

## If an employer says you cannot apply or rejects you for a job

If you're interested in applying for a job and the employer says that you cannot, you can ask them to tell you the reasons why. You can also ask them to share with you any formal rules they might have (for example, a recruitment policy) about how they recruit people.

The employer does not have to give you this information. But it's a good idea they do, so that they can demonstrate that they're being open in the way they recruit people.

You might be able to [challenge their decision](#) if you believe they are:

- [breaking discrimination law](#), for example they have said you cannot apply for the job because of your sex or race
- not keeping to a recruitment policy, or any other rules, consistently – for example, you're told the job requires a degree that you do not have, but they then let someone else without this degree to apply

If you applied for a job and did not get it, you can ask the employer to:

- tell you the reasons why
- share with you any formal rules – for example, a company recruitment policy, or rules it has on recruiting for that job – employers do not have to have these formal rules
- give you any other feedback, for example how you could have done better in the job interview

The employer does not have to give you this information. But it's a good idea that they do, so that:

- you know what to do differently with your future job applications
- they show they're open in how they make these decisions
- they keep a good relationship with you, if you already work for them

You might be able to [challenge their decision](#) if you believe they're:

- [breaking discrimination law](#), for example you did not get it because of your sex or race
- not applying their own rules consistently, for example they have a written policy on how they should conduct a job interview, and yours was conducted differently

When hiring it's usually against the law for an employer to discriminate against job applicants because of any of the following, known as

'protected characteristics':

- age
- disability
- race
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- religion or belief
- sex
- sexual orientation

You can find out [more about protected characteristics](#).

## 2. Trade union membership

An employer must not treat you unfavourably because you are, or are not, a trade union member.

Find out [what to do if you believe you've been treated unfavourably](#).

## Victimisation

It's against the law for an employer to victimise someone. Victimisation is when someone is treated badly because they've done things like:

- saying that they believe discrimination has happened, to themselves or anyone else
- providing information about discrimination they believe has happened
- challenging someone because they believe discrimination has happened

## Indirect discrimination

When someone breaks the law on protected characteristics – for example, an employer chooses not to hire someone because of their race – it's known as direct discrimination.

Some forms of discrimination in the workplace are 'indirect'. This means that there are rules or arrangements that apply to everyone, but which in practice could be less fair to someone with a protected characteristic. You could be breaking the law if you discriminate indirectly.

### Example

An organisation is recruiting for a head of sales. They only advertise the role internally. The potential applicants in the organisation are all men. They could therefore be discriminating indirectly against women.

## When employers can ask about protected characteristics

In certain circumstances an employer can ask questions about a protected characteristic, such as disability or race. If they do this they have to follow the law.

Common examples are:

- asking if you need '[reasonable adjustments](#)' because of any disability you have
- asking you to voluntarily complete a form to help check that the business is following the law (often called an equality monitoring form) – anyone who's interviewing or making a decision to hire you must not have access to this information

Other questions about a protected characteristic could be against the law - you can [call the Acas helpline](#) for help to understand if a question you've been asked is legal.

Find out [what to do if you believe you've been discriminated against](#).

## If an employer has viewed your social media profile

If an employer has viewed your social media profile before they made a decision related to hiring you (such as choosing whether or not to interview you), they could have discriminated against you. This is because they may have formed an opinion that relates to a protected characteristic, such as disability or race, or an opinion that's unrelated to your ability to do the job.

### Example

You've applied for a job. The employer happens to come across your profile on Facebook and discovers a photo that confirms your race. It could be that they've unintentionally made up their mind about you before interviewing you for the job.

The employer can make a decision based on your social media profile if they can prove it's crucial to the job requirements. For example, if you apply for a job as a social media manager, the employer may need to see your Facebook profile to understand how you use social media.

### Take care with your personal information

If you're concerned about the information that potential employers may come across, it's a good idea to check:

- the privacy settings of your social media profile

- any information that an employer could see without clicking on your profile, such as your profile picture

Be careful about any information you include on jobs websites, or social networking sites that focus on business (for example, LinkedIn). An employer could argue that they're justified in using this information, as it reflects your professionalism and employability.

## When a protected characteristic is crucial for the job

In some cases the employer can ask for a protected characteristic, such as disability or race. They can only do this if they can prove it's crucial in order to do the job effectively.

For example, a care worker agency could ask for female applicants, if the person being cared for is female and has said she would be uncomfortable in receiving this type of care from a man.

## When a group is disadvantaged or under-represented

In some cases employers can legally use a protected characteristic to decide who they employ. They can only do this if they want to increase applications from a group that's disadvantaged or under-represented in their business. This is sometimes known as 'positive action in recruitment and promotion'. They must still be able to prove that the person they hire is capable of doing the job.

### Example

A business has 10 salespeople who are all men. After interviewing for another salesperson, the business finds that 2 applicants are equally able to do the job. One of the applicants is a man and the other is a woman. The business chooses to hire the woman, because she is able to do the job and women are not represented in the existing workforce.

You can [call the Acas helpline](#) if you have questions about a protected characteristic, such as disability or race, that an employer is asking for.

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If you already work for the employer who rejected your application, you can [raise the issue](#) with them. It's best to do this informally at first.

## 3. Getting help

You can [call the Acas helpline](#) to discuss your options. We cannot give an

opinion or legal advice.

If you've tried all options without success and believe your employer broke the law, you might be able to [make a claim to an employment tribunal](#).

## Constructive dismissal

If you've been working for the employer for at least 2 years you might, in rare circumstances, be able to claim 'constructive dismissal'. This is when you feel forced to leave your job because of a decision your employer has made.

Constructive dismissal can be a difficult claim to win at an employment tribunal.

You might want to [get legal advice](#) before resigning or making a claim.

Find out more about [constructive dismissal](#).

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