

## Objective justification

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

Under the law, there can be objective justification if the 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

Only the following types of discrimination can be justified in this way:

- [indirect discrimination](#)
- [discrimination arising from disability](#)
- ordinary direct discrimination because of age – [find out more about age discrimination](#)

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 that either:

- does not discriminate
- discriminates less

Before making a decision that relates to a protected characteristic, employers should consider [getting legal advice](#).

[Find out about using objective justification in recruitment](#)

### Example when there's indirect discrimination

A manufacturer that does much of its business with suppliers in India needs to make some redundancies in its buying team.

The employer decides they need to keep at least 1 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 whether training others to learn Hindi could be an option. They decide it would take too long for them to speak the language fluently.

### Example when there's discrimination arising from disability

A surgeon employed at a private hospital has been diagnosed with a medical condition that means they're losing their eyesight and it will get worse. For this reason, their employer reviews the situation and decides they need to stop them performing operations.

The employer can justify this because patient safety is a legitimate aim. However, they should make their best efforts to find the surgeon an alternative role in the hospital.

## **Example when there's direct discrimination because of age**

A 17-year-old working a day shift applies to work a night shift.

Their employer checks the law and has to turn their application down because the legal minimum age for night work is 18 years old.

The employer can justify this decision based on age because they must follow the law.