



**Government
Equalities Office**

Dress codes and sex discrimination – what you need to know

May 2018

Contents	Page
Who is this publication for?	2
Summary.	2
Introduction.	2
Setting a workplace dress code – your responsibilities as an employer.	3
Health and safety.	3
Reasonable adjustments for disabled employees.	3
Transgender staff.	4
Dress codes and religious symbols.	4
Dress codes – your rights as an employee.	4
Examples.	5
Frequently asked questions.	6
Further sources of information.	7

Who is this publication for?

This guidance is for **employers** who set dress codes and **employees** and job applicants who may have to abide by them.

Summary

- A workplace dress code is a set of standards that employers develop about what is appropriate for employees to wear to work.
- Dress codes can be a legitimate part of an employer's terms and conditions of employment.
- Dress policies for men and women do not have to be identical, but standards imposed should be equivalent. Dress codes must not be a source of harassment by colleagues or customers, for example women being expected to dress in a provocative manner.
- It is best to avoid gender specific prescriptive requirements, for example the requirement to wear high heels. Any requirement to wear make-up, skirts, have manicured nails, certain hairstyles or specific types of hosiery is likely to be unlawful (see further text on page 3).
- Consulting employees and trade unions over any proposed dress code or changes to an existing code will help ensure that the code is acceptable to both the organisation and its staff.

Introduction

This guidance has been written following a recommendation from the Parliamentary Women and Equalities Select Committee and the Petitions Committee. It sets out how the law might apply in cases of sex discrimination where an employer requires female staff to wear, for instance, high heels, make-up, hair of a particular length or style, or revealing clothing.

This guide explains the law on dress codes in workplaces such as offices, hotels, airlines, temporary work agencies, corporate services, the retail sector; and in the hospitality industry, especially in bars, restaurants and clubs. This is not an exhaustive list.

The Equality Act 2010 (the Act) does not set out specific examples of practices that are unlawful, or definitions of behaviours that are 'sexist', 'racist' or 'homophobic' etc. It sets out the legal framework, including a ban on sex discrimination and harassment, and it is ultimately for the courts to decide whether a practice is unlawful depending on the facts of each case.

A dress code could be unlawful, for example, if it requires female employees to wear high heels, with all the discomfort and inherent health issues these can cause, because it treats women less favourably than men.

Setting a workplace dress code – your responsibilities as an employer

Dress codes can be a legitimate part of an employer's terms and conditions of service. There are different ways of achieving a professional "look" among employees, but it is important that a dress code does not discriminate, for example, by allowing both men and women to wear trousers in the workplace.

Dress policies for men and women do not have to be identical. However, the standards imposed should be equivalent. This means there must be similar or equivalent rules laid down for both male and female employees. Any less favourable treatment because of sex could be direct discrimination. Dress codes must not lead to harassment by colleagues or customers, so any requirements on women to dress in a provocative manner are likely to be unlawful on those grounds.

It is advisable to avoid gender specific prescriptive requirements. For example, any requirement to wear make-up, have manicured nails, wear hair in certain styles or to wear specific types of hosiery or skirts is likely to be unlawful, assuming there is no equivalent requirement for men. A dress code that requires all employees to 'dress smartly' would be lawful, provided the definition of 'smart' is reasonable. For example, a two-piece suit in a similar colour for both men and women, with low-heeled shoes for both sexes.

It is good practice when setting or revising a dress code to consider the reasoning behind it. Consulting with employees, staff organisations and trade unions may better ensure that the code is acceptable to both the organisation and staff. Once agreed it should be communicated to all employees.

Health and Safety

When setting a dress code, employers should have regard to any health and safety implications. For example, if an employer requires staff to wear particular shoes (as part of a dress code rather than for personal protective equipment purposes), then they should consider whether this may make staff more prone to slips and trips or injuries to the feet.

Reasonable adjustments for disabled employees

Where someone meets the definition of a disabled person in the Act, employers are required to make reasonable adjustments to any elements of the job which place a disabled person at a substantial disadvantage compared to non-disabled people. This

could include not applying dress code requirements, where their impact is more onerous on a disabled employee. See www.gov.uk/reasonable-adjustments-for-disabled-workers

Transgender staff

There are some people whose gender identity (the gender with which they identify) does not match the gender they were assigned at birth – these are transgender people. Many will undergo the process of aligning their life and physical identity to match their gender identity, and this is called transitioning.

Transgender employees should be allowed to follow the organisation's dress code in a way which they feel matches their gender identity. If there is a staff uniform, they should be supplied with an option which suits them.

Dress codes and religious symbols

Britain is an integrated and cohesive society with a proud tradition of religious tolerance within the law. Employers should be flexible and not set dress codes which prohibit religious symbols that do not interfere with an employee's work. New Acas guidance on Religion or Belief can be found at this link: (www.acas.org.uk/religionorbelief).

Dress codes – your rights as an employee

If you think that your employer's dress code is discriminatory, speak to your manager in the first instance, explaining the reasons. He or she should engage constructively with your concern. If they react badly to your complaint, for example by criticising or penalising you, this could be unlawful victimisation, which you are protected from under the Equality Act 2010.

If this approach does not resolve the issue, you can follow the HR processes for your organisation, or ask for help from your trade union representative. You can also contact the Advisory, Conciliation and Arbitration Service or the Equality Advisory and Support Service (see page 6) if you think you have experienced discrimination. Ultimately, you may take your case to an [employment tribunal](#), but it is usually best to seek an agreement or compromise with your employer before this stage is reached.

Examples

An employer requires female staff to wear high heels as part of a dress code but places no footwear requirements on men or merely requires them to look smart. This is likely to constitute **direct discrimination** on grounds of sex because there is not an equivalent standard imposed on male staff. It may also amount to **indirect discrimination** against employees with a disability, where heels could exacerbate any difficulties with their mobility, or for those who are visually impaired, where walking in heels can pose an extra risk of falling.

A company requires their receptionists to dress smartly, to portray a positive public facing image. This would be **lawful**, as there are no gender specific requirements for men or women.

An employer requires all employees to wear smart shoes, but does not require female employees to wear high heels. This would be **lawful**.

A clothes shop expects staff, both male and female, to dress in a provocative or revealing fashion. This might not amount to direct discrimination since it imposes equivalent requirements on men and women, but it could contribute to an environment in which employees may be **vulnerable to unwanted sexual attention and harassment**.

In the clothes shop example above, a female shop assistant makes a complaint that the dress code amounts to harassment. Shortly after, she is dismissed from her job, with no valid reason given. This is likely to constitute unlawful **victimisation even if the employer did not say it was because of her complaint**. This would be the case even if the shop assistant's harassment complaint was not upheld.

Frequently Asked Questions

Is it lawful for an employer to set different dress codes for men and women?

Dress codes must apply to both men and women but may have different requirements so long as these are of a similar standard, and not applied more strictly to one sex over the other. For example, a requirement for men to wear a shirt and tie is not unlawful if women are also expected to wear smart office attire.

Is it lawful for an employer to require female employees to wear high heels?

It is likely to be unlawful under the Equality Act 2010 for employers to require women to wear high heels, with the discomfort or health issues that may entail, and as there is no male equivalent.

Can I be fired just for making a complaint about a sexist dress code?

No. The Equality Act 2010 provides protection from victimisation, meaning that you cannot be legally dismissed or badly treated by an employer for bringing a complaint, even where the complaint is not subsequently upheld. If you experience victimisation, you can get advice from your HR Department, or trade union representative, Acas or the [Equality Advisory and Support Service \(EASS\)](#). If it is not resolved, you can take your employer to an employment tribunal.

How do I enforce my rights?

If you think your employer or potential employer has discriminated against you in their dress code or in any other way and you cannot resolve the issue informally, you should speak to your HR Department or trade union representative if you have one, who will advise you of your options. You can also apply for early conciliation at Acas, which you and your employer would attend. If this conciliation does not resolve the dispute, you may take your case to an employment tribunal. If the tribunal upholds your claim, you may be entitled to compensation and repayment of any costs.

Where can I find out information about work wear or jewellery that an employee might ask to wear for religious reasons?

If you decide you want to implement a dress code or uniform policy, you must ensure that this does not directly or indirectly discriminate against employees with a particular religion or belief or no religion or belief. The Equality and Human Rights Commission publishes guidance on dress codes and religious symbols, which can be found here:

www.equalityhumanrights.com/en/advice-and-guidance/religion-or-belief-dress-codes-and-religious-symbols

Further sources of information

The Advisory, Conciliation and Arbitration Service guidance on dress codes can be found at:

www.acas.org.uk/index.aspx?articleid=4953

The Equality and Human Rights Commission provide guidance on sexist dress codes which can be found at:

www.equalityhumanrights.com/en/equality-act/know-your-rights/sexist-dress-codes-work-what-you-can-do

The Equality and Human Rights Commission provides guidance on avoiding discrimination in dress and business attire, within their Employment Statutory Code of Practice (page 249).

www.equalityhumanrights.com/en/publication-download/employment-statutory-code-practice

Trade unions negotiate with employers for better workplace policies on dress codes.

www.tuc.org.uk/

Further guidance on supporting transgender staff has been issued by the Government:

www.gov.uk/government/publications/recruiting-and-retaining-transgender-staff-a-guide-for-employers

and by Acas: www.acas.org.uk/index.aspx?articleid=2064

Further information on slips and trips and musculoskeletal disorders can be found here:

www.hse.gov.uk/slips www.hse.gov.uk/msd/msds.htm

There is support for individuals seeking information and advice on discrimination in employment issues. Acas provides authoritative and impartial advice free to employees or employers via their website (www.acas.org.uk) and telephone helpline 0300 123 1100 or text phone 18001 0300 123 1100.

The Equality Advisory and Support Service also provides bespoke advice and in-depth support to individuals with discrimination problems by calling the following number 0808 800 0082 or text phone 0808 800 0084. Individuals seeking independent legal advice can contact their local Citizens Advice Bureau or Law Centre.



**Government
Equalities Office**

© Crown copyright 2018

This publication (not including logos) is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

To view this licence:

visit www.nationalarchives.gov.uk/doc/open-government-licence/version/3

email psi@nationalarchives.gsi.gov.uk

write to Information Policy Team, The National Archives, Kew, London, TW9 4DU

About this publication:

enquiries www.gov.uk/government/organisations/government-equalities-office

download www.gov.uk/government/publications



Follow us on Twitter:

<https://twitter.com/WomenEqualities>



Like us on Facebook:

www.facebook.com/GovtEqualities