

The Equality Act – are all partners born equal?



All partners may not be born equal, but partnerships should abide by the terms of the Equality Act 2010 (the Equality Act) and may be held liable if they discriminate against any of their partners (not just employees).

Partners may also bring a claim against their other partners if they are discriminated against as defined in the Equality Act. The Equality Act also applies to LLPs and business partnerships should therefore be aware of this legislation to avoid potential liability.

The Equality Act identifies nine protected characteristics, including age, disability, sex, religion and sexual orientation and the legislation prohibits direct and indirect discrimination along with the failure to take reasonable adjustments.

What might be discrimination?

Direct discrimination is where a person is treated unfavourably because of their protected characteristic. This form of discrimination may only ever be justified in the case of age or disability, if it can be shown that the discrimination is appropriate and necessary to achieve a legitimate aim. The Equality Act lists a number of such aims, which are intended to be justifiable on grounds of social policy or as a matter of public interest. For example it may be permitted to promote access to employment for younger people or rewarding experience.

Or if a provision, criteria or practice is put in place, which would put a person with a protected characteristic at a particular disadvantage compared to others who do not share that characteristic. An example of such discrimination could be a clause in a partnership agreement, which requires a partner to travel abroad on business at short notice. Such a clause may put female partners at a disadvantage as they are more likely to care



for children.

The Equality Act also requires reasonable adjustments for any disability. This includes both physical adjustments such as modifications to premises (for example, to allow access for those in a wheelchair) and adjustments to business practices that could cause discrimination (for example, to accommodate for a visual impairment).

It is unlawful for a partnership to discriminate against a prospective partner in the arrangements it makes for deciding to whom they offer a position as partner to, the terms offered to a prospective partner, or by not offering a person a position as a partner as a result of a protected characteristic. It also applies to current partners who should not be discriminated against or removed from the partnership by reason of a protected characteristic.

In the event of any discrimination the Equality Act allows a claim to be brought in the Employment Tribunal for compensation to put the partner in the position they would have been in if they had not been subjected to such discrimination.

In summary, partners must look beyond the terms of any partnership agreement and make sure that they have proper regard to the rights that are given by the Equality Act to partners with protected characteristics.

How we can help?

If you suspect there may be a potential claim related to the above that you would like advice on, please contact the [commercial disputes](#) team.



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