

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Work

Chapter 1: Employment, etc.

Section 48: Advocates

Effect

165. This section makes it unlawful for practising advocates and their clerks to discriminate against, harass or victimise devils (trainee advocates) or members of the stable (a group of advocates working in shared premises) or people seeking to be a devil or member, in respect of the professional relationship between them. It imposes on advocates a duty to make reasonable adjustments for disabled devils and stable members.
166. It also makes it unlawful for a person instructing an advocate (for example, a direct access client or instructing solicitor) to discriminate against, harass or victimise an advocate in relation to the giving of instructions.

Background

167. This section replaces similar provisions in previous legislation. However, as with the section on barristers, this section no longer protects clients and clerks from discrimination by advocates because they can respectively seek redress under the “services” provisions or under other work provisions (section 39 and section 41) of the Act.

Examples

- An advocate treats one devil less favourably than another by refusing to allow him to be involved in a particular case because he fears the devil’s sexual orientation may affect his involvement in the case. This would be direct discrimination.
- An advocate puts pressure on a stable member to leave because the member is disabled and the advocate does not want to make reasonable adjustments. This would be direct discrimination.