

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 11: Advancement of Equality

Chapter 2: Positive action

Section 159: Positive action: recruitment and promotion

Examples

- A police service which employs disproportionately low numbers of people from an ethnic minority background identifies a number of candidates who are as qualified as each other for recruitment to a post, including a candidate from an under-represented ethnic minority background. It would not be unlawful to give preferential treatment to that candidate, provided the comparative merits of other candidates were also taken into consideration.
- An employer offers a job to a woman on the basis that women are under-represented in the company's workforce when there was a male candidate who was more qualified. This would be unlawful direct discrimination.