

FOR SMALL FIRMS

Good practice on equality and diversity

**EQUAL
OPPORTUNITIES
IN SCOTLAND
IS YOUR
BUSINESS TOO**

REVISED EDITION, 2004

dti

COMMISSION FOR
RACIAL EQUALITY



IN SCOTLAND



Women. Men. Different. Equal.
Equal Opportunities Commission Scotland

Disability Rights Commission

WHAT?

This leaflet sets out basic guidance for small firms on avoiding unlawful discrimination – on the grounds of race, sex, disability, sexual orientation, and religion or belief – in the way you recruit and manage your staff. The advice and information given here on general good practice can help you to act lawfully, and will also make good business sense. The leaflet is too brief to be an authoritative statement of the law, but it does tell you where to go for more detailed information.

WHO?

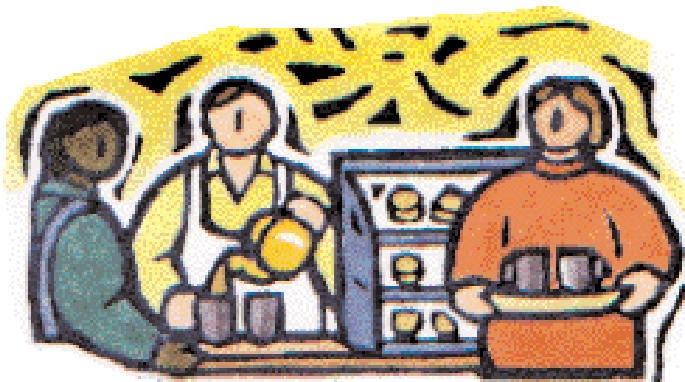
Whether you are an employer, a manager, or a sole trader who may become an employer, this leaflet is for you. The law applies to all aspects of employment, from recruitment right through to retirement, redundancy or dismissal. It may also apply to services you provide, and to any role you have as a contractor to a public authority.

WHY?

Unlawful discrimination is not just wrong – it can also be very expensive. There is no limit to how much an employment tribunal can require you to pay someone if, as an employer, you have discriminated against them.

Remember, you are also responsible for the actions of your

employees, so make sure they know what is expected of them. Keeping your employment practices within the law will benefit your business generally; adopting good practices will help you recruit and keep the best people, and save time and money in the long run. Making your premises and services more accessible to everyone will widen your recruitment base, and could open up new markets, leading to more custom and, possibly, greater profits.



HOW?

The following points will help you to ensure you are well placed to improve your business and keep within the law.

1 Getting your staff

- Be clear what the job entails and what the key duties are.
- Ask applicants for information that will tell you they can do the job.
- Don't ask questions unrelated to the job – get the facts and be open-minded.
- Treat people on their merits.
- Don't make assumptions about who won't 'fit in'.
- Advertise a vacancy openly, as this will help you attract better applicants – don't simply rely on the friends and family of current employees.
- Where reasonable to do so, adapt your methods of recruitment so that disabled people can apply and attend for interview.
- If you use a recruitment agency, make sure you do not ask them to act unlawfully.
- If you are not doing the recruitment yourself, keep track of what's happening.
- Ensure starting pay is set fairly and equitably, and verify the successful applicant's former pay level with their former employer.

2 Keeping your staff

- Keep open channels of communication with all your staff – it will make things easier for everyone.
- Make sure opportunities for promotion and training are made known to all staff and are available on a fair and equal basis.
- Make new recruits feel welcome by showing them around the workplace, introducing them to their colleagues, and familiarising them with 'house rules'.

3 Harassment/bullying

A firm stance will benefit all your staff and help your business to run smoothly.

- Make it clear to everyone that harassment and bullying will not be tolerated – and tell them who to go to if it does occur.
- Don't be tempted to blame the person being harassed or bullied, and don't discipline or sack them; deal with the person causing the problem.
- Don't ignore the situation – it won't go away.

4 Discipline/grievances

- Have procedures for handling discipline and grievances. These should apply to all staff. This will help you to resolve problems quickly and before they become too serious.
- Apply disciplinary action fairly and consistently regardless of race, sex, disability, sexual orientation, religion, belief, or age.



5 Monitoring/knowning your staff

Keeping basic information on your staff will improve business effectiveness and will also be useful if a complaint is ever made against you. It is good practice to keep information on:

- how your staff group is made up – for example by sex, ethnic group, those with a disability. When asking for this information, respect people's sensitivities and let staff know why you want the information;
- job applicants and appointments;
- sick leave/absences and reasons;
- disciplinary action/grievances;
- hours that staff work;
- rates of pay; and
- training received.

Remember – some of this information is personal and should be kept confidential.

6 Flexibility/reasonable adjustments

- Make reasonable changes to overcome physical and non-physical barriers that make it difficult for disabled customers to access your services. Some changes will also help others; for example, people with pushchairs and older people.

- Similarly, where reasonable, change working practices or arrangements that put disabled employees or job applicants at a substantial disadvantage.
- A flexible approach to working arrangements can have advantages for you and your staff and could help your business. You are already required by law to consider applications for flexible working from employees with young children. You should consider such requests carefully and objectively and, unless it would cause real difficulties for your business or the employee, you should accommodate them. This could mean offering flexible hours, or time off for family or religious needs. You must also allow eligible employees time off for parental or adoption leave, or to deal with an emergency involving their child, partner or anyone who relies on them for care. Flexibility also means accommodating religious or cultural dress codes, particularly if you have uniform requirements.

7 Maternity/paternity law

When an employee becomes pregnant you must:

- allow her paid time off for antenatal care;
- provide additional health and safety protection for her and her child during her pregnancy, while she is a new mother, or as long as she is breastfeeding; and
- allow her to return to her job after a period of maternity leave.

You must not:

- dismiss her because she is pregnant or penalise her for any pregnancy-related sickness absence, or for any reason connected with pregnancy or maternity leave.

This applies to your employee no matter how short a time she has been working for you and regardless of how few hours she works.

Fathers who have been working for you for at least a year are entitled to take two weeks paid paternity leave when their child is born. You can reclaim the cost of statutory paternity pay.



8 Equal pay

Check your pay arrangements to make sure that men and women are getting equal pay. Providing equal pay means that you provide the same pay and conditions for men and women doing work that:

- is the same, or broadly similar;
- has been rated as equivalent under a job evaluation scheme; or
- is of equal value in terms of the effort, skills, knowledge and responsibility required.

Employees should know how their pay is made up. It should be clear, for example, how any bonuses can be earned, and how they are calculated.

This applies to both full-time and part-time employees. The same work should be paid the same hourly rate, whether it is done by men or women, and whether it is done full-time or part-time.

9 Procurement

Under the amended Race Relations Act, public bodies that buy in services, goods or works must consider how procurement is relevant to their general duty to promote race equality. In some circumstances, race equality may be a 'core requirement' of a contract, and the contractor will be expected to help the contracting authority meet its duty.

WHAT NOW?

As a good business manager, you should let your customers, suppliers and employees know that you aim to treat people fairly, by ensuring that they have equal access to your goods, services, and contractual and employment opportunities. Think through your position and produce a statement that will make this clear. The equality agencies listed at the end of this leaflet will be able to advise you.

You may also need more information on the main laws relating to equal opportunity. A description of what the legislation covers can be found overleaf. This leaflet is not meant to be an authoritative statement of the law; more detailed advice and definitions can be found in the acts, regulations, codes of practice, and advisory leaflets, and other information that can be found on the web.



THE LAWS ON EQUALITY

Equal Pay Act 1970

The Equal Pay Act 1970 gives an individual a right to the same contractual pay and benefits as a person of the opposite sex in the same employment, where the man and the woman are doing the same work, work rated as equivalent work, or work of equal value.



Sex Discrimination Act 1975

This makes discrimination on the grounds of sex or marriage unlawful. It is not unlawful to discriminate against someone because they are not married. Victimisation, because someone has tried to exercise his or her rights under the Sex Discrimination Act or the Equal Pay Act, is also unlawful. The Sex Discrimination Act applies to women and men of any age, including children.

Race Relations Act 1976

This makes discrimination on the grounds of race, colour, nationality (including citizenship), or ethnic or national origin unlawful. The law covers people from all racial groups, including white people. In 2000, the Act was amended so that it now includes public functions not previously covered, even if those functions are carried out by a private business. It also places a general duty on listed public authorities to promote race equality. A public authority remains responsible for meeting this duty when it contracts a private business to carry out any of its functions. Private contractors will need to bear this in mind.



Disability Discrimination Act 1995

This deals with discrimination against disabled people – that is, when someone treats a disabled person less favourably than someone else, without justification, for a reason related to their disability. Discrimination also occurs if, without justification, a ‘reasonable adjustment’ is not made. The Act applies to all those who provide goods, facilities and services to the public. From October 2004, service providers will have to consider changing physical features that make it unreasonably difficult for disabled people to use their services. The employment provisions of the Act applied originally to employers with 15 or more employees, but from October 2004 they will also apply to most employers with fewer than 15 employees.

Employment Equality (Sexual Orientation) Regulations 2003

This outlaws discrimination in employment and training on the grounds of sexual orientation. It covers people whether they are gay, lesbian, bisexual or heterosexual.

Employment Equality (Religion or Belief) Regulations 2003

This outlaws discrimination in employment and training on the grounds of religion or philosophical belief.

FURTHER HELP

NATIONAL CONTACTS

Acas

The independent employment relations service

Provides information, good practice advice and guidance to employers and employees on a wide range of employment relations issues. Acas equality and diversity advisers specialise in providing practical help to businesses of all sizes and sectors on equality and diversity in the workplace.

Acas also runs Equality Direct, a helpline for questions on managing equality in the workplace

National helpline ☎ 0845 7 47 47 47

Equality Direct ☎ 0845 6 00 34 44

Website www.acas.org.uk

Commission for Racial Equality

Provides information, advice and guidance relating to issues of racial discrimination.

CRE Scotland ☎ 0131 524 2000

Website www.cre.gov.uk

Disability Rights Commission

Provides information, advice and guidance relating to issues of disability discrimination through its national helpline.

Helpline ☎ 0845 7 622 633.

Text Phone ☎ 0845 7 622 644

email enquiry@drc-gb.org

Fax 0845 7 778 878

Website www.drc.org.uk

For advice on making your business accessible:
www.open4all.org

Equal Opportunities Commission

Provides information relating to issues of sex discrimination and equal pay.

National helpline ☎ 0845 601 5901

EOC Scotland scotland@eoc.org.uk

Website www.eoc.org.uk

OTHER SOURCES OF ADVICE

Sources of further assistance might include the following (where no number is given, check your phone book for your nearest office):

- **Business Gateway**
A partnership with Scottish Enterprise, Scottish Executive and the local authorities, offering a wide range of information and advice.
Helpline 0845 609 6611
Website www.bgateway.com
Contact network.helpline@scotent.co.uk
- **Highlands and Islands Enterprise – Scotland**
Provides support for businesses in Scotland largely through local enterprise companies.
☎ 01463 234171
Website www.hie.co.uk
Contact hie.general@hient.co.uk
- **Age Positive.**
Promotes age diversity in employment. Information and good practice guidance on improving age policies in the workplace.
Website agepositive.gov.uk
- Chambers of Commerce
- Local Authorities
- JobCentre Plus