



**A Guide to Positive Action
2020/21**

Contents

What is positive action?	3
Is positive action legal in the UK?	4
What is the difference between positive action and positive discrimination?	4
The tie breaker scenario	4
Research and statistics	5
Proportionate action	5
Positive action examples	6
Positive action suggestions	7
Case studies	8
Links and resources	10

What is positive action?

Positive action is defined as voluntary actions an organisation could take to address any imbalance of opportunity or disadvantage that an individual or individuals with one or more protected characteristics, could face.

The relevant protected characteristics in employment are:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race (including ethnic or national origins, colour and nationality)
- religion or belief (including lack of belief)
- sex
- sexual orientation

Positive action in the workplace or training applies to all of these protected characteristics.

www.equatescotland.org.uk/what-is-positive-action



Alasdair Smith, Business Management, Graduate Apprentice



Bethany Walsh, Balfour Beatty, Graduate Apprentice

Is positive action legal in the UK?

Yes

It is not unlawful discrimination to take special measures aimed at alleviating disadvantage or under-representation experienced by those with any of the above characteristics. Positive Action has been embedded in the Equality Act and is an option for employers or learning providers wishing to address an imbalance in their programme/s. Many employers or learning providers find by researching their recruitment and/or in-training statistics that certain groups face disadvantage in accessing or progressing through their organisation. It can be conscious, or more often unconscious actions or behaviours, entrenched in our society that lead to this disadvantage.

What is the difference between positive action and positive discrimination?

Positive action is legal under the Equality Act (2010) whereas **positive discrimination is not**.

An example of unlawful positive discrimination would be where an employer or learning provider recruits a person because they have a relevant protected characteristic rather than because they are the best candidate. For example, it would be unlawful to hire someone simply because they are a woman. However, if women are under-represented in your workforce then you could take steps to promote vacancies to this group, or to provide extra support for them to apply.

The tie breaker scenario

Employers or learning providers must not routinely favour candidates with a certain protected characteristic, but it is acceptable to consider positive action where a tie-break situation occurs.

If two candidates are of equal merit, and one has a protected characteristic that is under-

represented on the training programme or workplace, then it would be lawful to recruit the individual with the under-represented protected characteristic to address the imbalance.

Research and statistics

Positive action is lawful when individuals with one or more protected characteristics are under-represented on your training programme or in your workforce. The first step is to understand if there is clear and consistent under-representation by a particular group, and then work to remove any barriers or take positive action to redress the balance. You may gather your own statistics that allow you to research this information such as data on recruitment or participation by equality group.

Skills Development Scotland also produce quarterly learning provider equality and diversity statistics. These reports detail each learning providers' starts broken down by the four key groups outlined in the Apprenticeship Equality Action Plan. These reports can be accessed via your Skills Investment Adviser or by contacting

equality.apprenticeships@sds.co.uk

Proportionate action

When considering recruitment practices, positive action is only legal where it is a proportionate way of addressing the under-representation or disadvantage. This means that the gravity of the under-representation or disadvantage needs to be balanced against the impact that the proposed action may have on other people. For example, a targeted female-only open day may not be suitable for a gender imbalance of 45% female vs 55% male but could be for an imbalance of 20% female vs 80% male.

Positive action examples



Training

Example:

The NHS 'Stepping Up Programme' is a leadership development programme for aspiring Black, Asian and Minority Ethnic colleagues (BAME) who work within healthcare. The NHS states 'it aims to create greater levels of sustainable inclusion within the NHS by addressing the social, organisational and psychological barriers restricting BAME colleagues from progressing'.

www.leadershipacademy.nhs.uk/programmes/the-stepping-up-programme



Encouragement

Example:

Police Scotland have a dedicated positive action team. They hold events such as women-only police recruitment. These are aimed at encouraging women to consider a career in policing. The courses are designed to provide an insight into the role of a police officer/special constable. Women are currently under-represented in the Police and it is hoped the event will inspire more to consider a career in policing.

www.scorescotland.org.uk/women-only-police-recruitment-event/



Recruitment and promotion

Example:

'Tie breaker scenario': two candidates for a job or promotion are of equal merit but one of the two has a protected characteristic that is under-represented in the workforce, the one with the protected characteristic may be lawfully offered the job or promotion.

Positive action suggestions

Training aimed at under-represented groups

- Taster days
- Work placement
- Returner programmes (for those who have left the industry e.g. returner programme for those with time out to raise family)
- Internships
- Leadership programmes (e.g. women only).

Internal networks for specific groups

- Forum (e.g. internal forum for BME staff and/or apprentices)
- Allies group (e.g. LGBT allies group where any staff member could join to support their LGBT colleagues)
- Mentoring scheme (e.g. females in construction)
- Networking groups.

Advertising of jobs in a manner to attract more diverse applicants

- Including a paragraph on your job advert stating the case for diverse applicants. Skills Development Scotland includes the following statement;

'At SDS we are ambitious about diversity and inclusion. If you've got the right skills for the job, we want to hear from you. We encourage applications from the right candidates regardless of age, disability, gender identity, sexual orientation, religion, belief or race.'

- Using diverse images
- Displaying case studies with diverse apprentices on website/social media
- Having positive role models from under-represented groups attend school events and/or recruitment fairs
- Open day and/or careers fair targeted at under-represented group/s. (e.g. girls into IT).

Outreach programmes or events

- Information days held in community centres
- Promote opportunities through ESOL (English for speakers of other languages) courses
- Taster opportunities advertised through local support organisations

Case Studies

BAE Systems



Women's Inclusive Network (WIN)

Women's Inclusive Network members have access to a variety of benefits, including a newsletter, internal and external networking events, and learning and development opportunities. This supports women to access peer support to progress in a male-dominated industry.

<https://jobs.baesystems.com/global/en/diversityandinclusion>

EasyJet



Amy Johnson Initiative

In October 2015, EasyJet launched the Amy Johnson Flying Initiative with the aim of tackling industry-wide stereotypes and doubling the number of female new entrant pilots to 12% over two years. EasyJet reached this target in just one year. They work in partnership with the British Women Pilots' Association to promote the initiative and provide the opportunity to underwrite the loan for a salary for up to six female recruits.

<https://careers.easyjet.com/pilots/amy-johnson-initiative/>

Lloyds TSB



LLOYDS BANK

Ethnic Minority Mentors Programme

Lloyds became the first FTSE 100 firm to set an ethnic diversity target. The Bank aims to have 8% of senior management from a Black, Asian or minority ethnic background by 2020. Lloyds implemented an Ethnic Minority Mentors programme to increase representation at a Senior Management level. As a result, the number of minority ethnic managers has trebled.

www.lloydsbankinggroup.com/our-group/responsible-business/inclusion-and-diversity/ethnicity/

Scottish Fire and Rescue Service



Women Only Recruitment Days

Scottish Fire and Rescue Service (SFRS) is holding women only open days in Glasgow. Only 5% of Scotland's firefighters are women – a figure bosses want to increase in the latest recruitment round. Around 300 new firefighters are to be trained to join the already 3,000 strong Scottish Fire and Rescue Service, and SFRS are keen to actively promote these opportunities to women.

www.heraldscotland.com/news/17523267.how-scottish-fire-and-rescue-service-is-recruiting-more-women/

Arnold Clark

Arnold Clark

Girls with Skills

Arnold Clark worked alongside several DYW groups and offered girls the opportunity of a taster day at their GTG training centre in Glasgow. Following on from that session, interested girls were offered the opportunity of a week's work placement at an Arnold Clark garage of their choice. A celebration event was held for those successfully completing their work placement with many being offered an apprenticeship as a result.

www.arnoldclark.com/girls-with-skills

BBC



Extend Hub

The BBC has a new online 'talent disability recruitment portal' called EXTEND HUB. This portal displays jobs that disabled candidates can apply for, with the comfort of knowing that someone trained will contact them to ask about any reasonable adjustments.

www.bbc.co.uk/careers/trainee-schemes-and-apprenticeships/extend/extend



Kieran Russell, JP Morgan, Graduate Apprentice

Links and Resources



www.equalities.gov.uk

www.equalityhumanrights.com

www.citizensadvice.org.uk

www.equatescotland.org

www.hse.gov.uk

www.skillsdevelopmentscotland.co.uk/for-training-providers/equality-and-diversity/

www.inclusiveemployers.co.uk

Skills Development Scotland

1st Floor, Monteith House

11 George Square

Glasgow G2 1DY

www.sds.co.uk

