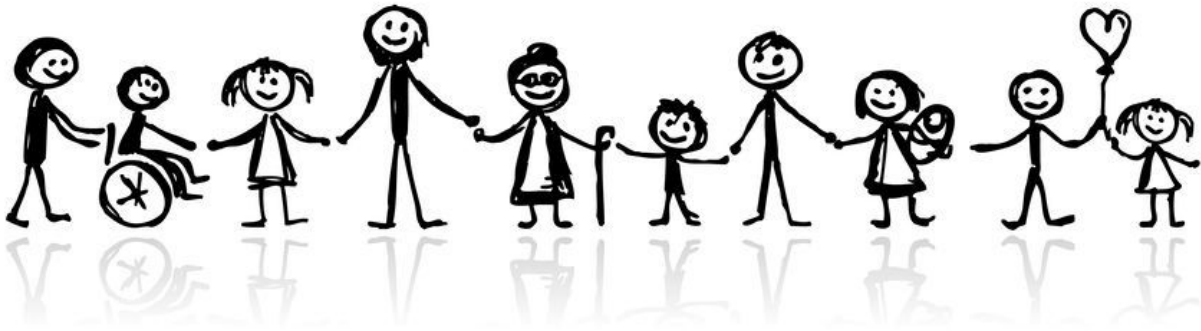


# The Equality Act 2010



# Introduction

The Equality Act 2010 came into force in October 2010.

It brought together a number of pieces of legislation under a single Act and provides a legal framework to protect the rights of individuals and advance equality of opportunity for all.

It provides the UK with a discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society. The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society and sets out the different ways in which it's unlawful to treat someone.

# Introduction

The nine main pieces of legislation that were merged under the Equality Act 2010 were:

- Equal Pay Act 1970
- Sex Discrimination Act 1975
- Race Relations Act 1976
- Disability Discrimination Act 1995
- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Age) Regulations 2006
- Equality Act 2006 Part 2
- Equality Act (Sexual Orientation) Regulations 2007

# Introduction

Everyone in the UK is protected by the Equality Act 2010. The Act protects people who have particular protected characteristics against discrimination in the following situations:

- In the workplace
- When using public services like healthcare or education
- When using businesses or other organisations that provide services and goods (eg shops, restaurants, cinemas etc)
- When using transport
- When joining a club or association
- When coming into contact with local councils or government departments

There are nine protected characteristics that protect people against discrimination which we shall now look at in turn.

Source:

<https://www.equalityhumanrights.com/en/equality-act-2010/what-equality-act>

# Age

The Equality act made provision for a ban on age discrimination in the provision of services of public functions. A person must not be discriminated against because they

- are of a particular age or age group,
- are perceived to be of a particular age or age group or
- are connected to someone of a particular age or age group

The Act makes it unlawful to discriminate on the grounds of age in employment and education provision unless it can be justified (such as a compulsory retirement age or age related concessions such as an under 18 sport tournaments). These exceptions are contained in the 'Equality Act 2010 (Age Exceptions) Order 2012'.

# Disability

This applies to not discriminating against people with disabilities, people perceived to have a disability or people connected to someone with a disability.

A disability is a physical or mental impairment which has a 'substantial and long-term adverse effect on your ability to carry out normal day-to-day activities'.

Some impairments are automatically treated as a disability such as visual impairments.

Progressive conditions such as Multiple Sclerosis and HIV are included as a disability, as are medical conditions such as cancer and others which have lasted for over 12 months but from which the person has recovered.

# Gender reassignment

The terms gender reassignment and transsexual were recommended to be replaced with the umbrella term trans by the Women and Equalities Report Committee 2016 although the original terms remain in the Equality Act 2010.

Gender reassignment refers to someone who is transgendered and includes anyone who has proposed, started or completed a process change sex.

The law applies to not discriminating against being, perceived as or connected to a person who is transsexual.

# Marriage and civil partnership

This means not discriminating against being, perceived as or connected to someone who is legally married or in a civil partnership of any sex, . It does not include living with someone as their partner.

You are legally married if your union is recognised as marriage under UK law (even if you were married outside of the UK). A civil partnership refers to a registered partnership under the Civil Partnership Act 2004 (as well as partnerships registered outside of the UK).

This protected characteristic only takes affect in the workplace (so if you believe you have been treated unfairly outside of work due to being married or in a civil partnership, it is not discrimination under the Equality Act).



# Pregnancy and maternity

It is unlawful to treat someone unfavourably because they are pregnant, for a reason relating to their pregnancy, because of illness related to pregnancy, a person is breastfeeding or has recently given birth. In employment law, there are regulations about the treatment of people who are pregnant or who have recently had a child.

If a person suffers a disadvantage as a result of the unfair treatments then that person has been treated unfavourably. It doesn't matter if the person treating you unfavourably was doing so because they had good intentions (like refusing to sell a pregnant woman alcohol or cigarettes because they were worried) or didn't intend to discriminate.

Some examples of being treated unfavourably might include not getting a promotion at work because of a pregnancy, or not being allowed to breast feed in a cafe.

# Race

A person must not be discriminated against because of their race. Under the Equality Act race includes a person's colour, nationality (including their citizenship). It can also mean ethnic or national origins, which may not be the same as nationality. It also includes ethnic and racial groups. This means a group of people who share the same protected characteristic of ethnicity or race.

A racial group can be made up of more than one distinct racial groups (for example Black British, British Asians, British Jews, Irish Travellers).

# Religion or belief

A person must not be discriminated against if they are (or are not) of a particular religion, they hold (or do not hold) a particular philosophical belief, someone perceives that a person holds (or does not hold) a particular religion or belief, a person is connected to someone who holds (or does not hold) a particular religion or belief.

A person can be discriminated against because they belong to an organised religion for example Islam, Christianity, Judaism, Sikhism, Buddhism or Hinduism. A person can also be discriminated against for being a member of smaller religions or sects like Rastafarianism, Scientology or Paganism or because they belong to a specific denomination or sect - for example Catholics within Christianity, Sunnis or Shi'as within Islam or Orthodox or Reform Judaism.

# Sex

This applies to not discriminating against being, perception or connection to someone of a particular sex. In the Equality Act 2010, sex is defined as male, female, or a group of people of the same sex.

Sex relates to biological record on birth certificate and is binary although a trans person can have their birth certificate changed if they apply for a Gender Recognition Certificate (GRC). As a rule sex is seen as biological and gender is associated with social identity.

More information:

<https://www.equalityhumanrights.com/en/our-work/news/our-statement-sex-and-gender-reassignment-legal-protections-and-language>

# Sexual orientation

A person must not be discriminated against because they are, perceived as or connected to someone who is heterosexual, gay, lesbian or bisexual. In the Equality Act 2020, sexual orientation also applies to how a person chooses to express their sexual orientation such as through appearance or places that are visited.

The law says that any type of discrimination - direct or indirect - or whether it is based on a person's actual sexual orientation or perceived orientation. For example if a person discriminates against someone who they think is gay, but is in fact heterosexual, this is still classed as discrimination.

# Four types of discrimination

## Direct Discrimination

Treating one person in a more detrimental way than another because of a protected characteristic. For example, during recruitment a person who interviews well but requires a wheelchair due to a disability is not given the job because the office that they would be working in requires negotiating two flights of stairs and it would not be convenient to adapt the office space for the disabled candidate. This would be direct discrimination against a person with a disability.

## Indirect Discrimination

Indirect Discrimination: An organisation puts a policy or way of doing things in place that has a more detrimental impact on someone with a protected characteristic than someone without one. An outdoor activity centre requires a medical certificate of general good health before it will allow visitors to take part in a range of activities from easy to strenuous levels. There may be a range of medical conditions that would not be affected by a person taking part in physical exercise eg a person with mental health issues. This is indirect discrimination against someone with a disability who would be fit to take part in activities.

# Four types of discrimination

## Harrassment

A person cannot be treated in a way that violates their dignity, or creates a hostile, degrading, humiliating or offensive environment. For example, a person who has a learning disability being mocked or humiliated in a cafe because of their disability.

## Victimisation

This means that a person cannot be treated unfairly if they are taking action under the Equality Act 2010 (such as making a complaint about discrimination) or if a person is supporting someone else who is doing so. For example, an employee makes a complaint about racism in the workplace and is dismissed rather than the complaint being followed up.

# Reasonable Adjustments

A form of discrimination against disability is the failure to make reasonable adjustments. Employers and organisations have a responsibility to make sure that disabled people can access jobs, education and services as easily as non-disabled people.

This is known as the 'duty to make reasonable adjustments.'

Disabled people can experience discrimination if the employer or organisation does not make a reasonable adjustment and in this case the organisation will have discriminated against people with a disability through 'failure to make reasonable adjustments.'



# What are reasonable adjustments?

Reasonable adjustments can be made in the workplace; in education; in housing; in shops, cinemas, galleries, restaurants, hospitals, council offices and leisure centres or in clubs and associations.

Under the Equality Act 2010, a disabled person must not be asked to pay for any reasonable adjustment that needs to be made.

What is reasonable depends on a number of factors including the resources available to the organisation making the adjustment. For example, if an organisation has a car park, it would be possible to designate one space near the building entrance for people with disabilities to use. Factors contributing to deciding whether an adjustment is reasonable or not:

- the person's disability
- how practicable the changes are to make
- if the change asked for would help overcome the disadvantage the person and other disabled people are experiencing
- the size of the organisation
- how much money and resources are available
- the cost of making the changes
- if any changes have already been made

There are three different things that people or organisations may have to do to make it easier for a disabled person to access or do something.

## Change the way things are done

Change the way things are done – Some people or organisations may have a certain way of operating that makes it more difficult to access something. This could be a formal or informal policy, a rule or practice. It could be a standalone decision. The Equality Act 2010 calls this a provision, criterion or practice. An organisation should change these things if they are a barrier to a person, unless it is unreasonable to do so.

## Provide extra aids or adaptations

Provide Extra Aids or Services – Sometimes it may be necessary to provide particular aids or services to help access or do something. The Equality Act 2010 calls this Auxiliary Aids and Services

# Change a physical feature

Sometimes a physical feature of a building or other premises may make it difficult for a person to access or use it. Physical features that could be changed are:

- Steps and stairs
- Passageways and paths
- Entrances and exits
- Internal and External Doors
- Toilets
- Signs
- Lighting and Ventilation
- The size of premises

The kind of changes that could be made are removing, changing, or providing a way of avoiding the physical feature where it's reasonable to do so.

Source:

<https://www.citizensadvice.org.uk/law-and-courts/discrimination/what-are-the-different-types-of-discrimination/duty-to-make-reasonable-adjustments-for-disabled-people/>

## Examples of reasonable adjustments (1)

A town hall built in the 19th century has no ground level access to the building and can only be accessed by a flight of 10 steps or by a ground level side entrance that involves traveling in a goods lift to the main floor. Internally, there are narrow doors, inaccessible toilets and inadequate lighting. There have been a number of complaints from a local disability group about the lack of access to the council offices and inside the building.

The building is Grade II listed so the council work with an architect to draw up proposals to make the building more accessible while maintaining its historical interest. A capital lottery grant is secured along with provision of funds from the council from their building maintenance budgets to undertake work on the building.

A permanent ramp is installed at the entrance and ground level toilets are made accessible. A stair lift is put in to enable access to the upper two floors of the building. All public areas are made wheelchair accessible. A meeting room is installed with an induction loop.

Through this project the council change the building from an almost inaccessible building that has made few adjustments for people with disabilities to a full access to public areas of the building.

## Examples of reasonable adjustments (2)

An advocate is supporting a person through their care review following a recent move to a ground floor flat.

The person's mobility has deteriorated due to a neurological condition. They have been supplied with assistive aids and the bathroom has been adapted for the person's disabilities. However, the front door is fitted with a fixed metal draught excluder that makes anything involving wheels impossible to use and access through the front door of the flat very difficult.

The person complains that sometimes they are prevented from going out because of the metal strip on the front door. The advocate supports them to request a different style of front door is fitted to the flat to enable level access. It is agreed that a new front door that is suitable will be added and negotiated with occupational health.

## Examples of reasonable adjustments (3)

A person is offered a job and they require to work with a BSL interpreter for work meetings. It is a small company who cannot afford to pay for an interpreter but they support the person to apply for an Access to Work grant and offer a contribution to the cost of the BSL interpreter.

## Examples of reasonable adjustments (4)

A student drives a Motability Scheme adapted car and has lectures in an annexe 300m away from the main building. The only disabled bays on campus are close to the main building. The university designates a disabled bay in a car park that is only 10m away from the building that the student has an annexe in. A proposal is then made to the vice chancellor that the university should have disabled bays in more than one part of the campus.

## Examples of reasonable adjustments (5)

A person with long-term depression is very good at their job but unable to work regular hours. If they are constrained by fixed hours, this can impact on their health.

The organisation they work for allows the person to work flexible hours so that as long as they attend the meetings they need attend, or inform their manager that they cannot attend, and complete their work on time, they are free to work the equivalent of 20 hours a week.

The person is asked to fill out a time sheet so that their hours of work are monitored and they have an addendum to their contract of employment. The person is able to continue to work in their job efficiently but does not have to work at fixed times.

# Local Government Ombudsman Case

London Borough of Hillingdon Council were found at fault for not making reasonable adjustments for Mrs X's disability and not taking into account information provided by Mrs X. (Decision: April 2019)

Mrs X was off work with stress following an assault and also had dyslexia and autism. She applied for housing benefit and asked for support in filling out the housing form as she struggled to do so because of her learning disability. She also requested that correspondence be done through email because she found it easier to use with her disability.

Her application was successful but Mrs X's circumstances changed and she returned to work – she was no longer eligible for housing benefit. Although Mrs X contacted the council several times to update her circumstances, her emails were ignored and the council continued to pay housing benefit.

She tried to contact the council again to cancel the benefit. The council continued to ignore Mrs X's correspondence until they discovered their error and they sent out a bill for £1000 housing benefit overpayment with no detail of how they had calculated the amount.



# Local Government Ombudsman Case

Mrs X complained and when the complaint was not upheld she appealed and then contacted the Ombudsman who upheld her complaint on the grounds that reasonable adjustments had not been made for Mrs X's disabilities.

Actual case (optional reading):

[www.lgo.org.uk › assets › attach › REPORT-17016682...](http://www.lgo.org.uk/assets/attach/REPORT-17016682...)

## Case study - advocacy and the Equality Act

A day centre has recently introduced a policy of no headgear to be worn by service users while in the building. Reuben has learning disabilities and likes to visit the day centre weekly and a lot of his friends go there too. It is an important social hub for him.

Reuben is Rastafarian so requires to wear a hat on religious grounds. The day centre refuse this and Reuben is unable to visit the centre any longer as he feels unable to remove his hat. He speaks to his Independent Care Act Advocate.

Visiting the day centre is a part of Reuben's care package. Reuben is very upset at not being able to attend the day centre so he and his advocate approach the manager for a meeting. At the meeting Reuben explains that he has to wear a hat on grounds of his belief – it is a family tradition that he wishes to uphold. The advocate explains that this policy is indirect discrimination under the Equality Act 2010 (protected characteristic of religion and belief). The advocate also outlines that this policy may also impact on people with other beliefs such as people who observe Sikh, Muslim and Jewish religion.

They explain that Reuben has the right to complain to the company running the centre on the grounds of breach of the Equality Act 2010. The care centre manager changes the policy of no headgear and addresses the issue that gave rise to the policy in a different way. Reuben is then able to attend the day centre again.

## Case study - advocacy and discrimination

James is autistic and can exhibit behaviour that others find challenging if he is feeling under pressure or has to wait in a crowded space. After a very long wait at a GP's surgery that is becoming more crowded with patients, James becomes agitated, starts throwing leaflets across the floor and shouts at the receptionist. The receptionist requests that James leaves the surgery and comes back when the surgery is less crowded.

James has been accompanied by his brother Peter who manages to calm him down and say that the appointment is urgent and that it was very nearly James's turn to see the doctor. The receptionist loses their temper with Peter who firmly says that James has autism, has been affected by the wait and asks the receptionist to reconsider her request for James to leave.

The receptionist retorts by saying that both Peter and James should leave and that it might be good if they both looked for another GP as the kind of behaviour that James has exhibited is not to be tolerated.

## Case study - advocacy and discrimination

Peter and James leave the surgery and Peter contacts the practice manager as soon as they get home. The practice manager does not return their calls and Peter is forced to take James to Accident and Emergency for treatment.

James is seen quickly and recovers from his illness. While at the hospital Peter contacts the NHS complaints department about making a complaint about the surgery. He is also given the number of the service that provides NHS complaints advocacy in his area and begins to work with a representative from there.

They identify that both James and Peter have been discriminated against – James for his challenging behaviour due to autism and Peter for supporting James. The receptionist was in breach of the Equality Act 2010 under the protected characteristic of disability by discriminating against someone with a disability and someone connected to a person with a disability.

Peter writes to the GP with the advocate's help and the surgery issues an apology, confirms that they will ensure that all staff are informed that James and Peter may attend the surgery, and also say that they will provide additional staff training for the support of people with autism in the surgery.

## Case study - advocacy and discrimination

Sarah has just left school at 18 and has bi-polar disorder. She wants to get a job but has found it difficult. She is offered a one day a week post in the accounts department of the organisation where she has volunteered since she was 16. A week later she is told that because of her mental health issue and that the job will involve handling small amounts of money, she will not be able to take on the role. Sarah has good maths skills with an A in the subject at GCSE.

She is on a community treatment order and works with an IMHA following a stay in hospital a year ago. The IMHA discussed the situation with Sarah who asks the IMHA to contact the organisation to discuss why she is not able to work for them. The IMHA contacts the organisation and asks why Sarah has now been turned down for the post.

The organisation says that the post has now been filled and there was concern about Sarah's ability to handle money because of her medical history. The IMHA reminds the organisation of the Equality Act 2010 and that is unlawful to discriminate against Sarah on the grounds of disability due to her mental health issue. Sarah has got the numerical skills to handle money and has good character references. The organisations then say that there is a marketing role coming available on the same pay and offer Sarah the post. Sarah is happy with the outcome.

# References & Further Reading

Equality and Human Rights Commission:

<https://www.equalityhumanrights.com/en/advice-and-guidance/your-rights-under-equality-act-2010>

Report: Your Rights to Equality from Healthcare and Social Care Act: Equality Act 2010 Guidance for Service Users Vol 4 of 7 (Updated 2018)

[https://www.equalityhumanrights.com/sites/default/files/your\\_rights\\_to\\_equality\\_from\\_healthcare\\_and\\_social\\_care\\_services.pdf](https://www.equalityhumanrights.com/sites/default/files/your_rights_to_equality_from_healthcare_and_social_care_services.pdf)

Citizens Advice Bureau:

<https://www.citizensadvice.org.uk/law-and-courts/discrimination/about-discrimination/equality-act-2010-discrimination-and-your-rights/>

Social Care Institute for Excellence:

<https://www.scie.org.uk/key-social-care-legislation/equality-act>

Guidance on Equality Act 2010

<https://www.gov.uk/guidance/equality-act-2010-guidance>

Red, White and Blue Steve McQueen, Small Axe series, BBC 2020 (overcoming race discrimination in police force in 1970s)

Thank you for reading.  
Please return to the  
e-learning for the next  
section of learning

