

Indirect discrimination

Indirect discrimination is when a working practice, policy or rule is the same for everyone but has a worse effect on someone because of a 'protected characteristic'.

By law (Equality Act 2010), indirect discrimination applies to these protected characteristics:

- age
- disability
- gender reassignment
- marriage and civil partnership
- race
- religion or belief
- sex
- sexual orientation

Indirect discrimination can be less obvious than [direct discrimination](#). It might not always be someone's intention to discriminate.

What indirect discrimination means

By law, indirect discrimination is when a working practice, policy or rule is the same for everyone in a group, and:

- it would put people who share a protected characteristic at a disadvantage
- it puts someone personally at a disadvantage
- the employer cannot justify the course of action

'Share a protected characteristic' does not always mean everyone with the characteristic. For example it could mean:

- people with a particular disability – for example anyone with an equivalent level of visual impairment, not disabled people as a whole
- people of the same age or age group
- people who share an aspect of race – for example all South East Asian people

Someone without a particular protected characteristic might experience indirect discrimination. This would be where a working practice, policy or rule causes them the same disadvantage as someone with the protected characteristic.

Examples of working practices, policies and rules

Working practice, policies and rules can include things like formal and informal policies, decisions and ways of working. They are not always written down.

The legal phrase is 'provision, criterion or practice'.

For example:

- decisions around workplace facilities – for example toilets, rest areas and canteens
- dress codes
- policies on ways of working – for example flexible working or working from home
- selection criteria used in recruitment
- the way employees are selected for redundancy
- working hours

Who the working practice, policy or rule must apply to

The working practice, policy or rule must apply to everyone in a group.

The group could be everyone in your organisation or any other grouping of workers, for example everyone in a particular role or team.

This includes:

- current workers
- people it would apply to in the future, for example job applicants
- anyone who would be affected by something an organisation is proposing to introduce

When indirect discrimination might be justified

An employer might need to make certain decisions that lead to indirect discrimination. This may be legal if there is 'objective justification'.

Under the law, there can be objective justification if an employer can prove both of the following:

- there's a 'legitimate aim', such as a genuine business need or a health and safety need
- the discrimination is 'proportionate, appropriate and necessary' – this means the legitimate aim is more important than any discriminatory effect

Financial reasons alone are unlikely to justify discrimination. The more the action discriminates, the more difficult it is for an employer to prove it's within the law.

Employers should always check whether there's another way to achieve their aim that either:

- does not discriminate
- discriminates less

[Find out more about objective justification](#)

Example of indirect sex discrimination

A business is recruiting for a head of sales. In line with their usual recruitment policy, they only advertise the job internally. The only people who could apply internally are all men. The business does not intend to discriminate. But it could still be indirect discrimination based on sex.

Example of indirect age discrimination

A job advert for a salesperson says applicants must have spent 10 years working in retail. The business could be discriminating indirectly based on age. This is because the advert excludes younger people who might have the skills and qualifications needed.

The advert should instead say that applicants need a specific type of experience and knowledge. It should also include the main tasks and skills involved in the job, to show applicants what they'll need to be able to do.

Example of when discrimination might be justified

A manufacturer needs to make some redundancies. They do a lot of business with suppliers in India. The employer decides to keep at least one team member who speaks Hindi.

This might discriminate against people not of Indian heritage. However, it could be legal if there's a genuine business need that cannot be resolved with a less discriminatory approach.

The employer considers training others to speak Hindi. They decide it would take too long for them to speak the language fluently.

Example of discrimination when someone does not have a protected characteristic

A business owner is prejudiced against people of Polish origin. They avoid recruiting people from a particular postcode area because a lot of Polish people live there.

This practice indirectly discriminates against Polish people. It could also indirectly discriminate against people who are not Polish but live in the same area. This is because they would be at the same disadvantage.

Find more examples

Read more examples of indirect discrimination in our advice on:

- [age discrimination](#)
- [disability discrimination](#)
- [gender reassignment discrimination](#)
- [marriage and civil partnership discrimination](#)
- [race discrimination](#)
- [religion or belief discrimination](#)
- [sex discrimination](#)
- [sexual orientation discrimination](#)

Pregnancy and maternity discrimination

Indirect discrimination does not apply to the protected characteristic of pregnancy and maternity. However, putting someone at a disadvantage because of pregnancy or maternity is likely to be indirect sex discrimination.

Examples of this could include:

- not providing facilities for breastfeeding or expressing breast milk
- an employer refusing a flexible working request from a new mother without having a genuine business reason

What you can do

If you think you've been discriminated against at work, you should raise the issue with your employer. You can raise the problem informally or formally.

If you're an employer, you should take any complaint of discrimination very seriously and look into it as soon as possible. You must follow a full and fair procedure.

If you think someone else at work is being discriminated against, there are actions you can take.

Find out more about:

- [what to do if you've experienced discrimination](#)
- [how employers should handle a discrimination complaint](#)
- [witnessing discrimination](#)

Get more advice and support

You can contact the:

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

You can find more detailed legal guidance on the Equality Act 2010 in the [Employment: Statutory Code of Practice from the Equality and Human Rights Commission](#).