

## The Equality Act 2010 – summary

The United Kingdom (UK) has had a range of legislation to protect the rights of various groups of people for a number of years (eg protection on grounds of disability, gender or race/ethnicity). Recently the government brought in the wide ranging Equality Act (2010) which harmonises the existing laws in a single piece of legislation and extends protection to a number of new characteristics.

The protected characteristics are:

- Age.
- Disability.
- Ethnicity.
- Gender.
- Marriage or civil partnership.
- Pregnancy and maternity.
- Religion and belief.
- Sexual identity (gender reassignment).
- Sexual orientation.

The Equality Act protects people from discrimination or harassment especially in the provision of goods and services, in employment and in education.

**Discrimination** is defined as less favourable treatment, usually relating to one of the 'protected characteristics' identified in the legislation. Discrimination may be direct or indirect (ie for a reason relating to the protected characteristic) and direct discrimination can never be justified in law.

**Harassment** is defined as unwanted conduct (usually several incidents over a period of time, but it can be a single event) by one person (respondent) which has the effect of either violating another person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment or behaviour which is reasonably considered by the recipient to have that effect (within the overall context), even if the effect is not the intention of the respondent.

Remember that if you break the law you may be held personally accountable, and your employer may also have some liability. In addition to any police action, you may also be subject to discipline by your employer, which can range from a warning or fine through to dismissal from your post.

The 'protected characteristics' in alphabetical<sup>1</sup> order are:

1. **Age** - people of all ages are protected. For example it is not legal to have upper or lower age limits on students' admission to courses. Employers may not take account of age when appointing staff, nor refuse staff opportunities for training because they are either too young or too old. The UK retains a default retirement age of 65 years, but this is likely to be removed in the next year or two. People may request to work beyond that and the employer must give the request due consideration, but there is no automatic right to continue.
2. **Disability** - a person is considered to be disabled if they have any physical or mental condition which is significant, adverse and long-lasting (defined as at least one year, or the rest of the person's life whichever is the shorter) and affects the person's ability to do everyday tasks.

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<sup>1</sup> *Alphabetical order is used to emphasise that all characteristics are equally protected, there is no hierarchy of characteristics, so no one characteristic is more important than another.*

This broad definition includes:

- People with most chronic health conditions (eg epilepsy, asthma, HIV infection, depression, anxiety).
- People with specific learning differences (eg dyslexia, dyspraxia, dyscalculia, attention difficulties).
- People with lifelong developmental conditions (eg Autism Spectrum Disorders, Asperger's Syndrome).
- People with sensory impairments (eg various degrees of visual impairment or hearing impairment).
- People with mobility or dexterity impairments (eg amputees, those with arthritis, wheelchair users).

Organisations must not treat a disabled person less favourably than others. They must also make 'reasonable adjustments' to meet the specific needs of a disabled individual and they must act to anticipate the needs of disabled people in general. Typically in higher education the vast majority of disabled students and staff have 'hidden' impairments which are not immediately apparent - so staff need to anticipate the needs of a range of disabled students and implement appropriate adjustments to their teaching practice to accommodate those needs.

3. **Ethnicity** (race, nationality or colour) - people of all ethnic groups (including gipsies and travellers) are protected from insulting or offensive behaviour and other forms of harassment and discrimination.
4. **Gender** - both men and women are both protected from discrimination on the grounds of gender. For example, women may not be refused promotion on the grounds that they might get pregnant and take maternity leave.
5. People engaged in both **marriage and civil partnership** (a legally recognised partnership between two people of the same gender, broadly speaking equivalent to marriage, though there are technical differences) are both protected from discrimination.
6. **Pregnancy and maternity** - it is illegal to discriminate against or harass a woman either because she is pregnant or because she is a mother (e.g. refusing to permit attendance at antenatal appointments).
7. **Religion or belief** (including holding no religious beliefs) - It is illegal to discriminate against or harass any person because they hold a particular faith or other strong non-political belief or a person who is agnostic or atheist. One must take reasonable steps to allow any person to act in accordance with their faith, providing such actions do not directly affect other people's rights.
8. **Sexual identity** (trans-gender, gender reassignment) - UK law now permits a person to re-assign their gender (change sex) and a new birth certificate, passport and other formal documents are issued as appropriate. The person will dress and behave according to their chosen gender and may also choose to have surgery to alter their physical characteristics. Other people are required to respect their choice and treat the person according to their chosen gender. It is never acceptable to treat a person as if they were gender-neutral.
9. **Sexual orientation** - the rights of bi-sexual, heterosexual (straight) and homosexual (gay, lesbian) people are all protected. Marriage is reserved for couples of differing gender, couples who have the same gender may choose to create a civil partnership.

## The Equality Duty



Institutions have a duty to promote equality of opportunity and will also need to monitor the diversity characteristics of their employees and clients/students in order to check on the fairness of their procedures and to check whether student attainment is similar for all groups.

You may be asked to complete such monitoring forms occasionally. If so, remember that the information will be anonymised before any reporting. You are not obliged to complete all of the questions if you are uncomfortable doing so - you can select 'prefer not to say' for some or indeed all questions.

If you have any queries about these issues your employer will probably have a Diversity Advisor or Equal Opportunities Manager with whom you can discuss them. The Equality Challenge Unit ([www.ecu.ac.uk](http://www.ecu.ac.uk)) and the Government Equalities Office ([www.equalities.gov.uk](http://www.equalities.gov.uk)) each publish a range of informative documents.