

# Tackling Sex Discrimination and Promoting Equality of Opportunity

Pharmacy Forum  
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## Sex Discrimination (NI) Order 1976

bans discrimination on grounds of:

- sex
- pregnancy / maternity
- gender reassignment
- marriage / civil partnership

### regulates

- recruitment of new employees
- career development opportunities
  - training
  - transfers
  - promotions
- working environment
  - prevention of harassment
  - flexible working arrangements
- termination of employment
- non-contractual benefits
  - discretionary bonuses

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## Equal Pay Act (NI) 1970

- upholds the principle of **equal pay for equal work** between men and women
- Section 1 inserts an implied **equality clause** into the contract of employment of a woman who is doing **work** that is **equal** to that of a male co-worker (and vice versa)

### regulates

- contractual terms and conditions
  - basic pay
  - overtime pay
  - contractual bonuses
  - holiday pay
  - sick pay
  - redundancy pay
  - contractual benefits
    - company car
    - mobile phones
    - discounts

# Pregnancy & maternity discrimination

## DEFINITION

- during a **protected period**
  - treating a woman **less favourably**
  - on the ground of-
    - her pregnancy, or
    - that she is exercising, has exercised, or is seeking to exercise, or has sought to exercise a statutory right to maternity/adoption/paternity leave
- ❖ Less favourable treatment on grounds of pregnancy-related illness = less favourable treatment on grounds of pregnancy
- ❖ **Protected period = begins at beginning of pregnancy and ends when her statutory maternity leave ends or when she takes up shared parental leave**



## INDIRECT SEX DISCRIMINATION

- restrictions on the availability of flexible working
- are more likely to place women at a disadvantage compared to men

restrictions  
must be  
lawfully justified



# .Benefits of Flexible Working

According to the case study organisations CIPD examined, quality flexible working can help organisations:

- address skills shortages
- attract and retain talent and support diversity
- narrow their gender pay gap
- improve employee job satisfaction and loyalty support well-being
- empower organisations to be more agile and responsive to change

## Flexible working: are all your staff able to work flexibly and does your culture support them to do so?

- **Design every job as flexible** by default and think creatively about how work is organised. Examples of flexible working include working from home, flexitime, compressed hours, job-sharing, and part-time or term-time working.
- Make flexible working a reality for all employees by **advertising all jobs as flexible from day 1**, unless there are solid business reasons not to.
- **Examine and remove barriers to flexible working** in your organisation and have senior leaders and managers act as role models by working flexibly themselves.  
**Pay for work, not face time.**

## Parental leave and returners: are you supporting your staff with caring responsibilities?

- Do you already offer enhanced maternity pay on top of statutory pay? Consider offering **enhanced pay for shared parental leave** and paternity leave as well.
- To **encourage take-up of shared parental leave**, share the policy and simple guidance with your staff and showcase employees who use it.
- Maintain **regular contact** with your staff on parental leave or career breaks; promote the use of 'keep in touch' days.
- **Recruit returners** by putting in place returner programmes with ongoing support and by offering meaningful work at all levels, including well-paid senior roles.

# Menopause information

- **Equality considerations and the law**

The **possible discrimination risks are in the areas of sex, age and disability discrimination and in unfair dismissal.**

Examples from the Great Britain Tribunals

- Supporting your employees

- Menopause information – other guidance in relation to reasonable adjustments, harassment , performance etc.





<https://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/MenopauseInWorkplace.pdf>

# Harassment

Occurs where a person is subjected-

- ❖ to unwanted conduct
  - ❖ that is related to an equality ground
  - ❖ it causes offence / fear / stress / isolation / humiliation / hurt feelings
- 

❖ harassment can occur even if the conduct is not intended to be offensive, etc.

- *“I didn’t mean to offend anyone”*
  - not a defence !

# Sexual Harassment

**Occurs where a person is subjected-**

- ❖ **to unwanted conduct**
  - ❖ **that is sexual in nature**
  - ❖ **it causes offence / fear / stress / isolation / humiliation / hurt feelings**
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**Or where the employee is treated less favourably for rejecting or submitting to harassing conduct**

**e.g. penalised for refusing to sexual favours**

# Third Party Harassment

Sex Discrimination Order 1976 (Amendment) Regs (NI) 2008

Employers must take reasonably practicable steps to protect their employees from harassment by third parties (such as clients or customers). The employer is liable, where such harassment is known to have occurred on at least two other occasions and where the employer had not taken reasonable steps to prevent it happening again.

# Policies

- Pregnancy & Maternity Policy reference to paternity/adoption policies, breastfeeding policies
- Helping line managers  
<https://www.equalityhumanrights.com/sites/default/files/working-forward-conversation-guide-for-line-managers.pdf>
- Handover plan
- <https://www.equalityhumanrights.com/en/publication-download/pregnancy-maternity-and-shared-parental-leave-how-write-handover-plan>

# Further support on policies and good practice

- Shared Parental Leave and Pay (including provisions for time off to attend antenatal appointments and pre-adoption meetings, extension of adoption leave and pay to prospective adopters and surrogate parents. Extension of Right to Request Flexible Working.
- <https://www.economy-ni.gov.uk/publications/shared-parental-leave-and-pay-technical-guidance-employers>
- <https://www.nidirect.gov.uk/articles/shared-parental-leave-and-pay>
- Breastfeeding  
<https://www.publichealth.hscni.net/publications/promoting-breastfeeding-mothers-returning-work-guide-employers-1>

# Moore v Debenhams Retail Ltd Settlement

Transgender woman settles case against Debenhams - BBC News

<https://www.bbc.co.uk/news/uk-northern-ireland-51119914> ▾



16/01/2020 · A **transgender woman** will receive a £9,000 **settlement** from Debenhams after **settling** a sex **discrimination case**. Ava Moore had applied for a job as a temporary sales

- Required to produce eligibility to work in UK documentation at job interview
- Disclosure of transgender history and alleged uncomfortable atmosphere
- Respondent alleged unsuccessful due to lack of availability to work hours - disputed by claimant

Equality Commission

FOR NORTHERN IRELAND

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