

Who is this for? LSC staff | LSC provider partners | The general reader

DISCRIMINATION: DEFINITIONS & EXAMPLES

The definitions of discrimination defined within this briefing are applicable to all six equality strands:

- Age
- Disability
- Gender
- 'Race'
- Religion or belief
- Sexual orientation.

Four different types of discrimination are commonly referred to throughout equality legislation and policy:

- Direct discrimination
- Indirect discrimination
- Harassment
- Victimisation.

Direct discrimination

Direct discrimination occurs when a person is treated either more or less favourably than others because of either:

- Her/his social identity; or
- The social identity of the person making the decision or taking action.

Indirect discrimination

Indirect discrimination occurs where criteria, provision or practice is applied to all but has a differential impact on one or more social groups. What distinguishes indirect or 'unwitting' discrimination from direct is that there may be no malicious intention to discriminate.

EXAMPLES | DIRECT DISCRIMINATION

Name calling.	Refusal to accept a service from – or provide a service to – someone because of their identity.
Attempting to justify the recruitment of staff on the basis of perceptions about what customers or clients want.	Failure to deal with issues of access to (and within) a building.

IN PRACTICE

A couple have booked the honeymoon suite and an evening buffet for eight friends in a small rural hotel. When John and James Smith-Jackson go to confirm the booking and decide upon the menu the owner-manager apologises that, unfortunately, their booking cannot be confirmed because of a misunderstanding. He says to the couple: "This is a family hotel, unsuited to your requirements."

EXAMPLES | INDIRECT DISCRIMINATION

Making 'experience' a requirement for a job without proper justification.	Routine and inflexible timetabling of senior management meetings during breakfast and twilight hours.
Making it essential that job applicants speak English as their 'mother tongue'.	Always organising staff socials outside of working hours.

IN PRACTICE

A local department store advertises for a lingerie department manager. A male applicant is not short-listed. When he phones for feedback on his application, which he did because he felt he met the job specification in full, he is told that the position is only suitable for a woman as the department offers a bra measuring service.

Harassment

Harassment is unwanted conduct that either violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment. This also covers harassment by work colleagues and third parties such as learners, employer partners and/or clients. It is not the intention of the perpetrator that defines whether a particular type of conduct is harassment but rather the effect it has on the recipient or observer.

Victimisation

A person is victimised when they are treated less favourably because they have either:

- Made a complaint about harassment or discrimination; or
- Given evidence on someone else's behalf.

EXAMPLES | HARASSMENT

Creating a 'toxic' working environment, e.g. constant criticism, setting impossible deadlines, shouting and coercion.	Unwelcome remarks about, for example: a person's dress, appearance, ethnicity, marital status, beliefs and relationships.
Sharing/display of offensive materials, jokes.	Any physical contact that is unwanted or inappropriate.

IN PRACTICE

Within a staff team one employee has been subject to nasty comments since her colleagues discovered that her boyfriend is a Muslim.

EXAMPLES | VICTIMISATION

Refusal to consider someone for promotion because they previously made a complaint about the discriminatory behaviour of the company towards a colleague.	Producing an unfavourable reference for a previous employee who took the company to an employment tribunal.
As a result of making a complaint an employee receives fewer invitations to company events, less access to resources or diminished training opportunities.	Since making a formal complaint an employee has been overloaded with work and given an unfair share of the least desirable tasks.

IN PRACTICE

An employee has made a complaint accusing his manager of racism. He is waiting for the tribunal hearing and in the interim he has applied for a pay rise. During his appraisal with the director of the company she questions his loyalty to the firm given his pending legal case.

GENUINE OCCUPATIONAL QUALIFICATION (GOQ)

In very limited cases it is lawful for an employer to be specific about the social identity of the employee required for the job (i.e. to be directly discriminatory). This can only be justified where there is solid evidence that this is a necessity. For further clarification see Department for Business, Enterprise and Regulatory Reform (formerly the Department of Trade and Industry) – www.berr.gov.uk

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