

Rights at Work

discipline, grievances and dismissals

> *equality and discrimination*

information and consultation

parents at work

pay

time off

trade unions and representation

Acas can help *with your employment relations needs*

Every year Acas helps employers and employees from thousands of workplaces. That means we keep right up to date with today's employment relations issues – such as discipline and grievance handling, preventing discrimination and communicating effectively in workplaces. Make the most of our practical experience for your organisation – find out what we can do for you.

We inform

We answer your questions, give you the facts you need and talk through your options. You can then make informed decisions. Contact us to keep on top of what employment rights legislation means in practice – before it gets on top of you. Call our helpline **08457 47 47 47** or visit our website www.acas.org.uk.

We advise and guide

We give you practical know-how on setting up and keeping good relations in your organisation. Look at our publications on the website or ask our helpline to put you in touch with your local Acas adviser. Our Equality Direct helpline **08456 00 34 44** advises on equality issues, such as discrimination.

We train

From a two-hour session on the key points of new legislation or employing people to courses specially designed for people in your organisation, we offer training to suit you. Look on the website for what is coming up in your area and to book a place or talk to your local Acas office about our tailored services.

We work with you

We offer hands-on practical help and support to tackle issues in your business with you. This might be through one of our well-known problem-solving services. Or a programme we have worked out together to put your business firmly on track for effective employment relations. You will meet your Acas adviser and discuss exactly what is needed before giving any go-ahead.

Equality

and discrimination

What is this leaflet for?

This leaflet gives a brief outline of rights to equality and protection from discrimination. It includes basic information on:

- Who is entitled to the rights
- How people complain if they are denied a right they believe they are entitled to.

For detailed information on a particular right visit www.acas.org.uk.

Rights covered

- Age discrimination
- Disability discrimination
- Equal pay
- Fixed-term employees
- Gender reassignment
- Rehabilitation of offenders
- Marriage and civil partnership
- Part-time employees
- Pregnancy and maternity
- Race discrimination
- Religion or belief
- Sex discrimination
- Sexual orientation
- Trade union membership.

Visit the Acas website at www.acas.org.uk for further information on all the rights. View **Acas guidance** online at www.acas.org.uk

If you do not have easy access to the internet at home or at work try:

- your local library. Most medium-sized or large public libraries provide internet access including a limited period free of charge. In some areas other sources of free access are available.
- Internet cafes, which provide access to the internet for a fee.
- UK online centres. These were set up to help people with no computer skills to access the internet. There are around 6,000 UK online centres.
Call the free UK online helpline **0800 77 1234** to find your nearest centre.

This leaflet is one of a series which outlines individual employment rights – other titles include *Discipline, grievances and dismissals, Information and consultation, Parents at work, Pay, Time off* and *Trade unions and representation*. Information on the law is for guidance only – you may need to seek legal advice on your particular circumstances.

Advisers on **Acas' national helpline 08457 47 47 47** can answer **questions on most employment relations matters** including rights and duties, but cannot provide legal advice. Acas also offers a wide range of products and services for organisations of all sizes and the people who work in them. Our aim is to improve organisations and working life through better employment relations.

Rights to equality, *and protection from discrimination*

The Equality Act 2010 brings together previous legislation such as the Race Relations Act and the Disability Discrimination Act and provides a more consistent approach to comply with the law. There are two new strands to the Act – **Associative discrimination** and **Perceptive discrimination**.

Associative discrimination

This is direct discrimination against someone because they associate with another person who possesses one of the protected characteristics (types) of discrimination which are: age, disability, gender reassignment, race, religion and belief, sexual orientation, sex, maternity and pregnancy.

Perceptive discrimination

This is direct discrimination against an individual because others think they possess one of the protected characteristics listed in the paragraph above.

Age discrimination

The equality act of 2010 protects people of all ages. However, different treatment because of age is not discrimination if it can be justified; this means employers must demonstrate that it is a proportionate means of meeting a legitimate aim. The Act continues to allow employers to have a default retirement age of 65. However, this will start to be phased out from April 2011 when new guidance will be available.

Disability discrimination

A person has a disability if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. Disabled people at work are protected from discrimination. This means that employers:

- must not treat a disabled person **less favourably** because of a reason relating to their disability, without a justifiable reason

- are required to make **reasonable adjustments** to working conditions or the workplace where that would help to accommodate a particular disabled person.

The Equality Act 2010 makes it unlawful for employers to ask applicants about their health or disability before offering them work. However, employers can ask about health or impairments where they may need to make reasonable adjustments for an applicant to attend an interview. A jobseeker cannot take a case to an Employment Tribunal if they think an employer is acting unlawfully for this, but can make a complaint to the Equality and Human Rights Commission.

Equal pay

Employers must give men and women equal treatment in the terms and conditions of their employment contract if they are employed on:

- ‘like work’ – work that is the same or broadly similar
- work rated as equivalent under a job evaluation study, or
- work found to be of equal value.

A woman is employed on ‘like work’ with a man if her work is of the same or a broadly similar nature. It is for the employer to show that there is a genuine reason for any difference in pay for this ‘like work’, which is not based on the sex of an individual.

Individuals may complain to an employment tribunal up to six months after leaving the employment to which their claim relates. Normally, they may claim arrears of remuneration (which includes sick pay, holiday pay, bonuses, overtime etc, as well as ‘pay’) for a period of generally up to six years (five years in Scotland) before the date of their tribunal application.

The Equality Act 2010 makes it unlawful to prevent or restrict employees from having a discussion to establish if differences in pay exist. However, an employer can require their employees to keep pay rates confidential from people outside the workplace.

Fixed-term employees

The Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 aim to ensure that employees on fixed-term contracts are treated no less favourably than comparable permanent employees. Examples of fixed-term work include:

- agricultural workers doing 'seasonal' work
- shop assistants working for the Christmas period
- employees covering maternity leave
- employees doing a specific task – like painting a house.

Under the regulations these employees have the right to the same terms and conditions of employment as comparable permanent employees.

Gender reassignment

It is discrimination to treat transsexual people less favourably for being absent from work because they propose to undergo, are undergoing, or have undergone gender reassignment than they would be treated if they were absent because they were ill or injured.

Marriage and civil partnership

The Equality Act 2010 protects people from discrimination because they are married or in a civil partnership. The Act does not protect single people.

Rehabilitation of offenders

Under the Rehabilitation of Offenders Act 1974 many ex-offenders are given certain employment rights if their convictions become 'spent'. Broadly speaking, anyone who has been convicted of a criminal offence and who is not convicted of a further offence during a specified period (the 'rehabilitation period') becomes a 'rehabilitated person'. This means that:

- the conviction does not have to be declared for most purposes, such as applying for a job

- employees are given protection against dismissal or exclusion from any office, profession, occupation or employment (with some exceptions) because of their spent conviction and
- employers cannot prejudice a person in any way because of a spent conviction.

A conviction resulting in a prison sentence of more than 30 months can never become spent. There are some exceptions to the Act – broadly relating to work with children, the sick, disabled people and the administration of justice.

Part-time employees

The Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 aim to ensure that part-time workers are not treated less favourably than comparable full-timers. Principally, this means they should:

- receive the same rates of pay
- not be excluded from training simply because they work part-time
- receive holiday entitlement pro rata to comparable full-timers
- have any career break schemes, contractual maternity leave and parental leave made available to them in the same way as for full-time workers and
- not be treated less favourably when selecting workers for redundancy.

Pregnancy and maternity

A woman is protected against discrimination on the grounds of pregnancy and maternity during the period of her pregnancy and the statutory maternity leave which she is entitled to. During this period, pregnancy and maternity discrimination cannot be treated as sex discrimination.

Discrimination against someone because they associate with another person or are perceived to have one of the protected discrimination characteristics is also against the law.

Race discrimination

The Equality Act 2010 makes it illegal to treat a person less favourably due to their colour, nationality and ethnic or national origins.

Race discrimination covers all aspects of employment – from recruitment to pay, and training to the termination of a contract. Discrimination covers four areas:

1. direct discrimination – treating someone less favourably on racial grounds
2. indirect discrimination – applying practices that might favour one racial group over another
3. harassment – unwanted conduct that violates a person’s dignity and creates a hostile or degrading environment
4. victimisation – unfair treatment of an employee who has made a complaint about racial discrimination.

However, a job may be restricted to people of a particular race or ethnic or national origin, if one of these characteristics is a genuine occupational requirement. A genuine occupational requirement or qualification may apply in limited circumstances for reasons of authenticity – for example, to achieve authenticity a theatre company may need black actors to depict certain scenes.

Religion or belief

The Equality Act 2010 protects people from discrimination on the grounds of religion and/or beliefs.

The Regulations mean that an organisation’s recruitment and selection procedures, as well as employment practices, must treat everyone fairly regardless of religion or belief.

Sex discrimination

Under the Equality Act 2010, employers should not discriminate on grounds of sex.

Sex discrimination covers all aspects of employment – from recruitment to termination of a contract, and training and pay.

It also includes applying requirements, conditions or practices which, though applied equally to all, have a disproportionate effect on one sex which cannot be shown to be justifiable (for instance to be job-related).

There are limited exceptions: the Act permits employers, under certain conditions, to train employees of one sex in order to fit them for particular work in which their sex has recently been underrepresented; they may also encourage the under-represented sex to take up opportunities to do that work.

Sexual orientation

The Equality Act 2010 gives protection from discrimination on the grounds of sexual orientation. The Act protects bisexual, gay, heterosexual and lesbian people.

The Regulations mean that an organisation's recruitment and selection procedures, as well as employment practices, must treat everyone fairly regardless of their sexual orientation.

Trade union membership

Employees have various rights to be protected against discrimination because they belong or do not belong to a trade union. For example, it is unlawful to:

- specify union membership in advertising a job
- limit recruitment to trade union members
- be refused employment or the services of an employment agency because of membership or non-membership of a trade union
- be dismissed or chosen for redundancy because of membership or non-membership of a trade union.

For other rights related to union membership see the leaflet in this series *Trade unions and representation*.

Who has these rights?

Most people are entitled to the statutory rights listed in this leaflet, **although, in many cases**, qualifying conditions must be fulfilled before a right may be claimed. Some rights apply to all employees as soon as they start work; others depend on factors such as length of service, continuity of employment and activities in addition to the job (eg union work). For certain rights, various groups of people are excluded. Most rights apply only to employees but some apply to wider groups of workers. Always check detailed information on qualifying conditions using the links provided on the Acas website at www.acas.org.uk.

Employers and employees are free to agree better terms than those required by legislation in their contract of employment.

A contract of employment is an agreement entered into by an employer and employee under which they have certain mutual obligations. – for more information visit the Business Link at www.businesslink.gov.uk or www.direct.gov.uk

Employers must give employees a **written statement of the main particulars of employment within two months** of the beginning of the **employment**. It should include, among other things, details of pay, hours, holidays, notice period and an additional note on disciplinary and grievance procedures.

What happens if there is a *dispute about rights at work?*

If employers and employees have a dispute about any of the rights listed in this leaflet they have the following options:

1. **Resolve the dispute.** Employees should always try to resolve a problem or dispute with their manager or employer first. This should be through the organisation's own grievance procedure.

An independent third party or mediator can also help resolve disciplinary or grievance issues. Mediation is a voluntary process where the mediator helps two or more people in dispute to attempt to reach an agreement. Any agreement comes from those in dispute, not from the mediator. Both sides can also come to Acas for advice, either from the helpline or a conciliator.

Acas also offers conciliation before a claim is made to an employment tribunal (known as Pre-Claim Conciliation). Pre-Claim Conciliation can save time, money and stress and promote a quick solution which suits the employer and employee and helps them avoid a permanent breakdown in their relationship. For more information ring the Acas helpline on 08457 47 47 47 (lines open 8am-8pm Monday to Friday and 9am-1pm Saturdays).

2. An employee can make a **complaint to an employment tribunal** if he or she believes an employment right has been denied or infringed. In most cases, people who are treated detrimentally for exercising their rights may also complain to a tribunal. Complaints normally must be made within three months of the date of the alleged infringement – although there are exceptions (follow the links on the Acas website for details). For nearly all types of complaint, once an application is received an Acas conciliator will contact both parties to see if a settlement can be reached before the case reaches a hearing.

3. **Acas Arbitration Scheme.** For cases of alleged unfair dismissal and complaints under the right to request flexible working only, both parties can choose to have their case heard by an independent arbitrator appointed by Acas. The hearing is private, informal, non-legalistic, quick and confidential and the arbitrator's decision final. The remedies are the same as through an employment tribunal.

4. A **tribunal hearing** has various remedies and awards it can make, depending on the type of case. For example, if the tribunal decides an employee has been unfairly dismissed, the remedy could be re-instatement, re-engagement or monetary compensation, depending on the circumstances. Costs can also be awarded. A tribunal hearing is public.

Acas Training

Our training is carried out by experienced Acas staff who work with businesses every day. They will show you the value to your business of following good practice in employment matters and how to avoid the common pitfalls. We also run special training sessions on new legislation.

Look at the Acas website (www.acas.org.uk/training) for up-to-date information about all our training or if you want to book a place online.

Training sessions are specially designed for smaller companies and our current programme includes:

- Managing discipline and grievances at work
- Managing absence at work
- Essential skills for supervisor
- Having difficult conversations
- Contracts of employment – how to get it right
- Employment law update.

We also have free online learning to help you – just go to www.acas.org.uk and click on **e-learning** to look at the topics covered.

inform

advise

train

work
with you

Information in this booklet has been revised up to the date of the last reprint – see date below. For more up-to-date information check the Acas website.

Legal information is provided for guidance only and should not be regarded as an authoritative statement of the law, which can only be made by reference to the particular circumstances which apply. It may, therefore, be wise to seek legal advice.

Acas aims to improve organisations and working life through better employment relations. We provide up-to-date information, independent advice, high quality training and we work with employers and employees to solve problems and improve performance.

We are an independent, publicly-funded organisation and many of our services are free.

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Helpline 08457 47 47 47

08456 06 16 00
for Minicom users

08702 42 90 90
Acas publications orderline

To view a full list of Acas publications
go to **www.acas.org.uk/publications**

08457 38 37 36
Acas Customer Services Team who
can provide details of services and
training in your area or visit
www.acas.org.uk/training

08456 00 34 44
for questions on managing
equality in the workplace

Acas' main offices:

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- **East of England**
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- **London**
- **North East**
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- **North West**
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