

Embracing Diversity, Equity & Inclusion

STARTER GUIDE AND CHECKLIST

The Scottish Wholesale Association
and Burness Paull LLP

Welcome to the Scottish Wholesale Association’s starter guide to DE&I, which aims to help members embrace diversity and further build an inclusive culture. We have partnered with leading law firm Burness Paull to help navigate this increasingly important area of business. Burness Paull’s employment law team is the largest in Scotland, ranked as Tier 1 by the legal directories, and acts for clients of all sizes.

This guide has been specifically designed and curated to help members harness the benefits and opportunities that a DE&I culture provides, while understanding the bespoke needs and nuances of the food and drink wholesale industry in Scotland.

Research by McKinsey found that diverse and inclusive companies are 35% more likely to outperform their competitors. Diversity, equity and inclusion can improve employee morale, productivity, recruitment and retention. For example, in a study by LinkedIn, 80% of survey respondents said they want to work for a company that values DE&I issues.

As an association we recognise and understand that DE&I is fast becoming a vital part of any business strategy and feedback tells us that many members still struggle to know where to begin. While there is already some great work on DE&I going on in the industry by individual members and colleagues, this guide offers easy access to the best information available locally and tools to help ensure everyone feels welcome, respected and valued within your teams.

Our starting point is with the legal obligations that everyone really needs to know and understand to build cultures where everyone can be their authentic selves and be at their very best.



Colin Smith (*Chief Executive at Scottish Wholesale Association*)

Embracing DE&I: A Starter's Guide

A workplace culture that promotes DE&I can improve colleague retention, attract the best candidates in recruitment, increase productivity and enhance a business's reputation. A diverse workforce will have a wider range of resources, skills and ideas, building a competitive edge and reducing the risk of claims of unfair treatment, discrimination or harassment. It is also an important part of meeting your environmental social and governance (ESG) measures.

This guide explains what the law says in this area, what is meant by DE&I and suggests some steps an organisation can take to improve diversity and inclusion, promote equality, prevent discrimination, and reduce the risk of grievances, disputes and potential claims arising in the workplace.

DE&I can mean different things to different people, but in a general sense it tends to include:

- Diversity: The presence and participation of individuals with different backgrounds, characteristics and perspectives.
- Equity: Equal access to opportunities and fair, just, and impartial treatment, taking into account a person's unique circumstances.
- Inclusion: A sense of belonging in an environment where all feel welcomed, accepted, valued and respected.

WHAT DOES THE LAW SAY?

It is important for employers to understand their legal obligations in this area. In the UK, the Equality Act 2010 ("the Act") is the key piece of legislation which protects people against discrimination in the workplace.

The Act applies to a wide range of individuals in the workplace including:

- Job applicants
- Casual workers
- Colleagues
- In some situations, former employees.

Those individuals are protected from various types of discrimination prohibited under the Act, including direct discrimination, indirect discrimination, harassment and victimisation.

Employees are generally protected on the basis of the nine protected characteristics. These are:

Age	Disability	Gender reassignment
Marriage and civil partnership	Pregnancy and maternity	Race
Religion or belief	Sex	Sexual orientation

In terms of the protected characteristic of disability there are additional obligations, including the duty to make reasonable adjustments and to not treat people unfavourably because of something arising in consequence of their disability.

Since 26 October 2024 there is also now a proactive duty on employers to take reasonable steps to prevent sexual harassment in the workplace. This new anticipatory duty constitutes a significant shift in the way that UK employment law seeks to tackle sexual harassment in the workplace, focusing on the active prevention of sexual harassment, rather than simply addressing incidents once they have taken place.

Compensation for discrimination and harassment claims are one of the few areas of law which are uncapped and so they can be financially, as well as reputationally, costly for employers.

By way of example, according to Employment Tribunal statistics for the year 2023/2024, the average award for a sex discrimination claim was £53,403 (and the highest award that year was £995,128).

WHAT CAN YOU DO?

In a workplace setting, DE&I is often focused on the protected characteristics under the Act. However, it can be wider, including characteristics such as gender identity, social and demographic background and neurodiversity.

While not a statutory requirement under the Act, many organisations recognise the benefits of having an inclusive workplace culture, where all colleagues have a sense of belonging and feel their differences are respected and valued. These organisations therefore embrace DE&I and implement strategies to improve this in their workplace, which results in the benefits described above. Businesses can not only become an 'employer of choice' but can better reflect and represent the diversity of customers they serve.

An organisation's first step in improving DE&I in its workplace is to identify the particular issues and challenges their workforce faces. Once you have identified the particular issues, you will have a starting point from which you can measure progress made as a result of your DE&I initiatives and targets. This can be done by risk assessments, equal opportunities monitoring forms, engagement surveys, etc.

There are also steps which apply to most, if not all, employers who wish to take action to prevent discrimination and harassment and to embrace and promote DE&I more generally. We have prepared a checklist for employers with a view to assisting with legal compliance as well as embracing DE&I.

FURTHER RESOURCES

[Equality and Human Rights Commission](#)

[Sexual harassment and harassment at work: technical guidance | EHRC](#)

[Employment Statutory Code of Practice \(EHRC\)](#)

[ACAS](#)

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Embracing DE&I: A Checklist

This checklist identifies some points to consider when promoting DE&I in your organisation.

DE&I ACTIONS TO CONSIDER

- **Policies.** Ensure you have relevant, up to date and fit for purpose policies and procedures and that these are well communicated to all colleagues. Examples include anti-bullying and harassment, equal opportunities, and family friendly policies.
- **Training.** Colleague training on topics such as The Equality Act/DE&I, preventing and responding to harassment, and consider manager-specific training. You should keep records of who has received training and ensure it's refreshed at regular intervals.
- **Communication.** Ensure colleagues are regularly reminded about policies, how to identify and report inappropriate behaviours, and the support that is available to them.
- **Understand.** Colleague surveys, focus groups, and equal opportunities monitoring can help you understand the diversity of your workforce and views on the organisation's culture and any potential risk areas.
- **Risk assess.** Carry out a risk assessment to identify key DE&I risk areas, including a sexual harassment risk assessment, and action plans.
- **Awareness raising.** Organise awareness raising sessions, where people internally or externally share their knowledge and/or experience of areas/ issues in the DE&I space.
- **Internal network groups.** Set up and support colleague network groups.
- **External support and initiatives.** Identify support available from other organisations and initiatives e.g. Access to Work, Disability Confident, Race at Work Charter, Mindful Business Charter.
- **Reporting.** Create a safe working environment where reporting is encouraged, and colleagues feel confident enough to report. What reporting channels are available to colleagues and are they well known? Are there anonymous reporting channels?
- **Take reasonable steps to prevent sexual harassment in the workplace,** including, for example, policies, reporting and training, following a risk assessment.
- **Third-party harassment.** Consider and take steps to prevent third-party harassment, such as harassment by customers, suppliers and the public.
- **Legal advice.** You should take advice to ensure you understand your legal obligations in this area and the steps you are taking to promote DE&I are legally compliant e.g. in terms of the Equality Act 2010 and data protection laws.

How Burness Paull can help

Burness Paull LLP is a law firm with a Scottish heart and a global mind. Headquartered in Edinburgh, Glasgow and Aberdeen, we are a full-service firm, providing legal services to clients in Scotland, UK-wide and internationally.

The food and drink industry is a key focus for Burness Paull, reflecting its importance to the Scottish economy. The firm's cohesive cross-departmental food and drink team is well versed in providing expert guidance on issues facing the industry. Our food and drink lawyers have extensive experience across the entire supply chain, from manufacturing through to wholesalers and retailers, acting for many of Scotland's best-known names in the sector.

We help clients across a number of practice areas, such as: **dispute resolution and litigation, corporate crime, health and safety, reputation and media, product liability, corporate and M&A, tax and share incentives, cyber security, commercial contracts, intellectual property, commercial property and real estate, planning and construction, pensions law advice, restructuring and insolvency, compliance and regulatory (including competition law, procurement, data protection and the GDPR), as well as private client and family law.**

You can find out more about Burness Paull [here](#) and can sign up to receive free legal updates and invites to events and webinars [here](#).

Our employment law team

Our team is ranked in Tier 1 by both legal directories (Legal 500 and Chambers UK).

We have a team of over 30 specialist employment and immigration lawyers, the largest in Scotland. Our team advises on the full 'life cycle' of employment law issues, ranging from recruitment, employment contracts/policy documentation, business acquisitions, TUPE transfers, equality and discrimination, and representation in contentious Employment Tribunal claims.

Within our employment law team, we have a dedicated equality and diversity team who can help your organisation effectively promote diversity, equity and inclusion and take active steps to prevent discrimination and harassment in the workplace. Please contact [Jamie Meechan](#) or [Madeleine Joseph](#) for more information.



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