

Explanatory notes for filling in the form to make a complaint of discrimination in relation to employment - Form EE1

The following notes have been drawn up to help you complete the form. They are a basic guide only and they are not a legal explanation of the law. They cannot cover everything. They include a summary of the main provisions but there are significant exceptions and exclusions which are not covered in the form. You may need advice to cover your individual situation. See details of helpful organisations at the end of this guide.

Before you complete this form have you met the important legal time limits?

- You must send your formal complaint to the Tribunal (Form EE1) within 6 months of the last event (except for equal pay claims).
- You can apply for an extension for reasonable cause for a further 6 months, but you must satisfy the Director that the delay was reasonable.
- The Tribunal cannot investigate any claim (except equal pay) referred more than 12 months after the last event.

Filling in the Form

1. Your name and address

Please put in your name, address, phone number and email address here. The “**complainant**” is the legal term for the person who says they were discriminated against.

Important: If your address changes, you must let the Tribunal know. Otherwise you may miss important letters from the Tribunal, including the date of any hearing, which will be sent by post, and the complaint could be decided in your absence or even dismissed.

2. Your Representative

If you have agreed with someone to represent you, please tick yes and put in their name & contact details. Otherwise, please tick no.

You can bring your case by yourself but, if you wish, you can be represented by a lawyer, support organisation or support person. You will have to pay any costs involved as the Tribunal cannot award costs.

3. The person, organisation or company you are complaining about

Please put in the name of the person, organisation, or company against whom you are making the claim. They are known as the “**respondent**”.

You must identify the person, organisation or company correctly. The Tribunal cannot change the name of the respondent. If you are complaining about a company or an organisation, you must use their full legal name.

4. On what “grounds” is different treatment unlawful?

You can claim unlawful discrimination on one or more of nine “**protected grounds**”. You will normally have to show that you were treated less favourably than someone else is, was or would have been. You will usually have to be able to compare your treatment with the way in which someone else (the “**comparator**”) was or would have been treated. For the list of grounds and some examples, please see the following pages.

It is not necessary to have a comparator for claims of harassment or sexual harassment or for claims that you are treated less favourably because of pregnancy.

It is always necessary to name an actual comparator in an equal pay case.

GROUND(s): if you are claiming you have been less favourably treated because of your:

COMPARATOR would:

Gender: being male or female

Be the opposite gender (e.g. you are female and the other person is male)

Marital Status: being single, married, separated, divorced or widowed

Have a different marital status (e.g. you are separated and the other person is married)

Family Status: being pregnant, being responsible for a person under 18, being a parent or resident main carer for a person with a disability

Not have "family status" (e.g. you have a child and the other person does not)

Sexual orientation: heterosexual, homosexual or bisexual

Have a different sexual orientation (e.g. you are gay and the other person is not)

Religious belief: this includes religious background or having no belief

Belong to a different religion or religious belief, or have no religion

Age: persons under school leaving age (currently 16) are not allowed to claim on the age ground

Be older or younger than you

Disability: includes physical, intellectual or mental disability

Not have a disability or have a different disability

Race: colour, nationality, national or ethnic origins

Be of a different nationality, colour, or national or ethnic origin to you

Membership of the Traveller community: whether or not you are a member of the Traveller community.

Be the opposite –e.g. if you are a Traveller, a person who is not a Traveller.

5. What kind of treatment is “unlawful treatment”?

Discrimination means being treated less well than someone else because of one of the grounds.

Discrimination is a comparative term. Your claim cannot normally succeed if you do not show that someone else was or would have been treated better than you because of one of the above grounds.

Exceptions include pregnancy and harassment where a comparator is not required.

What kinds of discrimination are unlawful?

Direct discrimination means that you have been treated less well than someone else because of one of the grounds.

Indirect discrimination means that there are conditions in place which appear neutral but which impact more strongly on you because of your inclusion in one of the grounds.

Harassment means you have been treated in a demeaning way because of one of the grounds.

Sexual harassment means you have been treated in a sexually demeaning way.

Victimisation is a technical term which means you have been treated less favourably because you have taken action to oppose discrimination e.g. made a complaint of discrimination. It is not the same as being treated as a victim.

Discriminatory dismissal means that you were dismissed because of your inclusion in one of the grounds.

Discrimination by association means you have been treated less favourably because of your connection with someone covered by the grounds.

Failure to provide “reasonable accommodation” for a disability

means the employer has not taken measures to enable you, as a person with a disability, to work. An employer is not obliged to make reasonable accommodation where either it, would place a disproportionate burden on the employer, or where an employee is not able or willing to do a particular job.

Discriminatory dismissal means that you have been dismissed and you think this was because you are covered by one of the protected grounds. For example, because of your age or your disability.

6. Are you making a complaint about Equal Pay?

If you are making a complaint that you are not being paid the same as another person or group of people who are doing the same or similar work or work that is of equal value, you must give the name of that person or persons. That person or group of people is known as the ‘**comparator**’.

7. Collective agreement?

The Tribunal can only hear a claim about a collective agreement where you are covered by the agreement and you think it contains discriminatory provisions. The Tribunal cannot award compensation for this. All it can do is to say that the collective agreement is discriminatory and must be set aside. The Tribunal has no jurisdiction to decide whether a collective agreement has been properly carried out or whether you should be covered by a particular collective agreement. For instance, the Tribunal cannot decide whether you should be covered by a Registered Employment Agreement.

8. Asking the respondent for information?

You are entitled to ask the respondent for information. More information from the employer may help you decide whether to make a complaint to the Equality Tribunal. You should use the form set by law to do this. This is Form EE2, which is available from the Equality Tribunal by post, phone, in person or on www.equalitytribunal.ie.

The respondent does not have to reply to a request for information. However, if there is no reply, or if the information given is false or misleading, the Tribunal may take this into account when reaching a decision, provided that you have used Form EE2.

9. Details of complaint:

It is important:

- to be as precise as you can about the dates. “Ongoing” means that there are continuing incidents of discrimination.
- to give a clear account of what happened and why you think this was discrimination. You may continue on a separate page if you wish.

Unless your case is mediated or withdrawn, you will be asked later for a more formal outline of the alleged discrimination.

10. Details of any related complaints

If you are aware that your complaint is one of a number of claims arising from the same or similar circumstances, i.e., the same or similar complaints against the same respondent, please provide details. This will help Tribunal staff to process claims efficiently.

11. Important Points to note

- Please ensure that you have fully completed the form as otherwise your complaint may not be valid. The Tribunal will return incomplete forms to you to fill in blanks.
- Please sign and date the form clearly.
- When the Tribunal has accepted your complaint as valid, you will be offered mediation. This is a less formal and confidential process to help both parties to reach an agreement acceptable to both of you.
- If your complaint goes to investigation and is decided, the decision will be published and included on the Tribunal's website.
- Please note that your form, and any other correspondence, will be copied to the respondent and you will get copies of all correspondence from the respondent.
- Remember to tell the Tribunal if you change your address or contact details.

12. Further information

For further information please see www.equalitytribunal.ie.

Staff at the Equality Tribunal can answer general telephone queries, give information about tribunal publications and explain how the tribunal system works. They cannot assist you in filling out the form, or give you legal advice, such as advising you whether your complaint is likely to be successful. The telephone number is Lo-Call 1890 34 44 24. All calls are charged at local rate.

13. Further help and advice

You do not have to take advice before you make a complaint to the Equality Tribunal. However, you may feel it is helpful to do so.

You can get information on your rights from the Equality Authority's Public Information Centre Lo call 1890 245 245 or on www.equality.ie.

You can get more help and advice from:

- a trade union, if you are a member;
- free advice centres such as Citizens Information. The website address for Citizens Information is www.citizensinformation.ie or Lo call 1890 777 121;
- solicitors and other professional advisers may be able to help you prepare your case.