

## Answering your employee

If an employee or worker believes they have been discriminated against at work, they might send you a statement by email or letter explaining what happened and asking you some questions. They might ask their trade union representative to send the statement on their behalf.

As an employer, you should take any complaint seriously. You should follow the steps below if an employee, worker or their trade union representative sends you a statement and asks questions about possible discrimination.

By law you do not have to answer their questions about discrimination. However, you should do so to try to resolve the problem and avoid possible legal action.

If the employee or worker makes a claim to an employment tribunal, the judge might use your answers as evidence. If you did not provide a response, the tribunal might also take that into account.

### What you should do

You should:

- reply as soon as possible to the statement – if you cannot meet any deadline set by the employee or worker, let them know and agree an alternative date
- carefully consider the most appropriate way to respond to avoid a possible claim to an employment tribunal
- talk to the employee, worker or their trade union representative about ways to resolve the dispute
- send the answers to the employee, worker or their trade union representative in the way they requested, for example by post or email
- keep a record of how you responded

### Make sure you do not treat someone differently or less favourably

You must not treat the employee or worker differently or less favourably as a result of them sending you the statement and questions. For example, by refusing to promote them or not inviting them to social events they would usually be invited to.

This could be victimisation. This is against the law (Equality Act 2010) and the employee or worker could make a claim to an employment tribunal. It could also affect someone's wellbeing and damage the working relationship.

## Step 1: Read and investigate the person's statement and questions

Read the person's statement. This will probably include:

- a description of what's happened to them
- what type of discrimination they think they've experienced
- any questions they have

Get as much information as you reasonably can. For example, you might need to carry out a [workplace investigation](#).

## Identifying the type of discrimination

Investigating the issues raised might help you identify whether the behaviour the employee or worker experienced was discrimination and against the law (Equality Act 2010).

Discrimination can include:

- [direct discrimination](#)
- [indirect discrimination](#)
- [harassment](#)
- [victimisation](#)

The discrimination will also relate to at least one of the [9 protected characteristics](#):

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race (including colour, nationality, ethnic and national origin)
- religion or belief
- sex
- sexual orientation

If you need some help to understand the different types of discrimination, you can contact:

- [Acas helpline](#)
- [Equality Advisory and Support Service \(EASS\)](#)

## When a decision based on a protected characteristic might not be discrimination

In certain circumstances under the law an employer might be able to make a decision based on a protected characteristic. Ways they can do this include:

- [positive action](#)
- [objective justification](#)
- [occupational requirement in recruitment](#)

## Step 2: Respond to the employee or worker

Consider the information you have found out through your investigation and:

- confirm if you agree, partially agree or disagree with the employee or worker's description of the events
- answer all of their questions, sharing as much information as you can

You should send your response back to the employee or worker in the way they requested it, for example by email, letter or through their trade union representative. You can also have a meeting with them in person to go through your response if they want to.

If you do not understand the person's questions, ask them for more information.

If you decide not to answer a question, explain why.

If the employee or worker has asked you to provide statistics or policies, you should give them as much information as you can. For example they might ask you to provide:

- information on the percentage of the workforce who are men or women
- copies of recruitment or equality and diversity policies

## Sharing sensitive or confidential information

If any of the information requested is commercially sensitive or confidential, you should make sure it does not identify the people involved.

Explain your reasons if you're unable to provide this information. For example, you might only be able to disclose confidential information with the consent of the person involved, or because of a legal duty. Make sure you follow data protection law (UK GDPR).

## Example of good practice: dealing with a complaint of religion or belief discrimination

Every Thursday after work Jay's manager takes everyone to the pub for a drink. Everyone on the team drinks alcohol except Jay.

Jay is Muslim, which means they are not allowed to drink alcohol. Having all team socials at the pub makes Jay feel uncomfortable and excluded. Jay will often make excuses to not go to the pub and on Friday mornings feels out of the loop and isolated from the rest of the team.

Jay emails their manager some questions and explains why they think having all team socials at the pub could be indirect discrimination based on religion or belief.

Jay asks:

- what diversity training managers have been given
- if there is a policy on inclusive work socials and how to avoid discrimination
- if the organisation has diversity data about the workforce, specifically about people's religion and belief

Jay's manager investigates and invites Jay to a meeting to talk further. During the meeting Jay's manager explains:

- they have done diversity training but it was a long time ago
- they do not have a policy on inclusive work socials
- nobody has asked about diversity information for the workforce before and they do not have it

Jay explains why socialising with alcohol makes them feel like they are isolated from the team and unable to participate fully. Jay explains that they do not expect socials to stop being held at the pub but would like socials to be more varied.

Jay's manager explains that they did not appreciate this would be a concern, but they understand how Jay feels. Together they agree managers need refresher training on diversity and inclusion and that socials should be varied and not always be centred around alcohol.

This solution means:

- managers are given further training which includes how to make sure everyone is included in team socials
- the organisation takes advice about diversity monitoring and creates a diversity monitoring form
- managers are told to make sure social events are varied and not always centred around alcohol

Related content

[Answering questions about equal pay](#)

[Handling a discrimination complaint](#)