

Employment Equality Acts, 1998 to 2004

Complaint to the Equality Tribunal of discrimination relating to employment

(See Notes attached)

Part 1: Details of complainant

Complainant's name	Contact phone number:
Contact address	Fax number / e-mail (if available)

Part 2: (For completion by the Tribunal only)

Case reference number:	Date of receipt at Tribunal:
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Part 3: Grounds on which discrimination is claimed

<p>Please tick box(es) as appropriate:</p> <p><input type="checkbox"/> gender (male, female, pregnant)</p> <p><input type="checkbox"/> marital status (single, married, separated, divorced or widowed)</p> <p><input type="checkbox"/> family status (parent of child aged under 18, acting parent of child aged under 18, or parent / primary carer of a person with a disability who needs continuing care) (see Notes)</p> <p><input type="checkbox"/> sexual orientation (heterosexual, homosexual or bisexual orientation)</p> <p><input type="checkbox"/> religion (religious belief / background or lack of belief)</p> <p><input type="checkbox"/> age (if over 16, see Notes)</p> <p><input type="checkbox"/> disability (see Notes)</p> <p><input type="checkbox"/> race (colour, nationality, ethnic or national origins)</p> <p><input type="checkbox"/> membership of the Traveller community</p>

Part 4: Description of Claim

Please tick box(es) as appropriate:

- Discriminatory treatment in:**
- access to employment
 - promotion / re-grading
 - training
 - conditions of employment
 - other
- Discriminatory dismissal**
- Harassment** (see Notes):
- Sexual harassment** (see Notes):
- Victimisation** (see Notes):
- Victimisation dismissal:**
- Failure to provide reasonable accommodation**
(only for a person with disability: see Notes):
- Claim for equal pay*** (see Part 9)
- Claim in relation to a collective agreement**

*If your claim is about an occupational pension scheme (e.g. your employer's pension scheme for employees), please use the Pensions Acts form PA.1, not this form EE.1.

Part 5: Details of complainant's representative

If you are using a representative (e.g. Equality Authority, Trade Union, Solicitor), please give their name and contact details:

Representative:	Phone Number
Address:	Fax Number / E-mail

Part 6: Details of respondent

Please give name and contact details of the person (employer or other) against whom this complaint is made:

Name:	Phone Number
Address:	Fax Number/ E-mail

Part 7: Right to Information

The Employment Equality Acts provide at section 76 that :

- where a person thinks they may have been discriminated against, or treated in any other way which is unlawful under the Employment Equality Acts,
- that person (the “complainant”) may, if they so wish,
- write to the person or organisation whom they think may have treated them unlawfully, (the “respondent”)
- asking for relevant information to help in deciding whether they should refer a case to the Equality Tribunal or to help in formulating and presenting a case.
- Form EE.2 is prescribed by law as the form which a complainant can use in asking for this information. Some types of information are excluded (see Notes to Form EE.2).

The respondent can reply using Form EE.3, which is also prescribed by law for this purpose. (The respondent is not obliged to reply, but section 81 of the Acts provides that if they do not reply, or if their replies are false or misleading, this may be taken into account in deciding the case.)

Are you using the form EE.2, provided for seeking information under the Employment Equality Acts?

Yes

No

Have you completed the form EE.2 and sent it to the respondent?

Yes

No

If "Yes", please state the date on which the questionnaire was sent to the respondent:

.....

Part 8: Details of complaint (other than equal pay).

If this is only an equal pay complaint, please go directly to Part 9.

Date of first occurrence of discriminatory act:
Date of dismissal (if applicable) :
Date of most recent occurrence of discriminatory act¹:
Place(s) where discriminatory act(s) occurred:
Brief outline of complaint:

¹Time limits apply, please see Explanatory Notes attached
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Part 9: Equal Pay Claim

The Name of the Person with whom equal pay is being claimed (the “comparator”):

Name:

Declaration

The complainant claims that s/he : [please tick box(es) as appropriate]

- performs the same work as the comparator named, or his/her work is interchangeable with that of the comparator, and/or

- performs work of a similar nature to that performed by the comparator and that any differences that occur are infrequent and of little importance, and/or

- performs work that is equal in value to that of the comparator.

Part 10: Signature

Signature of Complainant or Representative:

Date: _____

The completed and signed complaint form should be sent promptly to:

The Equality Tribunal, 3 Clonmel St, Dublin 2

Contact details:

Tel: 01-4774100

Lo-Call: 1890 344424

Fax: 01-4774141

Form EE.1

Explanatory Notes

(This Form and Notes are provided as a practical plain-language aid, to ensure that both parties and the Tribunal have clear information on what the complaint is about. The Form and Notes are neither legal advice nor a legal interpretation, and the language used may not be as accurate as the exact text of the legislation. Some of the relevant definitions from the Acts are set out in full below. The full text of the Employment Equality Acts 1998 and 2004 is available at www.equalitytribunal.ie, or from the Government Publications Office.)

1. Confidentiality

Please note that once a complaint has been accepted for investigation, the complaint form and other information received by the Equality Tribunal in the course of an investigation is copied to the other party. This is done in order to ensure that each party is fully informed of the case made by the other, in accordance with natural justice. Decisions, including relevant details of the evidence presented, are also published. Otherwise, the details held by the Tribunal on individual cases are treated as confidential to the parties concerned. In cases raising particular sensitivities, such as sexual harassment cases, the decision is published in a form which does not identify the individuals concerned.

2. Accessibility and special needs

If you have any particular difficulty in completing the form (for example due to disability or language or writing difficulties), please contact the Office. We will try to help in making alternative arrangements as appropriate.

3. Other Proceedings

A person may not refer a complaint to the Director, if a court has already begun hearing a case which they have brought concerning the same issue, claiming damages at common law for breach of an equal remuneration clause, or an equality clause, in their employment contract. Similarly, a person who has referred a claim to the Director may not also recover damages at common law through court proceedings in respect of the same issue, once the Equality Tribunal has begun an investigation of their complaint, or it has been settled by mediation. There are also restrictions on bringing complaints about dismissal simultaneously under the Unfair Dismissals Acts and the Employment Equality Acts, or simultaneously under the legislation protecting part-time or fixed-term workers and under the Employment Equality Acts.

4. Time limits for making a complaint

The Employment Equality Acts provide that a claim of discrimination or victimisation must be referred to the Director of the Equality Tribunal within

six months of the date when it occurred (or, in the case of a repeated act, last occurred)².

This means that, for example, a complaint about an incident of discrimination on the 12th April 2004 must be delivered to the Tribunal on the 11th October 2004 at the latest³. A claim delivered on the 12th October 2004 will be out of time, and the Tribunal cannot then deal with it.

If a complaint is not referred in time, and is made under the Employment Equality Act 1998 before the 18th July 2004, the complainant may apply to extend the time limit. The Director may then extend the time limit up to a maximum of twelve months (to 11th April 2005 in the above example). However, she can only do so if the complainant can satisfy her that **exceptional** circumstances prevented them from referring the case within the normal six months⁴.

There is a change under the Equality Act 2004, which came into force on 18th July 2004. In cases where the Equality Act 2004 applies, the Director can extend the time limit (also to a maximum of 12 months) provided there is “reasonable cause” to extend. In these cases, “exceptional circumstances” need not be shown.

The date on which a claim is referred is the date on which the Tribunal receives⁵ a completed complaint form, or a complaint made through appropriate alternative arrangements as agreed with the Tribunal.

5. Explanation of terms⁶:

“age” includes all ages over the mandatory school attendance age (presently 16)

"disability" means—

(a) the total or partial absence of a person's bodily or mental functions, including the absence of a part of a person's body,

(b) the presence in the body of organisms causing, or likely to cause, chronic disease or illness,

² Note that this particular provision does not apply to equal pay cases: Section 77(5)(c) Employment Equality Acts.

³ Interpretation Act 1937, section 11(h); *McGuinness v Armstrong Patents*, High Court, 1980 IR 289.

⁴ Section 77(5)(b) Employment Equality Acts.

⁵ Section 74(3) Employment Equality Acts.

⁶ These general explanations are not a statement of law, and are subject to the exact wording of the Acts in each case. They refer to the situation under the Employment Equality Acts **from 18th July 2004**. Incidents which occurred before that date will be decided according to the definitions in the Employment Equality Act 1998 before it was amended by the Equality Act 2004. Those definitions may differ from the definitions given here.

(c) the malfunction, malformation or disfigurement of a part of a person's body,

(d) a condition or malfunction which results in a person learning differently from a person without the condition or malfunction, or

(e) a condition, illness or disease which affects a person's thought processes, perception of reality, emotions or judgement or which results in disturbed behaviour,

and shall be taken to include a disability which exists at present, or which previously existed but no longer exists, or which may exist in the future or which is imputed to a person;

“**dismissal**” includes “constructive dismissal”, that is, where the person is not actually dismissed by the employer but where it is reasonable for them to refuse to continue working in the job because of the employer’s behaviour;

“**family status**” means responsibility—

(a) as a parent or as a person *in loco parentis* in relation to a person who has not attained the age of 18 years, or

(b) as a parent or the resident primary carer in relation to a person of or over that age with a disability which is of such a nature as to give rise to the need for care or support on a continuing, regular or frequent basis,

and, for the purposes of paragraph (b), a primary carer is a resident primary carer in relation to a person with a disability if the primary carer resides with the person with the disability;

“**harassment**” means unwanted conduct⁷ based on any of the discriminatory grounds (race, gender, age, sexual orientation, disability, etc) which has the purpose or effect of violating the person’s dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person.

“**sexual harassment**” refers to unwanted conduct⁸ of a sexual nature, whether verbal, non-verbal or physical, which has the purpose or effect of violating the person’s dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person.

“**marital status**” means single, married, separated, divorced or widowed;

“**reasonable accommodation**”: The Employment Equality Acts state that a person with a disability is considered fully competent and capable for any

⁷ The unwanted conduct may, for instance, consist of acts, requests, spoken words, or gestures; or of producing, displaying or circulating written words, pictures, computer images, text messages or other material.

⁸ The above footnote also applies in sexual harassment complaints.

duties, if provision of reasonable accommodation by the employer would make them so. Reasonable accommodation is defined as appropriate, effective and practical measures where needed in a particular case to enable a person who has a disability to have access to employment, to participate or advance in employment, or to undergo training, unless the measures would impose a disproportionate burden on the employer. They may include adapting premises or equipment, patterns of working time, distribution of tasks or providing training or integration resources, but do not include any treatment, facility or thing that the person might ordinarily or reasonably provide for themselves.

"religious belief" includes religious background or outlook;

"sexual orientation" means heterosexual, homosexual or bisexual orientation;

"victimisation" occurs where an employee is dismissed, or otherwise penalised, by their employer as a reaction to the employee having—

- (a) complained about discrimination or other conduct which is unlawful under this Act
- (b) taken any proceedings about conduct which is unlawful under this Act
- (c) represented or supported a complainant
- (d) been used as a witness or a comparator in equality proceedings,
- (e) opposed by lawful means conduct which is unlawful under the Employment Equality Acts, or
- (f) indicated an intention to do any of the above.