

What is discrimination?

The discrimination legislation will prohibit several different kinds of discrimination.

Direct discrimination

Direct discrimination is treating someone less favourably than another person (or people) in a similar situation or circumstances. The reason for the different treatment must be clearly linked to one or more of the grounds of protection listed above for it to be unlawful. For example, if an employer refuses to shortlist a well-qualified candidate because they are a carer.

Discrimination by association

Discrimination by association is when someone is treated less favourably than another person (or people) in a similar situation or circumstances because of their association with another person who has a protected ground. For example, if a child is discriminated against because of the nationality of their parents (even if the child does not have that nationality).

Indirect discrimination

Indirect discrimination is putting rules or arrangements in place that equally apply to everyone, but that put a person or group of people at a disadvantage compared with other persons because of any of the protected grounds. It can be lawful to have specific rules or arrangements in place which lead to a disadvantage, as long as they can be objectively justified. For example, a job advert says that people need to be over a certain height to get the job. Some disabled people will experience restricted growth, meaning that they are shorter than average heights. If challenged then the employer would need to show that the height requirement was objectively justified. This means the employer would be asked what the aim of the height requirement was, and if there was another way of doing things that would meet this aim that would not put people with restricted growth at a disadvantage. If the height requirement really was the best way to do things, the employer could keep applying it.

Discrimination arising from disability

Discrimination arising from disability is when a person is treated unfavourably because of something arising from their disability. This might be, for example, that they are treated less favourably because of a behaviour arising from a disability, or the side effects of medication taken associated with a disability; or it might be that they are treated less favourably because they have an assistance animal. An employer or service provider can treat a person less favourably in relation to something arising from their disability if this can be objectively justified (as explained above for indirect discrimination). They also will not be considered to

have discriminated if they couldn't reasonably be expected to know that the person was disabled.

Duties

There will also be additional duties under the new legislation and these will include the duty to make reasonable adjustments for disabled people.

Training is available to book on the [Consortium's website](#). Guidance documents will be available from Q4 2022.