

Direct & Indirect discrimination

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.



The Equality Act

The Equality Act 2010 protects people from being unlawfully discriminated against, harassed or victimised because they have one or more of the following protected characteristics:

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

What is direct and indirect discrimination

Direct discrimination happens when you are treated worse than someone else in a similar position (but who does not have the protected characteristic) because of:

- who you are, because you have a protected characteristic;
- who someone thinks you are, because they think you have a protected characteristic (also known as discrimination by perception);
- who you are connected to, because they have a protected characteristic (also known as discrimination by association).



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Direct discrimination

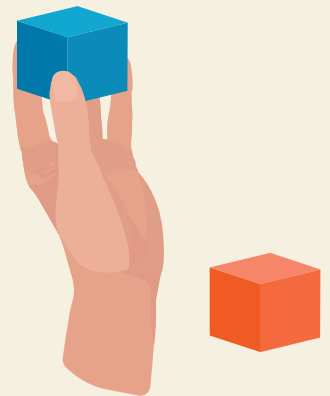
Direct discrimination involves treating you differently because of the protected characteristic. For example, if a hotel refused to accept your booking because you were disabled, or because you were a traveller, or because you were a woman, that is direct discrimination.

Direct discrimination cannot be justified, with the exception of age discrimination, where it may be lawful if there is a good enough reason for the difference in treatment.

Indirect discrimination

Indirect discrimination happens when a policy or a rule applies to everybody but creates a disadvantage for people who share a protected characteristic, and specifically for you because you have that 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.



When is indirect discrimination unlawful?

However, indirect discrimination may not be unlawful, if the organisation defending the policy can show there is a good enough reason for it.

To show there is a good enough reason for a policy or practice that is indirectly discriminatory:

- The aim must be genuine and real, and not discriminatory in itself – for example the aim of ensuring health and welfare;
- The reason behind the discrimination must be balanced against the negative impacts you faced because of it;
- There must be no better and less discriminatory alternatives that would meet the aim.

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

Read our other factsheets on:

Equality Act
Claims

Judicial Review

Human Rights
Act Claims

Legal Aid

For more help and information:

Equality and Human Rights Commission –

[What is direct and indirect discrimination?](#)

Citizens Advice Scotland – **[Direct Discrimination](#)**

Citizens Advice Scotland – **[Indirect Discrimination](#)**

JustRight Scotland

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**WE DEFEND AND EXTEND
PEOPLE'S RIGHTS**

