

## 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

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