

Policy on the Code of Procedures on Recruitment and Selection

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1.0 Introduction

- 1.1 The Policy on the Code of Recruitment and Selection, procedures and accompanying Guidelines for Selection Panel Members were drawn up in consultation with Management and Trade Union representatives of the Negotiating Committee for Libraries NI. Guidance was also sought from the Equality Commission for Northern Ireland.
- 1.2 The Chief Executive of Libraries NI shall be the officer responsible to the Board for ensuring that the Code of Procedures for Recruitment and Selection are adhered to.

2.0 Purpose

- 2.1 The purpose of the Code is to define, as clearly as possible, the basis on which Libraries NI will seek to make appointments with the aim of ensuring that the most suitable person is appointed to the post.

3.0 Policy

- 3.1 When recruiting new employees or when affording our current employees with opportunities for promotion, Libraries NI will:
 - inform employees and managers of the Libraries NI policy and procedures for the Code of Recruitment and Selection
 - maintain information in a lawful manner and facilitate a consistent approach to ensure Libraries NI treat employees fairly, consistently in recruitment and selection
 - follow the good practice recommendation of the codes of practice and other guidance issued by the Equality Commission
 - select the best person for the job on merit in terms of qualifications and abilities.

4.0 Posts Covered by the Code

- 4.1 The Policy shall apply to all permanent, fixed term, secondment and temporary appointments to Libraries NI and, where appropriate, agency workers.
- 4.2 All permanent substantive vacant posts will normally be publicly advertised. There may be times when alternative recruitment methods will be used, for example, cover for maternity leave, secondments, acting up or development opportunities, temporary project work, appointment under EU funded and/or government programmes or in redundancy situations.

5.0 Exceptions to the Code

- 5.1 This Policy shall not apply to the appointment of Board members, which is the responsibility of the Department for Communities.

6.0 Legal Framework

- 6.1 The legislative framework for the Code of Procedures on Recruitment and Selection refers to the relevant employment legislation and Codes of Practice. The legislative framework forms part of the recommended training programme for those undertaking recruitment and selection and is the cornerstone of an effective recruitment policy.
- 6.2 Libraries NI will ensure that its policies, procedures and practices do not give rise to unlawful direct or indirect discrimination and that it promotes equality of opportunity, fair participation and good relations. Refer to Appendix One for further information on the meaning of discrimination.
- 6.3 The anti-discrimination law in Northern Ireland prohibits discrimination on grounds of religious belief, political opinion, race, disability, sex, marital status and sexual orientation. In addition, specific obligations are imposed on 'public authorities', including Libraries NI, in respect of the need to promote equality of opportunity and the desirability of promoting good relations under Section 75 of the Northern Ireland Act 1998. Refer to Appendix Two for more information on key legislative provisions.
- 6.4 In addition to the above legislation there are a number of Statutory Codes and guidance documents which should be taken into account.

The Statutory Codes do not impose legal obligations on employers, however, an Industrial Tribunal must take into account any provisions of the Codes which are relevant to any question arising in proceedings before the Tribunal. The following Codes are of particular relevance to recruitment and selection.

- Fair Employment Code of Practice (1989)
- Removing Sex Bias from Recruitment and Selection (1995 EOCNI)
- Code of Practice on Equal Pay (ECNI 1999)
- Code of Practice for the Elimination of Discrimination in the Field of Employment against Disabled Persons or Persons who have had a Disability (1996) – Guidance on matters to be taken into account in determining questions relating to the definition of disability (1996)
- Code of Practice for Employers for the Elimination of Racial Discrimination and the Promotion of Equality of Opportunity in Employment (1999 CRENI)
- Code of Practice on Age Diversity in Employment (1999)
- Code of Practice for all Employers on the Avoidance of Race Discrimination in Recruitment Practice While Seeking to Prevent Illegal Working.

7.0 Authority

7.1 Policy Sponsor

The Director of Business Support is the Policy Sponsor.

7.2 Policy Owner

The Human Resource Manager is the Policy Owner and is responsible for its regular review.

7.3 Policy Contact

Any member of staff who requires further information about the Policy on Code of Recruitment and Selection should contact the Human Resources Department.

8.0 Related Documents

8.1 Policies

- Equal Opportunities Policy
- Harassment Policy.

8.2 Procedures

- Code of Procedures on Recruitment and Selection
- Advertising
- Procedure for dealing with Disciplinary Matters Involving Officers of Libraries NI
- Procedures for handling Feedback.

8.3 Guidelines

- Guidelines for Selection Panel Members
- Notes of Guidance for Applicants
- Lines Managers Guidelines on Probation.

Appendix 1

Meaning of Discrimination

Introduction

The anti-discrimination laws ban discrimination on the statutory equality grounds. The laws use terms such as **direct discrimination**; **indirect discrimination**; **disability-related discrimination**; **failure to comply with a duty to make reasonable adjustments**; **harassment** and **victimisation** to describe the different types of discriminatory conduct which are banned. Further information about these terms is given below.

The statutory equality grounds

The anti-discrimination laws in Northern Ireland ban discrimination in employment on the grounds of sex; pregnancy and maternity leave; religious or similar philosophical belief; political opinion; race; sexual orientation and age. The laws also ban discrimination against people who are disabled; people who are married or who are in civil partnerships; and, people who have undergone, are undergoing or who intend to undergo gender reassignment.

When is it unlawful for an employer to discriminate?

The anti-discrimination laws ban discrimination in relation to the whole range of employment-related activities, from recruitment through to termination of employment, and even beyond (e.g. providing job references to former employees). However, to focus specifically on recruitment and selection, it is unlawful for an employer to discriminate against job applicants and employees in the following circumstances.

A. Discrimination against job applicants

It is unlawful for employers to discriminate against job applicants:

- in the arrangements made for determining who will be offered a job; or
- by refusing or deliberately omitting to offer a person a job.

B. Discrimination against employees

It is unlawful for employers to discriminate against employees:

- in their access to opportunities for promotion; or
- by subjecting them to any other detriment.

Direct discrimination

This usually occurs where an employer treats a job applicant or employee less favourably than he treats (or, would treat) another person, in the same or similar circumstances, on one or more of the statutory equality grounds.

For example, it is direct discrimination to refuse to employ a job applicant because she is a woman, or pregnant; or, because he/she is a Roman Catholic or a Protestant; or, because he/she is an Irish Traveller; or, because he/she is gay or lesbian; or, because he/she is disabled; or, because he/she is of a certain age (e.g. over 60, or under 20).

A recruitment or selection decision that is directly discriminatory will normally be unlawful unless: (a) in an age discrimination case, the decision can be objectively justified, or (b) in any other case, an employer can rely on a statutory exception, such as a genuine occupational requirement exception where the job needs to be done by a person who has a particular characteristic (e.g. the job holder needs to be a woman in order to preserve the decency and privacy of women service-users who may be undressed).

Indirect discrimination

This generally occurs where an employer applies to all job applicants or employees a particular provision, criterion or practice, but which has the effect of placing people who share a particular equality characteristic (e.g. the same sex, or religious belief, or race) at a particular disadvantage compared to other people.

Indirect discrimination might arise in a recruitment situation in the following way: the employer sets and applies a particular job criterion to all job applicants; however, it has the effect of disproportionately excluding or disadvantaging people who are members of a particular equality group. For example: (a) if a job-holder needs to have a degree and 5 years post-qualification experience then the criteria effectively excludes people aged under 26 or 27 years and, thus, the combined effect of the two criteria could be indirectly age discriminatory against people under the age of 26 or 27 years; (b) requirements to have academic qualifications that can only be gained through the local education systems (i.e. UK or Republic of Ireland) may effectively exclude many migrant workers who are otherwise eligible and qualified to do the work in question and, thus, could give rise to indirect race discrimination.

A recruitment or selection decision that is indirectly discriminatory will normally be unlawful unless the decision (e.g. the job criterion in question) can be objectively justified.

Disability-related discrimination

This occurs where an employer, without lawful justification, and for a reason which relates to a disabled person's disability, treats that person less favourably than the employer treats (or, would treat) other people to whom that reason does not (or, would not) apply.

Failure to comply with a duty to make reasonable adjustments

This is another form of disability discrimination that occurs where an employer is under a duty to make reasonable adjustments for a particular disabled job applicant or employee and fails to comply with it. A failure to comply with the duty cannot be justified and is always unlawful.

An employer will be under a duty to make reasonable adjustments for a particular disabled job applicant or employee if the following conditions apply:

- the disabled person is at a substantial disadvantage compared to persons who are not disabled as a result of,
- any provision, criterion or practice applied by the employer, or any physical feature of premises occupied by the employer, and
- the employer knows, or could reasonably be expected to know, that the disabled person is disabled and is suffering the said disadvantage, or is likely to.

Where the employer is under the duty, he/she is required to take such steps as are reasonable to take, in all the circumstances of the case, in order to prevent the disabled person from suffering the said disadvantage.

In a recruitment exercise, this could mean that the employer may, depending on what is reasonable in the circumstances, have to change or waive particular job selection criteria, or provide assistance to a disabled job applicant to help him/her to participate in a selection test or job interview.

Harassment

Harassment is a form of discrimination that may occur across all or any of the statutory equality grounds. It usually occurs where a job applicant or employee is subjected to unwanted conduct that is related to a statutory equality ground with the purpose, or which has the effect, of violating their dignity or of creating for them an intimidating, hostile, degrading, humiliating or offensive environment.

It is perhaps more likely in practice to occur in the course of employment in a normal workplace setting, but it could occur during a recruitment and selection exercise as a result of the manner in which a selection panel, or any of its individual members, behave towards a job applicant during the course of an interview (e.g. making sexist, racist or homophobic comments to a job applicant, or making derogatory comments to a pregnant or disabled job applicant). Harassment cannot be justified and is always unlawful

Victimisation

This generally occurs where an employer treats an employee or job applicant less favourably than he treats (or, would treat) another person, in the same or similar circumstances, because the person has previously exercised their rights under the anti-discrimination laws, or has assisted another person to do so.

Victimisation is essentially a form of retaliation (e.g. the employer retaliates against a person who previously made a discrimination allegation against him/her by refusing on that account to offer them a job or a promotion). Victimisation cannot be justified and is always unlawful.

KEY LEGISLATIVE PROVISIONS

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**This information has been provided by the Equality Commission for NI*

1. The key anti-discrimination laws

All employers in Northern Ireland are obliged to comply with a number of laws that seek to promote equality of opportunity in employment by banning unlawful discrimination and harassment. The laws are:

- Equal Pay Act (NI) 1970
- Sex Discrimination (NI) Order 1976
- Fair Employment & Treatment (NI) Order 1998
- Disability Discrimination Act 1995
- Race Relations (NI) Order 1997
- Employment Equality (Sexual Orientation) Regulations (NI) 2003
- Employment Equality (Age) Regulations (NI) 2006.

All together the laws ban discrimination and harassment in relation to the recruitment of new staff, opportunities for career development for current employees, the terms and conditions of employment, including pay, termination of employment and how workers behave towards one and other.

2. The anti-discrimination grounds

The laws ban discrimination and harassment in employment on the grounds of:

- sex
- pregnancy and maternity leave
- religious belief or similar philosophical belief
- political opinion
- race, colour, nationality, ethnic or national origins
- sexual orientation
- age.

The laws also ban discrimination and harassment against people who:

- are disabled
- are married or who are in civil partnerships
- have undergone, are undergoing or who intend to undergo gender reassignment

where any less favourable treatment which they might receive is based on those characteristics or reasons.

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3. Equal Pay Act (NI) 1970

The purpose of this law is to promote the principle that **men and women** should receive **equal pay for equal work**. Thus, it is a sex equality law.¹

The Act is not concerned with the procedures and practices by which employers recruit new staff or manage current staff (e.g. absence management; harassment; dismissal). The latter are regulated by the *Sex Discrimination (NI) Order 1976*.

The Act aims to achieve its objective by incorporating an **equality clause** into all contracts of employment. The effect of this is to give each employee a contractual right to receive equal pay with any employee of the opposite sex who is doing:

- work that is the same or broadly similar (i.e. “*like work*”); or
- work which is different, but which is of equal value in terms of the demands of the jobs (i.e. “*work of equal value*”); or
- work which has been rated as equivalent under a job evaluation scheme (i.e. “*work rated as equivalent*”).

The *equality clause* is not only concerned with salaries and wages, but also with all other contractual terms and conditions of employment.²

However, the *equality clause* does not operate in situations where the disputed variation in pay between the appropriate male and female comparators is *genuinely due to a material factor which is not the difference of sex*: for example, where the variation may be genuinely due to factors such as market forces, differences in skills or experience or length-of-service, and so long as these factors are not themselves tainted by sex discrimination.

A better up-to-date summary of the law can be found in the Equality Commission’s **Equal Pay Code of Practice** [July 2013].

4. Sex Discrimination (NI) Order 1976

This law bans discrimination on the grounds of *sex* in all those other areas of the employment relationship that are not covered by the *Equal Pay Act (NI)*; e.g. it bans discrimination and harassment in relation to the recruitment of new staff, opportunities for career development for current employees, termination of employment and how workers behave towards one and other.

¹ This means that it is not concerned with pay inequalities that are based on the other anti-discrimination grounds, like religious belief, race, age or disability. But those kinds of pay issues may be regulated by the other anti-discrimination laws and which may provide remedies for aggrieved employees.

² It does not deal with occupational pension schemes. Instead, those come within the scope of an associated law, the *Pensions (NI) Order 1995*, which operates in a similar way through the use of *equality clauses*.

* *This information has been provided by the Equality Commission for NI*

But the *Sex Discrimination (NI) Order* does not only ban discrimination and harassment on the grounds of sex. It also bans discrimination and harassment against:

- women on the grounds that they are or were **pregnant** during a “protected period”.

Note: The “protected period” commences when a woman becomes pregnant and continues to the end of her statutory maternity leave. It is deemed to be unlawful discrimination, for example, to treat a woman **unfavourably** because she took pregnancy-related sickness absences during the “protected period”. But, if she is absent after the end of “protected period” it will not *necessarily* be unlawful to treat her unfavourably because of those further absences, even if they stem from her pregnancy (e.g. like post-natal depression). But, employers must act with caution and fairness, for it would be unlawful to treat her less favourably than a comparable man who is also absent for other reasons.

- women on the ground that they are taking, or have taken, or intend to take statutory **maternity leave**
- men or women on the grounds that they are **married or in civil partnerships**
- men or women on the grounds that they have undergone, or are undergoing, or intend to undergo **gender reassignment**.

Note: This form of discrimination was not initially banned by the *Sex Discrimination (NI) Order 1976*, but was added later by amendments made by the *Sex Discrimination (Gender Reassignment) Regulations (NI) 1999* and the *Sex Discrimination (Amendment of Legislation) Regulations 2008*. Under the Order, “gender reassignment” is defined as a process which is undertaken under medical supervision for the purpose of reassigning a person’s sex by changing physiological or other characteristics of sex, and includes any part of such a process.

5. Fair Employment & Treatment (NI) Order 1998

This law bans discrimination and harassment in employment on the grounds of religious belief, similar philosophical belief and political opinion.

Religious belief:

The term *religious belief* refers to any religious belief, such as Roman Catholicism, Protestantism (and each and all its varieties), Judaism, Islam, Hinduism and so on. The term also refers to the *absence* of religious belief, so that it is unlawful to discriminate against a person because he is an atheist or agnostic. The term also refers to a *perceived* religious belief, so that it is unlawful to discriminate against a person because you believe (correctly or incorrectly) that she has a particular religious belief or no religious belief.

Similar philosophical belief:

The term *similar philosophical belief* is not defined in the statute but has been clarified to some extent by case law. It refers to a genuinely held viewpoint about a

**This information has been provided by the Equality Commission for NI*

weighty and substantial aspect of human life and behaviour; for example, a philosophy that is a matter of conscience or morality. It is not enough if it is merely an opinion based on some real or perceived logic or based on information or lack of information available. It must be a viewpoint that has sufficient cogency, seriousness, cohesion and importance and that is worthy of respect in a democratic society. It has been held to include a very wide range of beliefs, such as pacifism, veganism, humanism, animal rights. The term also refers to the *absence* of a belief and to a *perceived* belief.

Political opinion:

The term *political opinion* refers to any lawful political opinion, such as (Ulster) Unionism, (Irish) Nationalism, Conservatism, Liberalism, Socialism, Marxism and so on. However, the protection of the law does not extend to any political opinion that consists of, or includes approval or acceptance of, the use of violence for political ends connected with the affairs of Northern Ireland. The term also refers to the *absence* of a political opinion and to a *perceived* political opinion.

Associative discrimination:

What is the legal situation if an employer discriminates against a Protestant/Unionist man (X) on the grounds that X is married to or friendly with a Roman Catholic/Nationalist woman (Y)? In such a case the reason why X is being discriminated against is not because of his own religious belief or political opinion but is because of those of another person (Y) with whom he is associated. This is commonly called *associative discrimination* and it is unlawful too.

Monitoring community background / taking affirmative action:

This law also imposes a number of additional special duties on some employers. (In comparison, the other anti-discrimination laws noted in this paper do not impose any similar special duties).

In brief, employers who are bound by the duties are required to-

- register with the Equality Commission
- monitor the *community background* of job applicants and staff (i.e. collect data on whether individuals are members of the Protestant or Roman Catholic communities)
- send monitoring reports to the Equality Commission every year
- carry-out periodic reviews (i.e. every 3 years) of the composition of their workforces and of their employment practices, and
- take affirmative action, where it is reasonable and appropriate to do so.

These special duties are imposed on a wide range of employers in both the public, private and community sectors. In the case of the private/community sectors, the duties are imposed on those organisations that employ more than 10 employees in Northern Ireland (i.e. counting only those employees who work for 16 or more hours per week). A failure to comply with the duties may open up an employer to criminal prosecution by the Equality Commission. The penalties can include fines of up to £5,000. The ultimate penalty is that a defaulting employer may be barred from tendering for work and from entering into contracts for the supply of goods and services with Government departments and other public authorities.

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6. Disability Discrimination Act 1995

The main purpose of this law is to ban discrimination and harassment in employment against disabled people.

It is most notable for imposing a special duty on employers to make *reasonable adjustments* for disabled people in certain circumstances. (In comparison, the other anti-discrimination laws noted in this paper do not impose any similar duty). The purpose of this duty is to remove or reduce physical, procedural and attitudinal barriers that prevent disabled people from enjoying the same equality of opportunity in employment that non-disabled people enjoy.

Who is disabled?

As this law, and especially its *reasonable adjustment* duty, is intended to help disabled people, it is necessary to know who actually qualifies for that help. The law defines the terms “disability” and “disabled person” in a special way and a person will benefit from the law only if he or she satisfies that definition. Not all persons who are ill or injured or who have an impairment of some sort will qualify. The following is only a short and incomplete guide to how this question is to be answered:

Impairments that definitely are qualifying disabilities

Cancer, multiple sclerosis and HIV infection are deemed to be qualifying disabilities from the point in time that a person develops one or other of them. It does not matter how long a person has the condition or how serious it is at any particular point in time.

Impairments that definitely are not qualifying disabilities

A small number of impairments are deemed by the law not to be qualifying disabilities. These are: hay fever; addiction to drugs (except for properly prescribed medications), alcohol or nicotine; tendency to steal, to set fires or to physically or sexually abuse others; voyeurism and exhibitionism.

All other impairments

For all other impairments, the answer is not as clear cut. There is no official list that specifies whether any other impairment is or is not a qualifying disability. So to determine whether a particular person has a qualifying disability means making an assessment about the duration and severity of his particular impairment and about how it affects his daily life. The relevant test is this:

It must be a physical or mental impairment that has a substantial and long-term adverse effect on the person's ability to carry out normal day-to-day activities.

“*Long term*” for this purpose means that the substantial adverse effects of the impairment must have lasted, or be likely to last, for at least 12 months.

“*Normal day-to-day activities*” are simply the things that people generally do on a daily basis: e.g. walking to a bus stop; shopping; doing the housework; speaking on a telephone; reading a newspaper.

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Some people will have impairments that obviously satisfy this test; e.g. a person who needs a wheelchair to move about or a person who is totally blind or profoundly deaf is clearly a disabled person. In many other cases it will be less obvious and an employer may have to make his own assessment based on medical or other expert reports.

As was noted, the short guide to the “disability” definition given above is incomplete. A fuller description would also note some special rules that apply to impairments that consist of severe disfigurements, progressive conditions (other than cancer, multiple sclerosis and HIV infection) and conditions whose adverse effects fluctuate in severity. It would also note special rules regarding past disabilities and the effects of medical treatment and some other issues beside.

The most definitive source of help for assessing this issue is a guide published by the Office of the First Minister and the deputy First Minister (OFMDFM) entitled: *Guidance on matters to be taken into account when in determining questions relating to the definition of disability [2008]*. It is available to download free-of-charge from the website of OFMDFM at the following address: **www.ofmdfmi.gov.uk/disabilitydiscriminationact1995.pdf**

Associative discrimination:

What is the legal situation if an employer discriminates against a non-disabled woman (X) on the ground that X is married to or friendly with a disabled man (Y) or looks after the caring needs of a disabled child or relative (Z)? In such a case the reason why X is being discriminated against is not because of her own disability (for she is not disabled) but is because of that of another person (Y or Z) with whom she is associated. This is commonly called *associative discrimination* and it is unlawful too. This is one of the rare occasions in which the *Disability Discrimination Act* provides some limited rights to non-disabled people. It is important to note that an employer does not, however, owe a duty to make reasonable adjustments to non-disabled employees or to disabled people who are not his employees or job applicants. Therefore, an employer would not be under a duty to make reasonable adjustments to help X to care for Y or Z.

7. Race Relations (NI) Order 1997

This law bans discrimination and harassment in employment on *racial* grounds: i.e. the grounds of race, colour, nationality, ethnic or national origins.

National origins:

It has been held in case law that the English, the Scots, the Welsh and the Northern Irish are people of different *national origin* for the purposes of this law. Thus, it would be race discrimination for a Northern Irish employer to refuse to employ a job applicant because she is English or Welsh or Scottish.

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Ethnic origins:

It has been held in case law that a group will be deemed to be an *ethnic group* for the purposes of this law if it has certain characteristics such as: (a) it regards itself, and is regarded by others, as a distinct community, (b) a long shared history which distinguishes it from other groups and the memory of which it keeps alive, and (c) a cultural tradition of its own, including family and social customs and manners. The group might also share a common geographical origin or a common language, literature or religion and perhaps other common characteristics that distinguish it from other groups. The test is broad and flexible. Under this test, it has been held that Jews, Sikhs, Romany Gypsies, European Roma and Irish Travellers are distinct ethnic groups. On the other hand, it has been held that Rastafarians and Muslims do not satisfy the test and thus are not distinct ethnic groups (this does not mean that members of these two groups are not protected against discrimination – they might, for example, claim protection by alleging that they are being subjected to discrimination on the grounds of religious belief or similar philosophical belief. They might also be able to allege that they are being subjected to direct or indirect discrimination on other racial grounds, such as race, colour, national origins or nationality).

Irish Travellers:

It is race discrimination to discriminate against a member of the Irish Traveller community on the ground that he/she is a member of that community.

Religious beliefs:

The *Race Relations (NI) Order* does not ban religious discrimination; that is done instead by the *Fair Employment & Treatment (NI) Order*. But, sometimes there are close links between the two forms of discrimination: (a) Firstly, some religions are so closely associated with some ethnic groups, such as Judaism and people of Jewish ethnicity or Sikhism and people of Sikh ethnicity, that it may sometimes be difficult to distinguish the forms of discrimination that these people may be subjected to (e.g. it may be wholly religious or wholly racial or, perhaps more likely, a mixture of both); (b) Secondly, some religions or beliefs, although held by people from all over the World, are perhaps more likely to be associated with people of certain colour or ethnic or national origin, such as Hinduism and people from India. It follows from this that job requirements that have an adverse impact on people with certain religions or beliefs might indirectly have an adverse impact on people who share certain racial characteristics and thus may possibly cause indirect race discrimination.

Languages:

As noted, the law bans discrimination on racial grounds, which is defined in terms of race, colour, nationality, ethnic or national origins but which makes no express reference to language. But, like religion, language is often associated, perhaps more so, with the racial grounds of ethnic or national origins and nationality. It follows from this that workplace rules or criteria relating to language may have different impacts on the members of different racial groups. For example, a job selection criterion that says that applicants must be fluent English-speakers has the potential to exclude migrant workers from outside the UK and thus it might cause indirect race discrimination.

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Racial segregation:

It is also race discrimination to segregate employees on the basis of their racial group.

Perception:

It is also unlawful to discriminate against a person because you believe (correctly or incorrectly) that he or she is a member of a particular racial group.

Associative discrimination:

What is the legal situation if an employer discriminates against a white man (X) on the grounds that X is married to or friendly with a black woman (Y)? In such a case the reason why X is being discriminated against is not because of his own race or colour but is because of the race or colour of another person (Y) with whom he is associated. This is commonly called *associative discrimination* and it is unlawful too.

8. Employment Equality (Sexual Orientation) Regulations (NI) 2003

This law bans discrimination and harassment in employment on grounds of sexual orientation.

Sexual orientation means a sexual orientation towards people of the same sex, or people of the opposite sex, or people of the same or the opposite sex. Thus, it refers to the sexual orientations that are commonly known as gay, lesbian, bisexual and straight.

Perception:

The term also refers to a *perceived* sexual orientation, so that it is unlawful to discriminate against a person because you believe (correctly or incorrectly) that he or she is gay, lesbian, bisexual or straight.

Associative discrimination:

What is the legal situation if an employer discriminates against a straight man (X) on the grounds that X is friendly with a gay man (Y)? In such a case the reason why X is being discriminated against is not because of his own sexual orientation but is because of the sexual orientation of another person (Y) with whom he is associated. This is commonly called *associative discrimination* and it is unlawful too.

9. Employment Equality (Age) Regulations (NI) 2006

This law bans discrimination and harassment in employment on grounds of age, including *perceived* age.

Age: The law bans discrimination against people of any age or any age group. However, as the law applies only in the context of employment and as there are other legal restrictions on the rights of children to work, then in practice the law mainly applies to people aged 14 years or over.

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Justification: The law also differs from the other anti-discrimination laws in an important way. Age discrimination, either in its direct or indirect forms, may be permissible if it can be lawfully justified. (In the other laws, only indirect discrimination is capable of being lawfully justified). This is relevant to those employers who may wish to have minimum or maximum recruitment ages or compulsory retirement ages for it opens up the possibility that they may be allowed to have them.

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