

Equality Act Claims

Access to Justice in Scotland

These factsheets are to be used as a tool to outline your rights and to help improve access to justice here in Scotland.

They explain key ideas, definition, rights, and laws so that people and organisations know how to use the law to defend themselves and others.

They contain general information, not legal advice.



What is the Equality Act?

The Equality Act 2010 makes it illegal in the UK to treat someone less favourably than others because they have a 'protected characteristic' - this is known as discrimination. The protected characteristics in the Act are:

- Age
- Disability
- Gender reassignment (trans identity)
- Marriage and civil partnership
- Pregnancy and maternity
- Race (including traveller ethnicity)
- Religion or belief
- Sex
- Sexual orientation

The Act allows you to make a 'claim' if you have been discriminated against due to a protected characteristic.

A legal claim is a chance to set out the injustice you believe you have faced, and seek a remedy.

As we all have at least one of the protected characteristics, the Act covers us all.

The Equality Act protects us from discrimination, victimisation, and harassment by:

- Employers;
- Public services like healthcare, hospitals and GPs, or schools, colleges, and universities;
- Organisations or businesses that provide services and goods, such as banks, shops and restaurants;
- Transport services, like buses and trains;
- Public bodies, like the government or your local authority;
- Housing associations and estate agents.

What is unlawful under the Equality Act?

Under the Act four types of conduct are prohibited:

1 –

Direct discrimination

If you are treated worse than another person because of a protected characteristic. For example, a local authority refuses to accept a planning application from someone who is a Gipsy/Traveller but will accept planning applications from everyone else.

2 –

Indirect discrimination

Indirect discrimination – when there is a general rule or guidance in place that has a worse impact on you because of your protected characteristic. For example, if your employer requires all staff to work on Saturdays, but Saturday is the day you observe your religious faith, which requires you not to work, the general policy is indirectly discriminating against you as you are disadvantaged due to your faith, which is a protected characteristic. However, indirect discrimination may not be unlawful, if the organisation defending the policy can show there is a good enough reason for it.

3 –

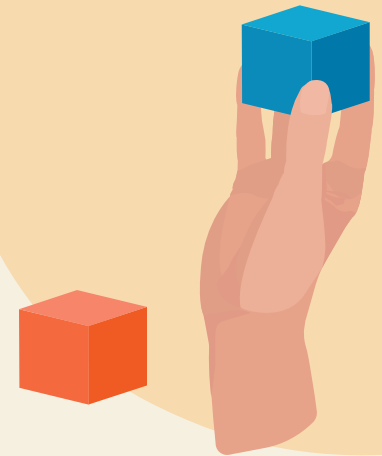
Harrassment

If you are treated in a way that makes you feel degraded, humiliated, or intimidated, because of your protected characteristic. For example, this can range from offensive ‘jokes’ to physical assault and intimidation.

4 –

Victimisation

If you are treated less favourably because you make a complaint about discrimination or if you’re supporting someone taking action under the Act. For example, someone makes a complaint to their doctor’s receptionist, as they have been discriminated against due to their mental health disability, and as a result the individual is told they must register with a new practice elsewhere.



How to take action if you have been discriminated against

If you think you've been discriminated against because of one, or more, protected characteristics you can complain to the person or the organisation that has treated you unfairly, relying on the Act. If this does not resolve the situation, you may wish to take court action. As there are very strict time limits for making a court claim, you should seek legal advice as soon as possible after you are discriminated against.

Your solicitor can send a letter to inform the organisation that you believe you have been discriminated against, asking them to remedy the situation. They can also advise them that you are considering raising a court action if the situation is not resolved.

You need to raise a court claim under the Equality Act within 6 months (minus one day) of the discriminatory act.

If you want to make a claim about discrimination at work, the time limit is 3 months (minus one day). In some cases, a claim can be raised after that time limit, but only if there are very good reasons for the delay and the court thinks it is fair to allow it late.

If you're thinking about taking legal action, you should get advice from an experienced adviser - for example, at Citizens Advice Scotland or a law centre. To find a solicitor, you may want to use the Law Society of Scotland's solicitor finder tool to search for solicitors who specialise in specific areas of law. If you may qualify for Legal Aid you can look on [the Scottish Legal Aid Board's \(SLAB\) solicitor finder tool](#) to find registered solicitors who can help you. For more information about qualifying for Legal Aid, see our [factsheet on Legal Aid](#).

It is, theoretically, possible to raise a claim without a solicitor in the Sheriff Court in Scotland; however, it will take time and patience to work through the court procedure.

If you are unable to find a solicitor to represent you, you may wish to consider this option. You can find out more information on representing yourself by contacting your local Sheriff Court. You can find your local court here: <https://scotcourts.gov.uk/the-courts/gazetteer>

How much does it cost to raise a claim?

If you decide to take legal action, you need to think about court fees and the cost of any legal representation or advice. If you win your case, you should be able to recover some of your fees and expenses. However, if you lose your case, you may be asked to pay some or all of your opponent's costs. This can be thousands of pounds. You can find more information about this on [the Scottish Government website](#).

[Citizens Advice Scotland](#) also has a useful webpage on the costs of civil court action using simple procedures.

Check our [factsheet on legal aid](#) for more information on costs and help available.

What remedy can I get if my claim is successful?

If you decide to make a court claim, you will need to ask the court to award a remedy.

You can ask for one or more of these remedies:

- A declaration that you have been discriminated against.
- Any money you lost because of the discrimination.
- Money for injury to feelings.
- An order requiring the organisation that discriminated against you to stop.

A detailed breakdown of court fees can be found on the Scottish Courts and Tribunals website. [The Scottish Courts and Tribunals website](#) also explains how to use simple procedure.

Your lawyer should discuss all possible legal costs with you.



What happens if you lose your claim?

If your claim is not successful, the court is very likely to order you to pay a substantial proportion of defender's legal costs. If you have Legal Aid, you can ask the court to reduce your liability to nil, but this is not guaranteed.

If you are unsuccessful, you may be able to appeal against the decision. Your solicitor will be able to advise you if this is possible and worthwhile. Likewise, if you are successful, the defender could appeal against that decision.



JustRight Scotland identified a need in the community for better information and resources on access to justice.

Read our other factsheets on:



For more help and information: **Scottish Human Rights Commission**

Citizens Advice Scotland – [Taking legal action about discrimination](#)

Equality and Human Rights Commission – [Informing us about your discrimination claim](#)

[Equality Advisory & Support Service](#)

JustRight Scotland

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PEOPLE'S RIGHTS**

