

Fair treatment in recruitment

Have you been refused a job
because of your sex?



Women. Men. Different. Equal.
Equal Opportunities Commission

Equality and
Human Rights
Commission

equalityhumanrights.com

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Your rights

Many jobs are traditionally thought of as “men’s” or “women’s” work. But men and women have equal rights to recruitment and promotion opportunities.

You may have a claim under the Sex Discrimination Act 1975 (SDA) if you have been denied an interview, job or promotion and you think this was mainly because of your sex or because:

- You are pregnant.
- You work part-time.
- You are married or partnered.
- You failed to fulfil a job requirement that put members of your sex at an obvious disadvantage.

This applies whether you are seeking agency work, training or qualifications, professional work or partnership, an apprenticeship or subcontracting work.

Exceptions:

Occasionally, employers can specify the sex of a worker, e.g. for a support worker in a women’s refuge. For more information look for ‘Genuine Occupational Qualifications’ on www.equalityhumanrights.com or call our helpline on **0845 604 6610**.

It is not enough to show your treatment was unfair

To make a claim under the SDA, you need evidence of either direct or indirect discrimination.

Direct discrimination is less favourable treatment because of your sex – you need to show that ‘but for’ your sex, marital status, pregnancy or part-time status, you would not have been treated like this.

For **indirect discrimination** you have to show that a selection criterion, for example, length of service, ability to work full-time or a mobility requirement, put applicants of your sex or married or partnered people at a substantial disadvantage. The employer then has to prove it was necessary and appropriate for the post.

What can you challenge?

- Unfair and unnecessary selection criteria.
- Not being short-listed for interview.
- Being bypassed for a promotion or training opportunity.
- Being refused a post or apprenticeship where you were the best all-round candidate.
- Receiving demeaning and/or inappropriate treatment at interview.

Discrimination can occur in any of the following areas:

- Job description.
- Person or job specification.
- Job advertisement.
- Application form.
- Short list.
- Interview.
- Final selection.

What can you do?

- Internal candidates must raise a written grievance before taking a claim to an employment tribunal.
- If your complaint is not about your own employer, or you have raised a written grievance and are still unhappy, you can bring a claim at an employment tribunal up to three months from the date you found out the sex of the successful applicant.
- You will need evidence for a possible legal challenge. You should send the employer an SD74 questionnaire (available from www.equalityhumanrights.com or from Jobcentres) within three months from the date you think discrimination took place. This will enable you to ask questions about recruitment policy and procedures and your treatment, and will help to establish the facts.
- Once you have filed a tribunal claim, you have 21 days to send the SD74 questionnaire.

The Equality and Human Rights Commission gives information and advice about age, disability, gender, gender reassignment, race, religion or belief, and sexual orientation.

Other sources of information

For general advice, contact your trade union, if you have one.

Acas helpline: 08457 47 47 47
Website: www.acas.org.uk

Your local Citizens Advice or Welfare Rights office should also be able to help, or refer you to an adviser.

You can find your local CAB by visiting www.citizensadvice.org.uk if you live in England and Wales, and www.cas.org.uk if you live in Scotland.

This leaflet can be downloaded from our website:
www.equalityhumanrights.com

If you require this leaflet in a different format, for example large print, contact our helpline.

This leaflet was originally produced by the Equal Opportunities Commission which, from 1 October 2007, became part of the Equality and Human Rights Commission.

While every effort has been made to ensure that the information in this reprinted publication is correct, the Equality and Human Rights Commission cannot guarantee its current factual or legal accuracy, and cannot take responsibility for any loss arising out of its use.

Contact us:

You can find out more or get in touch with us via our website at: www.equalityhumanrights.com or by contacting our helpline:

Telephone: 0845 604 6610

Textphone: 0845 604 6620

Fax: 0845 604 6630

Mon, Tue, Thur, Fri: 9am–5pm.

Wed: 9am–8pm

Free, confidential advice and information

Calls from BT landlines are charged at local rates, but calls from mobiles and other providers may vary. Calls may be monitored for training and quality purposes. Interpreting service available through Language Line, when you call our helpline.

Equality and Human Rights Commission

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