



Pride not prejudice DVD

Glossary of Legal Terms

Advice Agencies

Advice agencies, for example Citizens' Advice Bureaux, which offer free, impartial advice and can refer you to more specialist agencies such as law centres or solicitors.

Appeal/Review

An appeal can be brought from the finding of an employment tribunal and is heard by the Employment Appeal Tribunal. You can only appeal on a point of law, so if the tribunal does not believe your account of what happened you are unlikely to be able to appeal. If fresh evidence comes to light or if you did not receive notice of the hearing you can ask the tribunal to review its decision. Both appeals and reviews are technical and you should seek legal advice if you are considering either course.

Deadline to submit claim to Employment Tribunal

Generally 3 months less one day after the act of discrimination. This area is complex, so seek legal advice. The safest course is always to submit a claim within the 3 month period.

Direct Discrimination

Being treated less favourably than others on the grounds of your actual or perceived sexual orientation in matters such as recruitment, training, terms and conditions of employment, benefits, dismissal, promotion or post employment, for example by giving a poor reference.

Discrimination

It is unlawful to discriminate against workers or job applicants on the grounds of actual or perceived sexual orientation as of 2 December 2003. Note - 'worker' is a larger category than employee and, for example, includes agency workers.

Employment Tribunal (ET)

Judicial bodies established to resolve disputes between workers and employers. See www.employmenttribunals.gov.uk

Employment Tribunal Panel

This is made up of 3 members who hear the employment claim at the tribunal. The Chairperson, a qualified lawyer, sits with 2 lay members who are not legally qualified, but one will have experience in employment matters from a management perspective and the other will have experience from a worker's perspective.

ET1 Form

A standard tribunal claim form which sets out your case. This is the first document read by the tribunal so it should contain enough information to enable the tribunal to understand your case, but not go into laborious detail. This form is compulsory and will be rejected if it does not contain all the required information.

The ET1 form will also be sent back if it appears that the employee has not already sent their employer a written grievance (see statutory grievance). In this case, the employee will have to send their employer a written grievance and wait 28 days before resubmitting the claim. The deadline to lodge your claim will be automatically extended by three months **unless** by the time you send your grievance letter the incident took place more than 4 months previously. So don't leave it too late and get advice as soon as possible.

Harassment

Unwanted conduct, based on the person's actual or perceived sexual orientation which violates a worker's dignity or creates a hostile, degrading, humiliating or offensive environment. A test of reasonableness applies i.e. could the conduct, taking into account all of the circumstances, reasonably be considered to have caused offence. The conduct does not have to be targeted at an individual; it could be unintentional, subtle and insidious. Conduct could include bullying, name calling, teasing, sexual advances, a culture which tolerates homophobic jokes, or other behaviour which has no malicious intent but is upsetting.

Indirect Discrimination

Criteria, provision or practice disadvantaging workers or job applicants of a particular sexual orientation e.g. advertising for a married couple to run a pub.

Law Centres

Independent network of centres which provide a free, independent, specialist, legal advice and representation service. Unfortunately, there are not Law Centres in every area and they are not all able to provide representation in employment law.

Law Centres Federation

This is the umbrella organisation for Law Centres. Can provide information about your nearest Law Centre. See www.lawcentres.org.uk for more information.

Legal Expenses Insurance

Some home insurance policies or other insurance policies may provide advice and/or representation for those taking for legal action. This may assist in pursuing a case in a tribunal. Most insurance companies will try to get you to use the solicitor that they recommend. However, you have the right to select a solicitor of your choice. Some Law Centres will do cases funded by legal expenses insurers.

Legal Help Scheme

Under this scheme Solicitors' firms (including Law Centres) which have a contract with the government can provide initial help and assistance in employment law to persons on a low income. This scheme is often referred to as Legal Aid. Unfortunately, in England and Wales, the Legal Help scheme will not pay for someone to represent you at an Employment Tribunal hearing.

Protected Act

Examples of a protected act include making a formal complaint or informing a manager that you intend to make a complaint about discrimination (the discrimination could relate to you or a colleague), giving evidence or intending to give evidence relating to a complaint of discrimination. There is no requirement for the discrimination to have taken place as long as the complaint is made in good faith.

Questionnaire

A form containing a set of questions which you can ask your employer about discrimination in your workplace. Useful for obtaining information and documents.

Statutory Grievance

A written statement made by an employee which raises a complaint against their employer. If an employee intends to bring a tribunal claim for discrimination, first of all, they should send a grievance letter to the employer (warning - see below for deadline for claim to tribunal). The letter should set out the key facts, list each item of concern and contain enough information for the employer to understand and investigate the complaint. The letter should make it clear if discrimination is alleged and what kind. If it is a claim of continuing discrimination all the incidents should be listed and any discrimination conduct should be detailed including remarks made.

Statutory Grievance Procedure

A procedure that all employers must have. It must contain at least the following steps but can be more detailed.

Step 1: The employee sends the employer a written grievance. The employer must invite the employee to a meeting.

Step 2: The meeting is held and must be conducted in a manner which enables both the employer and employee to explain their case. After the meeting the employer must notify the employee of their decision and inform the employee of their right of appeal.

Step 3: If the employee wishes to appeal they must inform the employer. The employee must be invited to an appeal meeting. A worker has the right to be accompanied by a work colleague or trade union official.

Transgender

Employment law protects transgender people who undertake the personal, social and medical transition to live in the gender identity of their personal conviction (gender reassignment). The term transsexual is also commonly used as an adjective for this group of people. Since 1 May 1999 an amendment to the **Sex Discrimination Act 1975** has meant that individuals have had the right not to be discriminated against because they are proposing to undergo, are undergoing or have undergone gender reassignment. Transgendered people are not required to have gender reassignment surgery in order to be protected by the Sex Discrimination Act. The **Gender Recognition Act 2004** which came into force on 4 April 2005 further provides individuals with the legal right to change gender by means of a Gender Recognition Certificate. This certificate automatically leads to a new birth certificate in the acquired gender with all its attendant rights and responsibilities. The legal definition of transgender is very specific and does not include cross dressers or transvestites. The non-legal definition of transgender is far wider, please see the glossary of non-legal terms for more information.

Victimisation

An employer has treated a worker less favourably because the worker has done a protected act, or is about to do a protected act or is suspected of doing a protected act. Less favourable treatment would include being dismissed or denied promotion and/or training.

Witness Statements

Statements from those who will give evidence at the tribunal. Witness statements are usually treated as your witness's evidence in chief. As a result, it is important that the statement is detailed and gives information about all the incidents that you intend to rely on as part of your claim.

Thanks to Sarah Bourke, Took's Chambers for help in compiling this glossary

Please note: The content of this document is designed to provide general information only. Whilst every effort has been made to ensure that the information provided is accurate, it does not constitute legal or other professional advice.

