



Wandsworth Voluntary Sector Development Agency

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Guidance Notes

EQUALITY ACT 2010: what does it mean for you?

The Equalities Act 2010 and protected characteristics

Most of the provisions of the Equality Act 2010 came into force on the **1st October 2010**.

The Act replaces all of the existing equality legislation including the Equal Pay Act 1970, the Sex Discrimination Act 1975, the Race Relations Act 1976, the Disability Discrimination Act 1995 and three major statutory instruments protecting discrimination in employment.

The 2010 Equalities Act covers nine protected characteristics, meaning that the legislation provides protection from discrimination in the following main areas:

- Age - it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds)
- Disability - a person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.
- Gender reassignment - the process of transitioning from one gender to another.
- Marriage and civil partnership - marriage is defined as a 'union between a man and a woman'; same-sex couples can have their relationships legally recognised as 'civil partnerships'; civil partners must be treated the same as married couples on a wide range of legal matters.
- Pregnancy and maternity - pregnancy is the condition of being pregnant. Maternity refers to the period of 26 weeks after the birth, which reflects the period of a woman's ordinary maternity leave entitlement in the employment context.
- Race - It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

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- Religion or belief - Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.
- Sex - a man or a woman.
- Sexual orientation - whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.

To whom does the Act apply?

The act applies to all organisations that provide a service to the public or a section of the public, either or not the service is paid for. It also applies to any organisation selling goods or providing facilities, such as community centres, information and advice organisations, charity shops, sports clubs, etc.

Equality legislation also applies to organisations employing staff, protecting employees not only from discrimination when they are in a job, but also applies to the recruitment and selection process, with the aim of making sure that no one is treated less favourably when applying for a job. Employers are also responsible for the actions of their staff.

Equalities Act in the provision of services

When providing services voluntary and community organisations must ensure that they are not discriminating in relation to any of the above nine protected characteristics.

Treating some people worse than others because of a protected characteristic is unlawful discrimination, and it can take a number of different forms:

Direct Discrimination – occurs when a person is treated worse than someone else because of a protected characteristic.

Example: A voluntary organisation not accepting a service user because of his/her ethnicity.

Indirect Discrimination - This occurs when a particular rule, regulation or procedure in place that applies to everyone, particularly disadvantages people who

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share a certain protected characteristic. Indirect discrimination can be justified if it shows to meet a fair and legitimate objective.

Example: A charity which provides immigration advice to refugee communities offers advice sessions only on Fridays at 12.00. This rule disadvantages Muslim refugees as they have to go to the mosque on Fridays. Unless the charity can objectively justify using the rule, this will be indirect discrimination.

Discrimination arising from disability - This occurs if a disabled person is treated unfavourably because of something connected to their disability and you are not able to objectively justify it. This only applies if you know or could reasonably be expected to know that the person is a disabled person.

Example: A community organisation runs a lunch club and has a 'no dogs' rule. If the organisation bars a disabled person who uses an assistance dog, not because of their disability but because they have a dog with them, this would be discrimination arising from disability unless the organisation can objectively justify what it has done.

Discrimination by association – this occurs when you treat a person worse than someone else because they are linked or associated with a person who has a protected characteristic.

Example: The committee running a voluntary sector organisation refuses to allow a child to take part in their play activities because the child's parents are a gay couple. It is likely the child has been unlawfully discriminated against because of their association with their parents' sexual orientation.

Discrimination by perception – this occurs if you treat a person worse because you incorrectly think they have a protected characteristic.

Example: A member of staff thinks a woman is a transsexual person. Because of this they tell her their voluntary organisation's activities are not open to her. It is likely the woman has been unlawfully discriminated against because of gender reassignment, even though she is not a transsexual person.

Victimisation: this occurs when you treat a person badly or 'victimise' them because they have complained about discrimination or helped someone else complain or done anything to uphold their own or someone else's equality law rights.

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Example: A service user supports another person's complaint that a charity has unlawfully discriminated against them. The service user is later told that s/he cannot apply for help from the charity. If this is because of her/his part in supporting the complaint, this is likely to be victimisation.

Harassment – This relates to unwanted behaviour towards a person's protected characteristic which is found threatening, offensive or disturbing.

Example: A member of staff makes abusive remarks regarding a service's ethnicity.

Duty to make reasonable adjustments - to make sure that disabled people are able to use your services as far as is reasonable to the same standard as non-disabled people, you must make reasonable adjustments. You cannot wait until a disabled person wants to use your services, but must think in advance about what people with a range of impairments might reasonably need, such as people who have a visual impairment, a hearing impairment, a mobility impairment, or a learning disability. What is reasonable for you to do depends, among other factors, on the size and nature of your organisation and the nature of the goods, facilities or services you provide.

Example: A charity provides a telephone helpline service to its clients. It installs a textphone so that people with hearing impairments can communicate with it and receive advice. It also offers the alternative of instant messaging via the internet which also removes barriers to accessing the service for people who cannot, for a variety of reasons such as visual impairment or dyslexia, make notes during a phone call.

What does this mean for your organisation?

Your organisation and anyone working for you:

1. Must not refuse to serve someone or refuse to take them on as a client because of a protected characteristic.

Example: You must not say you will not take people with a particular religion or belief as a client.

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2. Must not stop providing a service for someone, if you are still providing the same service for other service users or clients who do not have the same protected characteristic in the same circumstances.

Example: You must not stop offering home visits to disabled people you find out have a mental health condition if you go on offering them to other clients. That is likely to be unlawful disability discrimination.

3. Must not give someone a service of a worse quality or in a worse way than you would usually provide the service, or make it more difficult for them to access your services.

4. Must not put your service users at any other disadvantage.

Example: You can still tell your service users or clients what standards of behaviour you want from them. For example, behaving with respect towards your staff and to other service users or clients. Sometimes, how someone behave may be linked to a protected characteristic. If you do set standards of behaviour, you must make reasonable adjustments to them for disabled people and avoid discrimination arising from disability.

Exceptions for charities

If you are a charity you are allowed to restrict the services you offer to people with a particular protected characteristic if:

- that is included in the charity's objectives as stated in your governing document, and either
- can be justified as aiming to meet a legitimate objective, or
- it is done to prevent or compensate for disadvantage linked to the protected characteristic.

Example: A charity whose constitution states that its objective is to provide facilities and care for ex-prisoners.

However, charities cannot restrict their services on the basis of a person's colour, such as 'black' or 'white' even if the charity's objectives include this restriction.

Example: A charity's objects include holding activities only for black people from a particular local area. It must open its activities up to everyone from that local area regardless of their colour, provided they meet its other criteria.

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An event or activity held to promote or support a charity can be restricted to one sex only.

Example: Race for Life, a women-only event which raises money for Cancer Research UK, or a boys-only football tournament held to raise money for a charity.

Membership of a religious organisation can be restricted to people that belong to that religion or belief, and can also refuse members access to benefits if they do not accept that religion or belief, but only as long as this requirement has existed since before 18 May 2005.

Example: The Scout Association is a charity which requires children joining the Scouts to promise to do their best to do their duty to God.

Other exceptions

Positive action - this allows service providers to take appropriate steps to help people with protected characteristics to overcome their disadvantages or to meet their needs. This means that you can provide extra help or encouragement in order for people with protected characteristics to have the same chances as everyone else. You must be able to show that you have reason to think that the protected characteristic these people share means they have a different need or experience disadvantage or have low participation in the sort of activities you run.

Example: A charity supporting single parents finds that they have fewer clients from the Somali community when compared with the actual size of the community in that area. They decide to advertise their services at the local mosque and through Somali organisations. They also decided to have an open day where they invited prominent leader from that community to take part.

More favourable treatment for disabled people - as well as these exceptions, equality law allows you to treat disabled people more favourably than non-disabled people. The aim of the law in allowing this is to remove barriers that disabled people would otherwise face to accessing services.

Example: A voluntary organisation provides free travel to disabled people who want to attend its events, but not to non-disabled people.

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The Equality Act and Volunteers

If your organisation uses volunteers this counts as if you are providing them with a service. Therefore you need to consider all the aspects mentioned in this guidance and avoid unlawful discrimination in how you treat your volunteers.

Equality Act in employment

The Equality Act applies equally to employers, covering the same nine protected characteristics and the types of discrimination listed above.

As an employer you need to consider equality law in the following areas:

- recruitment and selection of your workers,
- when making decisions about your workers' hours, whether they can work flexibly or have time off,
- when making decisions about the level of pay or deciding what benefits to give them,
- when deciding about improving your workers' skills, or promoting or transferring them to another job or role in your organisation,
- when making a decision regarding dismissal, redundancy or retirement of a worker, or what you do after someone has stopped working for you (for example, if you are asked for a reference).

As an employer, you are legally responsible for acts of discrimination, harassment and victimisation carried out by your employees in the course of their employment.

You can find specific Equality Act guidance for employers published by the Equality and Human Rights Commission and ACAS, which are listed below in the resources section.

What does your organisation needs to do?

You need to consider the implications of equality law in relation to the way you provide services to the public. Think about staff, location, written information, websites, telephone access, etc.

You will need to inform your management committee, staff and volunteers about the changes introduced by the Equalities Act.

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You might also need to review your equalities policies to make sure they cover all the relevant protected characteristics.

Also consider whether your staff will need further training.

You may also want to consider taking positive action regarding any groups that are not as well represented among your service users as they should be, to encourage them to use more your services.

Equalities Impact Assessments – who needs them?

An equality impact assessment (EIA) is a tool to analyse how a policy, function or service (actual or proposed) affects different groups of people to check whether it could have an adverse impact on any group.

It aims to ensure that as far as possible any negative consequences for a particular group or sector of the community are identified and eliminated or minimised. It also provides a mechanism to ensure that equality is integrated into policy development from the start.

Under the current legislation, public authorities have a duty to assess and disclose the expected impact of policies, plans, strategies and functions on race, disability and gender.

If you are a voluntary/community organisation contracted to provide a public service, you may also be required to produce impact assessments in relation to race, disability and gender.

However, even if there is not a duty on your organisation to carry out Equality Impact Assessments, it is good practice to consider the potential equality impacts of any proposed policy, project or service on different groups, acting as a guard against potential discrimination. The process of carrying out the impact assessment also encourages meaningful consultation and engagement with the different equalities groups and enables more effective and efficient targeting of services and resources.

Your Equality Impact Assessment should consider and cover the nine protected characteristics and should be carried out on all proposed, revised and existing policies and proposed changes to service delivery. This could be done as part of your business planning process.

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Your impact assessment should cover the following basic steps:

1. Aims of the policy or service
2. Who is responsible for the service/policy & its assessment
3. Information collection (quantitative & qualitative)
4. Assessment of impact
5. Identifying changes and improvements needed
6. Action plan

If you require more detailed information on how to carry out an equalities impact assessment contact the Equality and Human Rights Commission advice helpline on 0845 604 6610.

Further reading and resources:

- Equality Act 2010: What do I need to know? Government Equalities Office guides, http://www.equalities.gov.uk/equality_act_2010/equality_act_2010_what_do_i_n.aspx
- What equality law means for your voluntary and community sector organisation (including charities and religion or belief organisations), <http://www.equalityhumanrights.com/advice-and-guidance/guidance-for-service-providers/voluntary-and-community-sector-organisations-including-charities/>
- Equality Act 2010 ACAS Quick Start Guide for Employers, <http://www.acas.org.uk/index.aspx?articleid=3017>
- Equality Act summary guidance, Charity Commission, http://www.charitycommission.gov.uk/Charity_requirements_guidance/Charity_governance/Good_governance/equality_act_summary.aspx
- Equality Act 2010 Overview, NCVO, <http://www.ncvo-vol.org.uk/advice-support/people-hr-employment/equality-act-2010-overview/equality-act-2010-overview>

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If you would like further information or advice on any of the issues in this 'Guidance Notes', contact the Wandsworth Voluntary Sector Development Agency (WVSDA) on 020 8875 2844/5/6 or Email: smallgroups@wvsda.org.uk, info@wvsda.org.uk.

More Guidance Notes can be found on our website, www.wvsda.org.uk.

The Wandsworth Voluntary Sector Development Agency (WVSDA) provides information, advice and training to assist voluntary and community groups with issues relating to setting up and managing effective organisations. Whilst every effort is taken to ensure the information, advice and support we offer is current, relevant and accurate, it does not constitute legal advice.

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