

Discrimination & the workplace



Protected Characteristics

The Discrimination (Jersey) Law 2013 prohibits acts of discrimination with any of the following:

Race

Age

Sex

Disability

Pregnancy
& Maternity

Gender
Reassignment

Sexual
Orientation

Offences

The Discrimination (Jersey) Law 2013 establishes four principal offences:

1.

Direct
Discrimination

2.

Indirect
Discrimination

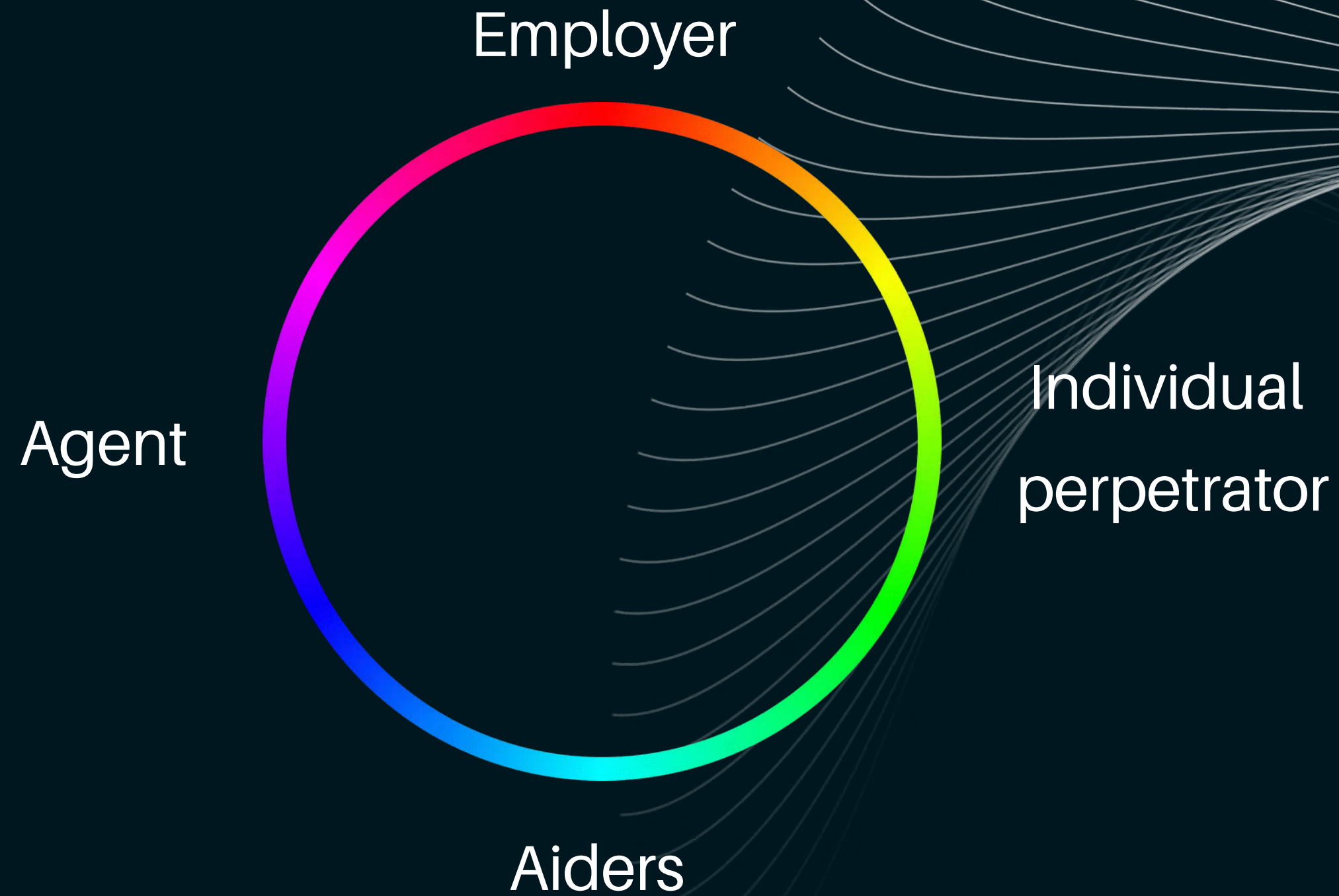
3.

Victimisation

4.

Harassment

Who can be liable?

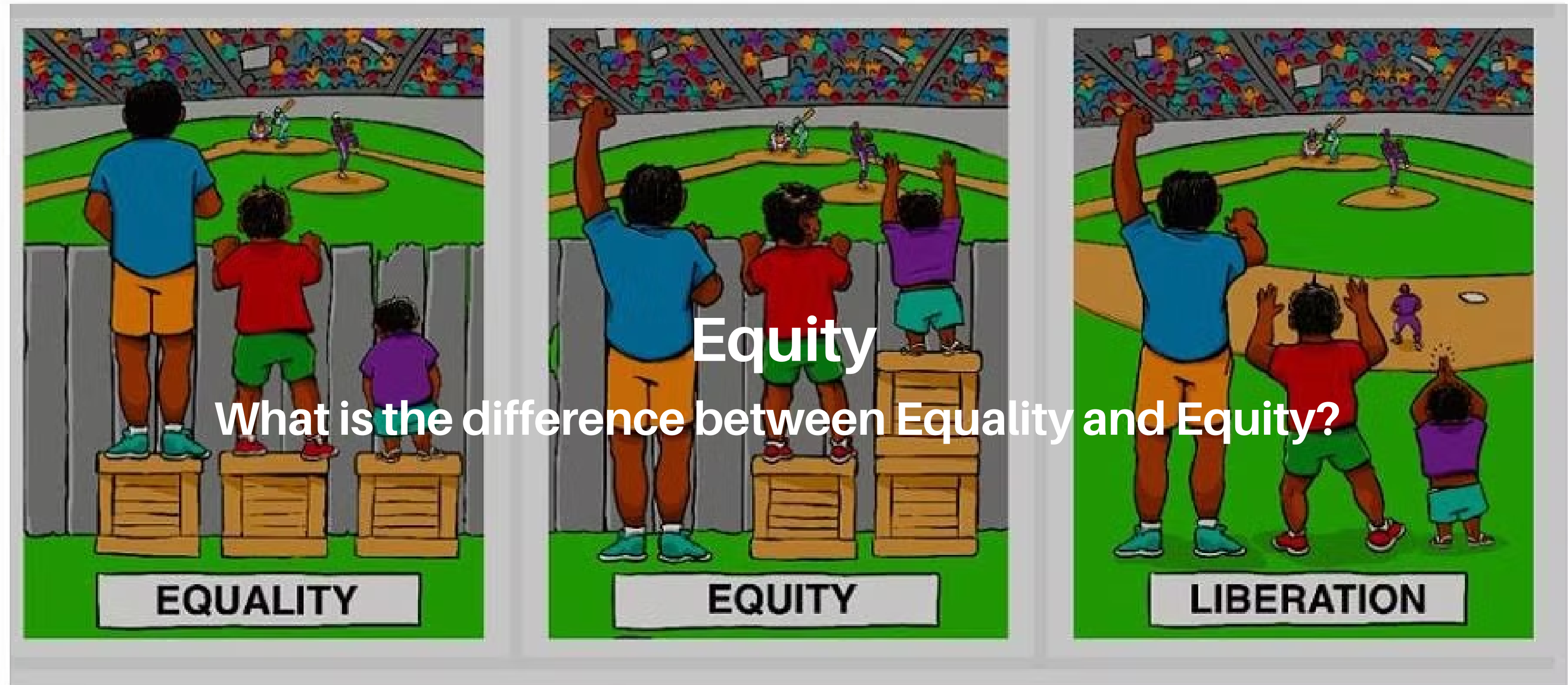


What is DEI?

“Diversity is the range of **human differences**, including but not limited to race, ethnicity, gender, gender identity, sexual orientation, age, social class, physical ability or attributes, religious or ethical values system, national origin, and political beliefs.”



Change The Story!



Inclusion

"Diversity is being asked to the party, inclusion is being asked to dance" – Verna Myers

There are some problems with this statement...

"Diversity is going to a party; Inclusion is being a member of the party-planning committee"
– Daniel Juday

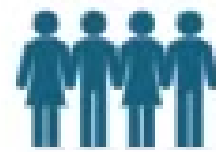




Inclusion embedding

- For inclusion to be effective, it needs to be embedded
- DEI is not a tick box exercise!
- DEI considerations should inform day-to-day policies, practices, cultural attitudes and behaviours in the workplace and beyond
- Having a strong and active DEI policy will contribute to the prevention of liabilities arising under the Discrimination Law

Who does DEI impact in the workplace?



Employees and prospective employees



The employer (personally and reputationally)



Clients and prospective clients



Intermediaries, contractors and third parties (from consultants to cleaning crew)

Royal Parks workers bring landmark case over race and equal pay

10 Jul 2024

Exclusive: Group of London toilet cleaners and attendants at court of appeal over legality of outsourced contracts

Sales rep settles disability discrimination case

The case against Haldane Fisher was settled for £20,000, without admission of liability by the firm.

21 Jul 2024

Dyslexic job applicant felt 'worthless' after recruitment process

Terry Johnston has been awarded more than £15,000 in compensation after a discriminatory recruitment process.

Yorkshire woman wins discrimination case after boss called her 'emotional and tearful'

Judge says male boss's description of Nicola Hinds, who was pregnant, was 'dismissive and belittling'

Why does prioritising DEI matter?

- Staff members deserve to work in an environment where they feel safe and supported to bring their whole self to work (Maslow's hierarchy of needs) – this is much more likely to happen where there is an active inclusion policy in place
- Alignment with core values of your organisation
- Encouraging and welcoming diversity within the workplace brings varying perspectives together, leading to greater innovation and collaboration
- Increases trust, confidence, communication, understanding and awareness between colleagues



Maslow's hierarchy of needs



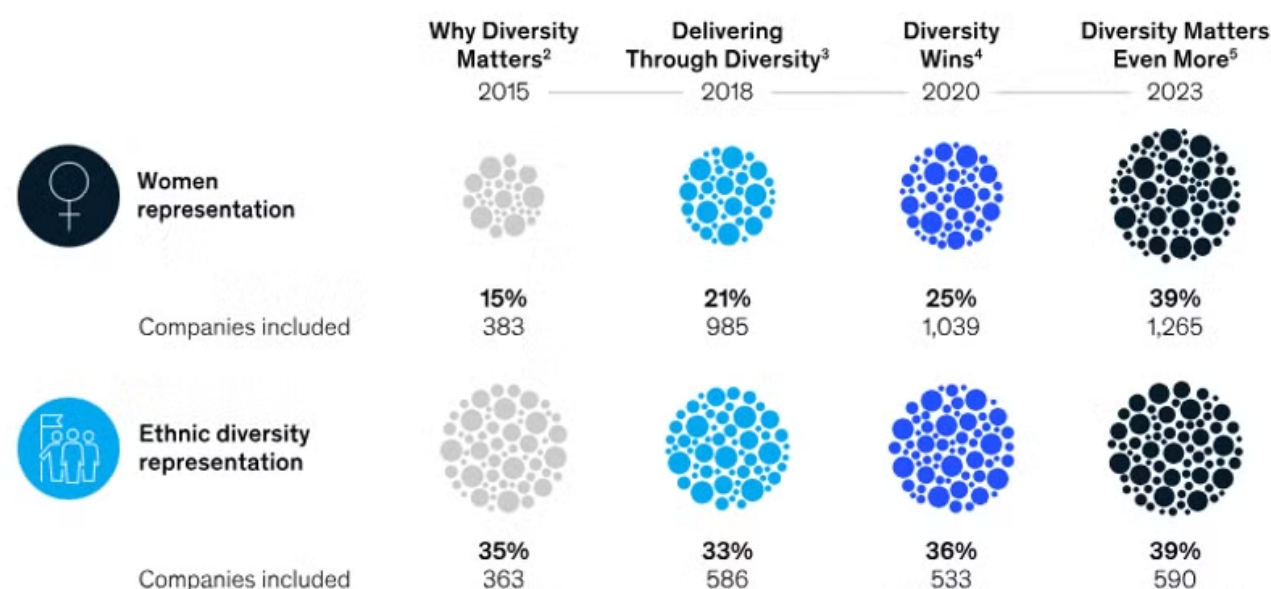
Source: BCG's Diversity and Inclusion Assessment for Leadership (DIAL) survey, 2020.

Employees with higher workplace belonging also showed a 167% increase in their employer promoter score (their willingness to recommend their company to others). They also received double the raises, and 18 times more promotions.

Performance

The business case for diversity on executive teams and financial outperformance.

Difference in likelihood of outperformance of 1st vs 4th quartile¹



McKinsey, 2023

Belonging is good for business

If workers feel like they belong, companies reap substantial bottom-line benefits. High belonging was linked to a whopping 56% increase in job performance, a 50% drop in turnover risk, and a 75% reduction in sick days. For a 10,000-person company, this would result in annual savings of more than \$52M.

Harvard Business Review, 2019

Brands failing to act on Diversity, Equity and Inclusion risk losing out on 102bn annual spend from marginalised groups

Kantar, the world's leading marketing insights and analytics company, today announces the results of its inaugural Brand Inclusion Index study in the UK. The new research measures people's perceptions of brands' diversity, equity, and inclusion (DEI) actions – and how they, subsequently, consider the brand. Nike is most often cited unaided by UK consumers as a brand that should be commended for its DEI efforts. Dove was most likely to be selected when prompted with a list of inclusive brands.

Kantar, 2023

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Diversity Confirmed To Boost Innovation And Financial Results

Stuart R. Levine Contributor

Thought Leaders Contributor Group ©

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Jan 15, 2020, 07:03am EST

Being an employer of choice

- Employers that posted about diversity saw 26% more applications from women than employers who posted less.
- In a [LinkedIn study](#), companies with a DEI team were 22% more likely to be seen as “an industry-leading company with high-calibre talent” and 12% more likely to be seen as an “inclusive workplace for people of diverse backgrounds.”
- 76% of employees and job seekers said diversity was important when considering job offers.
- 60% of employees want to hear business leaders speak up on diversity issues.
- 80% of survey respondents said they want to work for a company that values DEI issues.
- Posts on LinkedIn about diversity received 1.9x the engagement of other posts in 2020.

[Back to McKinsey Chart of the Day](#)

Not inclusive? You're losing 39 percent of job applicants



Diversity & Inclusion

June 29, 2020 - LGBTQ+ and racial- or ethnic-minority candidates are more likely than others to report choosing not to pursue a job because they perceive an organization as noninclusive.



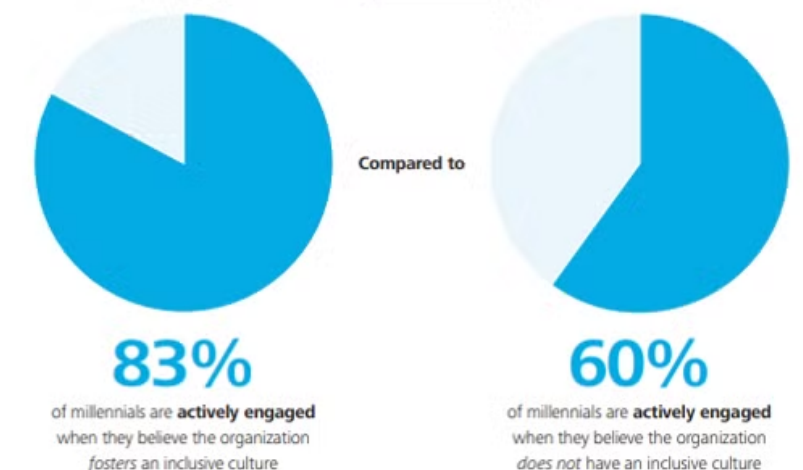
[Why Glassdoor?](#) [Solutions](#) [Features and](#)

Job seekers look for an inclusive workplace when looking for their next career move

More than 3 out of 4 job seekers and employees (76%) report that a diverse workforce is an important factor when evaluating companies and job offers. This means that, whether or not your company is interested in increasing its diversity, most candidates are nevertheless evaluating diversity when they research your company and during the interview process.

Having a diverse workforce is particularly important to underrepresented groups: Nearly a third of employees and job seekers (32%) would not apply to a job at a company where there is a lack of diversity among its workforce. This figure is significantly higher for Black (41%) job seekers and employees when compared to white (30%) job seekers and employees, and is also higher among LGBTQ (41%) job seekers and employees when compared to non-LGBTQ (32%) job seekers and employees. So whether you're hiring for diversity or not, diversity should be something taken into account when evaluating your entire recruiting process.

Millennials report higher levels of engagement when operating in an inclusive culture



Deloitte. 2015



Social Responsibility

It's the right thing to do!

The logo for 'difera' is displayed in a multi-colored font where each letter has a different color: 'd' is red, 'i' is orange, 'f' is yellow, 'e' is green, 'r' is blue, and 'a' is purple.

How to make a difference

- We have an opportunity to create change and shape our society. How?
 - Take a *proactive* role in understanding the issues and inequities faced by minority groups - then we can focus on the solutions, working from the individual level to impact structural and societal norms.
 - Undertake ongoing training! Liberate offers training modules and two employer accreditation schemes – DIFERA and Accès

Defending a Tribunal Claim: Preliminary Issues



Time limits & jurisdiction



Is there a satisfactory defence available?



Is Early Settlement an option?



Preservation of documents



Gathering Evidence



Should a lawyer be appointed?

Defending a Tribunal Claim: Preparing witnesses for the Hearing

1

Manage witness
expectations

2

Do **NOT** coach a
witness

3

Brief on
procedure at
Tribunal

4

Ensure they are
familiar with their
statement

Defending a Tribunal Claim: Preparing for representative



Preparation



Know the evidence
and the issues



Leading
questions only



Answer the questions
posed to you

Summary

- Legislation alone does not *prevent* discrimination
- Knowledge of the law, as well as the soft-skill training, are crucial to minimising the risk of claims being brought
- The same rules of engagement apply to a claim before the Tribunal as they do in any other Court
- Reflect after the outcome of each claim



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