

EQUALITIES TOOLKIT

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Guide to Legislation

Relating to Equality

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The three Ps - three levels on which Equalities work can be undertaken:

The Psychological Level

Discrimination occurs because of what people think and feel – their preferences, their assumptions, their ignorance and their fears. Changing attitudes and ideas is a crucial aspect of Equalities work, breaking down mental resistance and introducing new ways of relating.

The Practical Level

Practical arrangements often throw up barriers to participation, due to physical obstacles, lack of suitable facilities or transport difficulties. Overcoming these may require no more than simply meeting the access, care needs or language requirements of potential participants. Lack of resources is no excuse since inclusive ways of working need not be costly and in any case should be properly budgeted for.

The Political Level

Political means for securing genuine equality are more problematic: they may involve challenging vested interests. Conflicts and hidden systems of power are therefore more likely to be revealed and need to be challenged.

*** Legislation changes continually. Please refer to relevant websites for up to date information relating to specific equality issues.**

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Introduction to discrimination Equality Legislation

People are treated differently from others for various reasons and it isn't always unlawful - people are paid different wages depending on their status and skills, for example. However, some forms of discrimination are against the law, including those based on race, religion, disability, and gender.

What is discrimination?

Discrimination happens when someone is treated less favourably than others. It could mean a female employee being paid less than a male colleague for doing the same job, or minority ethnic employee being refused the training opportunities offered to white colleagues.

There are some reasons for discrimination which there are specific laws against ('unlawful discrimination'). If your employer treats you less favourably for one of these reasons, you may be able to take action under these laws. If your employer treats you unfairly for any other reason, this is not unlawful discrimination (to find out what you can do in these situations - see below).

There are laws against discrimination because of:

gender
marital status
gender reassignment
pregnancy
sexual orientation
disability
race
colour
ethnic background
nationality
religion or belief
age (from 1 October 2006)

Apart from the discrimination laws mentioned above there are laws which forbid workers from being dismissed or treated less favourably than other workers because of:

- working part time
- working on a fixed term contract

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Types of discrimination

Direct discrimination

Direct discrimination happens when an employer treats an employee less favourably because of, for example, their gender or race. (So it would be direct discrimination if a driving job was only open to male applicants).

Indirect discrimination

Indirect discrimination is when a condition that disadvantages one group of people more than another is applied to a job. For example, saying that applicants for a job must be clean shaven puts members of some religious groups at a disadvantage.

However the law does allow employers to discriminate indirectly if they can show a good reason for having the condition. For example, the condition that applicants must be clean shaven might be justified if the job involved handling food and it could be shown that having a beard or moustache was a genuine hygiene risk.

Harassment and victimisation

Harassment means offensive or intimidating behaviour - sexist language or racial abuse, for example - which aims to humiliate, undermine or injure its target.

Victimisation means treating somebody less favourably than others because they tried to make a discrimination complaint

Being treated unfairly for other reasons

If you are treated unfairly but it is not for one of the reasons listed above, it may be that you are being bullied. Bullying should never be acceptable in the workplace, find out what you might be able to do about it.

If you are trying to take up your statutory rights and your employer treats you unfairly for this, you may be able to take legal action. For example, your employer is not entitled to mistreat you because you've asked to be paid the National Minimum Wage.

Other rights where you are protected from being mistreated because you have asked for them in good faith include:

- rights to a written statement of employment particulars
- protection from unlawful deductions from wages
- rights to paid holiday
- limits on your working hours
- the right to join a trade union

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Where to get help

The Advisory, Conciliation and Arbitration Service (Acas) offers free, confidential and impartial advice on all employment rights issues. You can call the Acas help line on 08457 474 747 from 8.00 am to 6.00 pm Monday to Friday.

<http://www.acas.org.uk/>

Your local Citizens Advice Bureau (CAB) can provide free and impartial advice. You can find your local CAB office in the phone book or online.

<http://www.citizensadvice.org.uk/index>

If you are a member of a trade union, you can get help, advice and support from them.

The Department of trade and Industry's website also has lots of useful advice and contacts.

<http://www.dti.gov.uk>

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Sexual discrimination

It's unlawful for an employer to treat you differently from others because of your sex, because you are married, or if you've had, are having or are going to have gender reassignment.

What is sex discrimination?

Equal opportunities laws aim to create a 'level playing field' so that people are employed, paid, trained and promoted only because of their skills, abilities and how they do their job.

Under the 1975 Sex Discrimination Act it's unlawful for an employer to discriminate against you because of your sex or because you are married. It's also unlawful to discriminate against you because you've had, are having or intend to have, gender reassignment. This means someone, supervised by a doctor, who changes their gender.

The discrimination can be 'direct' or 'indirect', deliberate or accidental. If someone is disadvantaged at work because of their sex, marital status or gender, it is unlawful, and the employer should stop the discrimination. Sex discrimination laws cover almost all workers (men and women) and all types of organisation in the UK.

The 1970 Equal Pay Act makes it unlawful for employers to discriminate between men and women in terms of their pay and conditions where they are doing the same or similar work; work rated as equivalent in a job evaluation study by the employer; or work of equal value.

Different kinds of sex discrimination

Sex discrimination at work is unlawful in all parts of employment. The law covers recruitment, terms and conditions, pay and benefits, status, training, promotion and transfer opportunities, right through to redundancy and dismissal. However, in some cases, a job can be offered to someone of a particular sex, because of what is called a 'genuine occupational qualification'.

Examples could include:

- some jobs in single-sex schools
- jobs in some welfare services
- acting jobs that need a man or a woman

Different types of discrimination

There are four types of discrimination:

direct discrimination - treating you differently because of your sex, because you are married or because of your gender reassignment (eg paying men more than women for doing the same job, promoting someone because they

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are single instead of an equally qualified person, or sacking a woman because she says she is pregnant or might start a family.

indirect discrimination - putting you at a disadvantage because of certain working practices or rules (eg setting a minimum height, which might discriminate against most women, or an employer's refusal to recruit part-time workers without good reason)

harassment - behaving in an offensive manner, or encouraging or allowing other people to do so (for example, making sexual remarks or gestures, allowing displays or distribution of sexually explicit material, or giving someone a potentially offensive nickname because of their gender)

victimisation - treating you unfairly for making a complaint about discrimination (for example, preventing you from going on training courses, taking unfair disciplinary action against you, or excluding you from company social events)
Employers who don't stop sex and gender discrimination by their employees may themselves be discriminating unlawfully.

What is 'positive action'?

In some circumstances, an employer may encourage or offer support specifically to men or women, and this 'positive action' is allowed under sex discrimination laws. For example, an employer who has no women managers might offer some training in management skills only to women or encourage them to apply for management posts.

Positive action applies only to training and encouragement to apply for posts, so when it comes to choosing who is to get a post the employer must consider all candidates on their suitability alone.

More Information

The Equal Opportunities Commission is the government agency charged to eliminate sex discrimination in Britain. They deal with sex discrimination and inequality related to gender, including good practice in the fair and equal treatment of men and women. Their website has a wide range of expert advice for individuals and employers and provides up-to-the-minute practical guidance and legal information.

<http://www.eoc.org.uk>

If you have been unfairly treated at work or by anyone providing a service – and you believe it's because you're a woman, or because you're a man – there is a confidential helpline (0845 601 5901)

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You can find information further information on sexual discrimination on the government's Women and Equality Unit website.

<http://www.womenandequalityunit.gov.uk>

There is detailed guidance on individual employment rights at

<http://www.dti.gov.uk>

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Sexual orientation discrimination

It's against the law for an employer to discriminate against you because of your sexual orientation. You're also protected against harassment or bullying at work.

How the law defines sexual orientation

Under the law you shouldn't be discriminated against because of your sexual orientation or 'perceived' sexual orientation – including orientation towards someone of the same sex (lesbian/gay), opposite sex (heterosexual) or both sexes (bisexual).

Where the law applies

The law against sexual orientation discrimination at work covers recruitment, terms and conditions, pay and benefits, status, training, promotion and transfer opportunities, through to redundancy and dismissal.

Direct discrimination

You shouldn't be treated less favourably (for example, being refused employment) because of your sexual orientation or because an employer thinks you are of a certain sexual orientation.

If an employer gives benefits to opposite sex unmarried partners of its employees (eg the employee's opposite sex partner is able to drive the company car), refusing the same benefits to same-sex partners could be discrimination.

Since December 2005, same-sex couples can register a civil partnership. A civil partner is entitled to the same benefits as a married person (for example, survivor's benefits under a company pension scheme.)

'Genuine occupational requirements' are allowed though, if the employer can show that the job has to be done by someone of a particular sexual orientation. For example, an organisation advising on and promoting gay rights may be able to show that it is essential to its credibility that the chief executive, who will be the public face of the organisation, should be gay. The sexual orientation of the holder of that post may therefore be a genuine occupational requirement.

Indirect discrimination

You have the right not to be disadvantaged by a policy at work because of your sexual orientation. For example, if your company arranges a conference in a country where homosexuality is illegal and there is no good reason for it to be held there, this could be classed as indirect discrimination.

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Indirect discrimination is unlawful whether or not it's done on purpose. It's only allowed if it's necessary for the running of the business.

Harassment and victimisation

The law protects you from harassment or victimisation because of your sexuality or 'perceived' sexuality. This applies if you're intentionally or unintentionally bullied, or if there's a general culture of disrespect (for example, one in which homophobic jokes are made). The harassment can take place at work or in a work-related setting (for example, a social event away from the workplace).

You're also protected against harassment through being associated with another person. If you have a lesbian friend, for example, you don't have to put up with jokes from other employees at her expense.

You also have the right not to be victimised. You mustn't be treated less favourably because you've complained, or been involved in a complaint, about sexual orientation discrimination

Civil partnerships

The Civil Partnership Act 2004 came into force on 5 December 2005. This enables same-sex couples to obtain legal recognition of their relationship. Couples who form a civil partnership have a new legal status, that of 'civil partner'.

Civil partners will have equal treatment in a wide range of legal matters with married couples, including:

- Tax, including inheritance tax
- Employment Benefits
- Most state and occupational pension benefits
- Income related benefits, tax credits and child support
- Duty to provide reasonable maintenance for your civil partners and any children of the family
- Ability to apply for parental responsibility for your civil partner's child
- Inheritance of a tenancy agreement
- Recognition under intestacy rules
- Access to fatal accidents compensation
- Protection from domestic violence
- Recognition from immigration and nationality purposes

When civil partnerships were introduced there were important changes affecting same-sex couples who claim income related benefits, regardless of whether the couple decide to form a civil partnership.

A civil partnership can be formed in England and Wales at a register office or an approved premise.

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The General Register Office has information on the process and costs of forming a civil partnership.

Dissolution

Dissolution is the term used to describe the termination of a civil partnership. Dissolution is a procedure similar to divorce. To get a dissolution you must have been in a civil partnership for more than one year. You must complete a form called a 'Petition', giving the reasons why you are applying, to show your civil partnership is definitely over- i.e. that it has 'irretrievably broken down'. If there are children of the family you should also complete a form called a 'statement of arrangements' in which you tell the court what plans you have made for the children once the dissolution is final.

More information on civil partnerships can be found at
<http://www.gro.gov.uk/gro/content/civilpartnerships>

The Department for Work and Pensions has published a leaflet containing information on how partnerships may affect your benefits.
<http://www.dwp.gov.uk>

The Woman and Equality Unit has published some frequently asked questions (FAQs) about civil partnerships.
<http://www.womenandequalityunit.gov.uk>

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Racial Equality

It's unlawful for an employer to discriminate against you because of your race. You're protected against racial discrimination at all stages of employment.

What is racial discrimination?

The 1976 Race Relations Act makes it unlawful for an employer to discriminate against you on racial grounds. Race includes:

- colour
- nationality
- ethnic or national origins

Under the Act, it doesn't matter if the discrimination is done on purpose or not. What counts is whether you're treated unfavourably because of your race as a result of an employer's actions.

The Race Relations Act protects all racial groups, regardless of their race, colour, nationality, religious beliefs, national or ethnic origins.

The laws against racial discrimination at work cover every part of employment. This includes recruitment, terms and conditions, pay and benefits, status, training, promotion and transfer opportunities, right through to redundancy and dismissal.

The law allows a job to be restricted to people of a particular racial or ethnic group where there is a 'genuine occupational requirement'. An obvious example is where a black actor is needed for a film or television programme.

There are four main kinds of discrimination:

direct discrimination - deliberate discrimination (for example, saying that a particular job is only open to people of a specific racial group or not taking you on because you are of a particular racial group)

indirect discrimination - working practices, provisions or criteria that disadvantage members of any group (like introducing a dress code without good reason, which might discriminate against some ethnic groups)

harassment – participating in, allowing or encouraging behaviour that offends someone or creates a hostile atmosphere (eg making racist jokes at work)

victimisation - treating someone less favourably because they've complained or been involved in a complaint about racial discrimination (eg taking disciplinary action against someone for complaining about discrimination against themselves or another person)

Employers who don't stop discrimination, harassment and bullying by their employees may be breaking the law.

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What is 'positive action'?

Positive action is where an employer provides support or encouragement to a particular racial group. It is only allowed where a specific racial group is badly under-represented among those doing particular work or filling particular posts in an employer's workforce.

The employer is allowed to provide special training to members of the racial group. They can also encourage members of the racial group to apply to do the work or fill the posts (for example, by saying that applications from them will be particularly welcome).

This does not mean that employers can discriminate in favour of the members of the group when it comes to choosing people to do the work or fill the posts, that is unlawful discrimination.

Positive action is not the same as 'positive discrimination', which is where members of a particular racial group are treated more favourably. Positive discrimination is unlawful.

Religion or belief discrimination

It's against the law for an employer to discriminate against you because of your religion or certain beliefs - you have rights and there are things you can do if there's a problem.

How does the law define religion or belief?

Employment law defines religion or belief as any religion, religious belief or similar philosophical belief. There's no specific list, but it includes all major religions, and less widely practised ones.

If it's uncertain what counts as a religion or belief under law, an Employment Tribunal can decide.

Types of discrimination

Direct discrimination

You have the right not to be treated less favourably than someone else (eg not being promoted) because of your religion or belief, your 'perceived' religion or belief, or the religion or belief of people you associate with. However, direct discrimination is allowed where religious belief is a necessary requirement for the job. For example, a Roman Catholic school may be able to restrict applications for a scripture teacher to baptised Catholics.

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Indirect discrimination

You have the right not to be disadvantaged by a policy at work because of your religion or belief. If you're a devout Muslim or Sikh for example, a head-covering policy for all employees could discriminate against you.

This kind of indirect discrimination may be unlawful, whether or not it's done on purpose. It's only allowed if it's necessary for the way the business works.

Harassment and victimisation

You have the right not to be bullied or made fun of at work or in a work-related setting (for example, a social event) because of your religion or belief.

You also have the right not to be victimised. You shouldn't be treated less favourably because you've complained (or been involved in a complaint) about religion or belief discrimination.

If you're bullied or victimised in the mistaken belief that you're a member of another religion, you may also be protected under race discrimination laws. For example, following recent world events, some Sikhs have suffered abuse because they were mistakenly thought to be Muslim.

Employment practices and religion

Giving information to your employer

You don't have to give information to your employer about your religious beliefs, but if you do, it will help them meet the needs of religious employees. Any information you give should be confidential (and anonymous if possible).

Time off and facilities

Employers don't have to provide time and facilities for religious observance, but they should try to where it doesn't affect the business. For example, if there's a suitable room you should be allowed to use it, provided it doesn't disrupt others or your ability to do your job properly.

Religious holidays

If you want time off for religious holidays, ask well in advance. Your employer should consider your request sympathetically – but they can refuse if it will affect the business.

Clothing

If you wear clothing or jewellery for religious reasons, your employer should make sure any dress code doesn't discriminate against you. A flexible dress code is usually possible, as long as health and safety isn't at risk.

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Food

Some religions don't allow you to eat certain foods. If you don't want to handle such food (for example, if you work in a supermarket and don't want to handle pork), speak to your employer. They might be able to manage your request, provided it doesn't affect the business.

Religion and sexual orientation in the workplace

You may have particular views on sexual orientation because of your religious beliefs. However, you shouldn't treat, for example, gay or lesbian colleagues differently. In the workplace, everyone has the right to be treated with respect, no matter what their sexual orientation.

More Information

The Commission for Racial Equality (CRE) is a publicly funded, non-governmental body set up under the Race Relations Act 1976 to tackle racial discrimination and promote racial equality.

They provide information and advice to people who think they have suffered racial discrimination or harassment and work with public bodies, businesses, and organisations from all sectors to promote policies and practices that will help to ensure equal treatment for all. The CRE also runs campaigns to raise awareness of race issues, and makes sure that all new laws take full account of the Race Relations Act and the protection it gives against discrimination

The CRE has three main duties:

- to work towards the elimination of racial discrimination and promote equality of opportunity
- to encourage good relations between people from different racial and ethnic backgrounds
- to monitor the way the Race Relations Act is working and recommend ways in which it can be improved

<http://www.cre.gov.uk/>

From 22 November 2005, a revised Code of Practice on Racial Equality in Employment became available. This is intended to help employers draw up an equal opportunities policy to prevent unlawful discrimination. The code will not place any legal duties on employers until 6 April 2006 when it becomes statutory, but it may be taken as evidence in legal proceedings.

Guidance on achieving racial equality from the Commission for Racial Equality can be downloaded. <http://www.cre.gov.uk/smeguide.pdf>

Other information can be found in <http://www.businesslink.gov.uk> under equality, then under prevent discrimination and value diversity.

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Disability rights

The Disability Discrimination Act (DDA) 1995 aims to end the discrimination that many disabled people face. This Act gives disabled people rights in the areas of:

- employment
- education
- access to goods, facilities and services
- buying or renting land or property

The Act also allows the government to set minimum standards so that disabled people can use public transport easily.

The Disability Discrimination Act 2005 (DDA 2005)

In April 2005 a new Disability Discrimination Act was passed by Parliament, which amends or extends existing provisions in the DDA 1995, including:

- making it unlawful for operators of transport vehicles to discriminate against disabled people.
- making it easier for disabled people to rent property and for tenants to make disability-related adaptations.
- making sure that private clubs with 25 or more members cannot keep disabled people out, just because they have a disability extending protection to cover people who have HIV, cancer and multiple sclerosis from the moment they are diagnosed.
- ensuring that discrimination law covers all the activities of the public sector requiring public bodies to promote equality of opportunity for disabled people.

Some of the new laws - including the increased protection for people who have HIV, cancer and multiple sclerosis - came into force in December 2005.

The Department for Work and Pensions (DWP) website has more about the December 2005 changes. www.dwp.gov.uk

The development of legislation to improve the rights of disabled people is an ongoing process. From 1 October 2004, Part 3 of the DDA 1995 has required businesses and other organisations to take reasonable steps to tackle physical features that act as a barrier to disabled people who want to access their services.

This may mean to remove, alter or provide a reasonable means of avoiding physical features of a building which make access impossible or unreasonably difficult for disabled people. Examples include:

- putting in a ramp to replace steps
- providing larger, well defined signs for people with a visual impairment
- improving access to toilet or washing facilities

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Businesses and organisations are called 'service providers' and include shops, restaurants, leisure centres and places of worship.

Others changes will come into force in December 2006 - the Disability Rights Commission (DRC) website has more details on these.

Disabled workers share the same general employment rights as other workers, but there are also some special provisions for them under the Disability Discrimination Act (DDA).

Under the DDA, it is unlawful for employers to discriminate against disabled people for a reason related to their disability, in all aspects of employment, unless this can be justified. The Act covers:

- application forms
- interview arrangements
- proficiency tests
- job offers
- terms of employment
- promotion, transfer or training opportunities
- work-related benefits such as access to recreation or refreshment facilities
- dismissal or redundancy

Before October 2004, the DDA only applied to employers with 15 or more staff. Employers with fewer than 15 staff are now included.

The DDA also covers work-based training opportunities for employees.

Reasonable adjustments in the workplace

Under the DDA, your employer has a duty to consider making 'reasonable adjustments' to make sure you're not put at a substantial disadvantage by employment arrangements or any physical feature of the workplace.

Examples of the sort of adjustments your employer should consider, in consultation with you, are set out in the DDA and include:

- allocating some of your work to someone else
- transferring you to another post or another place of work
- making adjustments to the buildings where you work
- being flexible about your hours – allowing you to have different core working hours and to be away from the office for assessment, treatment or rehabilitation
- providing training
- providing modified equipment
- making instructions and manuals more accessible
- providing a reader or interpreter

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Things to consider at work

You can play an active role in discussing these arrangements with your employer. You might also want to encourage your employer to speak to someone with expertise in providing work-related help for disabled people. The Disability Rights Commission (DRC) provides detailed guidance and advice for you and your employer about whether an adjustment is reasonable or not. Issues for you both to consider include:

- how effective will an adjustment be?
- will it mean that your disability is slightly less of a disadvantage or will it significantly reduce the disadvantage?
- is it practical?
- will it cause much disruption?
- will it help other people in the workplace?
- is the cost prohibitive?

You may want to make sure that your employer is aware of the Access to Work programme run by Jobcentre Plus. Through this programme, employers can get advice on appropriate adjustments and possibly some financial help towards the cost of the adjustments.

Disability Rights Commission

The Disability Rights Commission (DRC) is a good source of advice if you feel you may have been discriminated against at work or elsewhere. It can also help if you think you have been discriminated against and want to lodge a claim at an Employment Tribunal.

Further Information

Disability Rights Commission (DRC) <http://www.drc-gb.org/>

The Disability Rights Commission (DRC) is an independent body established in April 2000 by Act of Parliament to stop discrimination and promote equality of opportunity for disabled people.

The DRC gives advice and information to disabled people, employers and service providers and supports disabled people in getting their rights under the law. The DRC supports legal cases to test the limits of the law and provides an independent conciliation service for disabled people and service providers.

The disabled people section of www.direct.gov provides information on rights under the Disability Discrimination Act, definitions of 'disability' and on general rights of access to goods and services.

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Part-time workers

If you work part-time, you have the same rights to fair treatment as your full-time colleagues and there are actions you can take if you think your employer is treating you differently because you're a part-timer.

What is a part-time worker?

A part-time worker is someone who works fewer hours than a full-time worker. There's no specific number of hours that makes someone full or part-time, but a full-time worker will usually work 35 hours or more a week.

Why you might choose to work part-time

The reasons for working part-time vary from worker to worker, and it may be that you simply want to have a different work-life balance. Other workers (term-time workers) need to have school holidays off to look after their children. If you're interested in changing your working patterns, you might find it useful to read about flexible working.

Part-time workers and 'less favourable treatment'

According to the Part-time Workers (Prevention of Less Favourable Treatment) Regulations, part-timers must be treated at least as well as full-time workers doing a similar job on the same type of contract, unless the reason why can be objectively justified. The regulations include temporary staff such as agency and casual workers but part time agency workers can't compare themselves to full time permanent workers.

The regulations don't stop employers giving better terms to part-timers, perhaps to encourage a more balanced workforce, but the employer will need to be sure that doing this is not against other discrimination laws.

The regulations often mean that benefits must be 'pro-rata'. This means that they should be in proportion to your hours. So, for example, if a full time worker gets a £1000 bonus, a part time worker working half the number of hours should get £500.

Below are some examples of issues affected by the regulations. Remember that your employer can treat part timers less favourably (that is, they can break the rules set out below) if this is 'objectively justified' – what 'objectively justified' means is explained later.

Rates of pay

Part-time workers must get at least the same hourly pay rate as a full-timer doing a similar job. If you're a part-timer, your employer can set the same hours threshold for enhanced overtime pay as for full timers, so you might not get overtime pay until you've worked more than the normal hours of a full-time worker.

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Pension opportunities and benefits

Employers should not discriminate between full-time and part-time workers over access to pension schemes. Other company benefits (such as company cars, employee discounts, and health insurance) should be given pro rata if possible. If this is not possible then your employer will have to decide whether or not to offer the benefit to everybody.

Training and career development

Part-time workers mustn't be excluded from training and career development opportunities. Wherever possible, training must be organised at times that suit most workers, including part-timers.

Holidays

All workers have the right to a minimum amount of annual holiday. The statutory minimum entitlement is to four weeks holiday a year, based on your normal working week. For example, if you work:
20 hours a week, your statutory holiday entitlement is four 20-hour weeks
three days each week, you have the right to 12 days' holiday – the equivalent of four weeks of three days

Many employers give more than the statutory minimum amount of holiday (for example, paid bank holidays). The regulations mean that part-timers should be treated no less favourably; this normally means that a part time worker will get a pro rata proportion of what the full time workers get – including any extra days for bank holidays.

For example, if a full time worker works 5 days per week and gets 4 weeks holiday per year plus 8 bank holiday days per year (28 days in total), then a part-timer who works 3 days per week should get 3/5ths of 28 days holiday per year (that is, 16.8 working days holiday per year). Your employer can't round down the number of days given, because this would be unfavourable treatment, but fractions of a day might be given as hours.

Your employer can control when you take holiday so can make you take bank holidays from this entitlement when they coincide with your working day. You can't take holiday on a day you aren't expected to work. So, for example, if you don't work Mondays (the day when most bank holidays fall) then you must be allowed to take the leave at another time.

Opportunities for career breaks

Some employers let employees take career breaks. If you're a part-time worker, you have the right to the same opportunities.

Sick pay, maternity and paternity leave and pay

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Part-timers are entitled to the same rights to sick pay and maternity, paternity and adoption leave and pay, and parental leave as full-time staff. If companies give more than the statutory entitlement, part-timers must also get these contractual benefits.

Selection for promotion and transfer, or for redundancy

Being part-time can't be used as a reason for unfair selection for transfer or redundancy, or refusing a promotion, unless it can be justified objectively.

What are 'objective justifications'?

The rules set out above can be broken where there is objective justification for doing so. This means that part-time workers can't be treated less favourably just because they are part-timers. The employer has to show that the reason is necessary, and the right way to meet a genuine aim of the business. It may not be possible to pro-rate some benefits to part-timers (for example, complementary health-club membership). In this situation your employer would have to decide either to give the benefit to both full and part time staff or (if there was objective justification – for example if the costs outweigh the benefit) not to give part time workers the benefit.

What to do if your employer treats you unfavourably

If you're a part-timer and think you're being treated differently, you need to compare your situation with someone who:

- works for the same employer and is regarded as full-time
- does broadly the same work, with similar experience and skills
- is on the same type of contract

The person normally needs to work in the same location as you, but if nobody there meets the requirements set out you can compare yourself with someone at another location who meets them.

First, raise the matter with your employer. If you have an employee representative (for example, a trade union official), they may be able to help. You have the right to a written statement explaining why you're being treated less favourably. If you write to your employer asking for this statement they must respond within 28 days.

If an informal approach doesn't work, you may need to make a complaint using your employer's internal grievance procedure. In the end, you may have to go to an employment tribunal.

Before taking action you should be aware that the reason for any treatment might not be because of your part-time status. Different hourly pay rates could be justified as a performance-related pay scheme. Different rates of pay might also be justified because of extra payments associated with night shifts.

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Fixed-term contract workers

Fixed-term workers have the same minimum rights as permanent workers. There are also separate protections for fixed term employees.

Why employers take on fixed-term employees

Taking on fixed-term employees lets employers bring in people with special skills or employ extra labour when needed. A fixed-term contract allows both employee and employer to be flexible in their commitment.

Both employer and employee can benefit, as the employer has access to specialised skills to meet a particular need, while the employee can gain broader experience. In some companies, fixed-term employees are paid more than permanent staff, either because of their special skills, or to compensate for temporary nature of the job.

What 'fixed-term' means

There are special regulations protecting fixed term workers, which define a fixed term worker as “a person with a contract of employment which is due to end when a specified date is reached, a specified event does or does not happen or a specified task has been completed”.

The Fixed-term Employee Regulations only apply to employees: people who have a fixed-term employment contract with the business where they work. They don't cover agency workers ('temps') who have a contract with an outside company, apprentices, or students and other trainees on work-experience placements or temporary work schemes.

Comparing the treatment of fixed-term employees with that of permanent staff

The general rule is that, except where there's good reason, employers must not treat fixed-term workers less favourably than permanent employees doing the same, or largely the same, jobs. This means that fixed-term employees have the right (except where there's good reason) to:

- the same pay and conditions
- the same or equivalent benefits package
- access to an occupational (company) pension scheme (except perhaps where the fixed-term contract is for less than two years)
- the right to be informed about permanent employment opportunities in the organisation

However, fixed-term workers don't have the right to the same pay, conditions and benefits if their overall terms and conditions, although different from those for permanent employees, are just as good or better. For example, an employer can choose to give fixed-term workers better pay instead of pension rights.

EQUALITIES TOOLKIT

Not renewing a fixed-term contract is treated as a dismissal, so if the contract is not renewed fixed term employees also have full redundancy rights (if continuously employed for two years or more, unless they signed a clause waiving their right to a redundancy payment before 1 October 2002)

Ending a fixed term contract

Normally a fixed term contract comes to an end automatically once it has reached its agreed end point – there is no need for an employer to give notice. Your employer is still required to act fairly and to follow the minimum required dismissal procedure, otherwise you would be able to make an unfair dismissal claim.

If your contract is to cover someone on maternity leave, if your contract is finished when they return your dismissal will normally be fair.

Can an employer end a fixed-term contract early?

Check the terms of your contract – if it says your employment can be ended early and your employer has given proper notice, there's little you can do. However, if it doesn't say anything, your employer may be in breach of contract.

If you worked past the end of your contract (eg you were kept on for a year when your original contract was for three months), there's an implied agreement by your employer to change the end date. You would then have the right to be given proper notice if your employer wanted to dismiss you.

How long an employer can keep renewing a fixed-term contract

There's a limit of four years on how long a worker can be kept on successive fixed-term contracts. If your contract is renewed after that, you become a permanent employee, unless the employer can show a good reason why you should stay on a fixed-term contract. Only service from 10 July 2002 is counted.

Can an employer renew a fixed-term contract on less favourable terms?

If you're offered a renewed contract on less favourable terms, you can refuse to accept it, and try to negotiate with your employer. If they won't change the terms, you'll need to choose between accepting the amended contract or treating the contract as being at an end. If the contract does end, you may be able to claim unfair dismissal.

What to do if you're on a fixed-term contract and being treated less favourably than your permanent colleagues

First, raise it with your manager and/or HR contact. If the matter still isn't sorted out, ask your employer for a written statement explaining why they're treating you less favourably.

EQUALTITIES TOOLKIT

Your next step should be to make a written complaint under your employer's standard grievance procedure.

If you can't sort the matter out with your employer, the last resort is to complain to an Employment Tribunal.

You must make the claim within three months of the occurrence (if a single event) or last incident (if the treatment has been ongoing) of less favourable treatment, unless you're still involved in the grievance procedure.

EQUALITIES TOOLKIT

Age Discrimination

There's currently no legal protection against age discrimination. However, new regulations outlawing age discrimination at work will be introduced in October 2006. It is still lawful to discriminate on grounds of age, but it might not make good business sense – older people often have a wider range of skills and experience.

New regulations against age discrimination

New regulations are being introduced because there's a need for age-related employment equality in the same way as we already have equality for sex, race, disability, sexual orientation and religion or belief.

Society is changing and the working population as a whole is getting older. The number of people aged under 50 is set to fall by two per cent by 2016, while the number aged between 50 and 69 is set to increase by 17 per cent. Better health standards mean that some people are choosing to work longer.

What will the new regulations mean?

When the regulations are introduced, subject to any changes after the consultation period, they will make the following changes to the law. Stop unjustified age discrimination in employment and work-related training. Employers will have to make sure that any redundancy policies don't directly discriminate against older workers. They should also not discriminate indirectly – for example, by selecting only part-time workers for redundancy, when a large number of these may be older workers. The only exceptions will be where an age requirement can be objectively justified.

End the right of employers to force people to retire below the age of 65, unless it can be justified.

This is to meet the demands of an ageing society, your employer will only be able to retire you below 65 where they can show that it is appropriate and necessary to do so.

Remove the upper age limit for unfair dismissal and redundancy rights

At the moment you generally have no unfair dismissal rights after you have reached your employer's normal retirement age for your job or, if there isn't one, the age of 65. This means that there's no risk of an Employment Tribunal claim for an employer if they choose to dismiss you.

Also, your employer doesn't have to pay you the statutory minimum redundancy payment if you are under 18 or over 65 (or after your normal retirement age if this is lower). This means that unless a redundancy payment is included in your employment contract, you won't receive any redundancy pay.

EQUALITIES TOOLKIT

The new regulations will mean that after October 2006, older workers will have the same unfair dismissal rights as those of younger workers. Age will not matter for entitlement to statutory minimum redundancy pay. If you want to work past the usual retirement age of 65 you'll be able to ask your employer. Under the new rules they must consider your request seriously.

Employers must inform employees in writing, at least six months in advance, of their intended retirement date. This will enable older employees to plan better for their retirement.

Can you be refused a job because you're too young?

Older people experience most age discrimination. However, it also takes place against young people. From October 2006 it will be unlawful for an employer to impose a lower age limit when recruiting, unless this age restriction can be objectively justified.

Further Information

AGE positive are a team working in the Department for Work and Pensions in Sheffield and London, responsible for strategy and policies to support people making decisions about working and retirement. The Age Positive campaign promotes the benefits of employing a mixed-age workforce that includes older and younger people. They encourage employers to make decisions about recruitment, training and retention that do not discriminate against someone because of their age. They use publications, research, press, events and awards initiatives to get the message across - and to help employers prepare for legislation in 2006 to outlaw age discrimination in employment
<http://www.agepositive.gov.uk/>

****Legislation changes continually. Please refer to relevant websites for up to date information relating to specific equality issue.***