# Introduction to Equalities online version

## Tutors’ notes

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| Author(s) | Frances Cusack, Kathryn Sharratt, Martin Roberts |
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## Introduction

This is the new reps training course for 2022. It has been developed from previously run sessions for the Energy Sector and incorporated with a few elements of our reps training to allow the reps to embed the learning and have a plan of action on completing the course. This is the second trial of content and it may be incorporated in the future with campaign training and specific areas of equalities where there is an appetite for more learning from reps. This is to be run online over 3-hour long sessions using zoom or some other video conferencing service.

The course is split into three parts (as one long session but with two short breaks) The activities are to complete as a group (up to 6/8 delegates) with the PowerPoint presentation cut down to a minimum with the tutor sharing the screen. Currently using the slides as a basis for some content for reps to see as well as providing some useful links/action plan and terminology pages. This will look to be revisited as a resource in Spring 2022.

## How these notes work

There are 5 core resources associated with the course:

1. The PowerPoint presentation, which includes visual aids, but also maintains the structure/order of the course
2. The participants workbook, which covers slides, action plan, useful links. (as above, to be updated)
3. Jamboard. Another approach to sharing and engaging with the reps. This exercise is approached early in the session to help to break the ice with the group and ascertain learning so far.
4. Polls – used in this training as a quiz/assessment of learning.
5. The tutor’s notes which explain the activities, suggest discussion-prompts, give (loose) timings, and ‘index’ the other resources, tying the whole thing together.

(As tutors who’ve committed to delivering this course, we would suggest a small amount of preparation time ahead of the course to ensure you’re familiar with the session, activities and tutor instruction.)

## Tutor Notes/Course Structure

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| **Session** | **Slide no/WB page** | **Notes** | Resources |
| **Before the course** |  N/A | **Tutor to ensure you have joined online zoom meeting slightly earlier than the start time; Have the following opened up on the computer:*** **Set up Microsoft Whiteboard for first exercise**
* **Set up Zoom polls/quiz (see separate sheet for Test Your Knowledge quiz Q&A)**
* **Ensure participants have course pack in advance of course**
 | **Microsoft Whiteboard****Quiz (Q&A) Sheet** |
| **Course Outline.** **9.30 – 9.40** |  | * **You may need to help people with technical issues such as sound.**
* **Run through the zoom basics – microphone – mute etc, video – off if necessary, reactions when showing the power point, chat box for anything private or sharing, change name function, raise hand function. Polls**
* **Add if zooms crashes or issues with connectivity, tutor will join asap – please ask delegates to work on the activity/next activity/etc.**
* **Interactive course and reps are encouraged to discuss, raise items and participate in the sessions**
 | Zoom Top ten tip for zoom (already sent ahead of the course.) |
| **Introductions and objectives**  | No Slide  | * Tutor should go first (keep very brief in the hope everyone else will too!)
* Added in how long they’ve been a rep as this should guide the tutor in terms of reference to the pitch of the sessions
* Introductions should be quick, giving most of the time to a bit of social interaction
* Write down answers to what they want to get from the course. This can be referred to during the day but also covered by next steps, further courses perhaps. The most important point is that these are the outcomes of the delegates and to recap over them at the end of the 3 sessions to ensure they’ve been met wherever possible.
 | Workbooks Tutor, Pen & paper to make notes, or use whiteboard and save to send at the end of the session. |
|  | Slide 1-3 / page 15 | * Outline structure of the course and Key learning outcome

(refer to any the participants have mentioned in their outcomes.) | PowerPoint& Course page terminology page.  |
|  | Slide 4/page 10 & 11 | A note on language * Talk through language /terminology use
* Course pack includes language glossary

Some terms:* EDI = Equality, Diversity, Inclusion
* People of colour, ethnic minorities, BAME/BME
* LGBT+
* ‘Disabled workers’, ‘workers with disabilities’
* Pronouns
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|  | Slide 5 | Introductions; make a note of their answers.* What is your name?
* Where you currently work?
* Do you have a rep role?
* Are there any EDI issues currently in your workplace?
* What do want to get out of the course?
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| **Part 1****Workplace issues** 15 mins for whole section9.40 – 9.55 | Slide 6 | Purpose of this section: highlight some of the key EDI issues in UK workplaces, and get the participants thinking and talking about inequality and discrimination |  |
|  | Slide 7 | Systemic equality issues in recruitment & retention* First chart: researchers sent out multiple identical applications for various jobs, varied only by ethnicity of applicant, chart shows proportion of ‘candidates’ who were short-listed by ethnicity
* Second chart: data from Royal Academy of Engineering, proportion of men and women who cancel professional registration by age 45
* Only 11% of engineers are women
* That drops to only 8% of women are high earning engineers.
* There are equality barriers such as career breaks for child birth that prevent progression
* This leads to an increased percentage of women engineers being lower earners
* The reason the percentage is only 16% is that there are so few female engineers to start with, it would not be possible to get a much higher percentage.
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|  | Slide 8 | Bullying and harassment Prospect members’ experiences of bullying and harassment* First graphic: from Prospect 2018 Workplace behaviours survey, members’ experiences of unwanted behaviours at work
* Second chart: selected results from the Prospect BAME members survey in 2018
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|  | Slide 9 | Pay inequality is still a huge issue* First chart: latest ethnicity pay gap data from ONS; note that figures show adjusted pay gaps, so after differences in geography (people of colour heavily concentrated in London for example), occupation, education etc. have been accounted for.
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|  | Slide 10 | Some cases Prospect has won * **Lizzie Walmsley v Big Lottery Fund** - In early 2018 watched Newsnight which included an item about the Presidents Club. The programme included the treatment of hostesses and the use of non-disclosure agreements where there had been allegations of sexual harassment. While the programme was on, Lizzie tweeted from her personal account: “Having been a hostess, I can confirm you don’t have to sign a non-disclosure contract unless there’s something an employer wants to hide. 33 years this event has been happening. They knew. #TimesUp #PresidentsClub #MeToo #Newsnight” There was significant media attention and on 24 January Lizzie sought the permission of various managers to conduct an anonymous press interview, which she subsequently gave to *The Times*. She received an email from a senior manager criticising her for lack of judgment in trusting journalists, the potential exposure of the Big Lottery Fund and breaches of Big Lottery Fund’s ethics and social media policies. This was followed up by a meeting with the same manager at which Lizzie was reduced to tears. The employment tribunal found that the manager’s conduct, the manner of the meeting and the email were unacceptable and Lizzie was therefore disadvantaged and her sense of grievance justified.
* **Graham Dean v Home Office** - Almost 50 civil servants who were discriminated against due to their race or age by the Home Office have together secured more than £1m in compensation following a tribunal hearing. This tribunal came about after a successful case taken by Prospect in 2012. Prospect had won an employment tribunal claim against the Home Office for our member Graham Dean. The Home Office used a Core Skills Assessment (CSA) for determining promotion. Graham had failed the CSA test four times despite commendations for promotion from his managers. The evidence showed that a disproportionate number of Black, Asian and Minority Ethnic (BAME) and older workers failed the test.
* The [employment tribunal](https://www.prospect.org.uk/news/id/2012/November/9/Prospect-legal-win-for-Home-Office-staff) ruled that Graham had been subjected to unlawful indirect discrimination on grounds of his race and age. Graham was then promoted without needing to complete the CSA and the CSA was changed for the future. But the change wasn’t applied to other staff, who had previously been affected by the test. Forty seven further cases were presented by members of PCS and Prospect. PCS members, who were supported by Thompsons Solicitors, were the test cases.
* Despite having already lost the tribunal for Graham Dean, the Home Office robustly resisted the new claims. And the case went all the way to the Supreme Court (under the lead name of Essop & others).
* The case was joined with Prospect’s Supreme Court case for [**Mohammad Naeem**](https://www.prospect.org.uk/news/id/2017/00620)**against the Prison Service**, as both cases looked at what should be the correct approach for determining indirect discrimination.
* The union cases won in the Supreme Court and the Home Office case was sent back to the employment tribunal for hearing.
* The three-week hearing started on 18 March, but after the first couple of days the Home Office agreed to settle all the claims without admission of liability and to pay the 47 claimants £22,000 each – totalling more than £1m.
* **Amy Arnold v UKPN -** Procurement specialist Amy Arnold has won a sex discrimination case against her employer, UK Power Networks (UKPN) after being denied equal pay and a promotion. After starting at the company, Amy became aware that she was being paid substantially less than male graduate trainees, who were doing the same work as her. She raised a grievance and was eventually awarded an increase in pay. Shortly after this she applied for promotion. Her application was rejected despite her being well qualified and suited to the job. Prospect supported her in bringing a tribunal claim. A Norwich employment tribunal found that a man who was less qualified and less experienced was given the job that she had applied for. The judge said she had been discriminated against on grounds of sex and victimised for making a complaint about equal pay with her employer.
* **Olwen Renowden v ONS** - After her appointment in 2016 Olwen noted quite early on that there were no female economists at Grade 6, despite a headcount of over 114 economists. In February 2017 two Grade 6 posts were advertised. Olwen was the only candidate who had been previously employed at this grade and who had strong academic and professional credentials from some of the world’s most prestigious macro-economics employers, such as the Bank of England, and the IMF, in addition to holding various senior Whitehall posts. One other female employee applied for the roles, who had an equally impressive CV and managerial experience. Olwen was rejected for both posts in April 2017 and was told that she had failed to get an interview for either role. She contacted management to request an explanation but none was forthcoming, other than in the form of a suggestion that she contact HR.
* In June 2017 it was announced that the successful candidates were both male – young, inexperienced, neither had been employed at G6 level previously, neither had a specialisation in macro-economics. These candidates had less than six years’ professional experience in economics each, versus the 20+ years’ of the female candidates. Further to these appointments came the announcement that a third post had been created – again with no advertisement. The ONS claimed that the third post had been created to create opportunity for male candidates who had passed the Grade 6 promotion board, and yet no such corresponding opportunity was made available for any female candidates who had also passed the Grade 6 promotion board. Olwen raised a grievance which was not upheld. She resigned from the ONS in August 2018. The tribunal agreed that “favouritism” existed towards male staff and that those who should have addressed it, failed to do so, concluding that “the approach to gender balance…pointed towards a culture where discrimination and, in particular, sex discrimination, is not properly understood by those who are required to ensure its elimination”. It went on to add that it was “reasonable to infer that the culture of the respondent is one where advantage and favouritism to males is not recognised as potentially discriminatory”, which significantly highlights the serious cultural problems and issues that Olwen had been trying to raise throughout her employment at the ONS. The tribunal found that Olwen’s claims of direct sex discrimination succeeded and the ONS was ordered to pay compensation and interest.
* **Philip Hurst v DVSA** -
 | Updated figures |
| **Part 2****Equality Law** (65 mins for whole session)9.55 -11 am.  | Slide 11 | * Purpose of section: provide a brief overview of equalities legislation, including EA 2010, PSED, and Equality and Human Rights Commission (EHRC) recommended good practice; isn’t intended to be a comprehensive treatment of equalities law, just an introduction to key obligations on employers.
* Trainer presentation: equalities law (15 minutes)
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|  | Slide 12 | * One Act, came in in 2010, consolidates previous legislation (see chart on the side)
* The Act applies to employees BUT this has a broader definition than other legislation, with many freelancers, zero hours contract workers and other atypical workers being covered. This is an important difference – the right to claim unfair dismissal/redundancy pay only applies to employees.
* No qualification period – can bring a claim from first day in employment (or before if challenging recruitment decisions)
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|  | Slide 13 | Based on the nine protected characteristicsIn order to bring a claim under the Equality Act, the discriminatory treatment must be linked to a protected characteristic. Bad conduct which is not related to a protected characteristic is not covered. Belief (if people ask) – subject to Grainger test:The requirements of this test are that the belief in question must:1. Be reasonably held.
2. Be a belief as opposed to an opinion.
3. Relate to a weighty and substantial aspect of human life/behaviour.
4. Have a level of cogency, seriousness, cohesion, and importance.
5. Be worthy of respect in a democratic society. It cannot be incompatible with human dignity and in conflict with the fundamental rights of others.
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|  | Slide 14 | Into slide Just go through – we will explain what each is next.  |  |
|  | Slide 15 | **Direct discrimination**Go through definition* Association – if you are discriminated against because of your association with someone with a protected characteristic, this is covered similarly because if discriminated against because employer perceives you to have a particular protected characteristic even if you do not have it.
* But for test – but for the protected characteristic would you have been less favourably treated?
* No defence to direct discrimination unless on the grounds of age. Age discrimination can be defended if employer can show proportionate means of achieving a legitimate aim.
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|  | Slide 16 | **Indirect discrimination**Go through definition* practice, criterion or provision (PCP) applies to everyone equally but puts people sharing a protected characteristic at a particular disadvantage.
* For example if employers had a policy that said everyone had to work on weekends, this may be indirect sex discrimination. Accepted that women tend to have greater caring responsibilities.
* Defence if can show proportionate means of achieving a legitimate aim.
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|  | Slide 17 | **Harassment**Go through definition* Harassment: defined as where a worker is subjected to unwanted behaviour which is humiliating, degrading, intimidating and violates their dignity
* Three types of harassment: harassment related to a protected characteristic (‘related to’ is defined fairly broadly); sexual harassment; and less favourable treatment for rejecting or submitting to unwanted conduct
* Tribunal has to apply a subjective and objective test – considering the perception of the claimant – what effect did the unwanted conduct have but also they will consider whether it was reasonable for the conduct to have had that effect.
* Employers are liable for unlawful behaviour unless “all reasonable steps” taken to prevent it e.g. proper training in place, process which they apply – evidence that they do apply it etc.
* Applies to all protected characteristics except for pregnancy and maternity.
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|  | Slide 18 | **Victimisation**Go through definition* Would cover raising a grievance – if treated unfavourably as a result. Doesn’t matter whether the grievance is upheld or not.
* Protects people providing evidence in support of a colleague’s grievance e.g. if a colleague gave witness evidence in relation to a race discrimination/sexual harassment claim for example, they will have protection under the Act if they are treated unfavourably.
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| **Activity**10 mins | Slide 19 | **Activity – what would you argue here?****What would you argue direct /indirect discrimination harassment or victimisation?**Up to tutor to do as a big group and answer all the questions or split into 3 breakout rooms and give them a question each**Answers**1. **Victimisation** – unfavourable treatment – being removed from the list; protected act – raising a complaint of sexual harassment. It doesn’t matter that the claimant’s complaint was not upheld. **Waters v. Commissioner of Police For The Metropolis**
2. **Harassment** – doesn’t matter that Claimant is not gay – legal test for harassment is unwanted conduct related to the relevant protected characteristic… Sometimes participants think this may be perceived discrimination but the colleagues did not think he was gay. **English v Thomas Sanderson Ltd**
3. **Indirect discrimination** – PCP is rule that no holidays are taken in May – July. This applies to everyone equally but has disproportionate impact on Muslim colleagues. BUT was it a proportionate means of achieving a legitimate aim. Legitimate aim – continue to provide full service during business period BUT not proportionate – could have let a few workers have one day off over a 3 month period. **JH Walker Ltd v Hussain and others**
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|  | Slide 20 | **Disability discrimination*** Cancer, MS and HIV automatically covered – otherwise definition applies.
* Long term – has lasted or is expected to last a year or more.
* Normal day to day activities – includes impact on mood, ability to get dressed, prepare food, mobility, concentration, memory etc.
* Legal definition not a medical one – i.e. Judge will make determination but medical evidence will be very important.
* Discrimination arising from disability: this is distinct from direct or indirect discrimination against workers with disabilities, relates to situations where a worker with a disability is discriminated against because of something connected to their disability – e.g. they are penalised for taking a lot of sick leave, but the sick leave arises from the disability
* Reasonable adjustments: employers have a duty to remove obstacles to workers with disabilities participation in the workplace – e.g. by amending policies, removing physical barriers, providing assistance/aids; even if cost involved, provided it is reasonable in the circumstances
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|  | Slide 21 | **Types of disability discrimination.** 3 additional types of discrimination. Prohibition on pre-employment health questions except:* to find out if reasonable adjustments are needed to enable a disabled job applicant to take part in any assessment
* to find out whether a job applicant will be able to carry out an intrinsic part of the job
* To find out whether a job applicant has a particular disability where having that disability is an occupational requirement of the job
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|  | Slide 22 | **Reasonable adjustment**Go through definition**What is reasonable?**The tribunal will consider factors such as:* How effective the change will be in avoiding the disadvantage that would otherwise be experienced.
* How practical it is for the organisation to make the adjustment.
* The cost
* The organisations resources and size.
* Whether financial support is available to help the organisation.
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| **Activity**5mins | Slide 23 | **Activity as a big group ask the group to define the adjustment made****Each click reveals the right answer**1 – redeployment2 – providing support or supervision3 – altering hours of work4 – modifying assessment procedures5 – acquiring or modifying equipment |  |
|  | Slide 24 | **Discrimination arising from a disability*** Not discriminated directly because of disability but something arising in consequence of it.
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|  | Slide 25 | Discrimination in pay* Equal Pay: equal pay for equal work, where equal work is defined as like work (basically the same or very similar work); work rated as equivalent (i.e. in a formal, robust job evaluation exercise); work of equal value (work that is potentially very different but requires similar levels of skill/knowledge/complexity etc.)
* Burden of proof on workers to show inequality; burden on employers to prove justification, material factor defence – a substantial, objectively justifiable reason for the pay difference not related to sex
* Equal pay rules cover all contractual terms (not just pay) and Equality Act provides protections for other protected characteristics, not just sex
* Gender Pay Gap (GPG): not the same as equal pay, measures difference in average pay for men and women; influenced by gender segregation – i.e. concentration of women in lower paying types of jobs. The figures are published yearly, Public authority employers on the 30th March and private companies on the 5th April for companies with more than 250 staff.
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|  | Slide 26 | **Public Sector Equality Duty*** PSED: outline of key features of the Duty; relatively weak, with limited enforcement in practice, but a potential tool for activists to use
* Some successes in using PSED to challenge behaviour of public authorities (e.g. challenging council development plans)
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| **Activity**10mins | Slide 27 | **Quiz: test your understanding** (if you use the zoom poll the wrong answers on the first question are (social class and divorce/widowed) which bring give opportunities for discussion.)1 – Disability2 – False 3 – True 4 – True5 – False (age discrimination can be justified)6 - False | Zoom poll function |
| **Break 10 mins** | Slide 28 | **Break for 10 Mins** |  |
| **Part 3: Taking action in your workplace**(11.10am – 12.10am) | Slide 29 | **Explain in this part we are going to look at what can be done in the reps’ workplace**Purpose of section: introduce some ideas for ways to get active in your workplace, start a conversation about EDI organising and some of the challenges you might face |  |
|  | Slide 30 | What should your employer be doing? Go through slide* Outlines some of the Equality and Human Rights Commission (EHRC)’s recommendations for good practice by employers; not legal requirements (unless subject to Public Sector Equality Duty (PSED) but help minimise risk of breach of Equality Act
* A good example of the EHRC’S work is investigating antisemitism in the Labour party
 | EHRC Good Practice |
|  | Slide 31 | Trade union members are key to addressing workplace EDI issues* The Equality and Human Rights Commission (EHRC) has limited ability to enforce equalities legislation, underfunded and understaffed
* Trade union members are well placed to know the issues, and devise good solutions; can leverage collective strength of union members to pressure employers to act
* Legal routes to tackling issues can be very important, but can also be long, expensive, and not always lead to satisfactory outcomes
* Some issues (e.g. harassment) require a cultural change that legal action alone won’t achieve
 |  |
| **Activity**30 minutes | Slide 32 | **Group discussion – rate your employer (15 minutes)*** **Poll: how would you rate your employer on EDI?**

Discussion of ratings (use breakouts if larger group)* **Poll: how would you rate your branch?**

Discussion of ratings (use breakouts if larger group) | Zoom Poll Function |
| **Activity**20 minutes | Slide 33 | * Split into groups – work on different areas – bring back together to build bargaining agenda.
* Refer to what’s on your bargaining agenda guide.
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|  | Slide 34 | Challenges of EDI organising* Purpose of slide is to outline some basic initial steps that someone could consider taking if not much activity is happening in their workplace
* Focus on education, awareness-raising, making self and other union members more visible on EDI, being ready to support colleagues, setting up forums/committees to work on EDI issues
 | Possibly highlight further in the back to work plan |
|  | Slide 35 | Where to begin?* Allyship – being ready to show solidarity with those facing oppression and actively working to fight inequality and discrimination
* Not just about individual action, collective action is key to being a good ally
 |  |
|  | Slide 36 | What if your employer won’t act* Eliminating inequality and discrimination at work will require cultural change and challenging the structures and practices that reinforce inequality – this requires action at a collective level
* Change can’t be top-down, must be led by workforce if it is to be meaningful
 |  |
| **Conclusion**(5 mins) | Slide 37 | **Next steps**  |  |
| **Action Plan**2 mins |  | * Highlight other information in course pack/action plan and further links.
 | Action plan Organisers/officers are sent a blank copy with the tutor feedback |
| 2-3 mins |  | * Go over learning outcomes from delegates at beginning of the day
* **Run last Poll!**
* **Say goodbyes**
 |  |
|  |  | * + **End of the course**
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