

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Equality: Key Concepts

Chapter 2: Prohibited conduct

Section 27: Victimisation

Effect

100. This section defines what conduct amounts to victimisation under the Act. It provides that victimisation takes place where one person treats another badly because he or she in good faith has done a “protected act”, for example taken or supported any action taken for the purpose of the Act, including in relation to any alleged breach of its provisions. It also provides that victimisation takes place where one person treats another badly because he or she is suspected of having done this or of intending to do this.
101. A person is not protected from victimisation where he or she maliciously makes or supports an untrue complaint.
102. Only an individual can bring a claim for victimisation.

Background

103. This section replaces similar provisions in previous legislation. However, under the Act victimisation is technically no longer treated as a form of discrimination, so there is no longer a need to compare treatment of an alleged victim with that of a person who has not made or supported a complaint under the Act.

Examples

- A woman makes a complaint of sex discrimination against her employer. As a result, she is denied promotion. The denial of promotion would amount to victimisation.
- A gay man sues a publican for persistently treating him less well than heterosexual customers. Because of this, the publican bars him from the pub altogether. This would be victimisation.
- An employer threatens to dismiss a staff member because he thinks she intends to support a colleague’s sexual harassment claim. This threat could amount to victimisation.
- A man with a grudge against his employer knowingly gives false evidence in a colleague’s discrimination claim against the employer. He is subsequently dismissed for supporting the claim. His dismissal would not amount to victimisation because of his untrue and malicious evidence.