

Employment Fact Sheet: Sex discrimination and sexual harassment at work

It is against the law for someone you work for to treat you unfairly because of your sex (or **gender**). This is called sex discrimination.

All workers are protected by the law on sex discrimination including:

- people who are **applying for a job**
- **apprentices** and people on **work experience**
- **self-employed** people who have a contract to provide a service
- **contract and agency workers**
- **part-time workers**.

Sex discrimination can be direct or indirect, harassment or victimisation.

Direct discrimination is where your employer treats you less favourably than someone else who works for them because of your sex. An example of this would be not promoting you to a management position because you are a woman. Another example would be not offering a man the post of secretary because the employer believes a man would not be able to do this type of work.

Indirect discrimination is where your employer has a rule, policy or practice, which though not aimed at you personally, puts you at a disadvantage because of your sex. An example of this would be a requirement to work full time. This is because it is harder for women, who are more likely than men to be looking after children, to work full time.

Indirect discrimination can be justified if it can be shown to be an unavoidable business need. Indirect discrimination almost always applies to women, rather than men.

When could sex discrimination occur?

Common situations at work when you could experience sex discrimination include:

- when you are applying for promotion
- unfair access to training and development opportunities, or other benefits
- decisions about who is chosen for redundancy
- not allowing you to work flexibly to care for a child or relative

Discrimination if you have caring responsibilities

If you're treated worse than other employees because you're a carer this could be direct discrimination. If your employer imposes rules that put you at a disadvantage because of your caring responsibilities, this could be indirect discrimination. Indirect discrimination includes things such as refusing to let you start work late so you can take children to school or nursery, or not allowing you to come back to work part time after you've been on maternity leave. You could also be indirectly discriminated against if you look after an elderly or disabled person and aren't allowed to make changes to your working day to look after them.

Sexual harassment at work

You are protected by law against sexual harassment at work. This includes both men and women. It also includes people who are undergoing, have undergone or who intending to undergo gender reassignment. This is where you are changing from one sex to another.

Sexual harassment could include:

- unwelcome comments of a sexual nature
- unnecessary touching or unwanted physical contact
- leering at someone's body
- displaying offensive material such as posters
- sending offensive e-mails. This includes colleagues downloading pornographic e-mails, even if they aren't sent to you personally.

The law protects you against sexual harassment from your employer, colleagues and third parties, for example, customers. Sexual harassment could be a one-off incident or a series of incidents. It could be sexual harassment if you are working in an environment which the behaviour of others makes intimidating, hostile, degrading, humiliating or offensive.

Sexual harassment might be deliberate or nasty but it doesn't have to be. Someone could be sexually harassing you, even if they don't mean to, or don't realise they are doing it. This doesn't mean that it isn't wrong or that you shouldn't complain about it.

What can I do about sex discrimination or sexual harassment?

If you're experiencing sex discrimination or sexual harassment at work, take action as quickly as possible. If you are being sexually harassed **tell 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
- **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
- **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

Raising a grievance

If you can't solve your problem informally, you may have to make a formal written complaint to your employer using a **grievance procedure**. If your workplace doesn't have one, you need to get advice from an employment adviser - see Further help.

Although the law can help protect you, you should be aware that if you make a formal complaint this may make your life at work even more uncomfortable.

You don't need to have worked for your employer for any particular length of time before you can make a claim for sex discrimination or sexual harassment. If you have been dismissed, you may also be able to make a claim for unfair dismissal. You will need to **prove your case** – this is collecting evidence is so important. You can ask your employer to provide information through a **questionnaire** to help support your case. If you want to make a claim to an industrial tribunal for unfair dismissal there are strict time limits for doing this.

Going to an industrial Tribunal

If you can't solve your problem using a grievance procedure, you may want to make a claim for sex discrimination, sexual harassment or unfair dismissal if you've been dismissed to an **industrial tribunal**.

There are **strict time limits** for making a claim to an industrial tribunal. You've usually only got within three months from the date of the last time you were discriminated against or harassed, or from the date you were dismissed. This time limit applies even if you're raising a grievance or appealing against a decision. 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**.

There is no upper limit to the amount of compensation you can be awarded by an industrial Tribunal.

Contact Details:

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