

# THE EQUALITY ACT 2010

## WHAT YOU NEED TO KNOW ABOUT THE EQUALITY ACT

### WHAT IS IT?

The Equality Act came into force on 1 October 2010, and protects individuals from unfair treatment and promotes a fair and more equal society.

### WHY DO I NEED TO KNOW?

As a service provider you are covered by the legislation. It is important to understand your obligations to treat your customers fairly. The cost of failing to, both in legal fees and damages involved in defending a discrimination case, as well as the reputational damage could be very great indeed.

### UNLAWFUL DISCRIMINATION?

'Protected characteristics' are the grounds upon which discrimination is unlawful, and there are nine:

AGE

DISABILITY

GENDER REASSIGNMENT

RACE

MARRIAGE/  
CIVIL  
PARTNERSHIP

PREGNANCY  
&  
MATERNITY

SEX

RELIGION OR  
BELIEF

SEXUAL  
ORIENTATION



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Unlawful discrimination can take a number of different forms:

As a business you must not treat a person worse because of one or more of their protected characteristics.

**This is called direct discrimination.**

## **DIRECT DISCRIMINATION**

For example: If you will not serve someone because they are a Gypsy or Traveller - that is direct discrimination because of race.

Or if a pub runs a 'ladies night', where women are allowed to enter for free but men are charged a door fee, this is classed as discrimination because of a person's sex.

## **INDIRECT DISCRIMINATION**

Unless you can show that what you have done is objectively justified, this will be what is called **indirect discrimination**.

### **FOR EXAMPLE:**

A pub decides to apply a 'no hats or other headgear' rule to customers. If this rule was applied in exactly the same way to every customer, Sikhs, Jews, Muslims and Rastafarians who may cover their heads as part of their religion would not be able to use the pub.

**'Doing something'** can include making a decision, or applying a rule or way of doing things.



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## DISABLED CUSTOMERS

You must not treat a disabled person unfavourably because of something connected to their disability, where you cannot show that what you are doing is objectively justified. This only applies if you know or could reasonably have been expected to know that the person is a disabled person.

**This is called discrimination arising from disability.**



### FOR EXAMPLE:

A bar has a 'no dogs' rule. If the shop 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 pub can objectively justify what it has done.

In addition, 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, mobility impairment or a learning disability.

### FOR EXAMPLE:

A bank branch has a flight of steps up to its entrance but it is not permitted by the local authority to build a ramp because this would block the pavement. The bank installs a platform lift so that disabled people with mobility impairments can get into the branch. This is a reasonable adjustment.



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## WHAT DOES THIS MEAN FOR YOUR BUSINESS?

You and anyone who is working for you must not, because of a protected characteristic:



- Refuse to serve someone or refuse to let them make a booking for a room

### For example, you must not:

- Refuse to serve a woman who is breastfeeding a baby.
- Give someone a service of a worse quality than you would usually provide - for example, you must not refuse to bring drinks over to someone's table where you would otherwise do so because of their sexual orientation.
- Put them at any other disadvantage

You also cannot treat a person worse than someone else because they are *associated* with a person who has a protected characteristic.

### FOR EXAMPLE:

A restaurant refuses to serve a customer who has a disabled child with them, but serves other parents who have their children with them.





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## WHAT DOES THIS MEAN FOR YOUR BUSINESS?



### PERCEPTION

You must not treat a person worse because you incorrectly think they have a protected characteristic.

#### FOR EXAMPLE:

A member of staff in a pub tells a woman that they will not serve her because they think she is a transsexual person. It is likely the woman has been unlawfully discriminated against because of gender reassignment, even though she is not a transsexual person.

### COMPLAINTS

You must not treat a person badly 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.

### HARASSMENT

You must not harass a person. This means violating the service user's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the service user.

#### FOR EXAMPLE:

A member of staff in a pub is verbally abusive to a customer on the basis of their age.



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## AVOIDING DISCRIMINATION



An employer is legally responsible for discrimination or harassment by one or their employees or agents because anything done by an employee in the course of their employment is treated as done by the employer.

**It does not matter whether it was done with the employer's knowledge or approval.**

An organisation does have a statutory defence to any claim of discrimination, harassment or victimisation if it can show that it took 'all reasonable steps' to prevent its employees or agents from committing acts of this sort.

**Normally these steps must have been taken in advance, such as training and guidance for managers.**







**Service providers are more likely to be able to comply with their duties under the Act and prevent their employees from discriminating against service users or customers if they take the following steps:**

- Establish** a policy to ensure equality of access to and enjoyment of their services by potential service users or customers from all groups in society
- Communicate** the policy to all staff, ensuring that they know that it is unlawful to discriminate when they are providing services
- Train all staff**, including those not providing a direct service to the public, to understand the policy, the meaning of equality in this context and their legal obligations
- Monitor** the implementation and effectiveness of the policy

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## AVOIDING DISCRIMINATION (CONTINUED)



-  **Address** acts of discrimination by staff as part of disciplinary rules and procedures
-  **Maintain** an easy to use, well-publicised complaints procedure
-  **Review** practices to ensure that they do not unjustifiably disadvantage particular groups
-  **Consult** customers, staff and organisations representing groups who share protected characteristics about the quality and equality of their services and how they could be made more inclusive.



**Remember, you are also entitled to tell your customers or clients what standards of behaviour you want from them - for example, behaving with respect towards your staff and to other customers.**

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## EXCEPTIONS

There are some exceptions to the general rules of equality law, when the law may apply differently in some circumstances.

Check if any of them apply to your business or situation:

<http://www.equalityhumanrights.com/publication/what-equality-law-means-your-business>

For more information go to:

<http://www.equalityhumanrights.com>