not been on maternity leave.

However, in calculating the bonus, you do not have to include the maternity leave period itself, except for the two or four weeks of compulsory maternity leave.

For example:

> A woman goes on maternity leave three months before the end of her company's accounting year. At the end of the accounting year, while she is on maternity leave, bonuses for the whole year are awarded to staff. The woman's bonus is calculated based on the nine months of the accounting year when she was not on maternity leave plus the two week compulsory maternity leave period that applies to her (it would be four weeks if she worked in a factory).

You must pay any pay rise or bonus when they would usually be due, and not wait until the woman gets back from her leave.

For example:

> A woman goes on maternity leave on 1 June. The contractual bonus for the year ending 30 April is payable on 1 July. Her employer says they will pay the bonus to her when she is back in a few months. The law requires the employer to pay the bonus on 1 July as it would if the woman was not on maternity leave. If this does not happen, she can make a claim relying on the maternity equality clause provisions.

When a woman returns to work, and starts receiving her ordinary salary again (rather than statutory maternity pay or maternity-related pay), you must apply any pay increases to her that she would have received had she not been on maternity leave. For example, if everyone in your organisation, or even just the people doing the job she returns to, has had a pay rise while the woman has been on maternity leave, she must be paid at a rate that takes account of the pay increase, not at her previous salary.

If pay and benefits have not been paid because of a woman's pregnancy or maternity leave, but are not things she is entitled to under her contract, then she could claim unlawful discrimination because of pregnancy and maternity, rather than equal pay, and the first part of this guide applies instead.

For example:

> A woman who has been approved for a promotion tells her employer that she is pregnant. The employer responds that he will not now promote her because she will be away on maternity leave during a very busy period. This would be pregnancy discrimination at work but not an equal pay claim.
>
> However, if the same woman is promoted and her increased salary takes effect after her maternity leave begins, her maternity-related pay will need to be recalculated to take account of the salary increase. When she returns to work from her maternity leave, it must be on the new salary. If this does not happen, she can make a claim relying on the maternity equality clause provisions.

You can read more about statutory maternity pay (SMP), including your right to recover at least 100 per cent of SMP at:

- Business Link if you are in England or Wales, or
- Business Gateway Scotland if you are in Scotland.

Contact details for these organisations are in *Further sources of information and advice*.

Maternity equality in pension schemes

An occupational pension scheme is treated as including a maternity equality clause if it does not have such a clause already. The effect of this is to make sure that a woman on maternity leave continues to build up the same benefits in relation to the pension she receives once she retires.

You can find out more about how equality law applies to occupational pensions in the Codes of Practice on Employment and on Equal Pay. If you are concerned about whether your occupational pension scheme may be unlawfully discriminating against workers, you should get specialist advice.

Equality good practice: what you can do if you want to do more than equality law says you must

The role of equal pay audits

An equal pay audit compares the pay of male and female employees who are doing equal work and checks to see if there are any pay differences and inequalities.

Equality law does not say that you must do an equal pay audit. But carrying one out will help you to see if you are providing equal pay for equal work and rewarding your employees fairly. It will help you to avoid unlawful discrimination.

The benefits of an equal pay audit include having fair and transparent pay arrangements which show that no one is being paid less because of any protected characteristic or because of something that may be linked to a protected characteristic (like a flexible working pattern).

It also shows that you are committed to fairness, equality and equal pay.

Risk factors for unequal pay

Some things employers commonly do in relation to pay increase the risks of not providing equal pay for equal work. These include:

- lack of transparency and unnecessary secrecy over grading and pay
- pay systems based on the employer's discretion (for example, merit pay and performance-related pay) unless these are clearly structured and based on objective criteria, rather than just on the employer's opinion
- different non-basic pay, terms and conditions for different groups of employees (for example, differences in attendance allowances, overtime or unsocial
  hours payments)
- more than one grading and pay system within the organisation
- long and/or overlapping pay scales or ranges
- individual managers being able to fix new employees' starting salaries
- pay systems based on market rates for different roles but not underpinned by job evaluation (because these may, for example, build in existing sex discrimination)

- job evaluation systems which have been incorrectly implemented or not kept up-to-date
- pay protection policies, which, for example, do not move quickly enough to end pre-existing unequal pay.

Risks of equal pay challenges generally arise not out of any intention to discriminate, but through pay systems not being kept under review and up-to-date.

You can get more detailed guidance:

- on the checks you can carry out to decide if you are at risk of an equal pay claim from the Equality and Human Rights Commission, and
- on the various different types of pay systems and on job evaluation from Acas.

Contact details for both organisations are in *Further sources of information and advice.*

The benefits of conducting an equal pay audit

If your organisation hasn't already carried out an equal pay audit, an audit will help you:

- identify, explain and, where they are unjustifiable, eliminate pay inequalities
- have rational, fair and transparent pay arrangements
- demonstrate to your employees and to potential employees a commitment to equality
- demonstrate your values to the people and organisations you do business with.

The Equality and Human Rights Commission recommends equal pay audits as the most effective method of making sure that a pay system is free from unlawful bias.

The audit should include:

- comparing the pay of men and women doing equal work – ensuring that this considers work that is the same or broadly similar (like work), work rated as equivalent and work that can be shown to be of equal value or worth
- identifying and explaining any pay differences

- eliminating those pay inequalities that cannot be explained on non-discriminatory grounds.

A process that does not include these features cannot claim to be an equal pay audit.

The Equality and Human Rights Commission has produced an **equal pay audit** toolkit, including a version especially for small businesses, which you may find useful.

What to do if someone says you are paying them less than someone else because of a protected characteristic

If a worker complains that you are paying them less than someone else because of a protected characteristic, there are a number of steps they can take.

These are explained in Chapter 5: *What to do if someone says they've been discriminated against*.

The procedures set out there apply to complaints that:

- you are paying one worker less than another because of any protected characteristic except sex, or
- you are paying a woman less than a man or a man less than a woman for equal work but the pay or benefits are not part of their contract of employment, for example, a bonus which you choose to give workers when your organisation has performed well, but which a worker has no contractual entitlement to.

If the complaint being made is that you are paying a woman less than a man or a man less than a woman for equal work and the pay or benefits are part of the person's contract of employment, then you are facing an equal pay case of the type explained at page 23: 'Making sure you are giving women and men equal pay and benefits'.

The next section of this guide briefly explains the rules in an equal pay case. It especially focuses on the differences between equal pay cases and other types of claims brought under equality law as it applies to work situations. You should also read the general advice in Chapter 5: *What to do if someone says they've been discriminated against*.

- What the Employment Tribunal has to decide in an equal pay case
- Which claims the Employment Tribunal can hear
- Time limits
- Burden of proof

- Assessment as to whether the work is of equal value
- What the Employment Tribunal can decide in cases where money is owed
- Pension cases.

However, equal pay cases can be extremely complicated and time-consuming. If you need to defend this type of case, you will need legal help and advice.

If:

- an employee, or
- a group of employees, or
- a trade union, or
- anyone else representing a worker or group of workers

says:

- that there has been a breach of a sex **equality clause**, or
- that one or more people who work for you are being paid less than those of the opposite sex doing equal work, and
- the relevant pay or benefits are included in the employees' contract of employment,

this is an equal pay case and you should get further advice.

You can find a list of organisations which may be able to help you in *Further sources of information and advice*.

What the Employment Tribunal has to decide in an equal pay case

In making a decision about an equal pay case, the Employment Tribunal has to assess the evidence about:

- whether the comparator is the right comparator (in other words, if he is in the same employment)
- the work done by the woman and her comparator
- the value placed on the work (sometimes with the advice of an Independent Expert), in terms of the demands of the jobs
- the pay or other contract terms of the woman and her comparator and how they have been arrived at, and

- the reasons for the difference in pay or other contract terms.

Which claims the Employment Tribunal can hear

An Employment Tribunal can decide a complaint involving unlawful discrimination in a work situation.

This includes any equal pay case, including:

- claims relating to pay during pregnancy and maternity, and
- claims about equality in the rules of occupational pension schemes.

Employment Tribunals also hear claims about other workplace disputes, such as where someone is claiming unfair dismissal.

Members of the armed forces must bring a service complaint before they can bring a claim to the Employment Tribunal.

Time limits

A six month time limit applies when:

- a person wants to bring a claim for a breach of an equality clause or rule, or
- they want the Employment Tribunal to make a statement about the effect of an equality clause or rule.

The six month time limit normally starts from the end of the person's employment contract. So if they are still in the same job, they can bring a claim at any time.

If:

- the employer conceals information from the person which would have told them that they were not getting equal pay, or
- the person bringing the claim 'has an incapacity'

the start of the six months is measured from a different point.

If the employer conceals information about the inequality in pay, the six months begins with the date when the person bringing the claim discovered (or could reasonably have discovered) the concealment.

For example:

> A woman suspects that her male colleagues who do the same work are better paid. Her employer reassures her that she and her colleagues get the same salary but he deliberately does not tell her that the men also receive performance bonuses under their contracts. Her male colleagues refuse to discuss their pay with her. The woman only discovers the discrepancy between her pay and the men's when one of the men tells her 18 months after she ceases employment. Within six months, she makes an equal pay claim to a tribunal based on the value of the bonus payments she would have received if her contract had provided for them. Although the woman's claim is made more than six months after her employment ends, she shows that her employer deliberately misled her into believing her salary was the same as the men's. She had no way of discovering the truth earlier. Her claim can proceed as a concealment case.

If the person bringing the claim has an incapacity, the six months begins on the date the incapacity ends. 'Has an incapacity' means:

- in England and Wales that they are under 18 or that they lack capacity within the meaning of the Mental Capacity Act 2005, and
- in Scotland that they are under 16 or are incapable within the meaning of the Adults with Incapacity (Scotland) Act 2000.

  For example:

  > A woman's employment ends due to a mental health condition which results in her temporary loss of capacity to make decisions for herself. She could make a claim for breach of an equality clause to an Employment Tribunal but is not well enough to do so. The six month time limit will start when she recovers sufficiently to make a claim.

Members of the armed forces have nine months from their last day of service to make their application to the Employment Tribunal provided that they first raise a service complaint.

For example:

> A former member of the armed forces wants to bring a claim about her terms of service. She first makes a service complaint and then brings a claim for breach of an equality clause in an Employment Tribunal. This claim would need to be brought within nine months of her period of service ending.

Equal pay claims may also be brought in the High Court and for this the time limit is six years (5 years in Scotland) from the alleged breach.

Burden of proof

A woman claiming equal pay must prove facts from which an Employment Tribunal could decide that her employer has paid her less than a male comparator doing equal work. This means the woman must show that it is more likely than not that:

- she was employed to carry out equal work with a male comparator (who is a real rather than hypothetical comparator) in the same employment but
- her male comparator received better pay or other contractual benefits than her.

Once the woman has shown this, it is for her employer to show that it is more likely than not that the difference in pay and/or other terms is for a material reason other than sex or that the work is not, in fact, equal. If the employer can show this, they will have a 'material factor defence' and the woman's claim will fail.

However, if the woman demonstrates that the material factor relied on by the employer has a worse impact on women doing equal work to that of the comparator, the employer will need to **objectively justify** the material factor.

Assessment as to whether the work is of equal value

Where an Employment Tribunal has to decide if the claimant's work and that of the comparator are of equal value, it can ask Acas to designate an independent expert to prepare a report on the matter.

Unless the tribunal withdraws its request for a report, it must wait for the expert's report before deciding whether the work is of equal value.

If the tribunal does withdraw its request for a report, it can ask the expert to give it any documents or other information the expert has to help it make a decision.

If there has been a **job evaluation study** in relation to the work involved and the study finds that the claimant's work is not of equal value to the work of the comparator, the tribunal is required to come to the same decision unless it has good reason to suspect that the study is discriminatory or unreliable.

For example:

> A woman claims that her job is of equal value to that of a male comparator. The employer produces a job evaluation study to the tribunal in which the woman's job is rated below her comparator's job. The employer asks the tribunal to dismiss the woman's claim but the woman is able to show that the study is unreliable because it is out of date and does not take account of changes in the jobs resulting from new technology. The tribunal can disregard the study's conclusion and can proceed to decide if the work of the claimant and comparator are of equal value.

What the Employment Tribunal can decide in cases where money is owed

If an equal pay claim is upheld, the Tribunal may:

- make a declaration as to the rights of the woman and/or her employer in relation to the claim brought. For example, a pay rise to the level of the comparator's pay (including any occupational pension rights) or the inclusion of any beneficial term not in the woman's contract
- order the employer to pay arrears of pay or damages to the person who has brought the claim.

There is no award for injury to feelings in an equal pay case.

In England and Wales, the Employment Tribunal can award arrears of pay or damages going back up to six years from the date that proceedings were brought in the Employment Tribunal. This is extended to the day on which the breach first occurred where incapacity or concealment applies.

In Scotland, the Employment Tribunal can award arrears of pay or damages going back up to five years from the date that proceedings were brought in the Employment Tribunal. This is extended to 20 years where the employee had a relevant incapacity or there was a fraud or error.

Pension cases

In cases about occupational pension entitlements, an Employment Tribunal can make a declaration as to the rights of everyone involved.

It can also order compensation, but the rules about this are complicated, so it is important to seek advice.

Where an Employment Tribunal makes a declaration about how a member of an occupational scheme must be treated, the employer must if necessary pay the scheme enough money to give the claimant what she is due, without any additional contributions having to be made by her or any other members.

2. When you are responsible for what other people do

As an **employer** or in another work situation, it is not just how you personally behave that matters.

If another person who is:

- employed by you, or
- carrying out your instructions to do something (who the law calls your agent)

does something that is unlawful discrimination, **harassment** or **victimisation**, you can be held legally responsible for what they have done.

This part of the guide explains:

- When you can be held legally responsible for someone else's unlawful discrimination, harassment or victimisation
- How you can reduce the risk that you will be held legally responsible
- How you can make sure your employees and agents know how equality law applies to what they are doing
- When workers employed by you or your agents may be personally liable
- What happens if a person instructs someone else to do something that is against equality law
- What happens if a person helps someone else to do something that is against equality law
- What happens if you try to stop equality law applying to a situation

When you can be held legally responsible for someone else's unlawful discrimination, harassment or victimisation

As an **employer**, you are legally responsible for acts of discrimination, harassment and victimisation carried out by workers who are employed by you in the course of their employment.

You are also legally responsible as the 'principal' for the acts of your **agents** done with your authority. Your agent is someone you have instructed to do something on your behalf, but who is not employed by you. It does not matter whether you have a formal contract with them.

As long as:

- the worker was acting in the course of their employment – in other words, while they were doing their job, or
- your agent was acting within the general scope of your authority – in other words, while they were carrying out your instructions

it does not matter whether or not you:

- knew about or
- approved of

what the worker or agent did.

For example:

- A shopkeeper goes abroad for three months and leaves a worker employed by him in charge of the shop. This worker harasses a colleague with a learning disability, by constantly criticising how they do their work. The colleague leaves the job as a result of this unwanted conduct. This could amount to harassment related to disability and the shopkeeper could be responsible for the actions of the worker.
- An employer engages a financial consultant to act on their behalf in dealing with their finances internally and with external bodies, using the employer's headed notepaper. While working on the accounts, the consultant sexually harasses an accounts assistant. The consultant would probably be considered an agent of the employer and the employer is likely to be responsible for the harassment.

However, you will not be held legally responsible if you can show that:

- you took all reasonable steps to prevent a worker employed by you acting unlawfully
- an agent acted outside the scope of your authority (in other words, that they did something so different from what you asked them to do that they could no longer be thought of as acting on your behalf).

How you can reduce the risk that you will be held legally responsible

You can reduce the risk that you will be held legally responsible for the behaviour of the people who work for you if you tell them how to behave so that they avoid unlawful discrimination, harassment or victimisation.

This does not just apply to situations where you and your staff are dealing face-to-face with other people in a work situation, but also to how you plan what happens.

When you or your workers or agents are planning what happens to people in a work situation, you need to make sure that your decisions, rules or ways of doing things are not:

- **Direct discrimination**, or
- **Indirect discrimination** that you cannot **objectively justify**, or
- **Discrimination arising from disability** that you cannot **objectively justify**, or
- **Harassment**

and that you have made **reasonable adjustments** for any disabled people who are working for you or applying for a job with you or in another work situation you are in charge of.

So it is important to make sure that your workers and agents know how equality law applies to what they are doing.

How you can make sure your workers and agents know how equality law applies to what they are doing

Tell your workers and agents what equality law says about how they must and must not behave while they are working for you.

Below are some examples of reasonable steps you can take to prevent unlawful discrimination or harassment happening in your workplace:

- telling your workers and agents when they start working for you – and checking from time to time that they remember what you told them, for example, by seeing if/how it has made a difference to how they behave. This could be a very simple checklist you talk them through, or you could give them this guide, or you could arrange for them to have **equality training**
- writing down the standards of behaviour you expect in an **equality policy**
- including a requirement about behaving in line with equality law in every worker's **terms of employment** or other contract, and making it clear that breaches of equality law will be treated as disciplinary matters or breaches of contract.

You can read more about equality training and equality policies in the Equality and Human Rights Commission guide: *Good equality practice for employers: equality policies, equality training and monitoring*.

Using written terms of employment for employees

Employment law says you must, as an employer, give every **employee** a written statement of the main terms of their employment. So you could include a sentence in these written terms that tells the person working for you they must meet the requirements of equality law, making it clear that a failure to do so will be a disciplinary offence.

Obviously, if you do this, it is important that you also tell the employee what it means. You could use an equality policy to do this, or you could just discuss it with them, or you could give them this guide to read. But it is important that they are clear on what equality law says they must and must not do, or you may be held legally responsible for what they do.

Remember, if the employee is a disabled person, it may be a reasonable adjustment to give them the information in a way that they can understand.

If you receive a complaint claiming unlawful discrimination by one of your employees or someone else in a work situation you are in charge of, you can use the written terms to show that you have taken a reasonable step to prevent unlawful discrimination and harassment occurring. However, you will have to do more than this to actively prevent discrimination.

If someone does complain, you should investigate what has taken place and, if appropriate, you may need to discipline the person who has unlawfully discriminated against or harassed someone else, give them an informal or formal warning, provide training or even dismiss them; the action you take will obviously vary according to the nature of the breach and how serious it was.

If you do find that a worker employed by you has unlawfully discriminated against someone else in a work situation, then look again at what you are telling your staff to make sure they know what equality law means for how they behave towards the people they are working with.

You can read more about what to do if someone says they've been discriminated against in Chapter 4.

Good practice tip for how you and your staff should behave

Ideally, you want anyone who works for you to treat everyone they come across with dignity and respect. This will help you provide a good working environment (not just without discriminating but more generally) and can make your workers more productive.

If your staff do unlawfully discriminate against their fellow workers or others in a work situation, your reputation may suffer even if the person on the receiving end does not bring a legal case against you.

When your workers or agents may be personally liable

A worker employed by you or your agent may be personally responsible for their own acts of discrimination, harassment or victimisation carried out during their employment or while acting with your authority. This applies where either:

- you are also liable as their employer or principal, or
- you would be responsible but you show that:
  - you took all reasonable steps to prevent your worker discriminating against, harassing or victimising someone, or
  - that your agent acted outside the scope of your authority.

  For example:

  > A factory worker racially harasses their colleague. The employer would be liable for the worker's actions, but is able to show that they took all reasonable steps to stop the harassment. The colleague can still claim compensation against the factory worker in an Employment Tribunal.

But there is an exception to this. A worker or agent will *not* be responsible if their employer or principal has told them that there is nothing wrong with what they are doing and the employee or agent reasonably believes this to be true.

It is a criminal offence, punishable by a fine, for an employer or principal to make a false statement which an employee or agent relies upon to carry out an unlawful act.

What happens if a person instructs someone else to do something that is against equality law

An employer or principal must not instruct, cause or induce a worker employed by them or an agent to discriminate against, harass or victimise another worker, or to attempt to do so.

‘Causing’ or ‘inducing’ someone to do something can include situations where someone is made to do something or persuaded to do it, even if they were not directly instructed to do it.

Both:

- the person who receives the instruction or is caused or induced to discriminate against, harass or victimise, and
- the person who is on the receiving end of the discrimination, harassment or victimisation

have a claim against the person giving the instructions if they suffer loss or harm as a result of the instructing or causing or inducing of the discrimination, harassment or victimisation.

This applies whether or not the instruction is actually carried out.

What happens if a person helps someone else to do something that is against equality law

A person must not help someone else carry out an act which the person helping knows is unlawful under equality law.

However, if the person helping has been told by the person they help that the act is lawful and they reasonably believe this to be true, they will not be legally responsible.

It is a criminal offence, punishable by a fine, to make a false statement which another person relies on to help to carry out an unlawful act.

What happens if you try to stop equality law applying to a situation

You cannot stop equality law applying to a situation if it does in fact apply. For example, there is no point in making a statement in a contract of employment that equality law does not apply. The statement will not have any legal effect. That is, it will not be possible to enforce or rely on a term in a contract that tries to do this. This is the case even if the other person has stated they have understood the term and/or they have agreed to it.

For example:

- A worker's contract includes a term saying that they cannot bring a claim in an Employment Tribunal. Their employer sexually harasses them. The term in their contract does not stop them bringing a claim for sexual harassment in the Employment Tribunal.
- A business partner's partnership agreement contains a term that says 'equality law does not apply to this agreement'. The partner develops a visual impairment and needs reasonable adjustments to remove barriers to their continuing to do their job. The other partners instead ask them to resign from the partnership. The partner can still bring a claim in the Employment Tribunal for a failure to make reasonable adjustments and unlawful disability discrimination.
- An applicant for a job is told 'equality law does not apply to this business, it is too small'. She still agrees to go to work there. When she becomes pregnant, she is dismissed. She can still bring a claim in the Employment Tribunal for pregnancy discrimination.

3. The duty to make reasonable adjustments for disabled people

Equality law recognises that bringing about equality for disabled people may mean changing the way in which employment is structured, the removal of physical barriers and/or providing extra support for a disabled worker.

This is the **duty to make reasonable adjustments**.

The duty to make reasonable adjustments aims to make sure that, as far as is reasonable, a disabled worker has the same access to everything that is involved in doing and keeping a job as a non-disabled person.

When the duty arises, you are under a positive and proactive duty to take steps to remove or reduce or prevent the obstacles a disabled worker or job applicant faces.

You only have to make adjustments where you are aware – or should reasonably be aware – that a worker has a disability.

Many of the adjustments you can make will not be particularly expensive, and you are not required to do more than what is reasonable for you to do. What is reasonable for you to do depends, among other factors, on the size and nature of your organisation.

If, however, you do nothing, and a disabled worker can show that there were **barriers** you should have identified and reasonable adjustments you could have made, they can bring a claim against you in the Employment Tribunal, and you may be ordered to pay them compensation as well as make the reasonable adjustments.

In particular, the need to make adjustments for an individual worker:

- must not be a reason not to promote a worker if they are the best person for the job with the adjustments in place
- must not be a reason to dismiss a worker
- must be considered in relation to every aspect of a worker's job

provided the adjustments are reasonable for you to make.

Many factors will be involved in deciding what adjustments to make and they will depend on individual circumstances. Different people will need different changes, even if they appear to have similar impairments.

It is advisable for you to discuss the adjustments with the disabled worker, otherwise the adjustments may not be effective.

The rest of this section looks at the detail of the duty and gives examples of the sorts of adjustments you could make. It looks at:

- Which disabled people does the duty apply to?
- Finding out if someone is a disabled person
- The three requirements of the duty
- Are disabled people at a substantial disadvantage?
- Changes to policies and the way your organisation usually does things
- Dealing with physical barriers
- Providing extra equipment or aids
- Making sure an adjustment is effective
- Who pays for reasonable adjustments?
- What is meant by ‘reasonable’
- Reasonable adjustments in practice
- Specific situations
    - Employment services
    - Occupational pensions.

Which disabled people does the duty apply to?

The duty applies to any disabled person who:

- works for you, or
- applies for a job with you, or
- tells you they are thinking of applying for a job with you.

It applies to all stages and aspects of employment. So, for example, where the duty arises you must make reasonable adjustments to disciplinary or dismissal procedures and decisions. It does not matter if the worker was a disabled person when they began working for you, or if they have become a disabled person while working for you.

The duty may also apply after employment has ended.

The duty also applies in relation to **employment services**, with some differences which are explained later in this chapter.

Reasonable adjustments may also be required in relation to occupational pension schemes. This is explained later in this chapter.

Finding out if someone is a disabled person

You only have to make these changes where you know or could reasonably be expected to know that a worker is a disabled person and is – or is likely to be – at a substantial disadvantage as a result. This means doing everything you can reasonably be expected to do to find out.

For example:

> A worker's performance has recently got worse and they have started being late for work. Previously they had a very good record of punctuality and performance. Rather than just telling them they must improve, their employer talks to them in private. This allows the employer to check whether the change in performance could be for a disability-related reason. The worker says that they are experiencing a recurrence of depression and are not sleeping well which is making them late. Together, the employer and the worker agree to change the worker's hours slightly while they are in this situation and that the worker can ask for help whenever they are finding it difficult to start or complete a task. These are reasonable adjustments.

This does not, however, mean asking intrusive questions or ones that violate someone's dignity. Think about privacy and confidentiality in what you ask and how you ask.

Good practice tip: be prepared for making reasonable adjustments

Equality law says that you must make reasonable adjustments if you know that a worker is a disabled person, that they need adjustments and that those adjustments are reasonable.

You don't have to put reasonable adjustments in place just in case one of your existing workers becomes a disabled person.

But you may want to be prepared:

- Think in advance about what the core tasks of a particular job are and what adjustments might be possible (before starting a recruitment or promotion exercise, for example).
- Put in place a process for working out reasonable adjustments in the event of an existing worker becoming disabled or a disabled person starting work with the organisation, before being faced with an individual situation.
- Make sure you know in advance what support is available to disabled people from Access to Work.
- If you are making renovations or alterations to your building, thinking about how you can make the new parts of your building more accessible for disabled people will help you if you later employ a disabled person and will allow you to attract more potential employees.

  As well as avoiding a possible Employment Tribunal claim, being open to making reasonable adjustments means you may be able to avoid losing the skills of a worker who has become a disabled person just by making a few changes.

The three requirements of the duty

The duty contains three requirements that apply in situations where a disabled person would otherwise be placed at a **substantial** disadvantage compared with people who are not disabled.

- The first requirement involves changing the way things are done (equality law talks about where the disabled job worker is put at a substantial disadvantage by a **provision, criterion or practice** of their employer).

  For example:

  > An employer has a policy that designated car parking spaces are only offered to senior managers. A worker who is not a manager, but has a mobility impairment and needs to park very close to the office, is given a designated car parking space. This is likely to be a reasonable adjustment to the employer's car parking policy.

- The second requirement involves making changes to overcome barriers created by the **physical features** of your workplace.

  For example:

  > Clear glass doors at the end of a corridor in a particular workplace present a hazard for a visually impaired worker. Adding stick-on signs or other indicators to the doors so that they become more visible is likely to be a reasonable adjustment for the employer to make.

- The third requirement involves providing extra equipment (which equality law calls an **auxiliary aid**) or getting someone to do something to assist the disabled person (which equality law calls an **auxiliary service**).

  For example:

  > An employer provides specialist software for a member of staff who develops a visual impairment and whose job involves using a computer.

Each of these requirements is looked at in more detail later in this part of the guide.

Are disabled people at a substantial disadvantage?

The question you need to ask yourself is whether:

- the way you do things
- any **physical feature** of your workplace
- the absence of an auxiliary aid or service

puts a disabled worker or job applicant at a substantial disadvantage compared with a person who is not disabled.

Anything that is more than minor or trivial is a substantial disadvantage.

If a substantial disadvantage does exist, then you must make reasonable adjustments.

The aim of the adjustments you make is to remove or reduce the substantial disadvantage.

But you only have to make adjustments that are reasonable for you to make. There is more information about how to work out what is reasonable a bit later in this part of the guide.

Changes to policies and the way your organisation usually does things

The first requirement involves changing the way things are done (equality law talks about where the disabled job worker is put at a substantial disadvantage by a **provision, criterion or practice** of their employer).

This means looking at whether you need to change some written or unwritten policies, and/or some of the ways you usually do things, to remove or reduce **barriers** that would place a disabled person at a **substantial** disadvantage, for example, by preventing them from being able to work for you or stopping them being fully involved at work.

This includes your criteria for promotion or training, benefits, working conditions and contractual arrangements.

For example:

- Supervisors in an organisation are usually employed on a full-time basis. The employer agrees to a disabled person whose impairment causes severe fatigue working on a part-time or job share basis. By doing this, the employer is making a reasonable adjustment.
- The design of a particular workplace makes it difficult for a disabled person with a hearing impairment to hear, because the main office is open plan and has hard flooring, so there is a lot of background noise. Their employer agrees that staff meetings should be held in a quieter place that allows that person to fully participate in the meeting. By doing this, the employer is making a reasonable adjustment.

Dealing with physical barriers

The second requirement involves making changes to overcome barriers created by the **physical features** of your workplace.

This means you may need to make some changes to your building or premises for a disabled person who works for you, or applies for a job with you.

Exactly what kind of change you make will depend on the kind of barriers your premises present. You will need to consider the whole of your premises. You may have to make more than one change.

Physical features include: steps, stairways, kerbs, exterior surfaces and paving, parking areas, building entrances and exits (including emergency escape routes), internal and external doors, gates, toilet and washing facilities, public facilities (such as telephones, counters or service desks), lighting and ventilation, lifts and escalators, floor coverings, signs, furniture, and temporary or movable items (such as equipment and display racks). Physical features also include the sheer scale of premises (for example, the size of a building). This is not an exhaustive list.

- A physical feature could be something to do with the structure of the actual building itself like steps, changes of level, emergency exits or narrow doorways.
- Or it could be something about the way the building or premises have been fitted out, things like heavy doors, inaccessible toilets or inappropriate lighting.
- It could even be the way things are arranged inside the premises such as fixtures and fittings like shelf heights in storage areas or fixed seating in canteens.

For example:

> An employer has recruited a worker who is a wheelchair user and who would have difficulty negotiating her way around the office. In consultation with the new worker, the employer rearranges the layout of furniture in the office. The employer has made reasonable adjustments.

Providing extra equipment or aids

The third requirement of the duty involves providing extra equipment – which equality law calls **auxiliary aids** – and **auxiliary services**, where someone else is used to assist the disabled person, such as a reader, a sign language interpreter or a support worker.

An auxiliary aid or service may make it easier for a disabled person to do their job or to participate in an interview or selection process. So you should consider whether it is reasonable to provide this.

The kind of equipment or aid or service will depend very much on the individual disabled person and the job they are or will be doing or what is involved in the recruitment process. The disabled person themselves may have experience of what they need, or you may be able to get expert advice from some of the organisations listed in *Further sources of information and advice*.

Making sure an adjustment is effective

It may be that several adjustments are required in order to remove or reduce a range of disadvantages and sometimes these will not be obvious to you. So you should work, as much as possible, with the disabled person to identify the kind of disadvantages or problems that they face and also the potential solutions in terms of adjustments.

But even if the disabled worker does not know what to suggest, you must still consider what adjustments may be needed.

For example:

> A disabled worker has been absent from work as a result of depression. Neither the worker nor their doctor is able to suggest any adjustments that could be made. Nevertheless the employer should still consider whether any adjustments, such as working from home for a time or changing working hours or offering more day-to-day support, would be reasonable.

You may be able to get expert advice from some of the organisations listed in *Further sources of information and advice*.

Who pays for reasonable adjustments?

If something is a reasonable adjustment, you must pay for it as the employer. The cost of an adjustment can be taken into account in deciding if it is reasonable or not.

However, there is a government scheme called Access to Work which can help a person whose health or disability affects their work by giving them advice and support. Access to Work can help with extra costs which would not be reasonable for an employer or prospective employer to pay.

For example, Access to Work might pay towards the cost of getting to work if the disabled person cannot use public transport, or for assistance with communication at job interviews.

A person may be able to get advice and support from Access to Work if they are:

- in a paid job, or
- unemployed and about to start a job, or
- unemployed and about to start a Work Trial, or
- self-employed

and

- their disability or health condition stops them from being able to do parts of their job.

Make sure your worker knows about Access to Work. Although the advice and support are given to the worker themselves, you will obviously benefit too. Information about Access to Work is in *Further sources of information and advice*.

What is meant by ‘reasonable’

You only have to do what is reasonable.

Various factors influence whether a particular adjustment is considered reasonable. The test of what is reasonable is ultimately an objective test and not simply a matter of what you may personally think is reasonable.

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When deciding whether an adjustment is reasonable you can consider:

- how effective the change will be in avoiding the disadvantage the disabled worker would otherwise experience
- its practicality
- the cost
- your organisation's resources and size
- the availability of financial support.

Your overall aim should be, as far as possible, to remove or reduce any disadvantage faced by a disabled worker.

Issues to consider:

- You can treat disabled people better or '**more favourably**' than non-disabled people and sometimes this may be part of the solution.
- The adjustment must be effective in helping to remove or reduce any disadvantage the disabled worker is facing. If it doesn't have any impact then there is no point.
- In reality it may take several different adjustments to deal with that disadvantage but each change must contribute towards this.
- You can consider whether an adjustment is practical. The easier an adjustment is, the more likely it is to be reasonable. However, just because something is difficult doesn't mean it can't also be reasonable. You need to balance this against other factors.
- If an adjustment costs little or nothing and is not disruptive, it would be reasonable unless some other factor (such as impracticality or lack of effectiveness) made it unreasonable.
- Your size and resources are another factor. If an adjustment costs a significant amount, it is more likely to be reasonable for you to make it if you have substantial financial resources. Your resources must be looked at across your whole organisation, not just for the branch or section where the disabled person is or would be working. This is an issue which you have to balance against the other factors.
- In changing policies, criteria or practices, you do not have to change the basic nature of the job, where this would go beyond what is reasonable.

- What is reasonable in one situation may be different from what is reasonable in another situation, such as where someone is already working for you and faces losing their job without an adjustment, or where someone is a job applicant. Where someone is already working for you, or about to start a long-term job with you, you would probably be expected to make more permanent changes (and, if necessary, spend more money) than you would to make adjustments for someone who is attending a job interview for an hour.
- If you are a larger rather than a smaller employer you are also more likely to have to make certain adjustments such as redeployment or flexible working patterns which may be easier for an organisation with more staff.
- If advice or support is available, for example, from Access to Work or from another organisation (sometimes charities will help with costs of adjustments), then this is more likely to make the adjustment reasonable.
- If making a particular adjustment would increase the risks to the health and safety of anybody, including the disabled worker concerned, then you can consider this when making a decision about whether that particular adjustment or solution is reasonable. But your decision must be based on a proper assessment of the potential health and safety risks. You should not make assumptions about risks which may face certain disabled workers.

If, taking all of the relevant issues into account, an adjustment is reasonable then you must make it happen.

If there is a disagreement about whether an adjustment is reasonable or not, in the end, only an Employment Tribunal can decide this.

Providing information in an alternative format

Equality law says that where providing information is involved, the steps which it is reasonable for the employer to take include steps to make sure that the information is provided in an accessible format.

For example:

- A manual worker asks for the health and safety rules to be read onto an audio CD and given to them. This is likely to be a reasonable adjustment that the employer must make.

Reasonable adjustments in practice

Examples of steps it might be reasonable for you to have to take include:

- Making adjustments to premises.

  For example:

  > An employer makes structural or other physical changes such as widening a doorway, providing a ramp or moving furniture for a wheelchair user; relocates light switches, door handles, or shelves for someone who has difficulty in reaching; or provides appropriate contrast in decor to help the safe mobility of a visually impaired person.

- Allocating some of the disabled worker's duties to another worker.

  For example:

  > An employer reallocates minor or subsidiary duties to another worker as a disabled worker has difficulty doing them because of their disability. For example, the job involves occasionally going onto the open roof of a building but the employer transfers this work away from a worker whose disability involves severe vertigo.

- Transferring the worker to fill an existing vacancy.

  For example:

  > An employer should consider whether a suitable alternative post is available for a worker who becomes disabled (or whose disability worsens), where no reasonable adjustment would enable the worker to continue doing the current job. This might also involve retraining or other reasonable adjustments such as equipment for the new post or a transfer to a position on a higher grade.

- Altering the worker's hours of working or training.

  For example:

  > An employer allows a disabled person to work flexible hours to enable them to have additional breaks to overcome fatigue arising from their disability. It could also include permitting part-time working, or different working hours to avoid the need to travel in the rush hour if this is a problem related to an impairment. A phased return to work with a gradual build-up of hours might also be appropriate in some circumstances.

- Assigning the worker to a different place of work or training.

  For example:

  > An employer relocates the work station of a newly disabled worker (who now uses a wheelchair) from an inaccessible third floor office to an accessible one on the ground floor. If the employer operates from more than one workplace, it may be reasonable to move the worker's place of work to other premises of the same employer if the first building is inaccessible and the other premises are not.

- Allowing the worker to be absent during working or training hours for rehabilitation, assessment or treatment.

  For example:

  > An employer allows a disabled person who has recently developed a condition to have more time off work than would be allowed to non-disabled workers to enable them to have rehabilitation. A similar adjustment would be appropriate if a disability worsens or if a disabled worker needs occasional treatment anyway.

- Giving, or arranging for, training or mentoring (whether for the disabled worker or any other worker). This could be training in particular pieces of equipment which the disabled worker uses, or an alteration to the standard workplace training to make sure it is accessible for the disabled worker.

  For example:

  - All workers are trained in the use of a particular machine but an employer provides slightly different or longer training for an employee with restricted hand or arm movements, or training in additional software for a visually impaired person so that they can use a computer with speech output.
  - An employer provides training for workers on conducting meetings in a way that enables a Deaf staff member to participate effectively.
  - A disabled person returns to work after a six-month period of absence due to a stroke. Their employer pays for them to see a work mentor, and allows time off to see the mentor, to help with their loss of confidence following the onset of their disability.

- Acquiring or modifying equipment.

  For example:

  An employer might have to provide special equipment (such as an adapted keyboard for someone with arthritis or a large screen for a visually impaired person), an adapted telephone for someone with a hearing impairment, or other modified equipment for disabled workers (such as longer handles on a machine).

You do not have to provide or modify equipment for personal purposes unconnected with a worker's job, such as providing a wheelchair if a person needs one in any event but does not have one. This is because the disadvantages do not flow from things you have control over.

- Modifying instructions or reference manuals.

  For example:

  > The format of instructions and manuals might need to be modified for some disabled workers (such as being produced in Braille or on audio CD) and instructions for people with learning disabilities might need to be conveyed orally with individual demonstration or in Easy Read.

- Modifying procedures for testing or assessment.

  For example:

  > A worker with restricted manual dexterity who was applying for promotion would be disadvantaged by a written test, so the employer gives that person an oral test instead.

- Providing a reader or interpreter.

  For example:

  > An employer arranges for a colleague to read hard copy post to a worker with a visual impairment at particular times during the working day. Alternatively, the employer might hire a reader.

- Providing supervision or other support.

  For example:

  > An employer provides a support worker or arranges help from a colleague, in appropriate circumstances, for someone whose disability leads to uncertainty or lack of confidence.

- Allowing a disabled worker to take a period of disability leave.

  For example:

  > A worker who has cancer needs to undergo treatment and rehabilitation. Their employer allows a period of disability leave and permits them to return to their job at the end of this period.

- Participating in supported employment schemes, such as **WORKSTEP**.

  For example:

  > A person applies for a job as an office assistant after several years of not working because of depression. They have been participating in a supported employment scheme where they saw the job advertised. As a reasonable adjustment the person asks the employer to let them make private phone calls during the working day to a support worker at the scheme.

- Employing a support worker to assist a disabled worker.

  For example:

  > An adviser with a visual impairment is sometimes required to make home visits to clients. The employer employs a support worker to assist them on these visits.

- Modifying disciplinary or grievance procedures.

  For example:

  > A worker with a learning disability is allowed to take a friend (who does not work with them) to act as an advocate at a meeting with the person's employer about a grievance. Normally the employer allows workers to be accompanied only by work colleagues. The employer also makes sure that the meeting is conducted in a way that does not disadvantage or patronise the disabled worker.

- Adjusting redundancy selection criteria.

  For example:

  > A worker with an autoimmune disease has taken several short periods of absence during the year because of the condition. When their employer is taking the absences into account as a criterion for selecting people for redundancy, they discount these periods of disability-related absence.

- Modifying performance-related pay arrangements.

  For example:

  > A disabled worker who is paid purely on their output needs frequent short additional breaks during their working day – something their employer agrees to as a reasonable adjustment. It is likely to be a reasonable adjustment for their employer to pay them at an agreed rate (e.g. their average hourly rate) for these breaks.

It may sometimes be necessary for an employer to take a combination of steps.

For example:

> A woman who is blind is given a new job with her employer in an unfamiliar part of the building. The employer
>
> - arranges facilities for her assistance dog in the new area
> - arranges for her new instructions to be in Braille, and
> - provides disability equality training to all staff.

In some situations, a reasonable adjustment will not work without the co-operation of other workers. Your other staff may therefore have an important role in helping make sure that a reasonable adjustment is carried out in practice. You must make sure that this happens. It is unlikely to be a valid ‘defence’ to a claim under equality law for a failure to make reasonable adjustments to argue that an adjustment was unreasonable because your other staff were obstructive or unhelpful when you tried to make an adjustment happen. You would at least need to be able to show that you took all reasonable steps to try and resolve the problem of the attitude of your other staff.

For example:

> An employer makes sure that a worker with autism has a structured working day as a reasonable adjustment. As part of the reasonable adjustment, it is the responsibility of the employer to make sure that other workers co-operate with this arrangement.

If the worker does not agree to your involving other workers, you must not breach their confidentiality by telling the other workers about the disabled person's situation.

If a worker is reluctant for other staff to know, and you believe that a reasonable adjustment requires the co-operation of the worker's colleagues, explain that you cannot make the adjustment unless they are prepared for some information to be shared. It does not have to be detailed information about their condition; just enough to explain to other staff what they need to do.

Specific situations

Employment services

An employment service provider must not unlawfully discriminate against people who are using or want to use its services. There is more information about what this means in the Glossary.

In addition, an employment service provider has a duty to make reasonable adjustments, except when providing a **vocational service**.

For employment service providers, unlike for employers, the duty is 'anticipatory'. If you are an employment service provider, this means you cannot wait until a disabled person wants to use your services, but must think in advance (and on an ongoing basis) about what disabled people with a range of impairments might reasonably need, such as people who have a visual impairment, a hearing impairment, a mobility impairment, or a learning disability.

For example:

> An employment agency makes sure its website is accessible to disabled people and that it can provide information about job opportunities in a range of alternative formats. It also makes sure its staff are trained to assist disabled people who approach it to find out about job opportunities.

Occupational pensions

Occupational pension schemes must not unlawfully discriminate against people. There is more information about what this means in the Equality and Human Rights Commission guide: *What equality law means for you as an employer: pay and benefits*.

In addition, an occupational pension scheme must make reasonable adjustments to any provision, criterion or practice in relation to the scheme which puts a disabled person at a **substantial** disadvantage in comparison with people who are not disabled.

For example:

> The rules of an employer's final salary scheme provide that the maximum pension receivable is based on the member's salary in the last year of work. Having worked full-time for 20 years, a worker develops a condition which leads them to reduce their working hours two years before their pension age. The scheme's rules put them at a disadvantage as a result of their disability, because their pension will only be calculated on their part-time salary. The trustees decide to convert the worker's part-time salary to its full-time equivalent and make a corresponding reduction in the period of their part-time employment which counts as pensionable. In this way, their full-time earnings will be taken into account. This is likely to be a reasonable adjustment to make.

4. What to do if someone says they've been discriminated against

If a **worker** says that you or another worker employed by you or your **agent** have **unlawfully discriminated** against them in a recruitment situation, your responsibility is to deal with the complaint in a way that finds out if there has been unlawful discrimination and, if there has been, to put the situation right.

A worker may:

- complain to you
- make a claim in the Employment Tribunal.

These are not alternatives, since the person complaining still has a right to make a claim in the Employment Tribunal even if they first complained to you.

This part of this guide covers:

- If a worker complains to you
- What you can do if you find that there has been unlawful discrimination
- Monitoring the outcome
- The questions procedure, which someone can use to find out more information from you if they think they may have been unlawfully discriminated against, harassed or victimised.

- Key points about discrimination cases in a recruitment situation
  - Where claims are brought
  - Time limits for bringing a claim
  - The standard and burden of proof
  - What the Employment Tribunal can order you to do
- More information about defending an Employment Tribunal case.

Good practice tips for avoiding and sorting out claims about discrimination by a job applicant

A job applicant who believes they have experienced unlawful discrimination has a right to make an Employment Tribunal claim.

Defending an Employment Tribunal claim can be lengthy, expensive and draining, and it can have a damaging impact on the reputation of your organisation.

It is likely to be in everyone's interest to try to put things right before a claim is made to an Employment Tribunal.

If you have good procedures for sorting out complaints about discrimination, you may be able to avoid the person feeling it is necessary to bring a claim against you.

An important factor will be for all your workers to be sure that complaints about unlawful discrimination will be taken seriously, and that something will happen to put the situation right if someone has discriminated unlawfully.

Make it clear what will happen if, after investigating, you find out that someone has discriminated unlawfully against someone else:

- that if necessary you will take any disciplinary action you decide is appropriate
- that if necessary you will change the way you do things so the same thing does not happen again, then make sure you do this.

Also:

- consider **equality training** for yourself and/or people working for you
- think about having an **equality policy**.

If a job applicant complains to you

If a job applicant complains to you that your selection methods or recruitment decision were discriminatory or failed to make reasonable adjustments, you need to investigate.

Make sure that in the way you respond to a complaint, you do not unlawfully discriminate against anyone.

For example:

A disabled job applicant with learning difficulties complains to an employer about comments made to them during the recruitment process. The employer takes what the disabled person says less seriously than what the person complained about says in response. If the employer's attitude is because of the disabled person's learning disability, this is likely to be unlawful discrimination.

If anyone involved in a complaint is a disabled person who needs **reasonable adjustments** to remove **barriers** they would otherwise face in taking part in the complaints process, you must make these. You can read more about reasonable adjustments in Chapter 3.

Dealing with the complaint

If the complaint is about the way you or your organisation does something, think about getting it changed.

Make sure you tell the job applicant what the result of their complaint is, otherwise they may bring an Employment Tribunal claim.

What you can do if you find that there has been unlawful discrimination

The action you take will depend on the specific details of the case and its seriousness. You should take into consideration any underlying circumstances and the outcome of previous similar cases. Actions you take could be:

- **Equality training** for the person who discriminated.
- Appropriate disciplinary action (you can find out more about disciplinary procedures from Acas) against the person who discriminated.

Monitoring the outcome

Whether you decide that there had been unlawful discrimination or not, make sure that you do not treat the person who complained badly. For example, making sure the person is not shortlisted on any future job applications would amount to **victimisation**.

If the job applicant is not satisfied with what has happened, they may decide to bring a claim in the Employment Tribunal.

The questions procedure

If a job applicant thinks they may have been unlawfully discriminated against, harassed or victimised against equality law, then they can obtain information from you to help them decide if they have a valid claim or not.

There is a set form to help them do this which you can access at:
http://www.equalities.gov.uk/news/equality_act_2010_forms_for_ob.aspx,
but their questions will still count even if they do not use the form, so long as they use the same questions. The form is sometimes called a ‘questionnaire’.

If you receive questions from a job applicant, you are not legally required to reply to the request, or to answer the questions, but it may harm your case if you do not.

The questions and the answers can form part of the evidence in a case brought under the Equality Act 2010.

A job applicant can send you the questions before a claim is made to the Employment Tribunal, or at the same time, or after the claim has been sent.

If it is before, then you must receive the questions within three months of what the person complaining says happened that was unlawful discrimination. If a claim has already been made to the Employment Tribunal, then you must receive the questions within 28 days of the claim being sent to the Employment Tribunal.

If you do not respond to the questions within eight weeks of them being sent to you, the Employment Tribunal can take that into account when making its decision. The Employment Tribunal can also take into account answers which are evasive or unclear.

- There is an exception to this. The Employment Tribunal cannot take the failure to answer into account if a person or organisation states that to give an answer could prejudice criminal proceedings and this is reasonable. Most of the time, breaking equality law only leads to a claim in a civil tribunal or court. Occasionally, breaking equality law can be punished by the criminal courts. In that situation, the person or organisation may be able to refuse to answer the questions, if in answering they might incriminate themselves and it is reasonable for them not to answer. If you think this might apply to you, you should get more advice on what to do.

If someone sends you questions, you must not treat them badly, eg in respect of future job applications, because they have done this. If you did, it would be **victimisation**.

Key points about discrimination cases in a work situation

The key points this guide explains are:

- Where claims are brought
- Time limits for bringing a claim
- The standard and burden of proof
- What the Employment Tribunal can order you to do.
- Settling a dispute

Where claims are brought

An Employment Tribunal can decide a complaint involving unlawful discrimination in a work situation.

Employment Tribunals can also decide cases about:

- Collective agreements, which can cover any terms of employment, such as pay or other benefits or working conditions.
- Equal pay and occupational pensions cases, which you can read more about in the Equality and Human Rights Commission guide: *What equality law means for you as an employer: pay and benefits*.
- Requirements an employer places on someone to discriminate against people as part of their job, for example, if someone works in a shop, telling them not to serve customers with a particular protected characteristic.

If the complaint is about a health- or disability-related enquiry during recruitment, the Employment Tribunal cannot hear a case just because an enquiry was made. Only the Equality and Human Rights Commission can take up this sort of case.

But a job applicant who believes they were discriminated against because of disability, or for a reason connected with their disability, can bring a claim in the Employment Tribunal.

For example:

> A job applicant who is a disabled person is asked questions about their health and disability during their interview. They do not get the job. They believe this is because of the answers they gave to the questions. They can bring a claim in the Employment Tribunal. However, only the Equality and Human Rights Commission could take up the wider case (in the County Court in England or Wales, and the Sheriff Court in Scotland) to challenge the employer just for asking the questions if no individual was personally affected.

An Employment Tribunal can only hear a case from a member of the armed forces if their **service complaint** has been decided.

Time limits for bringing a claim

A person must bring their claim within three months (less one day) of the claimed unlawful discrimination taking place.

There are two situations where this is slightly different:

- in equal pay cases, different time limits apply – see the Equality and Human Rights Commission guide: *What equality law means for you as an employer: pay and benefits*, and
- for cases involving the armed forces, the time limit is six months (less one day).

If a person brings a claim after this, it is up to the Employment Tribunal to decide whether it is fair to everyone concerned, including both the employer and the employee, to allow a claim to be brought later than this.

When a claim concerns behaviour over a length of time, the time limit starts when the behaviour has ended.

If the person is complaining about a failure to do something, for example, a failure to make **reasonable adjustments**, then the three months begins when the decision was made not to do it. If there is no solid evidence of a decision, then the decision is assumed to have been made either:

- when the person who failed to do the thing does something else which shows they don't intend to do it, or
- at the end of the time when they might reasonably have been expected to do the thing.

For example:

> A visually impaired job applicant hears about a job and asks the employer to send the application pack recorded on an audio tape. The employer does not refuse to do this, but just doesn't get around to doing it. Once the closing date for applications has passed, the employer clearly does not intend to send the tape. The applicant should probably count the three months from the day before the closing date, which is the past day when the employer could have ensured the tape got to the applicant in time to apply.

A tribunal can hear a claim if it is brought outside the time limit if the tribunal thinks that it would be 'just and equitable' (fair to both sides) for it to do this.

The standard and burden of proof

The standard of proof in discrimination cases is the usual one in civil (non-criminal) cases. Each side must try to prove the facts of their case are true on the balance of probabilities, in other words, that it is more likely than not in the view of the tribunal that their version of events is true.

If a job applicant is claiming unlawful discrimination, harassment or victimisation against you, then the **burden of proof** begins with them. There are two situations in which the burden of proof will shift onto you:

1. If they prove enough facts from which the tribunal can decide, without any other explanation, that the discrimination, harassment or victimisation has taken place, or

2. If their complaint is that they have not been offered a job because you found out about their disability having asked questions which you were not allowed to ask under the rules against **pre-employment health or disability enquiries**.

In either of these situations, the burden then shifts onto you to show that you or someone whose actions or omissions you were responsible for did not discriminate, harass or victimise the person making the claim.

What the Employment Tribunal can order you to do

If the job applicant wins their case, the tribunal can order what is called a remedy.

The main remedies available to the Employment Tribunal are to:

- Make a declaration that you have discriminated.
- Award compensation to be paid for the financial loss the claimant has suffered (for example, loss of earnings), and damages for injury to the claimant's feelings. There is no legal upper limit on the amount of compensation.
- Make a recommendation, requiring the employer to do something specific within a certain time to remove or reduce the bad effects which the claim has shown to exist on the individual.

  For example:

  > Providing a reference or reinstating the person to their job, if the tribunal thinks this would work despite the previous history.

The Employment Tribunal can also make a recommendation requiring the employer to do something specific within a certain time to remove or reduce the bad effects which the claim has shown to exist on the wider workforce (although not in equal pay cases). This might be particularly applicable where the claimant has already left that employer so any individual recommendation would be pointless.

For example:

- introducing an equal opportunities policy
- ensuring its harassment policy is more effectively implemented
- setting up a review panel to deal with equal opportunities and harassment/grievance procedures
- re-training staff, or

- making public the selection criteria used for transfer or promotion of staff.

If the recommendation relates to an individual and if an employer does not do what they have been told to do, the tribunal may order them to pay compensation, or an increased amount of compensation, to the claimant instead.

In cases of **indirect discrimination**, if you can prove that you did not intend what you did to be discriminatory, the tribunal must consider all of the remedies before looking at damages.

The tribunal can also order you to pay the legal costs and expenses of the person bringing the claim on top of your own legal costs and expenses, although this does not often happen in Employment Tribunal cases.

Settling a dispute

Taking legal proceedings can be a stressful and time consuming experience. It may be in the best interest of everyone to try to settle a dispute i.e. reach an agreement with your worker where possible to avoid going to an employment tribunal hearing (or the court where the case relates to an occupational pension scheme). There are three ways in which a dispute can be settled:

- Agreement between you and the worker
- Acas conciliation service
- Qualifying compromise agreement

Agreement between you and the worker

Before a claim is issued by your worker in the employment tribunal, you can agree to settle a dispute directly with them. An agreement to settle a dispute can include any terms that you agree with the worker and can cover compensation, future actions by you and the worker and other lawful matters.

Example

A worker raises a grievance with her employers alleging a failure to make reasonable adjustments. The employer investigates the worker's complaint and upholds her grievance. The employer agrees with the worker to put the reasonable adjustments in place and offers her a written apology, which she accepts.

Acas

You may also seek assistance from Acas which offers a conciliation service for parties in dispute, whether or not a claim has been made to an employment tribunal.

Example

A worker raises a grievance with her employer alleging sex discrimination. The employer dismisses her grievance. She makes a claim to the tribunal but before the hearing she seeks assistance from Acas to conciliate in the dispute. As a result of the conciliation, the worker and her employer agree to settle the claim on terms which are agreeable to both of them.

Qualifying compromise agreement

You and the worker can also settle a claim or potential claim to the Employment Tribunal by way of a 'qualifying compromise contract'. There are specific conditions which must be satisfied if a claim is settled in this way:

- the agreement must be in writing
- the conditions in the agreement must be tailored to the circumstances of the claim
- the worker must have received legal advice about the terms of the agreement from an independent advisor who is insured against the risk of a claim arising from that advice
- the person who provides the worker with independent legal advice on the compromise agreement must be a lawyer; a trade union representative with written authority from the trade union or an advice centre worker with written authority from the centre to give this advice.

More information about defending an Employment Tribunal case

You can find out more about what to do if someone brings an Employment Tribunal case against you from:

- In England and Wales: Business Link – see in *Further sources of information and advice* for contact details.
- In Scotland: Business Gateway Scotland – see in *Further sources of information and advice* for contact details.

5. Further sources of information and advice

Equality and Human Rights Commission:

The Equality and Human Rights Commission is the independent advocate for equality and human rights in Britain. It aims to reduce inequality, eliminate discrimination, strengthen good relations between people, and promote and protect human rights. The Equality and Human Rights Commission helplines advise both individuals and organisations such as employers and service providers.

Website: www.equalityhumanrights.com

Helpline – England

Email: info@equalityhumanrights.com
Telephone: 0845 604 6610
Textphone: 0845 604 6620
Fax: 0845 604 6630
08:00–18:00 Monday to Friday

Helpline – Wales

Email: wales@equalityhumanrights.com
Telephone: 0845 604 8810
Textphone: 0845 604 8820
Fax: 0845 604 8830
08:00–18:00 Monday to Friday

Helpline – Scotland

Email: scotland@equalityhumanrights.com
Telephone: 0845 604 5510
Textphone: 0845 604 5520
Fax: 0845 604 5530
08:00–18:00 Monday to Friday

Acas – The Independent Advisory, Conciliation and Arbitration Service:

Acas aims to improve organisations and working life through better employment relations. It provides impartial advice, training, information and a range of problem resolution services.

Website: www.acas.org.uk
Telephone: 08457 47 47 47 (Monday–Friday: 08:00–20:00; Saturday: 09:00–13:00)

Access to Work:

Access to Work can help disabled people or their employers if their condition or disability affects the ease by which they can carry out their job or gain employment. It gives advice and support with extra costs which may arise because of certain needs.

Website:
www.direct.gov.uk/en/disabledpeople/employmentsupport/workschemesandprogrammes

London, East England and South East England:
Telephone: 020 8426 3110
Email: atwosu.london@jobcentreplus.gsi.gov.uk

Wales, South West England, West Midlands and East Midlands:
Telephone: 02920 423 29
Email: atwosu.cardiff@jobcentreplus.gsi.gov.uk

Scotland, North West England, North East England and Yorkshire and Humberside:
Telephone: 0141 950 5327
Email: atwosu.glasgow@jobcentreplus.gsi.gov.uk

Association of Disabled Professionals (ADP):

The ADP website offers advice, support, resources and general information for disabled professionals, entrepreneurs and employers.

Website: www.adp.org.uk
Telephone: 01204 431638 (answerphone only service)
Fax: 01204 431638
Email: info@adp.org.uk

British Chambers of Commerce (BCC):

The BCC is the national body for a network of accredited Chambers of Commerce across the UK; each Chamber provides representation, services, information and guidance to its members.

Website: www.britishchambers.org.uk
Telephone: 020 7654 5800
Fax: 020 7654 5819
Email: info@britishchambers.org.uk

British Retail Consortium (BRC):

The BRC is a trade association representing a broad range of retailers. It provides advice and information for its members.

Website: www.brc.org.uk
Telephone: 020 7854 8900
Fax: 020 7854 8901

Department for Business, Innovation and Skills (BIS):

BIS is the UK government department with responsibility for trade, business growth, employment and company law and regional economic development.

Website: ww.bis.gov.ukw
Telephone: 020 7215 5000

Business Gateway:

Business Gateway provides practical help, advice and support for new and growing businesses in Scotland.

Website: www.bgateway.com
Telephone: 0845 609 6611

Business in the Community:

Business in the Community mobilises businesses for good, working to improve businesses in terms of their responsibilities to both the local and global community, helping to work towards a sustainable future.

Website: www.bitc.org.uk
Telephone: 020 7566 8650
Email: information@bitc.org.uk
Twitter: @BITC1

Business Link:

Business Link is a free business advice and support service, available online and through local advisers.

Website: www.businesslink.gov.uk
Telephone: 0845 600 9 006
Minicom: 0845 606 2666

Chartered Institute of Personnel and Development (CIPD):

The CIPD is Europe's largest human resources development professional body, with over 135,000 members. It supports and develops those responsible for the management and development of people within organisations.

Website: www.cipd.co.uk
Telephone: 020 8612 6208

ChildcareLink:

ChildcareLink provides details of local childcare providers for employees and employers, as well as general information about childcare.

Website: www.childcarelink.gov.uk
Telephone: 0800 2346 346

Close the Gap Scotland:

Close the Gap Scotland works to close the gender pay gap by working with companies and trade unions as well as carrying out research to illustrate the gender pay gap.

Website: www.closethegap.org.uk
Telephone: 0141 337 8131

The Confederation of British Industry (CBI):

The CBI is the UK's leading business organisation, speaking for some 240,000 businesses that together employ around a third of the private sector workforce.

Website: www.cbi.org.uk
Telephone: 020 7379 7400

Directgov:

Directgov is the UK government's digital service for people in England and Wales. It delivers information and practical advice about public services, bringing them all together in one place.

Website: www.direct.gov.uk

EEF:

EEF is a membership organisation which provides business services to help members manage people, processes, environment and more, so that members can meet their regulatory commitments.

Website: www.eef.org.uk
Telephone: 020 7222 7777
Fax: 020 7222 2782

Employers Forum on Age (EFA):

EFA is an independent network of leading employers who recognise the value of an age diverse workforce. In addition to supporting employers, the EFA influences Government, business and trade unions, campaigning for real practical change in preventing age discrimination at work and in the job market.

Website: www.efa.org.uk
Telephone: 0845 456 2495
Email: efa@efa.org.uk

Employers Forum on Belief (EFB):

EFB offers employers practical guidance and shares good practice around issues such as dress codes, religious holidays, the inter-relationship between religious belief and other diversity strands and conflict in the workplace. The forum is not affiliated to any religious group or philosophical belief.

Website: www.efbelief.org.uk
Telephone: 0207785 6533
Email: info@efbelief.org.uk

Employers Forum on Disability (EFD):

EFD is the world's leading employers' organisation focused on disability as it affects business.

Website: www.efd.org.uk
Telephone: 020 7403 3020
Email: enquiries@staging.efd.org.uk

Equality Britain:

Equality Britain aims to promote opportunities in employment, education, housing and sport to people from ethnic minorities.

Website: www.equalitybritain.co.uk
Telephone: 0151 707 6688

Federation of Small Businesses (FSB):

The FSB works to protect, promote, and further the interests of the self-employed and small business sector. It provides a range of member services.

Website: www.fsb.org.uk
Telephone: 01253 336 000
Fax: 01253 348 046

Flexible Support for Business:

Flexible Support for Business provides information and advice for businesses in Wales across all areas of commerce, working with specialists within the Government to help businesses expand, save time and money with instant access to clear, simple and trustworthy advice.

Website: www.business-support-wales.gov.uk
Telephone: 03000 6 03000
Email: businesssupport@wales.gsi.gov.uk

Gender Identity Research and Education Society (GIRES):

GIRES provides a wide range of information and training for Trans people, their families and professionals who care for them.

Website: www.gires.org.uk
Telephone: 01372 801 554
Fax: 01372 272 297
Email: info@gires.org.uk

The Gender Trust:

The Gender Trust is the UK's largest charity working to support Transsexual, Gender Dysphoric and Transgender people or those who are affected by gender identity issues. It has a helpline and provides training and information for employers and organisations.

Website: www.gendertrust.org.uk
Telephone: 0845 231 0505

Government Equalities Office (GEO):

The GEO is the Government department responsible for equalities legislation and policy in the UK.

Website: www.equalities.gov.uk
Telephone: 0303 444 0000

Health and Safety Executive (HSE):

The HSE provides information and guidance on health and safety.