



# Equality Act 2010

## 2010 CHAPTER 15

### PART 5

#### WORK

#### CHAPTER 1

##### EMPLOYMENT, ETC.

##### *Recruitment [<sup>F1</sup> etc]*

#### **[<sup>F1</sup>60A Discriminatory statements**

- (1) A person (A) must not make a discriminatory statement in connection with a relevant decision that A makes or might make.
- (2) References in this section to a “relevant decision” are to be determined as follows—

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<i>Where A is—</i>	<i>A relevant decision is—</i>
An employer	Deciding to whom to offer employment
A principal (as defined by section 41(5))	Deciding whether to allow a contract worker (as defined by section 41(7)) to do, or to continue to do, work
A firm or proposed firm (as defined by section 46(2) and (3))	Deciding to whom to offer a position as a partner (read in accordance with section 44(8))
An LLP or proposed LLP (as defined by section 46(4) and (5))	Deciding to whom to offer a position as a member
A barrister or a barrister’s clerk (read in accordance with section 47(8))	Deciding to whom to offer a pupillage or tenancy

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<i>Where A is—</i>	<i>A relevant decision is—</i>
An advocate (as defined by section 48(9)) or an advocate's clerk (read in accordance with section 48(8))	Deciding who to take as a devil or to whom to offer membership of a stable
A person with power to make an appointment to a personal office (as defined by section 49(2))	Deciding to whom to offer the appointment
A person with power to make an appointment to a public office within section 50(2)(a), (b) or (d)	Deciding to whom to offer the appointment
A person with power to make a recommendation for or give approval to an appointment to a public office within section 50(2)(a), (b) or (d) (read in accordance with section 51(5))	Deciding who to recommend for appointment or to whose appointment to give approval
A qualifications body (as defined by section 54)	Deciding to whom to confer a relevant qualification (as defined by section 54)
A person concerned with the provision of an employment service (read in accordance with section 56)	Deciding on the selection of persons to whom to provide, or to whom to offer to provide, the employment service
A trade organisation (as defined by section 57(7))	Deciding to whom to offer membership of the organisation.

- (3) For the purposes of subsection (1) a statement is discriminatory if—
- (a) it is directed to the public or a section of the public, and
  - (b) were it made in connection with a relevant decision, the making of it would amount to treatment of a person that is direct discrimination.
- (4) A statement made by a person (B) who—
- (a) is not an employee of A acting in the course of B's employment, and
  - (b) is not an agent of A acting with A's authority,
- is to be treated for the purposes of this section as if made by A if there are reasonable grounds for the public, or a section of the public, to believe that B is capable of exercising decisive influence on the making by A of a relevant decision.
- (5) Regard is to be had (among other things) to the factors mentioned in subsection (6) when determining—
- (a) whether a statement is made in connection with a relevant decision for the purposes of subsection (1);
  - (b) whether there are reasonable grounds for the belief mentioned in subsection (4).
- (6) The factors are—
- (a) the status of the person making the statement at the time it is made;
  - (b) the nature and content of the statement;
  - (c) the context in which the statement is made;

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- (d) in the case of a statement that A is treated as having made by virtue of subsection (4), the steps (if any) taken by A to disassociate A from the statement made by B.
- (7) It does not matter for the purposes of this section whether or not—
  - (a) an individual has or may have been affected by the discriminatory statement in question;
  - (b) A has made, or plans to make, arrangements which would involve the making of a relevant decision.
- (8) A contravention of subsection (1) (or a contravention of section 111 or 112 that relates to a contravention of subsection (1)) is enforceable as an unlawful act under Part 1 of the Equality Act 2006 (and, by virtue of section 120(8), is enforceable only by the Commission under that Part).
- (9) In subsection (3) the reference to direct discrimination is to a contravention of this Act by virtue of section 13 or 18.
- (10) Nothing in this section limits or otherwise affects—
  - (a) other prohibitions imposed by this Chapter;
  - (b) the application of section 109 (liability of employers and principals for acts of employees and agents).]

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**Textual Amendments**

- F1** S. 60A inserted (1.1.2024) by [The Equality Act 2010 \(Amendment\) Regulations 2023 \(S.I. 2023/1425\)](#), regs. 1(2), 4(4)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 40A inserted by [2023 c. 51 s. 1](#)
- s. 120(9) inserted by [2023 c. 51 s. 2\(b\)](#)
- s. 124A inserted by [2023 c. 51 s. 3](#)