



A Guide to the Equality Act 2010

Rehabilitation & Health
Management Services

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Rehabilitation & Health Management Services

The Equality Act became law in October 2010 bringing together all previous discrimination protection laws, such as the Disability Discrimination Act, under one piece of legislation.

This guide will provide you with an overview of the Act and how Unum can help you to manage its impact and identify what action you need to take as an employer.

It is imperative that employers take note of these changes and ensure that they comply with them.

What areas does the Equality Act cover?

The Equality Act ensures consistency in what employers need to do to make the workplace a fair environment for all and to comply with the law. It has also strengthened the law, helping the public to think more positively about people with 'protected characteristics' (see below for more details on these).

The Equality Act makes it illegal to discriminate against anyone on the grounds of:

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

These are called *protected characteristics*.

It also includes the following types of discrimination:

- Direct Discrimination
- Associative Discrimination
- Discrimination by Perception
- Indirect discrimination
- Harassment
- Harassment by a third party
- Victimisation

What's new for employers?

The table below demonstrates which types of discrimination have changed for employers and which are new.

	Direct Discrimination	Discrimination by Association	Discrimination by Perception	Indirect Discrimination	Harassment	Harassment by a Third Party	Victimisation
Age	✓	New	✓	✓	Change	New	Change
Disability	✓	New	New	New	Change	New	Change
Gender Reassignment	✓	New	New	New	Change	New	Change
Marriage & Civil Partnership	✓	✗	✗	✓	✗	✗	Change
Pregnancy & Maternity	✓	✗	✗	✗	✗	✗	Change
Race	✓	✓	✓	✓	Change	New	Change
Religion or Belief	✓	✓	✓	✓	Change	New	Change
Sex	✓	✗	✗	✓	✓	✓	Change
Sexual Orientation	✓	✓	✓	✓	Change	New	Change

Key

New Legislation	New
Existing Legislation	✓
Change to Legislation	Change
Not Covered	✗

Source: ACAS

Forms of Discrimination – What’s changed?

i. Direct discrimination

Direct discrimination occurs when someone is treated less favourably due to a protected characteristic. This has not changed.

ii. Discrimination by association

Discrimination by association has now been extended to cover age, sex and gender reassignment as well as disability. This is direct discrimination against someone because they are associated with another person who possesses a protected characteristic.

Example – Frank is looking to apply for another role in his company. He tells his manager that his dad has multiple sclerosis and he is told not to apply because of this association.

iii. Perception Discrimination

Now extended to cover disability, perception discrimination is direct discrimination against an individual because it is thought that they possess a particular protected characteristic even if this is not fact.

Example – Jessica is not allowed to apply for a new role because her employer thinks she has had mental health problems in the past.

iv. Indirect Discrimination

Indirect discrimination can occur when you have a rule, policy or practice within your company that disadvantages people who share a protected characteristic. This has now been extended to include disability. However, indirect discrimination can be justified if you can demonstrate that there is a legitimate business aim.

Example – A company has set expectations that all employees must have a driving licence in order to do business. This precludes someone with epilepsy who is perfectly capable of taking public transport to do the job.

v. Harassment

Employees can now complain about behaviour they find offensive even if it is not directed at them.

vi. Third party Harassment

The Act makes employers potentially liable for harassment of employees by third parties who are not employees of their company. Previously only applicable to sexual harassment, this now also applies to other protected characteristics. Employers are liable if harassment has occurred on at least two occasions that they are aware of and have still not taken reasonable steps to prevent it from happening.

Example – David has cerebral palsy and a member of the public has made comments about his appearance and gait. David’s manager makes light of this but does not take any steps to rectify the situation.

vii. Victimisation

Victimisation occurs if an employee is treated badly due to making or supporting a claim under the Equality Act.

How does it affect people with a disability?

A person has a disability if they have a physical or mental impairment which has a substantial and long term adverse effect on their ability to carry out normal day to day activities. Disabled people at work are protected from discrimination. This means that employers:

1. must not treat a disabled person less favourably because of their disability without a justifiable reason.
2. are required to make reasonable adjustments to the workplace to accommodate a member of staff’s disability.

Key Point – The Equality Act 2010 makes it unlawful for employers to ask applicants about their health or disability before offering them work. However employers can ask about health or impairments where they may need to make reasonable adjustments for an applicant to attend an interview. A job seeker cannot take a case to an Employment Tribunal if they think an employer is acting unlawfully, but they can make a complaint to the Equality and Human Rights Commission.

How the Act is enforced

Under previous legislation an Employment Tribunal could make a recommendation that an employer must eliminate or reduce the effect on the claimant of any discrimination. The Equality Act extends this power so that a tribunal can make recommendations for an organisation to eliminate or reduce the effect of discrimination on other employees as well as the claimant. For example, the Employment Tribunal might specify that an employer needs to train all staff on policy and procedures such as bullying and harassment.

How Unum can Help

How Unum's Rehabilitation & Health Management Services team can help

Our Rehabilitation & Health Management Services team can provide information and practical guidance to help you identify the steps you might need to take to enable your employee to return to work, in particular:

- Our Open Door Centres where we are able to assess and identify what reasonable adjustments may be required to support an individual back to work.
- Our Graduated Return to Work plans, developed in conjunction with the employer and employee. They include suggested actions that help you to comply with your obligations under the Equality Act, such as adapting a workstation to allow a disabled person to work alongside their colleagues.

Unum Lifeworks Legal

All Unum Group Income Protection policyholders can also enjoy unlimited access to Unum LifeWorks Legal at no extra cost. The service includes:



- Legal advice helpline – experts on hand to answer all your legal queries, including advice on employment law and the Equality Act.
- Online service – access to a range of web-based, customisable legal documents, policies and procedures to help ensure your business is legally compliant.

For more information log on to: www.unumlifeworkslegal.co.uk

Further Information

Acas website
www.acas.org.uk

Direct.Gov
www.directgov.gov.uk

Equalities and Human Rights Commission
www.equalityhumanrights.com

Government Equalities Office
www.equalities.gov.uk

Unum Lifeworks Legal
www.unumlifeworkslegal.co.uk

The information contained in this document is based on our current understanding of the Equality Act 2010. You may wish to contact your employment lawyer for further information.

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