

## Rights

### Disability Discrimination

The Disability Discrimination Act 1995 gives disabled people at work protection from discrimination. This means that employers:

- must not treat a disabled person **less favourably** because of a reason relating to their disability, without a justifiable reason
- are required to make **reasonable adjustments** to working conditions or the workplace where that would help to accommodate a particular disabled person.

### Equal pay

Employers must give men and women equal treatment in the terms and conditions of their employment contract if they are employed on:

- 'like work' - work that is the same or broadly similar
- work rated as equivalent under a job evaluation study, or
- work found to be of equal value.

A woman is employed on 'like work' with a man if her work is of the same or a broadly similar nature. It is for the employer to show that there is a genuine reason for any difference in this 'like work', which is which is not based on the sex of an individual.

Individuals may complain to an employment tribunal under the Equal Pay Act 1970 up to six months after leaving the employment to which their claim relates. Normally, they may claim arrears of remuneration (which includes sick pay, holiday pay, bonuses, overtime etc as well as 'pay') for a period of up to six years (five years in Scotland) before the date of their tribunal application.

### Fixed-term employees

The Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 aim to ensure that employees on fixed-term contracts are treated no less favourably than comparable permanent employees. Examples of fixed-term work include:

- agricultural workers doing 'seasonal' work
- shop assistants working for the Christmas period
- employees covering maternity leave
- employees doing a specific task - like painting a house.

Under the regulations these employees have the right to the same terms and conditions of employment as comparable permanent employees.

### Rehabilitation of offenders

Under the Rehabilitation of Offenders Act 1974 many ex-offenders are given certain employment rights if their convictions become 'spent'. Broadly speaking, anyone who has been convicted of a criminal offence and who is not convicted of a further offence during a specified period (the 'rehabilitation period') becomes a 'rehabilitated person'. This means that:

- the conviction does not have to be declared for most purposes, such as applying for a job
- employees are given protection against dismissal or exclusion from any office, profession, occupation or employment (with some exceptions) and
- employers cannot prejudice a person in any way because of a spent conviction

A conviction resulting in a prison sentence of more than 30 months can never become spent. There are some exceptions to the Act - broadly relating to work with children, the sick, disabled people and the administration of justice.

### **Part-time employees**

The Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 aim to ensure that part-time workers are not treated less favourably than comparable full-timers. Principally, this means they should:

- receive the same rates of pay
- not be excluded from training simply because they work part-time
- receive holiday entitlement pro rata to comparable full-timers
- have any career break schemes, contractual maternity leave and parental leave made available to them in the same way as for full-time workers and
- not be treated less favourably when workers are selected for redundancy.

### **Race discrimination**

The Race Relations Act 1976 (as amended) makes it illegal to treat a person less favourably than others on racial grounds.

Race discrimination covers all aspects of employment - from recruitment to pay, and training to the termination of a contract. Discrimination covers four areas:

1. direct discrimination - treating someone less favourably on racial grounds
2. indirect discrimination - applying practices that might favour one racial group over another
3. harassment - unwanted conduct that violates a person's dignity and creates a hostile or degrading environment
4. victimisation - unfair treatment of an employee who has made a complaint about racial discrimination.

However, a job may be restricted to people of a particular race or ethnic or national origin, if one of these characteristics is a genuine occupational requirement. A genuine occupational requirement may apply in limited circumstances - for example,

to achieve authenticity a theatre company may need black actors to depict certain scenes.

### **Sex discrimination**

Under the Sex Discrimination Act 1975 (as amended), generally employers should not discriminate on grounds of sex, marriage or because someone intends to undergo, is undergoing or has undergone gender reassignment.

Sex discrimination covers all aspects of employment - from recruitment to pay, and training to the termination of a contract. It also includes applying requirements or conditions which, though applied equally to all, have a disproportionately detrimental effect on one sex or on married people and which cannot be shown to be justifiable (for instance to be job-related).

There are limited exceptions: the Act permits employers, under certain conditions, to train employees of one sex in order to fit them for particular work in which their sex has recently been under-represented; they may also encourage the under-represented sex to take up opportunities to do that work.

### **Religion or belief**

The Employment Equality (Religion or Belief) Regulations 2003 protect people from discrimination on the grounds of all religions and beliefs.

The new law, applicable from December 2003, means that an organisation's recruitment and selection procedures, as well as employment practices - such as dress codes and disciplinary procedures - must treat everyone fairly regardless of their religion or belief.

### **Sexual orientation**

The Employment Equality (Sexual Orientation) Regulations 2003 give protection from discrimination on grounds connected with sexual orientation. This includes 'orientation towards someone of the same sex (lesbian or gay men), opposite sex (heterosexual) or both sexes (bisexual)'.

The new law, applicable from December 2003, means that an organisation's recruitment and selection procedures, as well as employment practices - such as dress codes and disciplinary procedures - must treat everyone fairly regardless of their sexual orientation.

### **Trade union membership**

Employees have various rights to be protected against discrimination because they belong or do not belong to a trade union. For example, it is unlawful to:

- specify union membership in advertising a job
- limit recruitment to trade union membership
- to be refused employment or the services of an employment agency because of membership or non-membership of a trade union
- to be dismissed or chosen for redundancy because of membership or non-membership of a trade union