

# Sexual orientation discrimination

## 1 . What the law says

Sexual orientation is one of 9 'protected characteristics' covered by discrimination law (Equality Act 2010).

Sexual orientation discrimination includes direct and indirect discrimination, harassment and victimisation.

Discrimination can happen in any area of work. It can result from decisions made at work or from how people behave towards each other. This includes homophobic language and behaviour.

It could be a regular pattern of behaviour or a one-off incident. It can happen in the workplace, at work social events or when people are working remotely.

## Terms used around sexual orientation

The language around sexual orientation changes over time. Terms that some people are comfortable with might be offensive to others.

In this advice, we use the terms gay, lesbian, heterosexual and bisexual. We also use the terms sexuality and sexual orientation.

There are many other terms people use to describe their sexual orientation. We mention some of them in this advice.

## How the law defines sexual orientation

The Equality Act 2010 defines sexual orientation as a person's sexual orientation towards:

- people of the same sex
- people of the opposite sex
- people of either sex

This means being gay, lesbian, heterosexual or bisexual.

The law might not reflect the language people now use to describe their sexuality.

People with other sexual orientations might still be protected by discrimination law. This could be if they experience less favourable treatment because of their sexual orientation.

## Who is protected by discrimination law

At work, the law protects the following people against discrimination:

- employees and workers
- contractors and self-employed people hired to personally do the work

- job applicants
- former employees

## Understanding more about discrimination

[Find out about the different types of sexual orientation discrimination](#)

If you need more general discrimination advice, you can read [discrimination and the Equality Act 2010](#). This includes advice on employer responsibilities and on other protected characteristics.

## Contact the Acas helpline

If you have any questions about sexual orientation discrimination at work, you can [contact the Acas helpline](#).

## 2. Types of discrimination

Sexual orientation discrimination includes:

- direct discrimination
- indirect discrimination
- harassment
- victimisation

It's important to understand the different types of discrimination. This is so you know what your rights and responsibilities are under discrimination law (Equality Act 2010).

For full definitions of each type of discrimination, read our advice on [discrimination and the Equality Act 2010](#).

### Direct discrimination

Direct discrimination is when someone is put at a disadvantage or treated less favourably because of:

- their sexual orientation
- the sexual orientation of someone they have a connection with – this is called 'discrimination by association'
- their 'perceived' sexual orientation, which means thinking someone has a particular sexual orientation when they do not – this is called 'discrimination by perception'

[Read the full definition of direct discrimination](#)

### Example of direct discrimination

Lee, who is gay, applies for a promotion but does not get it. The employer thinks that people would not like being managed by someone who's gay. So the employer gives the job to someone else, even though Lee was the best candidate. This is direct discrimination.

### Example of discrimination by association

Nicky's daughter is married to a woman. When Nicky's manager hears this, they treat Nicky differently. Nicky gets the worst shifts and does not get a bonus they had been promised. Nicky is heterosexual. The discrimination is because of the connection with their

daughter.

## Example of discrimination by perception

Jaz is close friends with someone who's gay. People at work talk about Jaz's sexuality and wrongly believe that Jaz is gay. Their manager is prejudiced against gay people so gives Jaz all the worst jobs. Jaz is heterosexual so this is discrimination by perception.

## Indirect discrimination

Indirect discrimination is when a working practice, policy or rule applies to everyone but puts a person or group at a disadvantage because of their sexual orientation.

[Read the full definition of indirect discrimination](#)

## Example of indirect discrimination

An employer offers a week's holiday as a reward for its highest performing salesperson. The holiday is in a country where same-sex relationships are illegal. It's likely that gay, lesbian and bisexual employees will not feel able to accept the reward. This is likely to be indirect discrimination.

## When discrimination might not be against the law

In certain circumstances, an employer might be able to make or justify a decision based on sexual orientation.

An employer can make a decision that directly discriminates if:

- it's positive action – to address a situation where employees with a particular sexual orientation are at a disadvantage or underrepresented
- there's an occupational requirement – when having or not having a particular sexual orientation is vital for a job

An employer can justify a decision that indirectly discriminates if there's 'objective justification'. The employer must be able to prove both of the following:

- there's a 'legitimate aim'
- the discrimination is 'proportionate, appropriate and necessary'

This is a complex area of law. An employer should consider getting advice before making any decision.

Find out more about:

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

## Harassment

Harassment is when someone experiences unwanted behaviour related to sexual orientation.

To be harassment, the unwanted behaviour must have either:

- violated someone's dignity

- created an intimidating, hostile, degrading, humiliating or offensive environment

Examples include:

- homophobic or other offensive language
- inappropriate comments and jokes
- disclosing someone's sexual orientation without their consent
- threats
- abusive emails
- physical assault

Someone might also experience sexual harassment. This is unwanted behaviour of a sexual nature. Examples can include:

- sexualised comments or jokes directly related to someone's sexual orientation
- inappropriate questions about someone's sex life

Find out more about:

- [the full definition of harassment](#)
- [sexual harassment](#)

### Example of harassment directed at a specific person

Kim is bisexual. Someone at work keeps making comments about Kim's sexuality in front of everyone. Kim asks them to stop but they say they're only joking. Kim's manager says just to ignore it. Kim finds this humiliating and offensive.

### Example of harassment not directed at a specific person

During a training course, a trainer uses homophobic language and makes negative comments about same-sex couples. People on the course find this offensive. They could make a harassment complaint, even though the comments are not directed at a specific person.

### When harassment can be a crime

Harassment because of sexual orientation can sometimes be a crime. For example if someone has experienced a hate incident like:

- physical or verbal abuse
- threats of physical violence
- online abuse
- damage to their property

[Find out more about hate crime at work](#)

## Victimisation

Victimisation is when someone is treated less favourably as a result of being involved with a discrimination complaint.

It does not matter if the complaint was made by them or someone else.

The law also protects someone from victimisation if someone else thinks they're involved with a complaint.

Ways someone can be victimised include being labelled a troublemaker, being left out, or not being allowed to do something.

[Read the full definition of victimisation](#)

## Example of victimisation

George is invited to a work event where employees are encouraged to bring partners. However, a company director suggests George's husband should not come. The director says some clients will not welcome a gay couple. George makes a discrimination complaint at work. After this, George is no longer invited to work events. Some senior staff are heard blaming George for causing trouble. This is victimisation.

## Contact the Acas helpline

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## 3. Making and handling complaints

If someone has experienced or witnessed sexual orientation discrimination at work, they can make a complaint to their employer. The employer should take it seriously and look into it as soon as possible.

Sexual orientation discrimination can be very distressing. It can have a severe impact on someone's mental health and wellbeing.

Employers should make sure that:

- employees know how to report homophobic behaviour and other discrimination
- anyone who's experienced or witnessed discrimination feels safe, protected and supported
- anyone accused of discrimination is treated in an impartial and fair way

## If you've experienced discrimination

If you believe you've experienced discrimination related to sexual orientation, you can make a complaint to your employer.

You should make a complaint as soon as possible. But if you make a complaint a long time after an incident has taken place, your employer should still take it seriously.

[Find out what to do if you've been discriminated against](#)

## Witnessing discrimination

If you think someone at work is being discriminated against because of sexual orientation, there are actions you can take.

This could include trying to stop it happening if you feel it's safe, supporting people or giving evidence.

Witnessing discrimination might also affect you personally. In some circumstances, you could make a harassment complaint yourself.

[Find out more about witnessing discrimination](#)

## Handling a discrimination complaint

If you're an employer or manager, you should look into any discrimination complaint in a way that's fair and sensitive to:

- the person who made the complaint

- anyone who witnessed it
- anyone accused of discrimination

[Find out how to handle a discrimination complaint](#)

Related content

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## 4. Preventing discrimination

All employers should take steps to try to make sure sexual orientation discrimination does not happen at work.

As an employer, you should aim for a culture where:

- everyone knows that sexual orientation discrimination is not acceptable
- people feel safe
- you recognise and promote the benefits of a diverse and inclusive organisation

[Find out more about improving equality, diversity and inclusion](#)

### Steps for preventing discrimination

Many ways to prevent discrimination apply equally to all 'protected characteristics'. You can find out more in our advice on [preventing discrimination](#).

Measures that can help to prevent sexual orientation discrimination include:

- stopping inappropriate behaviour
- using appropriate language
- being aware of unconscious bias and stereotypes
- knowing your responsibilities around confidentiality
- checking your policies
- appointing an LGBT+ champion
- setting up a staff LGBT+ network
- recognising the impact of discrimination on mental health and wellbeing

LGBT+ stands for lesbian, gay, bisexual, and transgender, plus other groups.

If you're a small organisation with limited resources, there's still a lot you can do to prevent discrimination. Making your organisation more inclusive does not have to be costly or complicated.

If you're a public sector employer, you also have legal responsibilities under the [public sector equality duty](#).

### Stopping inappropriate behaviour

You should make it clear that homophobic behaviour and language is not acceptable. This includes things some might consider as 'banter' or jokes.

Managers should:

- be a good example of inclusive behaviour for others to follow

- use appropriate language
- look out for discriminatory behaviour
- deal with any discrimination that happens

If your managers allow discrimination to happen, they are also discriminating.

For example, a manager hears some of their team telling jokes that are homophobic. The manager knows this is not appropriate and some people could be offended. But nobody complains so they decide to do nothing about it. By not tackling this, the manager is also discriminating.

A manager might be able to handle a problem informally. For example, talking to someone about appropriate language might be enough. If this does not work, managers should be prepared to take formal action.

As an employer, you should support your managers to tackle problems. If you do not take discrimination seriously, managers will not be able to stop it from happening.

## Using appropriate language

It's important to be sensitive and respectful in the terms you use around sexual orientation.

Terms people might use include:

- asexual
- bisexual or bi
- heterosexual or straight
- homosexual
- gay
- lesbian
- pansexual
- queer
- questioning

Some people do not like some of these terms. There's no term that everyone will prefer. Language around sexuality also changes over time.

Be open to talking about the terms your employees prefer to use. Some people might use terms that others do not like. For example:

- some people describe themselves as queer but other people find the term offensive
- some women describe themselves as lesbian and others prefer to say they're gay
- some people are comfortable with the term 'straight' but others find it offensive

Sometimes, people can accidentally cause offence because of the language they use. If they have not done it on purpose, talking to them about what's appropriate might be all that's needed. However, you should not excuse deliberately offensive behaviour in this way.

Find out more about terms people might use:

- [MindOut's sexual orientation glossary](#)
- [Stonewall's list of terms](#)

## Being aware of unconscious bias and stereotypes

Discrimination is not always intended. It can happen when decisions or behaviour are based on assumptions. It's important to be aware of:

- [unconscious bias](#) – when someone's thoughts or decisions are influenced by beliefs or assumptions they might not be aware of
- stereotyping – having a fixed view of what someone's like or what they can do because of their sexual orientation

## Knowing your responsibilities around confidentiality

Sexual orientation is sensitive personal data under the General Data Protection Regulation (UK GDPR).

People might want to keep their sexual orientation confidential. You must respect their choice.

Disclosing someone's sexual orientation at work, without their consent, would be a data breach.

Disclosing someone's sexual orientation to their family or friends could be a breach of confidentiality and trust. For example if the employee has not told people outside of work.

These breaches could be very distressing. They could also lead to someone being discriminated against.

## Checking your policies

You should check all relevant policies to make sure they do not discriminate. For example, policies around:

- work-related rules or benefits for couples
- maternity, paternity, adoption and shared parental leave

## Appointing an LGBT+ staff champion

An LGBT+ staff champion is someone who's committed to promoting equality and tackling sexual orientation discrimination.

They should be:

- willing and able to give time to the role
- senior enough to be able to influence decision-makers and make sure actions are taken

Their role could include:

- chairing a staff network
- keeping up to date with law and good practice
- raising issues that need addressing at a senior level

## Setting up a staff LGBT+ network

A staff LGBT+ network is a formal group for LGBT+ staff and their allies to:

- share experiences
- support each other
- raise issues that need addressing

An ally is someone who is not LGBT+ but wants to help make sure that their organisation is inclusive. They can be from any part of an organisation, working at any level.

If you have a staff network, make sure you support it. This includes:

- giving people the time to be involved
- actively listening to concerns raised
- taking steps to resolve issues

## Supporting mental health and wellbeing

Sexual orientation discrimination can seriously affect someone's mental health and wellbeing. It can lead to someone feeling threatened and unsafe. It can also have an impact on their attendance and work performance.

If something happens to someone outside of work, they might still need support at work.

As an employer, you have a 'duty of care'. You must do all you reasonably can to support the health, safety and wellbeing of employees.

You do not have to be a mental health expert. But there are resources and support you can offer.

[Find out more about supporting mental health at work](#)

## Get more advice and support

If you need help to deal with any challenges in your organisation, you can:

- [contact the Acas helpline](#)
- [get tailored support for your organisation](#)
- talk to your recognised trade union, if you have one