



Northern Ireland

## Employment Fact Sheet: Discrimination on the grounds of sexuality at work

### About this fact sheet

This fact sheet is about unfair treatment by an employer because of your sexuality. It's also against the law for people who provide goods or services to treat you unfairly because of your sexuality.

### Can an employer treat me unfairly because of my sexuality?

It is against the law for someone you work for to treat you less favourably than other workers because of your sexuality, that is, because you are lesbian, gay or bisexual. The law calls this **direct discrimination**. An example of direct discrimination would be refusing to employ you or dismissing you because you are a lesbian.

It is also against the law for someone you work for to have rules, policies or practices, which though not aimed at you personally, put you at a disadvantage because of your sexual orientation. The law calls this **indirect discrimination**. An example would be a rule that restricts employment benefits for family members to opposite sex partners only. Indirect discrimination can be justified if it can be shown to be an unavoidable business need.

Discrimination at work because of your sexuality could include:

- denying you opportunities at work for development, promotion, or other benefits such as pension and insurance schemes and cheap travel
- refusing to give benefits to civil partners when they are available to married couples
- dismissing you because you are lesbian, gay or bisexual
- suffering harassment at work because you are lesbian, gay or bisexual
- refusing to give you a reference, or giving you an unfair reference when you leave your job
- treating you differently, for example, your employer expects workers to bring an opposite sex partner to business meals but same sex partners are not welcome.

### Harassment at work because of your sexuality

It is against the law for someone to harass you at work, because you are lesbian, gay or bisexual. The person harassing you may be your employer or a colleague. Someone is harassing you if you find their behaviour towards you offensive, frightening, degrading, humiliating or in any way distressing. It may be intentional bullying, but it could also be unintentional. For example, it could involve nicknames, teasing, name-calling or other behaviour which is not deliberately malicious, but which is upsetting.

It is also against the law for someone to harass you in this way, even if they're mistaken about what your sexuality or even if they know you aren't actually gay, lesbian or bisexual. For example, you can take action if you're called anti-gay names, even if you aren't actually gay.

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## What can I do if I'm being treated unfairly or bullied at work?

If you are being treated unfairly or bullied at work, take action as quickly as possible. However you may not want colleagues to know about your sexuality. If so, talk to your personnel or HR manager to see if you can get an assurance that the process will be confidential. Find out who will have access to any information before you set out details of your grievance:

- **get advice.** A Citizens Advice Bureau may be able to help or refer you to a specialist. Details of how to find your nearest CAB are at the end of this fact sheet
- if you're being harassed, **ask the person to stop.** Only do this if you feel it is safe. You may find it helpful to have a colleague or trade union representative with you when you do this
- **tell your manager** that you're being harassed or discriminated against. Put it in writing and keep a copy. Your employer is required by law to try to prevent the harassment. If the person harassing you is your manager, tell someone higher up in the organisation
- **talk to your personnel department or trade union.** They might be able to help you stop the unfair treatment or bullying
- **collect evidence.** This could include keeping a diary or record of the time, date and location of any incidents, what was said or done, if there were any witnesses and evidence of any similar incidents against other colleagues. Record the names and jobs of those you think are treated more favourably than you, or details of the rule or policy that puts you at a disadvantage and why
- the law allows you to ask your employer to provide information through a **questionnaire** procedure. This can help you get information to support your case. Get advice early on as there are strict time limits for this procedure.

### Raising a grievance

If you have tried all these things without success, you can **raise a written grievance**. All workplaces are now required by law to have a grievance procedure. Your trade union or an adviser can help.

Although the law can help protect you against victimisation, think carefully about taking out a grievance or making a complaint as this could jeopardise your job or make your life at work even more uncomfortable.

### Taking your case to an industrial tribunal

If you have not been able to solve your problem through raising a grievance, you may have to complain to an **industrial tribunal**. You must have raised a written grievance with your employer before you do this. Industrial tribunals resolve disputes between employers and employees over employment rights, including discrimination at work.

You don't need to have worked for your employer for any particular length of time before you can make a claim for discrimination. If you have been dismissed, you may also be able to make a claim for unfair dismissal. You will need to **prove your case** – that's why you need to collect the information and evidence suggested earlier. You can ask your employer to provide information through a **questionnaire** procedure. This can help to support your case.

The Labour Relations Agency (LRA) offers a conciliation service in Industrial Tribunal complaints. If your complaint cannot be resolved by you and your employer through conciliation it will go on to a tribunal hearing. The tribunal is a panel of up to three people who will consider all the arguments, make a **legally-binding decision** and award **remedies**, for example **compensation**.

If you're considering complaining to an industrial tribunal, get advice straight away. There are strict time limits for taking a discrimination case to an industrial tribunal, so don't delay.

If you are being harassed because of your sexuality, there may be legal action you can take besides going to an industrial tribunal. You will need to get advice about this.

## **What happens if I am victimised for complaining about discrimination at work?**

If you complain about discrimination or harassment at work as a result of your sexual orientation you have some protection in law. For example, your employer can't victimise you because you have:

- encouraged a colleague to complain about unfair treatment or bullying
- given evidence in a colleague's case
- complained about unfair treatment or bullying against yourself.

Examples of victimisation could include:

- being labelled a trouble-maker
- being denied promotion or training opportunities
- being ignored by your work colleagues.

If your employer victimises you because you have been involved in a complaint about unfair treatment or bullying at your workplace, you can make a claim for **unlawful victimisation** to an **industrial tribunal**. You must raise a **written grievance** with your employer before you do this.

If you are thinking about making a claim to an industrial tribunal, talk to an experienced adviser straight away.

## Other types of discrimination

As well as discrimination because of your sexuality, you could be treated unfairly for other reasons, for example, because of your race, religious belief and/or political opinion, sex, disability or age.

If you think you've been treated unfairly for more than one reason, make sure you raise all the issues if you make a complaint.

## Further help

### Citizens Advice Bureau

Citizens Advice Bureaux give free, confidential, impartial and independent advice to help you solve problems. To find your nearest CAB visit [www.citizensadvice.co.uk](http://www.citizensadvice.co.uk) or look under C in your phone book.

### Equality Commission for Northern Ireland

You can find information about all types of discrimination from the Equality Commission for Northern Ireland. The advice service is free and confidential. Contact the enquiry line on **028 90 890 890** or visit the website at [www.equalityni.org](http://www.equalityni.org).

### LRA

The Labour Relations Agency (LRA) operates an Enquiry Helpline which provides information and advice about employment issues. Contact the Enquiry Helpline at **028 9032 1442**.

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