

Types of age discrimination

Age 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 age
- their 'perceived' age, which means thinking someone is a particular age when they are not – this is called 'discrimination by perception'
- the age of someone they have a connection with – this is called 'discrimination by association'

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

Example of direct discrimination

Pat is 55 and asks to do a management skills course to improve their chance of promotion. The manager refuses. They believe that it's not worth investing in someone who might be retiring in a few years. This is direct discrimination.

Example of discrimination by perception

Jaz is 25 but looks younger. Their manager thinks they do not look old enough to be a supervisor and rejects them for a job interview. Jaz has the skills and experience needed for the job so this is discrimination by perception.

Example of discrimination by association

Nicky is married to a much older partner. When Nicky's manager hears this, they treat Nicky differently. Nicky does not get invited to work events where partners are invited. Their manager thinks their partner would not fit in. The discrimination is because of the connection with their partner.

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 age.

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

Example of indirect discrimination

An employer advertises for a 'recent graduate'. It's likely that recent graduates will be younger workers. So older workers are disadvantaged by this requirement. This is likely to be indirect discrimination.

Harassment

Harassment is when someone experiences unwanted behaviour related to age.

To be harassment, the unwanted behaviour must have either:

- violated someone's dignity
- created an intimidating, hostile, degrading, humiliating or offensive environment

It can be harassment if the behaviour:

- has one of these effects even it was not intended
- was intended to have one of these effects even if it did not have that effect

Examples include:

- ageist or other offensive language
- inappropriate comments and jokes
- threats
- abusive emails
- physical assault

[Read the full definition of harassment](#)

Example of harassment directed at a specific person

Kim is the oldest person in the team. In team meetings people usually stand but the manager keeps offering Kim a seat. Kim asks their manager to stop but they say they're only trying to help. Kim finds this humiliating because it feels like a silent comment on their age. This could be harassment related to age.

Example of harassment not directed at a specific person

Sam is 39. Their manager often makes ageist jokes about older workers. Instead of asking for the behaviour to stop, some of the others in the team join in.

Sam feels very uncomfortable in this work environment. This could be harassment, even though the behaviour is not directed at them.

When harassment can be a crime

Harassment because of age 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

In Scotland hate crime law covers age-related incidents. In England and Wales it does not.

[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

Charlie's an 18 year old apprentice. Some older workers think it's funny to leave children's toys on Charlie's desk as a 'practical joke'. Charlie talks to their manager as they want this to stop. The manager says the organisation does not want people who cannot sort things out for themselves. They suggest ending the apprenticeship. This is likely to be victimisation.

When discrimination might not be against the law

In some circumstances, an employer might be able to make or justify a decision based on age.

An employer can make a decision that directly discriminates if:

- it's positive action – to address a situation where workers with a protected characteristic are at a disadvantage or underrepresented
- there's an occupational requirement – when being a particular age 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. Before making any decisions find out more about:

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

Special rules for age

In some circumstances, a decision based on age is not unlawful. Examples include:

- paying the minimum wage – National Minimum Wage rates depend on a person's age
- where the law says what age someone must be – for example, anyone selling alcohol must be 18 or over
- an occupational retirement age – such as for someone in the police or fire service
- statutory redundancy pay – which is based on age and length of service
- contractual redundancy pay – if it follows the same rules as the statutory scheme

Find out more about:

- [National Minimum Wage](#)
- [retirement](#)
- [redundancy pay](#)

Example of when a decision can be based on age

An employer is making redundancies and intends to offer enhanced redundancy pay. They use the same length of service and age criteria as for statutory redundancy pay. They then increase all payments by 50%. Although older people will be paid more, this is not age discrimination.

Pay and benefits related to length of service

Employers can offer additional pay and benefits linked to up to 5 years' service. Additional pay and benefits linked to more than 5 years' service would need to be objectively justified.

Contact the Acas helpline

If you have any questions about age discrimination, you can [contact the Acas helpline](#).