

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Equality: Key Concepts

Chapter 2: Prohibited conduct

Section 24: Irrelevance of alleged discriminator's characteristics

Effect

94. This section provides that it is no defence to a claim of direct or dual discrimination that the alleged discriminator shares the protected characteristic (or one or both of the protected characteristics in a dual discrimination claim) with the victim. The discriminator will still be liable for any unlawful discrimination. The wording of the section is broad enough to cover cases of discrimination based on association or perception.

Background

95. Previous legislation only expressly provided that it was no defence to a claim of direct discrimination that the alleged discriminator shared the same religion or belief as the victim. This section makes clear that the same principle applies, as at present, for other protected characteristics and makes similar provision in relation to the new concept of dual discrimination.

Example

- An employer cannot argue that because he is a gay man he is not liable for unlawful discrimination for rejecting a job application from another gay man because of the applicant's sexual orientation.