



Equality Act 2010

2010 CHAPTER 15

PART 11

ADVANCEMENT OF EQUALITY

CHAPTER 2

POSITIVE ACTION

159 Positive action: recruitment and promotion

- (1) This section applies if a person (P) reasonably thinks that—
 - (a) persons who share a protected characteristic suffer a disadvantage connected to the characteristic, or
 - (b) participation in an activity by persons who share a protected characteristic is disproportionately low.
- (2) Part 5 (work) does not prohibit P from taking action within subsection (3) with the aim of enabling or encouraging persons who share the protected characteristic to—
 - (a) overcome or minimise that disadvantage, or
 - (b) participate in that activity.
- (3) That action is treating a person (A) more favourably in connection with recruitment or promotion than another person (B) because A has the protected characteristic but B does not.
- (4) But subsection (2) applies only if—
 - (a) A is as qualified as B to be recruited or promoted,
 - (b) P does not have a policy of treating persons who share the protected characteristic more favourably in connection with recruitment or promotion than persons who do not share it, and
 - (c) taking the action in question is a proportionate means of achieving the aim referred to in subsection (2).

Status: This is the original version (as it was originally enacted).

- (5) “Recruitment” means a process for deciding whether to—
- (a) offer employment to a person,
 - (b) make contract work available to a contract worker,
 - (c) offer a person a position as a partner in a firm or proposed firm,
 - (d) offer a person a position as a member of an LLP or proposed LLP,
 - (e) offer a person a pupillage or tenancy in barristers’ chambers,
 - (f) take a person as an advocate’s devil or offer a person membership of an advocate’s stable,
 - (g) offer a person an appointment to a personal office,
 - (h) offer a person an appointment to a public office, recommend a person for such an appointment or approve a person’s appointment to a public office, or
 - (i) offer a person a service for finding employment.
- (6) This section does not enable P to do anything that is prohibited by or under an enactment other than this Act.