



Government
Equalities Office

Putting equality at the heart of government

Equality Act 2010: Obtaining Information

**Discrimination and Other
Prohibited Conduct – Guidance**

These Guidance Notes are in four parts:

[Part 1: Introduction](#)

[Part 2: Guidance for the person seeking information \(complainant\)](#)

[Part 3: Guidance for the person or organisation who has been asked for information \(respondent\)](#)

[Part 4: Further information](#)

The questions and answers forms that this guidance covers, called “The Equality Act 2010 – Discrimination and Other Prohibited Conduct – Questions and Answers Forms” can be found on the Government Equalities Office website www.equalities.gov.uk/news/equality_act_2010_forms_for_ob.aspx

The purpose of this guidance is to explain the process for people who think they may have been treated unlawfully to obtain information under section 138 of the Equality Act 2010, in relation to a complaint about possible discriminatory or similar conduct by an employer or service provider, for example.

The questions form is for completion by someone who thinks they have been treated unlawfully under the Act (“the complainant”) to help them get information from the person or organisation (the “respondent”) he or she feels has discriminated against harassed or victimised him or her. The answers form is for completion by the respondent to reply to the complainant’s questions.

The Equality Act 2010 makes it unlawful to discriminate against someone because of their age, sex, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief and sexual orientation. It applies to work and (apart from in the case of age and marriage and civil partnership) to the provision of services, exercise of public functions, managing or letting premises, in education, in associations and private clubs.

There are separate questions and answers forms and supplementary guidance for equality of terms (which used to be called equal pay) complaints which are also on the Government Equalities Office website www.equalities.gov.uk/news/equality_act_2010_forms_for_ob.aspx

Resolving disputes before going to a court or tribunal

Taking a claim to an employment tribunal or civil court is not the only way of resolving an employment-related dispute or disagreement or a civil dispute.

For **employment disputes**, employers may have a grievance procedure, or other internal dispute resolution mechanisms – these should be the first port of call. If internal procedures do not result in an acceptable outcome, it may be helpful to consider mediation. [The Advisory, Conciliation and Arbitration Service \(Acas\)](#) can provide mediation; and in some circumstances offers a free conciliation service which may avoid the need to make an employment tribunal claim. However, if a dispute may eventually end up being taken to an employment tribunal, please bear in mind the time limits which apply to bringing a claim (see Part 4 of this guidance). Mediation can also be used to help restore working relationships after a claim has been through a tribunal. Further information on alternative dispute resolution can be found on: www.acas.org.uk.

For **civil disputes**, the [National Mediation Helpline](#) on 0845 60 30 809 or the [Centre for Effective Dispute Resolution](#) (CEDR) – www.cedr.com can help resolve your dispute out of court. The Equality and Human Rights Commission provides access to a free conciliation service for complaints about disability discrimination – see Part 4 of this guidance for contact details.

Part 1: Introduction

Terms used in this document

- **Complainant** means the person who thinks they may have a discrimination, harassment or victimisation complaint, or a complaint about other conduct prohibited by the Act.
- **Respondent** means the organisation or person who has been asked to answer the questions. This could be an employer (an organisation such as a company or a public authority) or an individual, such as a line manager. Alternatively it could be a person or organisation that is:
 - Providing services, whether for profit or not;
 - Exercising a public function;
 - Selling or letting or managing premises;
 - An association, which includes a private club or political party;
 - An education provider, including schools, further education, higher education and general qualifications bodies.

There can be more than one respondent in some circumstances - for example an employer and a colleague may both be involved in an incident that may be discrimination.

What are the questions and answers forms for?

1. Under section 138 of the Act, a complainant is entitled to seek information from the person or organisation (the “respondent”) he or she thinks has discriminated against, harassed or victimised him or her. It also gives the respondent an opportunity to respond. This information should help the complainant understand why he or she was treated in a particular way and whether or not there are reasons to believe that the treatment may have been against the law. If the complainant then decides to take a case to an employment tribunal or civil court, he or she can use the information to present his or her claim in the most effective way.
2. To make it easier to obtain relevant information, there is a questions form which the complainant can send to the respondent and a matching answers form for the respondent to use. Both forms can be downloaded from the Government Equalities Office website and you can get them from some local Citizens Advice and the Equality and Human Rights Commission (see final page of this guidance).
3. The questions form and the answers form have been designed to help the complainant and respondent to identify information which is relevant to the issue raised by the complainant. Although neither complainants nor respondents have to use these forms, they provide a helpful framework within which individuals and organisations can ask and respond to questions, as many people will be unfamiliar with the process of litigation in discrimination claims.

How to complete the questions form

4. **The complainant should read Part 1 and Part 2 of this guidance and complete the questions form.** This form contains some standard questions for the respondent to answer. There is also space to add additional questions because there are many types of discrimination cases and different questions may be relevant in the circumstances. Additional, relevant questions may also be a useful way to seek tailored information.
5. Once the questions form has been completed, the complainant should send it to the respondent. The complainant should keep a copy of the completed form sent to the respondent. The complainant should send the completed questions form to the respondent either before making a claim to an employment tribunal or a civil court or within 28 days of the claim being received by the tribunal or court or, if later, within a time specified by the tribunal or court. A claim to an employment tribunal normally has to be made within three months of the treatment giving rise to it. A claim to a civil court normally has to be made within six months of the treatment complained of. Please see paragraphs 9 to 12 of Part 4 of this guidance for more details. The complainant should not delay making a claim to an employment tribunal or a court because he or she is waiting for a reply to a questions form. The time limit for bringing a claim will not stop running in these circumstances and any claim brought later than the usual time limits could be out of time.

How to complete the answers form

6. The respondent should read Part 1 and Part 3 of this guidance and complete the answers form. The answers form lets the respondent say whether he or she agrees with the complainant and if not, explain the reasons why. The respondent is not obliged to complete the answers form. However, if the respondent does not answer the questions within eight weeks or if the respondent gives evasive or equivocal answers, then an employment tribunal or court may draw an inference from that. The exception to this is if the answers the respondent would have to give could prejudice a criminal proceeding or national security.

Guidance on discrimination law

7. Detailed guidance on your rights and responsibilities under discrimination law can be found in the Equality and Human Rights Commission's guidance and Codes of Practice. We advise you to consider these before completing either questions or answers forms. They can be found [here](#). Summary guides on your rights and responsibilities can be found in the [Equality Act 2010](#) webpage on the Government Equalities Office's website: www.equalities.gov.uk.

Part 2: Guidance for the complainant

Please read carefully

Notes on filling in the questions form

1. Before filling in the questions form, it would be helpful to prepare what you want to say. If there is not enough space for everything you want to say, use extra sheets of paper and attach them to the questions form. You may also wish to seek legal advice before completing the form. Please note, you do not need to complete all sections of form and you may not want to do so if you have not received any legal advice about the potential claim. The guidance in this section supplements the guidance in the questions form itself.

Section 3 of the questions form

2. It is possible to bring a claim for more than one protected characteristic, such as for sex discrimination and for race discrimination, as part of the same case. The claimant would have to separately prove (i.e. provide evidence of) less favourable treatment in relation to each characteristic.

Section 4 of the questions form

3. There are a number of different kinds of complaint under the Act and if possible you should indicate which one(s) you are making. These are:
 - Direct discrimination because of any protected characteristic (as listed in the box in section 3);
 - Discrimination or harassment because you are perceived to have a particular characteristic (in this case tick either the direct discrimination or the harassment box)
 - Discrimination or harassment because although you do not have a particular protected characteristic, you are or have been associated with someone who does have that characteristic (in this case tick either the direct discrimination or the harassment box).
 - Indirect discrimination. For example, where a rule or policy applied generally has a discriminatory effect on particular groups of people.
 - Victimisation. For example, where you feel you have been treated unfairly because you have brought a claim previously.
 - Harassment. Related to a protected characteristic.
 - Discrimination arising from disability.
 - Failure to make reasonable adjustments in relation to disability.

4. These terms are all defined in the Act and explained in the Equality and Human Rights Commission's guidance and Codes of Practice ([click here](#)).

Section 5 of the questions form

5. In this section, please say if you think that the respondent might be responsible for or might have helped someone else to treat you unlawfully. You may want to say if you think that the respondent:
 - o instructed;
 - o caused;
 - o induced, or;
 - o aided another person to treat you in a way which is unlawful.

Section 7 of the questions form

6. In section 7 you may, if you wish, tell the respondent why you think the treatment or failure to make a reasonable adjustment in relation to disability you have described in section 6 may have been unlawful discrimination, harassment or victimisation by the respondent against you. It will help to identify whether there are any legal issues between you and the respondent if you explain why you think the treatment or failure may have been unlawful.
7. If you can, you may also want to set out which provision of the Equality Act 2010 you think has been breached and the context in which this happened. For example, did the treatment or failure happen at work; or when you were buying goods, using facilities or buying services? Information about the provisions of the Act can be found in the Equality and Human Rights Commission's guidance and Codes of Practice.
8. You should bear in mind that in section 8 of the questions form you will be asking whether the respondent agrees with what you say in section 7.

Section 8 of the questions form

Standard questions

9. In this section you are asking the respondent if they agree with your description of the treatment you experienced. You are also asking them whether they agree that the treatment was unlawful. The standard questions reflect questions in the relevant regulations, so you may wish to keep them as they are and not change them.

Other questions

10. You should insert here any other questions relevant to your circumstances which you think may help you to obtain relevant information. For example, you may want to ask an employer about relevant wider recommendations or specific questions about indirect discrimination or victimisation.

Employment tribunal recommendations

11. Under the Equality Act 2010 employment tribunals are able to make recommendations to employers for the benefit of the wider workforce and not just individual claimants as of 1 October 2010.

12. You may wish to use the form to ask an employer whether:

- an employment tribunal has ever made a recommendation to them following a previous action taken, under the Act, by a different employee;
- what that recommendation was; and
- what action they took to comply with it.

13. Please note that recommendations can only be made by an employment tribunal.

They would not therefore be relevant in cases involving, for example, the provision of goods or services which are heard in the county or sheriff courts.

Indirect discrimination

14. If your complaint is about indirect discrimination you may wish to include the following questions:

- 'Was the reason for my treatment the fact that I could not comply with a provision, criterion or practice which is applied equally to people with and without the relevant protected characteristic (e.g. to men and women).
- If so,
 - i. What was the provision, criterion or practice?
 - ii. Why was it applied and with what justification (this is because indirect discrimination can be justified in most circumstances if it is a proportionate means of achieving a legitimate aim)?

Victimisation

15. If you think you have been victimised, an example of a relevant question you may want to include is:

- 'Was the reason for my treatment the fact that I had done or intended to do, or that you suspected I had done or intended to do, any of the following:
 - I. brought proceedings under the Act;
 - II. given evidence or information in connection with proceedings under the Act;
 - III. did something else under or by reference to the Act; or
 - IV. made an allegation that someone acted unlawfully under the Act?'

Serving the documents

What documents to serve on the respondent

16. You should send the person to be questioned this guidance and the questions and answers forms, with the questions form completed by you. If you are unable to fill out this form, because of a disability for example, you may need to arrange for someone to help you. You may wish to look at paragraphs 2 - 3 of Part 4 about use of alternative formats. You are strongly advised to retain, and keep in a safe place, a copy of the completed questions form. You will probably also find it useful to retain a spare copy of the uncompleted questions and answers form and this guidance.

Where to send the questions and answers forms

17. You can send the documents to the respondent at his or her usual or last known residence or place of business. If you know that he or she is acting through someone else (e.g. a solicitor) you should send them to the address of that person. For most employment-related cases, you may wish to send the documents to your line manager, supervisor or Human Resource or Personnel Manager.
18. For non-employment-related cases, if you wish to question a limited company or other corporate body, or a trade organisation, you should deliver or send the documents to the secretary or clerk at the registered or principal office of the organisation. You should be able to find details of this by searching online or asking at a public library. If you cannot, you will have to send the documents to the place where you think it is most likely they will reach the secretary or clerk (e.g. at, or c/o (care of), the company's local office). It is your responsibility, however, to ensure that the organisation's secretary or clerk receives the documents.

Part 3: Guidance for the respondent

Please read carefully

Notes on filling in the answers form

1. Before filling in the answers form, it would be helpful to prepare what you want to say. If there is not enough space on the answers form for what you want to say, use extra sheets of paper and attach them to the answers form. You may also wish to seek legal advice before completing the form. The guidance in this section is supplementary to the guidance contained in the answers form.
2. This answers form gives you the opportunity to say whether you agree with the complainant and if not, explain the reasons why you disagree. You do not have to complete the answers form but if you fail to respond to a questions form within eight weeks of receiving it or if you provide evasive or equivocal answers, then an employment tribunal or court may draw an inference from this when considering whether discrimination has occurred. The exception to this is if the answers you would have to give could prejudice criminal proceedings or national security.

Section 3 of the answers form

3. Here, you are answering the first question in section 8 of the complainant's questions form. You will need to decide whether you agree, or disagree, that the complainant's statement in section 6 of the questions form is an accurate description of what happened and tick the appropriate box.
4. If you disagree in any way that the statement is an accurate description of what happened, you should explain in the space provided in what respects you disagree, or give your version of what happened, or both.

Section 4 of the answers form

5. Here you are answering the second question in section 8 of the complainant's questions form. In this section you need to decide whether you agree or disagree that the treatment experienced by the complainant was unlawful and tick the appropriate box. If you disagree you should set out why you disagree.
6. This might include giving reasons why provisions of the Equality Act 2010 did not apply in the particular circumstances of the case. If you consider that what you did was justified under the Act, then you should say so in this section. You should note that the Act only provides for the possibility of justification in limited circumstances. It is not possible to justify direct discrimination, except when it relates to a person's age. It is also not possible to justify a failure to make a reasonable adjustment, victimisation or harassment. But it is possible to justify indirect discrimination in most circumstances, provided it is a proportionate means of achieving a legitimate aim.

7. If you have agreed with the complainant's description of his or her treatment in section 6 of the questions form, then you will be answering the second question in section 8 on the basis of the facts in that description. If, however, you have disagreed with that description, you should answer the question on the basis of your version of the facts.
8. You may want to look at the Equality and Human Rights Commission's guidance and Codes of Practice and any other relevant information on the provisions of the Act. Further information is available free of charge from the addresses or telephone numbers given at the end of this guidance.
9. You may also want to look at information on the provisions of the Act on the Government Equalities Office's website to find out:
 - a. Who is covered by the Act.
 - b. How the Act defines discrimination.
 - c. How the Act defines harassment.
 - d. How the Act defines victimisation
 - e. In what situations the Act makes discrimination, harassment and victimisation unlawful.
 - f. What is meant by the term 'reasonable adjustment'.

Sections 5 and 6 of the answers form

10. In section 5 you are also answering any other questions the complainant has asked in section 8 of the questions form. If you are unable or unwilling to answer any of the questions you need to set out which ones you are not answering and give reasons why you are not answering them.
11. If a question in section 8 of the questions form is about employment tribunal recommendations, which only apply to work related claims, you may be asked to set out whether or not an employment tribunal has made a recommendation to you that benefits the wider workforce rather than just the individual claimant as a result of a previous case brought against you in the last five years. An employment tribunal has been able to make recommendations of this sort since 1 October 2010. You may need to set out what that recommendation was and what steps you took to comply with it.

Confidential information

12. Questions may cover any matter that is or may be relevant to the alleged unlawful treatment under the Act. Respondents should answer questions in good faith and as completely as possible. Where the relevant information is considered to be commercially sensitive, the respondent could seek to present the information in a generic way. The forms also allow the respondent to give reasons where he or she is unable or unwilling to provide answers to a question.

13. Confidential information is protected by both the Data Protection Act 1998 (DPA) and the common law duty of confidence. Where information is confidential, a respondent would only be able to disclose the information if he or she had the consent of the individual in question, there was a legal obligation to do so or there was a strong public interest in favour of disclosure.
14. For advice on specific issues relating to data protection legislation and practical guidance, respondents may wish to refer to the Information Commissioner's Office by phoning 0303 123 1113 or looking on its website: www.ico.gov.uk.

Serving the answers form on the complainant

15. If you do reply to the questions form you are strongly advised to do so within eight weeks. If the complainant has provided the questions form in an alternative format, it is a matter for you whether it would be reasonable for you to provide your answers form in a similar format. You may wish to do so if, for example, that is the format which the individual has normally used in the course of involvement with you. You are strongly advised to retain, and keep in a safe place, the document sent to you with the completed questions form, and a copy of the answers form you completed.
16. You must not treat the claimant badly for serving a questions form on you, for example by denying them promotion or refusing to provide them with a service. To do so could give rise to a claim of victimisation.

Part 4: Further Information

How obtaining information can help both parties

1. The process can help both the complainant and the respondent in the following ways:
 - If the respondent's answers satisfy the complainant that there was no unlawful discrimination, harassment or victimisation, there will be no need for legal proceedings.
 - The respondent's answers can help to identify what is agreed and what is in dispute, even if the complainant is not happy with them. For example, the answers may show whether the complainant and respondent can agree on the basic facts of what happened and if so, whether they agree or disagree on how the Act applies to them. This may in some case enable the complainant and respondent to settle a dispute without needing legal proceedings.
 - If the complainant starts legal proceedings against the respondent, the proceedings should be simpler if the matters in dispute are identified in advance.

Alternative formats to accommodate disabilities

2. This document can be accessed in alternative formats from the Government Equalities Office's website www.equalities.gov.uk. Complainants are advised to use the standard printed questions form (getting someone else to complete it on their behalf as necessary) to serve on the respondent. This is because an employment tribunal or court may not always be able to accept the material in a format other than the written one. Please contact the local office of the tribunals or courts service to see if the tribunal or court may be able to provide support.
3. A complainant with a disability might normally use an alternative format during the course of his or her (working or other) relationship with the respondent (e.g. as an employee/employer). Even where this is the case it would be advisable to obtain the respondent's agreement to using this alternative format for the process of obtaining information. The respondent would need to consider the use of an alternative format as a reasonable adjustment to accommodate a disability.

Period within which a questions form must be served on the respondent

4. There are different time limits to serve (see explanation of how to 'serve' in paragraph 18 – 20 of Part 2 of this guidance) a questions form on the respondent depending on the time limits set out in the Act for bringing a claim before either an employment tribunal or a county court, in Scotland, a sheriff court.

Employment tribunal proceedings

5. Employment tribunals hear cases involving discrimination in a work context. This includes discrimination which occurs in recruitment, during the course of a working relationship and, in some circumstances, discrimination that occurs after the working relationship has come to an end. It also includes discrimination which arises because of the terms of collective agreements between trade unions and employers. They can also deal with cases involving claims of discrimination by trade unions against their members, work related professional and qualifying bodies and employment service providers. This is not a full list. Advice can be provided by the Equality and Human Rights Commission.
6. For an employment tribunal to admit the questions and answers as evidence in a case, the complainant's questions form must be served on the respondent either:
 - before a claim about the act complained of is made to an employment tribunal, which is normally within three months from the date of the act complained of; or
 - if a claim has already been made to a tribunal, within 28 days beginning when the claim was received by the tribunal; or
 - if later, within a time specified by the tribunal.
7. However, where the complainant has made a complaint to the tribunal and the period of 28 days has expired, a questions form may still be served within a time specified by the tribunal. This requires making an application to the employment tribunal by writing to the Regional Secretary Tribunals asking for permission to serve the questions form out of time and setting out the reasons for making the application. The complainant should make every effort to serve the questions form within the period of 28 days, as the tribunal may not grant permission for it to be served later.
8. The complainant should send copies of the questions and any answers to the employment tribunal dealing with that claim before the date of the hearing. This should be done as soon as the documents are available.

County or sheriff court proceedings

9. County courts or (in Scotland) the sheriff court hear claims to do with the provision of services, the exercise of public functions, the disposal and management of premises, education (other than in relation to disability in schools), and associations.
10. If the complainant intends to use the questions and the answers as evidence in any county court or sheriff court proceedings, the complainant's questions form must be served on the respondent either:
 - before a claim about the act complained of is made to a county or sheriff court, which normally is six months from the date of the act complained of; or
 - if a claim has already been made to a court, within 28 days beginning with the date when the claim was received by the court; or
 - if later within a time specified by the court.
11. Where the complainant has presented a claim to the court and the period of 28 days has expired, a questions form may still be served on the respondent with the permission of the court.

12. To seek permission from a county court in England/Wales, complete the [Application Notice](#) form (N244) from Her Majesty's Court Service website www.hmcourts-service.gov.uk. The accompany guidance for completing the N244 form provides details on court fees you may have to pay for making an application. To seek permission from a sheriff court in Scotland, complete the [Motion](#) form which can be found on the Scottish Courts website www.scotcourts.gov.uk.

This document is produced by:

Government Equalities Office

9th floor

Eland House

Bressenden House

LONDON

SW1E 5DU

Email: enquiries@geo.gsi.gov.uk

For help or advice about completing either questions or answers forms, please contact the Equality and Human Rights Commission (or your local Citizens Advice Bureau).

The Equality and Human Rights Commission has offices in Manchester, London, Glasgow and Cardiff. The main telephone numbers are:

Helpline:

England 0845 604 6610

Scotland 0845 604 5510

Wales 0845 604 8810

For other contact details visit their website: www.equalityhumanrights.com

This guidance and forms are available in some local Citizens Advice Bureaus. For details of your local Citizens Advice Bureau visit their website:

www.citizensadvice.org.uk

The forms and website pages can be read aloud from the Government Equalities Office website by clicking 'Browsealoud' logo in the top-right corner. The website is also available in text-only and high contrast. If you require an alternative format or any other assistance, please contact enquiries@geo.gso.gov.uk.

If you require this document in an alternative language please contact the Government Equalities Office to discuss your needs.

Further information about resolving conflicts and disputes at work can be found at:

www.businesslink.gov.uk/bdotg/action/layer?r.s=m&r.l1=1073858787&r.lc=en&r.l3=1074045599&r.l2=1074207487&topicId=1074045599&r.i=1073792732&r.t=RESOURCES

www.direct.gov.uk/en/Employment/ResolvingWorkplaceDisputes/index.htm

The Acas Guidance Booklet "Managing Conflict at Work" contains useful guidance for employers on alternative dispute resolution. This can be accessed from:

www.acas.org.uk/index.aspx?articleid=1662