

Equal Opportunities

Dealing with discrimination



Community
Legal Service



There are many situations where you might be discriminated against because of your age, your sex or because you are gay or lesbian, for example. This leaflet explains when there are laws to protect you from discrimination, and what you can do if you are discriminated against.

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The leaflets in this series give you an outline of your legal rights. They are not a complete guide to the law and are not intended to be a guide to how the law will apply to you or to any specific situation. The leaflets are regularly updated but the law may have changed since this was printed, so information in it may be incorrect or out of date.

If you have a problem, you will need to get more information or personal advice to work out the best way to solve it. See 'Further help' on page 23 for sources of information and advice.

When discrimination can happen

Discrimination happens when someone is treated worse (in legal terms, 'less favourably') than another person in the same situation.

Discrimination may happen:

- **At work** – for example, a black person may be refused a job without good reason, or be racially harassed by other employees. A woman may have a problem about equal pay, or the way she is treated if she is pregnant or has a child to care for.
- **When you are buying or using goods and services** – for example, a person in a wheelchair may be told they can't go into a restaurant because their wheelchair takes up too much space.
- **When you are buying or renting somewhere to live** – for example, a landlord may refuse to let their flat to an Asian person.
- **At a school or college** – for example, a school may treat a black child differently from a white child when deciding whether to exclude (remove) them.

You may suffer discrimination for a number of reasons. It is often because:

- of your race;
- of your sex;
- of your religion or belief;
- you have a disability;
- you are elderly; or
- you are gay or lesbian.

The protection you have in law depends on why you were discriminated against. In the case of sex discrimination, for example, there are specific laws saying when it is unlawful for someone to discriminate against you. The law gives you the right to go to an employment tribunal or to court if you have been treated unfairly. You may get compensation for loss of earnings or if your feelings have been hurt, depending on the kind of discrimination you've suffered. Also, taking an organisation to a tribunal or court may improve the way it behaves towards other people in future.

With some other types of discrimination, such as that based on age, there are no specific laws. But there are things you may be able to do, to stop the discrimination happening.

This leaflet:

- explains how the law on equal opportunities and anti-discrimination works, and what types of discrimination you are protected from;
- looks in more detail at the laws on discrimination because of sex, sexual preference, and religion or beliefs; and
- explains what you can do if you have been discriminated against.

Separate Community Legal Service leaflets, 'Racial discrimination' and 'Rights for disabled people', deal with those things in more detail.

Sometimes, a person may be discriminated against for more than one reason. If you think you are in this position, you may need to get advice about the best course of action. You can get advice from a:

- trade union (if you belong to one);
- law centre;
- Citizens Advice Bureau; or
- solicitor.

See 'Further help' on page 23 for more about where to get advice.

Types of discrimination

The law on equality talks about two types of discrimination:

- Direct discrimination, which is when you are treated less favourably because, for example, you are black or a woman.
- Indirect discrimination, which can happen where there are rules or conditions that apply to everyone but affect one group of people more than others, without a good reason. For example, a company rule that says employees must do night shifts could exclude women who have children to care for.

In certain cases, discrimination is allowed. For example, the law allows a women's refuge to insist that its counsellors are women.

Victimisation

If you want to complain about being discriminated against (or if you are helping a colleague who is complaining), you may fear that your employer may treat you less favourably for this reason. If they do, this is called victimisation, and it is unlawful (illegal) in the same way discrimination is.

Sex discrimination

Two laws aim to make sure that men and women are treated equally:

- The Sex Discrimination Act 1975 (as amended 1986) makes it unlawful to discriminate against men or against women in employment, education, housing or providing goods and services, and also in advertisements for these things. It's also against the law to discriminate against someone because they are married, but only in work-related matters.
- The Equal Pay Act 1970 (as amended 1984) says that women must be paid the same as men when they are doing the same (or broadly similar) work, or work of equal value. European law also says that women and men should receive equal pay for equal work. For more about this, see 'Equal pay' on page 7.

Applying for a job

The Sex Discrimination Act makes it unlawful for an employer, when filling a job vacancy, to discriminate because of your sex or because you're married. The law covers three areas:

- When deciding who should be offered the job. This includes the job description, the 'person specification' (the description of the skills, experience and qualifications needed to do the job), the application form, the short-listing process, interviewing and final selection.
- The terms and conditions of the job, such as pay, holidays or working conditions.
- Deliberately not considering your application.

The law covers contract and part-time workers as well as full-time or permanent staff.

An example of direct sex discrimination would be refusing to consider you for a job just because you are a woman, or because you are a man (for example – refusing to consider a man for a job as a secretary).

An example of indirect sex discrimination would be saying, without good reason, that everyone applying for a job must have been in the armed forces. Because fewer women than men have been in the armed forces, a woman would be less likely to get the job.

Treating a married person less favourably than a single person of the same sex is also unlawful under the Sex Discrimination Act. It would be 'direct marriage discrimination' if an employer refused to employ a married woman just because they thought she would be more likely than a single woman to leave to have a baby.

'Indirect marriage discrimination' could happen if, for example, an employer said that everyone applying for a job must move to a new location, unless the employer could show that moving was essential to the job.

When an employer is allowed to discriminate

In some cases employers are allowed to offer a job only to men, or only to women. This is called a 'genuine occupational qualification' (GOQ). The main cases where an employer may do this are:

- for privacy and decency: for example, employing a male care assistant because he has to help men dress or use the toilet;
- for personal welfare services: for example, employing women counsellors for a women's welfare charity;

- where the employee has to live on work premises and there aren't separate sleeping areas for men and women;
- for some jobs in single-sex institutions, such as hospitals and prisons;
- for some jobs in private homes, such as a live-in carer;
- where the job has a real physical need, such as to model women's clothing, or for a role in a play or other performance;
- in some cases where the job is outside the UK; and
- where the job requires a married couple.

However, employers may not use a need for strength or stamina in a job as a reason for not looking at applications from women, for example.

Being dismissed or made redundant

An employer may not discriminate against women or men when dismissing people or making them redundant. This means that, for example, it would be against discrimination laws to:

- dismiss a man if he took time off work to care for a sick child, if a woman wouldn't have been dismissed for the same reason;

- dismiss someone for often being late for work if someone of the opposite sex who was late just as often was not dismissed; or
- have a company policy which says that staff with the shortest length of service are to be the first in line for redundancy, because women are more likely to have taken a career break for family reasons.

For more information about your rights if you are dismissed, or facing redundancy, see the Community Legal Service leaflet, 'Employment'.

Having a child

Discrimination laws could be broken where a woman is pregnant, or needs to care for her children, and she is:

- dismissed or made redundant;
- refused promotion; or
- treated differently in some other way.

Examples of this kind of discrimination include:

- if a woman is moved to a less rewarding job when she comes back to work after having a baby; and
- if a breast-feeding mother was told she could come back to work only if she worked fixed full-time hours. The employer would have to show that she really needed to

work full time and that, for example, she could not do part of her job at home.

Equal pay

The Equal Pay Act allows you to claim equal pay for work which is the same or broadly similar (known as 'like work') to that done by someone of the opposite sex working for the same employer (known as the 'comparator'). It also allows you to claim equal pay if the work is quite different, but is of 'equal value' to the comparator's job in terms of the demands on you.

The Equal Pay Act also covers most other terms of your employment, for example:

- working hours;
- holidays;
- sick pay; and
- pensions.

Most equal-pay complaints are by women, but the law also applies to men who are paid less than women for the same work.

If you believe you are not being paid the same as someone else of the opposite sex for the same work, you should first take up your complaint with your employer, through their grievance procedure (if they have one).

If that doesn't work, you can take an equal-pay claim to an employment tribunal. If the jobs being compared are fairly similar, it is usually best to make a 'like-work' claim as well as an 'equal-value' claim. The tribunal will examine your like-work claim first and, if that fails, it will go on to consider the equal-value claim.

The process of taking either a 'like-work' or 'equal-value' claim can be complicated. Even if the tribunal decides that you are doing like-work or equal-value work, the employer may be able to convince them that there is a 'material factor' (a good reason other than your sex) why you are paid less. You can get more details and advice about the process from the Equal Opportunities Commission (see 'Further help' on page 23 for details).

You can get advice and support about taking a claim from your union, if you have one, or from a law centre, Citizens Advice Bureau or solicitor. (see 'Further help' on page 23 for details).

Part-time work

The Sex Discrimination Act and the Equal Pay Act cover all workers, including people who work:

- part time; or

- on casual or temporary contracts.

In an equal-pay claim, a part-time job can be compared with a similar full-time job on a pro-rata basis (that is, based on the number of hours each of you work).

Because most part-time workers are women, if they are treated worse than full-time workers, this could amount to indirect discrimination under the Sex Discrimination Act. You might have a claim for indirect discrimination if you want to work part time (or flexitime, at home or in a job-share), because, for example, you need to care for a child, and your employer refuses without a good reason.

Part-time workers are also protected by the Part-Time Workers Regulations 2000, which give them the right to the same pro-rata contractual benefits (rates of pay and holidays, for example) as full-time workers doing the same work. Similar rights apply to workers with fixed-term contracts under the Fixed-Term Employee Regulations 2002. In both these cases, it doesn't matter whether the workers being compared are the same sex or not. For more on this, see the Community Legal Service leaflet, 'Employment'.

Sexual harassment

Sexual harassment is unwanted behaviour of a sexual nature towards you. It does not need to be physical. At work, it can include:

- comments about the way you look;
- indecent (offensive) remarks;
- requests for sex (sometimes in return for a promotion or other benefit); and
- any similar behaviour that creates an intimidating, hostile or humiliating atmosphere at work.

Sexual harassment usually counts as direct sex discrimination under the Sex Discrimination Act because you are being treated in a way that someone of the opposite sex would not be. If someone is harassing you and they don't stop when you ask them to (or if you are afraid to confront them), you should tell your employer – unless, of course, they are the person doing it.

The law says that employers are responsible for discrimination by their employees. Many employers treat sexual harassment by their staff as a disciplinary offence, and they should discipline the person harassing you. If your employer does not do anything, you can take a claim against them to an employment tribunal. In many cases you could also take the person harassing you, or your employer, to court.

You could also go to court if you're sexually harassed by someone unconnected with your workplace. But in some cases there may be a special complaints procedure to follow (for example, if the person who has harassed you was a doctor). You should get expert legal advice (see 'Further help' on page 23 for details).

If you are having a relationship with someone at work

Some employers won't employ:

- the husband or wife;
- the partner; or
- a relative;

of someone working for them.

Also, some employers don't allow workplace 'affairs'. This is not against the Sex Discrimination Act as long as men and women, and married and unmarried staff, are treated equally. Otherwise it could be considered discrimination. An example of discrimination is if a woman was transferred to another office or department when she didn't want to be, because she was having a relationship at work, when a man would not have been transferred in the same circumstances.

Discrimination or victimisation after leaving your job

An employer must not discriminate or victimise you after you have left your job. For example, it is unlawful for your employer to refuse to give you a reference because you made a complaint about being discriminated against while you were employed.

If you are buying or renting a house or flat

It is illegal to discriminate against someone because of their sex when selling or letting a house or flat. It is also illegal for a landlord to treat tenants differently because of their sex. However, the Sex Discrimination Act doesn't apply if the landlord (or a close relative of theirs) lives in the same building and shares some of the living areas (including a kitchen or bathroom, but not a hall or stairway) with the tenant.

It's also illegal for a bank or building society to treat someone less favourably in granting a loan because of their sex or because they are pregnant. If, for example, a couple apply for a joint mortgage and the woman earns more than the man, the lender must use her income as the higher one in working out how much they will lend. And offering mortgages

only to people who work full time is also seen as discrimination, because more women than men work part time.

Going to school or university

Mixed-sex schools, colleges, adult education centres and universities must not discriminate against parents or children because of their sex. For example, careers advisors must provide advice and help in the same way to boys as girls. Single-sex schools must not restrict the types of subjects they teach just because they have only boys or only girls as pupils. Schools and colleges must also deal with sexual harassment in the same way that employers do (see 'Sexual harassment' on page 9).

If you feel your child is facing sex discrimination at school, you should first try to discuss the problem with the teacher or headteacher. If that doesn't work, you should complain to the school governors or the local education authority.

For advice about dealing with this kind of problem, contact the Equal Opportunities Commission or the Advisory Centre for Education (see 'Further help' on page 23 for details). For more information about legal rights at school, see the Community Legal Service leaflet, 'Education'.

Buying and using goods and services

Under the Sex Discrimination Act it is against the law for businesses to discriminate against men or women in the 'goods, facilities and services' they provide. This means refusing a service or deliberately not providing it on the same terms and of the same quality. It covers things that are free, as well as those you pay for, and covers:

- shops;
- public places, such as hotels, restaurants, bars, nightclubs and leisure centres (for example, offering only women free or cheaper admission or drinks would be a breach of the Sex Discrimination Act);
- bank accounts, loans, credit cards and insurance;
- travel and transport services that are either public or offered by private companies and travel agents; and
- services supplied by local authorities (such as leisure services).

There are several situations where discrimination against men or women may be allowed:

- private members' clubs;

- services that are only for men or only for women, to avoid 'serious embarrassment' (for example, women-only saunas);
- voluntary organisations, care homes and charities that provide services only for men or only for women; and
- insurance policies where it can be shown that women are a better or a worse insurance risk than men (though this is being reviewed, and may not be allowed in the future).

Transgender people

If you have had 'gender reassignment' (often called a sex change) you have some legal protection against discrimination. The Sex Discrimination Act was changed in 1999 to protect transgender people against discrimination in employment and work training. But these regulations don't cover housing, education or services.

The regulations cover anyone who is about to go through, is going through, or has gone through gender reassignment. If you are discriminated against for one of these reasons, you will have a claim under the Sex Discrimination Act. Employers should not discriminate when choosing people for a job or for dismissal. Also, for example, an employer should allow

you time off work for necessary medical treatment in the same way they would for other kinds of necessary medical treatment. They should take action if you are harassed by other employees because of your gender reassignment.

The Equal Opportunities Commission has a guide 'Sex Equality and Transsexualism', which deals in detail with this kind of discrimination, including examples of case decisions.

Discrimination because you are gay or lesbian

Under new regulations, called the Employment Equality (Sexual Orientation) Regulations 2003, it is unlawful to discriminate against you at work because of your sexual orientation or sexual preference. The new regulations also cover work-related training.

The regulations say it is unlawful to discriminate against you because you are (or people think you are) gay, lesbian, heterosexual or bisexual. This includes:

- deciding not to employ you;
- dismissing you;
- giving you worse terms and conditions at work;
- not giving you training or a promotion; and

- not giving you the same benefits that people of a different sexual orientation have (unless the benefits are only relevant to married people).

The law on equality talks about two types of discrimination:

- Direct discrimination, which is when you are treated less favourably simply because of your sexual orientation. An example would be rejecting you for a promotion because you are lesbian, even though you have the skills and experience needed.
- Indirect discrimination, which can happen where there are rules or conditions that apply to everyone but affect one group of people more than others, without there being a good reason. An example of indirect discrimination would be where an employer needs two people to manage a restaurant and advertises for a husband-and-wife team. This may discriminate against lesbian or gay couples.

Also, an employer may not discriminate or victimise you after you have left your job.

Benefits for same sex-partners

If an employer gives benefits, such as insurance or private health care, to heterosexual unmarried partners, then refusing to give the same benefits to same-sex partners would be discrimination.

However, employers do not have to provide benefits that are specially for married couples to gay couples. Yet both kinds of couple should get the same parental or adoption leave, if they are entitled to it.

Time off to deal with emergencies

Under the Employment Rights Act 1996, you are entitled to unpaid leave to deal with unexpected or sudden problems concerning close family members, or people who depend on you. This includes a same-sex partner.

When an employer is allowed to discriminate

In some circumstances, an employer is allowed to discriminate if it is a 'genuine occupational requirement' that the jobholder must be of a particular sexual orientation. For example, in some cases, it might be lawful for an organisation providing welfare services to lesbian, gay and bisexual people to insist on some workers being of a particular sexual orientation.

It is important that each post is considered separately. An employer may not claim a genuine occupational requirement unless the work must be done by someone of a particular sexual orientation, not just because the employer would prefer it.

Also, an employer may not claim a genuine occupational requirement if they already have enough employees who can do those parts of the job that need someone with a particular sexual orientation. For example, if only a small part of the job qualifies for a general occupational requirement, then the work or jobs could be changed so that a general occupational requirement is not applied to a particular post.

To make sure it is still valid, a general occupational requirement should be looked at each time a post becomes vacant.

Organised religions

Where a job is to do with a particular religion, such as a minister of religion or jobs that promote or represent religion, discriminating against people of a certain sexual orientation may be allowed.

However, an employer will need to show they need to discriminate in this way not only because of the nature of the work but also to:

- be in line with the rules of the religion; or
- avoid conflicting with the strongly held views of a large number of the religion's followers.

Harassment

Harassment is unwanted behaviour that:

- humiliates you; or
- creates an intimidating, hostile, humiliating or offensive environment at work.

It may be targeted at you because of your sexual orientation or it may be part of the general culture in your work place which, for example, tolerates anti-gay jokes and teasing. Harassment can be subjective (in other words, based on opinion), but an employer must ask themselves: could what has happened be reasonably considered to have caused offence?

You do not have to be lesbian, gay or bisexual to be harassed at work. For example, you may be heterosexual but people think you are gay, and they often tease and call you nicknames that you find humiliating and upsetting. This is harassment, even though you are not gay.

The regulations also apply even though it is not your own sexuality that is the subject of the harassment – for example, if you have a son who is gay, and you are often teased at work about this. This may be harassment even though your sexual orientation is not the subject of the teasing.

Employers may be held responsible for the actions of their staff as well as the staff being individually responsible, unless it can be shown that the employers took all reasonable steps to prevent the harassment from taking place.

People with HIV or AIDS

If you have HIV or AIDS, you may face discrimination. Someone living with HIV or AIDS (whether they are gay or not) may have protection under the Disability Discrimination Act. For more information see the Community Legal Services leaflet 'Rights for disabled people'.

Discrimination because of your religion or beliefs

Under the new Employment Equality (Religion or Belief) Regulations 2003, it is unlawful to discriminate against people at work because of their religion or belief.

The regulations cover any religion, religious belief, or 'similar belief'. 'Similar belief' includes such beliefs as paganism, atheism, humanism and pacifism, but it does not include political beliefs.

However, the regulations do not protect you against discrimination if an employer refuses to employ you because he is of a particular religion and you are not. You would have a case only if he did not employ you because of your own religion.

Religious discrimination can be closely connected with racial discrimination. For example, if you are discriminated against because you are Jewish, this may be either because of your race or your religion. In this type of case, you may want to rely on both the regulations and the Race Relations Act. For information about racial discrimination see the Community Legal Services leaflet, 'Racial discrimination'.

When discrimination is against the law

The regulations say it is against the law to discriminate against you by:

- deciding not to employ you;
- dismissing you;

- giving you worse terms and conditions at work;
- not giving you training or a promotion; and
- not giving you the same benefits that people of a different religion or with different beliefs have.

An example of direct discrimination would be to refuse you a job because you are a Hindu even though you have all the necessary skills.

An example of indirect discrimination would be having a dress code that does not allow men to wear ponytails or headwear. This policy would disadvantage Sikh workers who wear turbans for religious reasons and Hindu men who wear a small knot of hair at the back of the head as a symbol of their belief.

Also, an employer may not discriminate against or victimise you after you have left your job.

Job duties that conflict with religious beliefs

Employers do not have to employ you if your beliefs mean you cannot do essential parts of the job. But it may not be reasonable to reject you if it is possible to allow you to work in a way that does not conflict with your beliefs. For example, if you are a Muslim or Jew and your work brings you into contact with food, you may not want to handle pork products. But there may be a way that you can still do your job without this.

What you wear at work

Your religion may mean that you have to dress in a certain way. For example, a Jewish woman may want to wear a shirt or blouse outside her skirt to avoid accentuating her body shape, or a Hindu man may want to wear neck beads to indicate his faith.

A dress code at work which wouldn't let you dress this way may be discrimination unless your employer could show there was a good reason, for example, on health and safety or other similar grounds.

Religious observance

Your religion or beliefs may mean you have to pray at set times in the day. Your employer does not have to provide a prayer room or give you time during the working day to do this. However, if there is a quiet place at your work, and using it wouldn't cause problems for your co-workers or the organisation, it may be discrimination if your employer didn't let you use the space for this.

You may ask to take your rest breaks to coincide with your obligation to pray at certain times of day. If your employer refuses to let you, without a good reason, this may be discrimination.

It may also be discrimination to:

- make you work on holy days;
- refuse to give you leave to celebrate festivals or attend ceremonies;
- force you to take annual leave at set times.

Whether it is discrimination or not will depend on all the circumstances and whether your employer can justify the arrangements. For example, your employer may be justified in closing down for a time each year for maintenance work. In the same way, if a number of workers ask for time off at the same time, it may be difficult to balance the needs of the business with those of the workers. In a small organisation, it may be difficult for an employer to allow several workers to have time off at the same time; but in a large organisation, an employer would have less reason for not allowing several people time off.

When an employer is allowed to discriminate

In a very few cases, an employer is allowed to discriminate if it is a 'genuine occupational requirement' that the jobholder has a particular religion or belief. For example, a hospital may want to appoint a chaplain to tend to the needs of patients who are mainly Christian.

It is important that each post is considered separately. An employer cannot claim a genuine occupational requirement unless the work must be done by someone of a particular religion or belief, not just because the employer would prefer it.

Also, an employer may not claim a genuine occupational requirement if they already have enough employees who can do those parts of the job that need someone of a particular religion or belief. For example, if only a small part of the job qualifies for a general occupational requirement, then the work or jobs could be changed so that a general occupational requirement is not applied to a particular post.

To make sure it is still valid, a general occupational requirement should be looked at each time a post becomes vacant.

If an organisation has an ethos or philosophy based on a particular religion or belief, it may be able to apply a genuine occupational requirement to jobs where in other circumstances such a requirement would not apply.

Examples of ethos-based organisations include religious institutions, faith schools or faith-based care homes.

To apply a genuine occupational requirement, an organisation must show that it is:

- a requirement of the job in order to keep to the ethos of the organisation; and
- 'proportionate' to apply the requirement.

For example, a Church of England faith school may want to employ a religious education teacher who is a member of the Church. However, the school may not insist on its maintenance and administrative staff also being members of the Church.

Harassment

Harassment is unwanted behaviour that:

- humiliates you; or
- creates an intimidating, hostile, humiliating or offensive environment at work.

Harassment may be targeted at you because of your religious convictions or it may be part of a general culture that tolerates teasing and jokes about religion or it may be about the religion or belief of your close family or friends. For instance, if you are constantly teased at work because of your partner's religious convictions, this is harassment even though it is not about your religion or belief.

Non-believers may also be the targets of harassment. For instance, if a religious member of staff continually refers to non-believers as 'heathens', this may be harassment too.

What you can do about discrimination

If you have been discriminated against, first think about what you want to be done. Depending on how you were discriminated against, you may want:

- your job back;
- compensation;
- an apology; or
- a clear sign that an organisation won't discriminate in the same way in future.

Whatever you want, it is usually best to first try to sort out the matter with the person or organisation that has discriminated against you (your employer, for example).

If complaining in this way doesn't get what you want, your next steps will depend on the type of discrimination you have suffered from and where it happened.

Dealing with discrimination at work

If your discrimination was about a job, you may be able to take your case to an employment tribunal. You can also take your case to court, but going to an employment tribunal will probably be less expensive and easier.

The Advisory, Conciliation and Arbitration Service (ACAS) may also be able to help. If you and your employer are both willing to try conciliation, an ACAS officer will try to help you reach a settlement without the need for a hearing. If you or they do not want to do this, or you cannot agree, the case can still go to an employment tribunal. However, there are time limits for doing this (see 'Going to an employment tribunal', below).

If the tribunal or court rules that you have been unlawfully discriminated against, it can award you compensation for:

- loss of earnings (including money you would have earned if you had not been discriminated against);
- injury to your feelings; or
- personal injury, if it was caused by discrimination.

Going to an employment tribunal

If you want to make a complaint about your job, you must send your complaint on form ET1 or in a letter to the Regional Office of Employment Tribunals. You can get this from your local Jobcentre Plus, Citizens Advice Bureau, the Equal Opportunities Commission or online from the Employment Tribunal Service (see 'Further help' on page 23 for details).

You must make your complaint within three months, which means three months less one day from when you first knew about the discrimination, unless the discrimination is continuing in which case special rules may apply.

If your complaint is about being paid less than men (or women) at your work, you can make your complaint at any time during your employment or within six months less one day of your employment ending.

The cost of going to a tribunal is low. Even if you lose your case, you will not have to pay the other side's costs unless the tribunal decides you were being unreasonable in bringing the claim.

If you do want to take a complaint to an employment tribunal, you would normally send a special form, called a questionnaire, to the employer. You can get this form from:

- a Jobcentre Plus; or
- the Equal Opportunities Commission if your claim is for sex discrimination or equal pay.

This form asks the employer to give more reasons for the treatment you received. For example, if you believe that you didn't get a job because of your sex, you can ask for details of:

- the employer's selection procedures; and
- the qualifications and experience of the person who got the job, to see how they compare with your own.

If you believe you may not be receiving equal pay, this form will also help you find out whether this is the case and if so, why.

You must send the form to the employer within three months of when the discrimination happened (or no more than 21 days after your complaint was received by the employment tribunal).

You don't have to use the questionnaire procedure, but it will normally help your case. In the same way, the employer doesn't legally have to fill in the form, but if they don't, it may harm their case. And if you do use it, you can still choose to withdraw your complaint before your case is dealt with.

If you, or your employer, are unhappy about how the tribunal reached its decision, you may be able to appeal to the Employment Appeals Tribunal. But you can appeal only on whether the law was applied correctly, not on whether you thought the tribunal's decision was fair. You have 42 days after the decision to lodge an appeal.

Dealing with other types of discrimination

You should take your claim to the county court if you have been discriminated against because of your sex, and it was about:

- buying or renting a house or flat;
- going to school or university; or
- buying and using goods and services.

The Equal Opportunities Commission can give you help and advice. It can also advise you how to deal with a complaint, including going to a tribunal or to court.

See 'Further help' on page 23 for contact details.

Going to court

If you want to take a case to court, you must start your case within six months less one day from when the discrimination happened. The court can give you copies of the claim form N1 and more information about procedures.

How to pay for your case

If you are claiming more than £5,000, you need to think carefully about how you will pay for your case, because the costs can be very high. If you cannot afford to pay for court action yourself, there are several ways you may be able to pay for your case:

- If your claim is for sex discrimination or equal pay, the Equal Opportunities Commission may take on your case, for example, as a 'test case'.
- You may be able to get funding from the Community Legal Service (formerly called Legal Aid), provided you meet certain conditions. See 'The Community Legal Service' on page 23 for how to find out more about this.
- You may be able to find a solicitor who will take on your case under a 'no-win, no-fee' agreement. See the Community Legal Service leaflet 'No-win, no-fee actions' for more about this.

The Human Rights Act

The Human Rights Act 1998 covers many different types of discrimination – including some that are not covered by other discrimination laws. However, this law can be used only when one of the other 'articles' (the specific principles) of the act applies, such as the right to 'respect for private and family life'.

Also, rights under the Act can only be used against a public authority (for example, the police, a local council or Jobcentre Plus), and not a private company. However, court decisions on discrimination will generally have to take into account what the Human Rights Act says. For more on this, see the Community Legal Services leaflet, 'The Human Rights Act'.

Discrimination because of your age

There are currently no laws to stop people or organisations from discriminating against you because of your age. At work, for example, employers are allowed to take into account people's ages when recruiting, or when choosing workers for promotion or redundancy. If you are under 65 and have worked for an organisation for at least two years, you are legally entitled to redundancy pay. But an employer can insist that you retire when you reach a certain age (usually 60 or 65).

The 'Code of Practice on Age Diversity in Employment' is a set of government guidelines about how employers should not discriminate because of age. It is not law, but it sets out what employers should do to be fair to people of all ages in:

- recruitment;
- promotion;
- training;
- making staff redundant; and
- dealing with retirement.

It covers things like how jobs are advertised and how interviews are carried out. See 'Further help' on page 23 for how to find out more about the Code.

If you are already in work, your employer may also have their own equal opportunities policy which covers age discrimination. If they do, and they don't follow it, they could be breaking your contract of employment, and you could bring a claim either through an employment tribunal, or through the courts.

Early in 2001 the Government announced it would be introducing laws on age discrimination at work, to keep to the European Union Equal Treatment Directive. This is meant to stop discrimination in all European Union countries. But these new laws are not due to come into force until December 2006.

However, if you think you were dismissed or made redundant unfairly because of your age, you can still take a case of unfair dismissal to an employment tribunal or to court under the Employment Rights Act (see 'Going to an employment tribunal' on page 19). If you were a public-sector employee (that is, you worked for the Government or a local council, for example) you may also have a claim under the Human Rights Act (see 'The Human Rights Act' on page 21).

Further help

Community Legal Service Direct

A free, easy-to-use service to help you solve your legal problems.

Call: 0845 345 4 345

to speak to a qualified legal adviser about Welfare Benefits, Debt or Education or find local advice services for other problems.

Log on at: www.clsdirect.org.uk to search for a quality local legal adviser or solicitor or find links to other sources of online information and help.

Equal Opportunities Commission

phone: 08456 015 901

www.eoc.org.uk

Advisory Centre for Education (ACE)

For advice on discrimination in schools
Helpline open Monday to Friday 2–5pm
phone: 0808 800 5793
www.ace-ed.org.uk

The Advisory, Conciliation and Arbitration Service (ACAS)

To find your nearest public enquiry point
phone: 08457 47 47 47
www.acas.org.uk

Age Concern

phone: 0800 00 99 66
www.ace.org.uk

Employment Tribunal Service

Employment Tribunal enquiry line
08457 95 9775
www.employmenttribunals.gov.uk

The Gender Trust

For transgender people
phone: 07000 790 347
www.gendertrust.org.uk

Stonewall

For lesbians, gay men and bisexual people
phone: 020 7881 9440
www.stonewall.org.uk

Terrence Higgins Trust Lighthouse

For people living with HIV or AIDS
phone: 0845 12 21 200
www.tht.org.uk

Third Age Employment Network

phone: 020 7843 1590
www.taen.org.uk

For the Code of Practice on Age Diversity in Employment, contact the Age Positive Team within the Department for Work and Pensions
phone: 0845 330 360

The Community Legal Service

The Community Legal Service has been set up to help you find the right legal information and advice to solve your problems.

You can get help through a national network of organisations including Citizens Advice Bureaux, Law Centres, many independent advice centres and thousands of high street solicitors. All of these services meet quality standards set by the Legal Services Commission. Look for the Community Legal Service logo, shown below.

Many of the organisations offer some or all of their services for free. If you cannot afford to pay for advice you may be eligible for financial support through the Community Legal Service Fund (Legal Aid). You can order leaflets about funding from the LSC Leaflet line on 0845 3000 343. You can also use a Legal Aid eligibility calculator on the CLS Direct website at www.clsdirect.org.uk

*Community
Legal Service*



The Legal Services Commission (LSC)

The Community Legal Service and the Community Legal Service Fund are managed by the Legal Services Commission. To find out more about us visit our website at www.legalservices.gov.uk or find the details for your local Legal Services Commission office in the phone book.

legal services

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The leaflets are also available online at: www.clsdirect.org.uk

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 - 2 Employment
 - 3 Divorce and Separation
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 - 5 Buying and Selling Property
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 - 21 Immigration and Nationality
 - 22 Mental Health
 - 23 Alternatives to Court
 - 24 Family Mediation

The leaflets are also available in Welsh, Braille and Audio

To order any of these leaflets contact the LSC leaflet line on **0845 3000 343** or email LSCleafletline@stivesdirect.com or Fax 01732 860 270



This leaflet is published by the Legal Services Commission (LSC). It was written in association with Sara Leslie



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