

Sikh articles of faith:

A good practice guide
for employers and
service providers in Scotland



Equality and
Human Rights
Commission

Scotland

Contents

Foreword	3
Introduction – The purpose of this guide	5
The Sikh articles of faith	6
Key issues for employers, service providers and Sikh individuals	9
Employers and Service Providers	9
Individuals of Sikh faith	9
What the Law says	10
Unlawful Discrimination: the Equality Act 2010	10
Other provisions in the law for Sikh articles of faith	11
Additional Legal Duties on the Public Sector	13
Good Practice	15
Practical guidance in relation to the Sikh articles of faith	16
Key Points	16
Kanga	16
Kirpan	16
Kara	16
Kachera	17
Kesh	17
Turban	17
Conclusion	18
Resources	19
Further Support	21



Foreword

The Equality and Human Rights Commission is charged by law to protect individuals against discrimination, to enforce the laws on equality and to promote fairness and human rights for everyone. This remit includes working with public, private and voluntary organisations to develop good practice and promote equality, both in the workplace and in the delivery of services, to help build good relations among employers, staff and service users.

We believe everyone should be treated fairly and with dignity. However, this doesn't always happen and discrimination and disadvantage are still common.

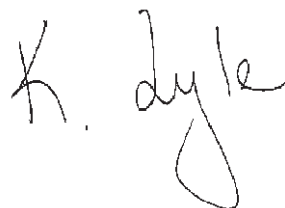
In addition, we cannot only rely on a system of legal redress as this may not always offer the most appropriate solution and people may not choose to take their cases through the legal system for a number of reasons.

Sometimes the wearing of Sikh articles of faith may appear to conflict with the needs of an organisation and the lack of understanding of these can inadvertently lead to tensions between the rights of individuals and the rights of the organisation.

Developments in legislation to make provision for the wearing of Sikh articles of faith have shown that there are resolutions to longstanding concerns for

employers, service providers and individuals. To a certain extent, these developments have clarified the rights of those wearing Sikh articles of faith, but there still remains varying levels of understanding and practice around this.

This guide aims to raise awareness of Sikh articles of faith and how the concerns which may arise from the wearing of these can be resolved. We hope that it will provide useful guidance for balancing the needs of individuals and service users with those of employers and public services in Scotland.



Kaliani Lyle
Scotland Commissioner
Equality and Human Rights Commission



Photo: © Capt Suresh Sharma

Introduction: The purpose of this guide

This guide aims to raise awareness of Sikh articles of faith and how the concerns which may arise from the wearing of these can be resolved. It has been produced in consultation with organisations and the Sikh community and has also involved an analysis of existing policy in this area. It will highlight:

- Key issues facing employers, service providers and individuals of Sikh faith with regards to the wearing of Sikh articles of faith.
- Good practice in relation to Sikh articles of faith.

It will also provide a brief summary of what the law says in relation to accommodating Sikh articles of faith and where further details can be obtained. This guide is not an authoritative statement of the law and is not intended as a substitute for taking appropriate legal advice on individual circumstances.

The Sikh articles of faith

All initiated Sikhs¹ (also referred to as Amritdhari Sikhs) are required to wear a number of articles of faith at all times. These are known as the Panj Kakaar or the Five Ks and include the kanga, the kirpan, the kara, the kachera and the kesh. The turban (or dastar) is also included as an article of faith. These are physical articles of faith and most initiated Sikhs believe that they cannot be replaced by symbolic replicas.

It is mandatory for initiated Sikhs (males and females) to wear their articles of faith². For initiated Sikhs, the Five Ks and the turban are in essence the spiritual 'limbs' of the individual; an extension of one's being³. Some articles of faith, like the Kara, also carry particular cultural significance for non-initiated Sikhs.

This section will provide a brief description of the Sikh articles of faith, but to fully understand the importance and significance of these, please consider other resources, some of which are listed at the back of this guide.

Kanga: a small wooden comb which is worn in the hair at all times, inside the turban. It is a symbol of spiritual discipline and purity.

Kirpan: a curved blade worn over or underneath the individual's clothing. It symbolically represents the power of truth to cut through untruth, and is a reminder of the obligation to uphold justice, to defend the weak and oppressed, and to exercise mercy and compassion. The kirpan is not to be used for aggression and the right to carry the kirpan by an initiated Sikh carries with it the responsibility of never misusing it.

1 Sikhs are initiated by taking ammrit in an initiation ceremony called ammrit sañcār.

2 The Panthic Rehat Maryada (Sikh Code of Conduct), Official Translation of the Shiromani Gurdwara Parbandhak Committee.

3 Guru Nanak Nishkam Sewak Jatha, The Five Kakars and the Dastar of the Sikhs (Sept 2010, p.7).

Kara: an iron bracelet, worn on the wrist of the right arm. It is of spiritual significance, reminding Sikhs that they have made a commitment to God and acts as a constant reminder to be noble and ethical in one's thoughts and actions.

Kachera: special cotton shorts which are closed securely with a drawstring (and are slightly longer than boxer shorts) that are changed and washed each day. This item represents commitment to fidelity and morality.

Kesh: translates to 'hair', which must be treated as a gift from God and kept intact and covered.

The **turban** (also known as dastar) is head attire constructed by binding a long loose piece of cloth around the head. It is obligatory for initiated Sikh men to wear the turban. There is no restriction upon women wearing a turban and women more commonly will wear a chunni or dupatta (scarf) draped over their head or worn securely on their head.

Sikh children and young people who have been initiated can wear a patka, which is a more simple cloth head covering, consisting of about two square feet of fabric with strings to secure it. The patka is also worn by many adult Sikhs as an under-turban⁴.

⁴ <http://www.sikhiwiki.org/index.php/Patka>



Photo: © Capt Suresh Sharma

Key issues for employers, service providers and Sikh individuals

The most common issues that may cause concern for employers, service providers and for individuals wearing Sikh articles of faith are outlined here.

Employers and service providers

The most common areas where employers and service providers may experience challenges in resolving issues of compatibility between Sikh articles of faith and requirements within the workplace are:

- Dress code policy.
- Health and safety requirements such as hygiene, protective equipment and security.
- Participation in sports (particularly in educational establishments).
- Safety and security of the business premises and the duty of care to its staff and all service users.
- Health and wellbeing of individuals.

Individuals of Sikh faith

A lack of awareness or understanding of the articles of faith may prevent Sikhs from gaining equal access to employment, education and services. To ensure fairness, employers and service providers need to consider:

- Raising awareness and understanding of Sikh articles of faith.
- Sensitivity in the handling of Sikh articles of faith.
- Appropriate dress code policies that take into account Sikh articles of faith.
- Ensuring that practices and procedures take account of Sikh articles of faith and respond appropriately, balancing public safety, the needs of the business, and the personal safety, security, health and wellbeing of individuals wearing Sikh articles of faith.

What the law says

Both private and public sector employers and service providers need to be aware of equality legislation and other specific legislation that offers exemptions for Sikhs wearing articles of faith in particular settings.

Generally the law protects the rights of individuals to manifest their religion by wearing religious articles. Where this right is curtailed in work, education or public places, it is for the relevant institution or business to objectively justify that policy and to ensure that any restrictions are proportionate. Rules such as dress codes and security measures which apply to all, but particularly disadvantage Sikhs, could constitute indirect discrimination unless this can be justified.

Sikhs are both an ethnic and a religious group so are protected from racial as well as religious discrimination. This principle was decided by the House of Lords (the *Mandla v Dowell-Lee* case [1983] 2 AC 548).

This section outlines and summarises the main pieces of legislation that offer protection to Sikhs who wear articles of faith.

Unlawful discrimination: the Equality Act 2010

This law brings together previous equality legislation in one place and provides protection to individuals on the grounds of religion and belief, age, sexual orientation and gender reassignment as well as race,

disability and gender. The Act prohibits discrimination, harassment and victimisation of these equality groups in employment, education, the provision of goods, facilities and services, disposal and management of premises and when public authorities are exercising their functions. Sikhs are defined as both a religious and ethnic group and are therefore protected from racial and religious discrimination.

Unlawful discrimination can take a number of different forms:

- You must not treat a person **less favourably** than someone else just because of a particular characteristic (that is protected by law) such as their race, ethnicity or religion. This is called **direct discrimination**.

For example:

A property letting agency will not offer a lease to someone because of their ethnic origin.

- You must not have a policy or practice which, although it applies in the same way for everybody, has an effect which particularly disadvantages one particular group of people, for example, those with a particular religion or belief. Unless you can show that what you

have done, or intend to do, is **justified**⁵, this will be **indirect discrimination**.

For example:

An employer decides to apply a ‘no hats or other headgear’ rule to staff. If this rule is applied in exactly the same way to every member of staff, Sikhs, who may cover their heads as part of their religion, will not be able to meet the requirements of the dress code and may face disciplinary action as a result. Unless the employer can justify using the rule, this will be indirect discrimination.

In the case of *Watkins-Singh v Aberdare Girls’ High School* 2007, a teenager was excluded from school for breaking a ‘no jewellery’ rule by refusing to remove a kara. The court found that the refusal to make an exemption from the uniform policy on religious grounds was unjustified indirect racial discrimination. The court rejected the argument that indirect discrimination could only occur if wearing the kara was an absolute requirement, and found that indirect discrimination could take place if a person is prevented from wearing an object which is of exceptional importance to their religious or racial identity.

- You must not treat a person less favourably or **victimise** them because they have complained about discrimination or helped someone else complain or have done anything to uphold their own or someone else’s equality law rights.

For example:

An employer does not offer a worker training. This is because last year the worker supported a colleague in a complaint that he had been racially harassed at work. If the previous complaint is the reason for the failure to give the worker the training, this is likely to be victimisation.

- You must not **harass** a person. Harassment occurs when a person engages in unwanted conduct that has the purpose or effect of violating the other person’s dignity; or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.

For example:

A group of colleagues make someone feel humiliated by telling jokes about their Sikh religion. This may amount to harassment.

The Equality and Human Rights Commission has produced a series of guidance documents to help explain the Equality Act 2010 and provide practical examples on how the law has changed. This includes guidance for employers, workers, service providers, service users and education providers. Contact details for the Commission are in the section called Further Support.

Other provisions in the law for Sikh articles of faith

There is also separate legislation that has arisen out of some of the specific historical concerns arising from the

⁵ The term ‘justified’ is a legal reference to being able to evidence that action taken is a proportionate means of achieving a legitimate aim.

wearing of Sikh articles of faith.

Legislation includes:

- **Motor-Cycles Crash Helmets (Religious Exemption) Act 1976:** exempts a Sikh who wears a turban from having to wear a crash helmet on a motorcycle.
- **Employment Act 1989:** exempts a Sikh who wears a turban from any requirement to wear a safety helmet on a construction site.
- **The Criminal Law (Consolidation) (Scotland) Act 1995:** prohibits carrying of offensive weapons without lawful authority or good reason. Section 49 (5) defines 'good reason' as a defence and indicates that if a person carrying an offensive weapon can prove that they are carrying it for religious reasons, they will not be charged with carrying an offensive weapon.

There will be other regulations that may be specific to certain trades or workplaces, such as health and safety or food and hygiene regulations⁶, which may need to be considered if an employer or public service is concerned about a Sikh article of faith. Appropriate legal advice should be obtained. There are a very few instances where it is not possible to make changes to accommodate the needs of an initiated Sikh person, for example in a role where a particular type of protective equipment is required that is not compatible with the wearing of an article of faith.

The examples below illustrate dress code policies that will disproportionately affect Sikhs, but may be justifiable as a proportionate means of achieving a legitimate aim in certain circumstances.

The Health and Safety Executive determines standards for personnel required to wear protective face masks as part of their job function. In some cases, such as operational firefighters employed by the UK Fire and Rescue Service, the HSE standards require individuals to be clean shaven to allow for the protective equipment worn, so as not to interfere with the face seal.

Therefore Sikhs, Muslims or members of other religions who have beards would have to trim them so as to obtain an effective seal against clean shaven skin. If individuals are able to balance the need for safety with their religious belief and are able to comply with the health and safety standards, they can be recruited to an operational firefighter post. If they are unable to comply with the health and safety requirements of this post, there are other posts in the Fire and Rescue Service which they may want to apply for.

It is important to note that this is an area still under research and development, and employers or those seeking to be employed as a firefighter or in roles where specialist respiratory equipment is required, should seek further information to be up to date with current developments.⁷

⁶ Regulations require all food handlers to maintain cleanliness of themselves and their clothing and to take appropriate precautions to safeguard food from risk of contamination. The Food Hygiene (General) Regulations 1970 are relevant here. The Regulations state that 'a person who engages in the handling of open food, other than raw vegetables and intoxicating liquor or soft drinks, shall while so engaged wear sufficient clean washable over-clothing, and every person who carries meat which is open food and which is liable to come into contact with his neck or head shall, while so engaged wear a clean and washable neck and head covering'.

⁷ Provided by Strathclyde Fire and Rescue Service, January 2011.

A hospital has a dress code which requires all staff, when actively engaged in clinical contact with patients, to be bare below the elbows. This includes all jewellery and watches and would include the kara, which would have to be removed during direct patient contact. One of the guiding principles in assisting the hospital to make decisions around employee dress, is infection control and patient safety.

The protocols for safe surgical scrubbing also require the removal of all jewellery, except a wedding ring and hence all Sikhs wishing to work as theatre nurses, anaesthetists or surgeons would also have to remove the kara to work in theatre. It is considered by the hospital that the remaining articles of faith would not pose a significant barrier to Sikhs wishing to consider a surgical career.

Although this dress code applies to all staff, it disadvantages Sikh staff who wear a kara. This would be indirect discrimination, but the hospital's dress rules may be justified as a proportionate means of achieving a legitimate aim based on health and safety considerations.

Additional legal duties on the public sector

The Public Sector Equality Duties⁸ place additional requirements on listed public sector organisations requiring these organisations to have due regard to:

- Eliminating discrimination, harassment, victimisation or any other prohibited conduct.
- Advancing equality of opportunity by removing or minimising disadvantage; meeting the needs of particular groups that have different needs from the needs of others; encouraging participation in public life.
- Fostering good relations.

Policies which may have the potential to disadvantage Sikhs or other protected groups⁹ may need to be equality impact assessed to explore whether or not there are alternative ways of carrying out the functions of the organisation.

Human Rights law is also applicable to public bodies and makes clear that everyone has the right to freedom of thought, conscience and religion. The Human Rights Act 1998 protects the right to manifest religion (alone or in community) or belief, in worship, teaching, practice and observance. This means in all public services that a Sikh person (or person of any other faith or belief) cannot be prevented from practising their faith, unless it impinges on public safety, public order, health or morals, or the protection of the rights and freedoms of others.

For further information about rights and obligations under equality and human rights legislation, please visit our website at:
www.equalityhumanrights.com

⁸ The existing race, gender and disability duties will be replaced by a single equality duty coming into effect in April 2011.

⁹ This refers to those characteristics that are protected by the Equality Act 2010 and includes, age, disability, gender reassignment, pregnancy and maternity, race, religion and belief, sex and sexual orientation.



Photo: © Capt Suresh Sharma

Good Practice

This section makes practical recommendations in relation to Sikh articles of faith for employers, educational establishments and service providers. In general it is good practice for organisations to assess their policies and functions and review whether these will have a different impact on individuals wearing Sikh articles of faith or other groups. For example, consider whether:

- a Sikh article of faith prevents an employee from doing his or her job, or presents a risk to the employee or the workplace¹⁰
- a dress code policy indirectly discriminates against individuals of particular religions or beliefs. This means organisations should consider whether a ban on headwear, jewellery, articles of faith or uniform requirements does not accommodate articles of faith, such as the turban or kara. In practice there are few situations which cannot be resolved
- there may be health and safety concerns that impact on the wearing of Sikh articles of faith, for example risks to hygiene or personal safety. An employer should ensure that measures taken to manage risks are proportionate to the threat or problem it seeks to protect. For example, where protective equipment other than a helmet is required, the employer could consider modifying this, where possible, to enable a Sikh employee to work safely
- operational guidelines in relation to addressing security threats are balanced in the interests of public safety and do not compromise a Sikh person's commitment to their faith. For example, blanket bans on knives may inadvertently stop Sikhs from entering a public space when wearing a kirpan, and
- medical examinations or procedures need to be sensitive to the religious requirements of Sikhs. For example, a medical practitioner should notify an individual when an article of faith needs to be removed to provide treatment.

10 Sikh Articles of Faith in the Workplace, The Sikh Coalition – the voice of a people, www.sikhcoalition.org

11 ACPOS. *Diversity Handbook: A Practical Guide*. (November 2008 p. 63).

The Association for Chief Police Officers in Scotland (ACPOS) Diversity Handbook¹¹ has more detailed guidance, which may be relevant to all organisations and is suggested as a useful source in developing any operational guidelines for Sikh articles of faith, not just in relation to policing.

Practical guidance in relation to the Sikh articles of faith

There are also some practical considerations that organisations can bear in mind in being responsive to individuals wearing Sikh articles of faith. These are listed below, firstly in relation to all Sikh articles of faith then with respect to each article of faith:

Key points

Sikhs should not be parted, where possible, from their articles of faith¹². When this is not possible:

- Ensure that the person is notified in advance.
- If one of the articles of faith has to be removed for any reason they should be treated and handled respectfully, not placed on the floor or near alcohol, meat or tobacco. Articles should be placed in a clean environment, for example, a plastic bag.
- Where possible, staff should try to wash their hands prior to touching any articles of faith.

Kanga

- This is generally worn under the turban and is unlikely to have any impact in relation to the workplace or service provision.

Kirpan

- Where health and safety concerns are a priority, the kirpan can be worn under clothing so that it is not visible.
- Airports in general have adopted a policy of prohibiting the wearing of the kirpan airside at airports and on board aircraft
- The kirpan should be packed in a passenger's hold baggage. If the passenger is not carrying any hold baggage, the kirpan should be given to the airlines' flight check-in staff, preferably in a large envelope or package, to be given to the cabin staff, so that after the journey it may be returned.
- It is recognised, of course, that the principle of allowing the wearing of the kirpan cannot apply to those who are being treated for serious mental health issues and can no longer be considered mentally competent and responsible for their actions. Once again an appropriate risk assessment would need to be carried out for each patient.

Kara

- The right to wear a kara within school has also been recognised by the courts in the case of *Watkins-Singh v Aberdare Girls' High School*. Therefore dress code policies should not place a ban on pupils wearing the kara and should recognise it as a religious article as opposed to an item of jewellery.

¹² ACPOS. *Diversity Handbook: A Practical Guide*. (November 2008 p. 64).

¹³ *Watkins-Singh v Aberdare Girls' High School* 2007.

- Where there are health and safety concerns, requests can be made for the kara to be covered. For example, a sweatband could be used to cover the kara during sports activities.
- In occupations where employees are prohibited from wearing jewellery because of the danger of these objects damaging or falling into products or because they represent a safety hazard to the employee, employers should view the kara not as an item of jewellery but as an article of faith.
- In the case where there may be a fear that the kara could fall off or contaminate food or a product, employers could consider requiring gloves be worn, or a band covering the kara.
- With regards to medical treatment, the kara can be covered by a protective tape, to prevent it interfering with a medical procedure, if required.

Kachera

- During physical education or other sports, providers should allow for students to wear the kachera or something similar that protects the requirements to dress with modesty. There may be a need to make other adaptations to allow for participation in sports like swimming, for example.
- If for any reason, a person is detained, especially if the period of detention is long, they should be afforded the opportunity to bathe. Once bathed, a practising Sikh is required to change their kachera and if possible provisions should be made for a fresh kachera to be provided through family or members of the Sikh community¹⁴.

Kesh

- If possible, a Sikh person's hair/beard should not be touched without prior notification and permission¹⁵.

Turban

- Where it is necessary for the turban to be removed, it should be handled in a sensitive manner. For example, the person should be allowed to remove the turban themselves in a private area, with a mirror.
- For Sikh medical staff or those employed in food preparation or a factory environment, employers could make provision for allowing a clean, regularly washed turban in place of the company's standard head covering. Any beard hair could be protected by tying a piece of material across the beard. This may be sufficient in removing a risk to hygiene.
- Education providers should allow pupils and students (both boys and girls) to wear the turban or the patka.
- Where appropriate and viable, less intrusive security search measures should be considered, for instance passive electronic screening¹⁶. If however, there is a requirement for the turban to be removed by an officer, this must be done in private and by officers of the same sex.

14 ACPOS. *Diversity Handbook: A Practical Guide*. (November 2008 p. 64).

15 ACPOS. *Diversity Handbook: A Practical Guide*. (November 2008 p. 64).

16 http://www.efrb.org.uk/real_dilemmas/security.html

Conclusion

Employers, service providers and public authorities should be aware of their duties under equalities legislation and human rights law to avoid discrimination and to promote the freedom of expression of religious belief. This guidance highlights some of the specific legislation that is in place to provide some protection for individuals wearing Sikh articles of faith.

However, it is as important that employers, service providers and individuals learn about each others' concerns, raise awareness about different religious or belief commitments, and are able to find a solution that does not discriminate against or otherwise disadvantage individuals yet also meets the needs of the organisation.

Resources

Further information on the Sikh faith and good practice can be obtained from the resources listed below.

Sikhs in Scotland

<http://www.sikhsinscotland.org/>

British Sikh Federation

<http://www.british-sikh-federation.org/>

Network of Sikh Organisations

<http://www.nsouk.co.uk/>

British Sikh Consultative Forum

<http://www.bscf.org>

Sikh Federation (UK)

<http://www.sikhfederation.com/>

Religion or belief and the workplace: A guide for employers and employees. ACAS (November 2005)

<http://www.acas.org.uk/CHttpHandler.ashx?id=107&p=0>

ACPO Guidance on Public Order & Firearms duties for Turban wearing Sikh Police Officers (2010) Association of Chief Police Officers of England, Wales and Northern Ireland: Uniformed Operations

<http://www.acpo.police.uk>

ACPOS. *Diversity Handbook: A Practical Guide* (November 2008)

http://www.acpos.police.uk/Documents/Policies/EQUALDIV_DiversityBooklet09.pdf

Caring for a Sikh Patient: A guide to understanding the needs of Sikh Patients. Harinder Singh (2009)

<http://www.sikhchaplaincy.org.uk/Booklet.pdf>

A multifaith resource for Healthcare staff – NHS NES (2006)

<http://www.nes.scot.nhs.uk/media/7219/march07finalversions.pdf.pdf>

Spiritual Care Matters: An introductory Resource for all NHS Scotland Staff (2009) NHS Education for Scotland

<http://www.nes.scot.nhs.uk/media/3746/030309spiritualcarematters.pdf>

Faith and Belief Guide (University of Glasgow 2009-2010) Interfaith Chaplaincy

http://www.gla.ac.uk/media/media_127481_en.pdf

SPS Religion or Belief Equality Policy Statement

<http://www.sps.gov.uk/MultimediaGallery/e9fcc512-e560-44c9-bbad-823196e97c75.pdf>

Guide on Religion and Belief in the Guide on Religion and Belief in the MOD and Armed Forces

<http://www.army.mod.uk/documents/general/>

[Guide_on_Religion_and_Belief_in_the_MOD_and_Armed_Forces.pdf](http://www.army.mod.uk/documents/general/Guide_on_Religion_and_Belief_in_the_MOD_and_Armed_Forces.pdf)

The Panthic Rehat Maryada (Sikh Code of Conduct), Official Translation of the Shiromani Gurdwara Parbandhak Committee

<http://www.sikhs.org/rehit.htm>

Further Support

Scotland

Equality and Human Rights Commission
Helpline Scotland

Freepost RRLG-GYLB-UJTA
The Optima Building, 58 Robertson Street,
Glasgow, G2 8DU

Telephone: 0845 604 5510
Textphone: 0845 604 5520
Fax: 0845 604 5530

Email:

xxxxxxxxxxxxxxxxxxxx@xxxxxxxxxxxxxxxxxxxxxxxxxxxx.xxx

England

Equality and Human Rights Commission
Helpline England

Freepost RRLG-GHUX-CTRX
Arndale House, Arndale Centre,
Manchester, M4 3AQ

Telephone: 0845 604 6610
Textphone: 0845 604 6620
Fax: 0845 604 6630

Email:

xxxxxxxxxxxxxxxxxxxx@xxxxxxxxxxxxxxxxxxxxxxxxxxxx.xxx

Wales

Equality and Human Rights Commission
Helpline Wales

Freepost RRLR-UEYB-UYZL
3rd Floor, 3 Callaghan Square, Cardiff,
CF10 5BT

Telephone: 0845 604 8810
Textphone: 0845 604 8820
Fax: 0845 604 8830

Email:

xxxxxxxxxxxxxxxxxxxx@xxxxxxxxxxxxxxxxxxxxxxxxxxxx.xxx

Helpline opening times: Monday-Friday
8am-6pm

Calls from BT landlines are charged at local rates, but calls from mobiles and other providers may vary. Calls may be monitored for training and quality purposes.

Interpreting services are available through Language Line when you call our helplines.

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