

The Equality Act 2010

The Equality Act became law in October 2010. It replaced previous legislation (such as the Race Relations Act 1976 and the Disability Discrimination Act 1995) and ensures consistency in what employers and employees need to do to make their workplaces a fair environment and comply with the law.

Key points:

An employer must consider making '**reasonable adjustments**' for a disabled employee or job applicant if:

- it becomes aware of their disability and/or
- they ask for adjustments to be made and/or
- a disabled employee is having difficulty with any part of their job and/or
- either an employee's sickness record, or delay in returning to work, is linked to their disability.

There are limited circumstances where an employer may act in a way which is discriminatory if it can **objectively justify discrimination** as what the law terms 'a proportionate means of achieving a legitimate aim'. Employers should note that this can be a difficult process.

An employer can take what the law terms '**positive action**' to help employees or job applicants it thinks:

- are at a disadvantage because of a protected characteristic and/or
- are under-represented in the organisation, or whose participation in the organisation is disproportionately low, because of a protected characteristic and/or
- have specific needs connected to a protected characteristic.

An employer must be able to show evidence that any positive action is reasonably considered and will not discriminate against others.

Men and women in full-time or part-time employment have a right to **equal pay (Sex Equality)** - which in law means 'no less favourable' pay, benefits and terms and conditions in their employment contracts where they are doing equal work.

Employers and employees in the public sector, and in private or voluntary organisations carrying out work on behalf of a public sector employer, have a legal **public sector equality duty** in the workplace to prevent and eliminate discrimination, establish and promote equality and equal opportunities, and foster good relations between people with different protected characteristics. To find out more, visit [Gov.UK - equality](https://www.gov.uk/equality).

If an employer believes it is necessary to ask **health-related questions** before making a job offer, it can do so only to determine whether an applicant can carry out a function essential to the role, and/or take 'positive action' to assist disabled people, and/or monitor, without revealing the candidate's identity, whether they are disabled (for example, to check whether its job advertisement is reaching disabled people), and/or confirm that a candidate has a disability where this is a genuine requirement of the job.