

Equality & Diversity Handout

The Equality Act 2010 came into effect to protect people from harassment, discrimination and victimisation. There are nine protected characteristics covered within the Equality Act 2010 which protects every British Citizen from being discriminated against.

The protected characteristics are:

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

This means that discrimination under any of these characteristics could result in a claim being made against you. When it comes to discrimination there is no minimum length of service required for workers to be able to bring a claim for unlawful discrimination. For you, being the employer, this means that a claim for discrimination can be made in respect of a job advert, throughout employment, up to job references for ex-employees, and beyond.

Therefore, as an employer, it is important you understand the importance of equality in the workplace and even before you employ someone. When deciding to become an employer of Personal Assistants, you will have to interview potential candidates. It is important that you are aware that you cannot ask the candidate any questions relating to the protected characteristics or which could be construed as discrimination.

When interviewing potential employees, one person cannot be favoured over another, offered different terms, or not offered the job at all based on any of the protected characteristics. The only time you can choose one applicant over another in terms of the protected characteristics is when, for example, you require a female or male PA due to the sensitive nature of personal care, for the preservation of decency. This is known as a genuine occupational requirement under the Equality Act and you must put this on the job advert to make applicants aware of it otherwise it could be seen as discrimination.

The questions you ask candidates during interview must be relevant to the job role. You may want to ask someone what skills they could bring to the role or what previous experience they have in relation to the role. Anytime you are in doubt about what questions to ask, think about the protected characteristics and think about the relevance your question has on the role the person will be doing.

This handout is part of a suite of information handouts, films and presentations about Self Directed Support. We will endeavor to support you at each stage as required

There are four main types of discrimination

Direct discrimination

There are three different types of direct discrimination.

Direct discrimination occurs when a Personal Assistant is treated less favourably because of:

- ▶ A protected characteristic they possess. This is ordinary direct discrimination. It is the only type of direct discrimination which may be lawful, but only if it is 'objectively justifiable'.
- ▶ Discrimination by association - A protected characteristic possessed by someone who they are associated with
- ▶ Discrimination by perception - A protected characteristic they are thought to possess, regardless of whether the perception is correct or not.

In summary, this means treating one PA worse than another person because of a protected characteristic.

For example, you may have people of differing ages at interview and decide to offer the job to the youngest person as you believe them to be more fit and able. This is direct discrimination under the protected characteristic of age.

Indirect discrimination

This can happen when you put a rule or a policy or a way of doing things in place which has a worse impact on someone with a protected characteristic than someone without one. For example, you may require all your staff to wear a uniform but if someone follows a particular religion, they may be unable to wear the uniform. This is indirect discrimination under the protected characteristic of religion or belief.

Harassment

This means people cannot be treated in a way that violates their dignity, or creates a hostile, degrading, humiliating or offensive environment. For example, an individual with a speech/hearing impairment has derogatory remarks and comments made from other personal assistants. This is harassment under the protected characteristic of disability.

Victimisation

This means people cannot be treated unfairly if they are taking action under the Equality Act (like making a complaint of discrimination), or if they are supporting someone else who is doing so. For example, an individual makes a complaint about being treated unfairly at work due to being a male and as a result is dismissed. This is victimisation under the protected characteristic of sex.