



The Equality Act 2010

What does it mean for service providers?

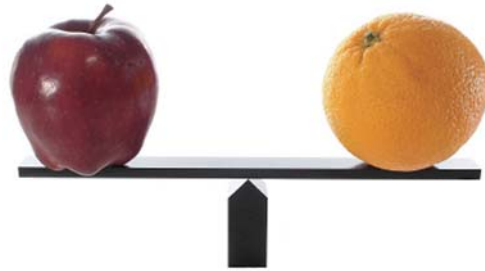
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The Equality Act has now become law and certain key provisions for service providers are expected to come into force in October 2010.

In a nutshell the Act will...

- tackle inequality and create a single consistent approach to discrimination. It repeals and replaces most of the existing legislation.
- Part 3 of the Act, which deals with services, is based on the principle that people with protected characteristics should not be discriminated against when using a service.
- the prohibition against discrimination imposed by the Act on service providers extends to the protected characteristics of
 - disability
 - gender reassignment
 - pregnancy
 - race
 - religion or belief
 - sex and sexual orientation.

- in contrast to other Parts of the Act, the prohibition in relation to services does not apply to marriage and civil partnership.
- age will become a protected characteristic but these provisions are not expected to come in to force before 2012. However, this protection will not apply to persons under 18.



Service

What is a service?

- The word "service" is used in a broad sense in the Act. It includes providing goods and facilities including the entry to and use of any place which is open to members of the public.
- As long as the service is provided to the public in general it does not matter whether it is provided for payment or free of charge.
- Information Society Services, such as the hosting of a web service, are specifically dealt with in Schedule 25 to ensure that there is no conflict with the provisions of the E-Commerce Directive.

Who is a service provider?

- A service provider is anyone who provides any service to the public or a section of the public including:
 - individuals
 - businesses
 - companies
 - other private organisations
 - public bodies.

Requirements

What is unlawful under the Act?

- The Act prohibits:
 - direct discrimination
 - indirect discrimination
 - harassment
 - victimisationrelated to any of the protected characteristics
- Types of behaviour prevented by these prohibited acts

will include:

- refusing to provide services
- providing a different quality of service that differs from that usually offered to the public
- offering service on different terms to those usually offered to the public
- subjecting a person to any other detrimental requirements or behaviour

Discrimination arising from disability

What constitutes discrimination arising from disability?

- The Act introduces a new concept of discrimination arising from disability which prohibits service providers from treating disabled people less favourably than other people for a reason arising from their disability.
- This is broader than current legislation and discriminatory treatment is potentially unlawful unless the service provider can show that the treatment is a proportionate means of achieving a legitimate aim.

- No intention to discriminate is required to breach the prohibition.

Reasonable adjustments

- Service providers must undertake reasonable adjustments to avoid disabled people being substantially disadvantaged in accessing services. A review should be carried out regularly to ensure that services are accessible by disabled people.

Contracts

Is it possible to avoid the Act by contractual means?

- The Act prevents service providers from avoiding their responsibilities by seeking to enter into arrangements or agreements which permit them to discriminate or commit other acts which are unlawful under the Act.
- The Act provides that a term of a contract is unenforceable in so far as it

- constitutes
 - promotes or
 - provides for
- treatment of that or another person that is unlawful in relation to the provision of goods, facilities or services. In other words, you cannot exclude or limit the scope of the Act by a contractual term.

What to do next

What do I need to do now?

- Brief employees providing services to the public about the Act including the meaning of equality and consider whether existing policies need updating.

- Familiarise yourself with the new statutory codes of practice when issued by the Equality and Human Rights Commission.

More information

If you would like further information on the other aspects of the Equality Act 2010, we also have specific briefings for:

- Employers
- Landlords and property managers

- The public sector (private and public sector)
- Pension schemes

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