

Simple Steps To Improve Equality, Diversity & Inclusion In The Workplace

With Amanda Chadwick

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Run Time: Approx 50 Mins

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across **Employment Law, HR and Health & Safety**



The detail contained within this webinar is based on GB & Northern Ireland employment legislation.

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Today We Will Cover

- Equal Opportunities in the Workplace
- The 9 Protected characteristics in UK Law
- Promoting Equality & Diversity
- LGBTQ+ Inclusivity
- How the latest Employment Rights Bill changes impacts your EDI policies

Equal Pay

Men and women are legally entitled to receive equal pay for equal work;

- A 'sex equality clause' is automatically implied into all contracts of employment;
- 'Equal pay' covers all terms e.g. pay, holiday, benefits, etc.;
- 'Equal work' includes like work, work rated as equivalent and work of equal value;
- Can make an employment tribunal claim six months after the last day of employment;
- Damages can include the amount of the unequal pay for the previous six years.



Equal Pay

Employers have a 'material factor' defence where they can show the reason for the difference was not because of sex, but because of a material factor;

- Length of service;
- Differences in work;
- Geographical differences;
- Market forces;
- Pay protection.



Gender Pay Gap

Mandatory gender pay gap reporting was introduced in 2017, with first reports being published in 2018.

The existence of a gender pay gap does not mean discrimination has occurred, there may be non-discriminatory reasons such as:

- Part-time v full-time workers;
- Lack of a particular gender within the sector;
- Career breaks having an effect on training and promotion opportunities

Where a gender pay gap is identified, employers can voluntarily outline steps they will take to reduce or remove the gap.



The Nine Protected Characteristics in UK Law

The Equality Act 2010 provides the following protected characteristics list:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation



Age

- To avoid discriminating, job adverts should specify the exact skills and level of skills needed for the role.
- Some people learn and progress faster, so setting an expectation in years of experience doesn't help, one way or another.
- Be mindful of staff discriminating against their colleagues, such as:
 - Using inappropriate language to describe staff members in a specific age group
 - Excluding employees of a certain age from team activities, in work or social situations
 - Skipping team members from promotions or projects due to their age

Disability

Disability discrimination occurs when an individual receives less favourable treatment due to a long-term physical or mental injury/difficulty.

- By promoting an inclusive culture, based on trust and supportiveness, you will encourage employees to come forward about their disability. Then you can discuss and create reasonable adjustments to enable them to use their full potential at work.
- For somebody with a disability, that could mean more flexible working. For an employee with physical impairments, look at adapting the physical environment around them.
- Remember that cancer and multiple sclerosis classify as physical disabilities by UK law.

Gender Reassignment

- Gender reassignment refers to the process of changing from one sex/gender to another.
- Treating a member of staff differently because you or your employees suspect or are aware that they are transsexual/transgender could be discriminatory.
- Examples of transgender discrimination include:
 - Removing an employee from a client facing position, out of public view
 - Allowing hurtful comments from other employees as “banter”
 - Refusing to refer to the employee as their preferred gender (she, he, or they)

Changes to EHRC Guidance 2025

- In 2025, the EHRC updated its guidance on the definition of "sex" in the Equality Act 2010, clarifying that "sex" refers to biological sex as recorded at birth.
- This means that obtaining a Gender Recognition Certificate (GRC) does not change a person's legal sex for the purposes of the Equality Act.
- The guidance now clearly states that single sex toilets, changing facilities, and sports can be based on biological sex.
- The EHRC has clarified that pregnancy and maternity discrimination protections now clearly rest on biological sex.

Marriage Or Civil Partnership

Treating somebody differently because they are married also amounts to discrimination.

- This applies to marriages between a man and a woman, or between people of the same sex.
- One of the most prevalent examples our advisors have seen refers to recently married women. In some cases, employers assume they will become pregnant and skip them from promotions or bigger projects.
- The same type of discrimination tends to happen at the hiring stage. When a company prefers single women as candidates over married young women, they discriminate against the latter.



Pregnancy And Maternity

- Occurs when someone is treated unfavourably or placed at a disadvantage due to their pregnancy, maternity leave, or pregnancy-related illness.
- Just because they become mothers, they don't lose their professional capacities.
- Enable them to perform at their best, with necessary adjustments such as a flexible work schedule.
- You will only have to gain from increasing retention and a good reputation as a company.
- The Employment Rights Bill includes provisions to enhance protections for pregnant women and those on maternity leave



Race

Racial discrimination occurs when individuals defined by this characteristic receive less favourable treatment.

- If you employ a racially and ethnically diverse workforce, check the distribution of management responsibilities.
- Discrimination against employee's race and nationality can occur:
- Directly – a job advert that specifies applicants need to speak English natively
- Indirectly – your policies require employees to hold a university degree obtained in the UK for certain positions



Religion Or Belief

You or other employees cannot shun people due to their religion, nor treat them differently.

- The tricky part regarding this characteristic comes from determining what classes as religion or belief.
- The Equality Act specifies that the belief needs to play a weighty, essential part in the person's life. That makes it different to a simple opinion.
- In a relevant case law, an employee refused to return to the workplace due to fear of COVID and argued it as their "belief".
- However, the Employment Tribunal decided that fear of COVID didn't amount to a philosophical belief.



Sex

Employers and their employees cannot treat a staff member less favourably because of their sex.

- Rejection of a male candidate's application for a front sales role at the makeup desk of a cosmetic brand
- Appointing women only in lower management roles, on the assumption they have less business drive and stamina
- Allowing driving for business only to male employees, on the assumption they are better drivers
- Asking women only to use specific footwear at work (high heels) with no equivalent requirement for men (a certain cut of shoes)

Sexual Orientation

It helps to understand that the human sexuality spectrum doesn't split between just two versions. Sexual minorities include:

- Bisexual people
- Gay people
- Asexual people

Employers should discourage staff members from joking about their colleagues' sexual orientation. So-called banter could easily get out of hand and result in degrading intimidating, or harassing behaviour.

Discrimination, Bullying And Harassment In The Workplace

- Enabling your employees to identify and prevent situations of discrimination will contribute to creating a solid, inclusive workforce.
- But what do you do when a workplace conflict arises that has nothing to do with the above characteristics?
- To prevent this, you need a good anti-bullying policy and procedure to follow in dealing with such a situation. Just because personal fashion style isn't a protected characteristic, it doesn't mean employees can be treated badly because of their personal preferences.



5 Top Tips- Creating an Inclusive Workplace

1. Have equal opportunities policies in place
2. Maintain a zero-tolerance approach to bullying or harassment .
3. Avoid stereotypes
4. Carry out discrimination training for all staff
5. Conduct 'blind' recruitment

LGBTQ+ Inclusivity

LGBT+ employees experience heightened workplace conflict

- LGB+ and trans workers report higher levels of workplace conflict than heterosexual, cisgender workers. 29% of heterosexual employees say they've experienced workplace conflict in the last 12 months. This is compared with 40% of LGB+ employees.

LGBT+ employees experience job dissatisfaction and less psychological safety

- 85% of heterosexual workers reported 'somewhat' to 'very good' working relationships. This dropped to 80% for LGB+ and 75% of trans workers.

LGBT+ employees are more likely to report that work has a negative impact on their health

- Good work should have a positive impact on wellbeing. However, there has been a decline in workers reporting a positive impact on their health due to their work in recent years. LGB+ and trans employees are slightly less likely to say work has a positive impact on their health than heterosexual workers (35% and 26% vs 38%).

Employing Transgender Workers

Here are some key aspects to consider:

- **Bathroom access:** While the EHRC acknowledges the importance of ensuring transgender people are not excluded from facilities, the updated guidance emphasizes that employers are permitted to provide separate facilities for biological men and women.
- **Dress code:** If you have a uniform policy or dress code, consider how it can be amended to be more inclusive.
- **Pronoun and name usage:** Use gender neutral terminology in all contracts and policies. This means you'll avoid misgendering any staff, as well as ensuring the correct name and pronoun is used in the future.
- **Absence for gender reassignment:** for individuals going through gender reassignment, absences may be required. This is particularly true when surgery is involved. Consider whether you can make allowances for individuals who may need time off during their transition.

Policies To Create A Inclusive Workforce

- Equal Opportunities Policy
- Equality & Diversity Policy
- Anti-Discrimination policy
- Bulling Policy
- Recruitment & Selection Policy
- Flexible Working Policy
- Work-Life Policy
- Mental Health, Wellbeing & Menopause Policy
- LGBT+ Policy
- Trans-inclusion Policy



Summary

- Remember there is plenty of legislation to ensure that you do not discriminate.
- You must not base decisions directly, or indirectly, on the grounds of an individual's protected characteristics.
- You must develop and train all staff in equal opportunities.
- The ERB will continue to introduce further protections for protected groups

Next Steps

- Get your specific questions answered by an expert.
- Receive an exclusive follow up review of your HR policies & health and safety programs you have in place for attending today's presentation.
- A Croner consultant will contact you in the next 12 business days to book your complimentary documentation review.

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