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Guidance

Equality Act 2010: guidance

Information and guidance on the Equality Act 2010, including age discrimination and public sector Equality Duty.

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From:
Government Equalities Office (<https://www.gov.uk/government/organisations/government-equalities-office>) and Equality and Human Rights Commission (<https://www.gov.uk/government/organisations/equality-and-human-rights-commission>)

Contents

- Overview
- Discrimination: making a complaint
- Equality Act provisions: commencement dates
- Age discrimination
- Public sector Equality Duty
- Equalities Act 2010: legislation
- Guidance on the Equality Act

[Print this page](#)

Overview

The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society.

It replaced previous anti-discrimination laws with a single Act, making the law easier to understand and strengthening protection in some situations. It sets out the different ways in which it's unlawful to treat someone.

Find out more about who is protected (<https://www.gov.uk/discrimination-your-rights/types-of-discrimination>) from discrimination, the types of discrimination (<https://www.gov.uk/discrimination-your-rights/how-you-can-be-discriminated-against>) under the law and what action you can take (<https://www.gov.uk/discrimination-your-rights/what-you-can-do>) if you feel you've been unfairly discriminated against.

Discrimination: making a complaint

Before the Act came into force there were several pieces of legislation to cover discrimination, including:

- Sex Discrimination Act 1975
- Race Relations Act 1976

- Disability Discrimination Act 1995

If you wish to complain about possible unlawful treatment there are 2 separate processes, depending on when it happened.

Complaints: before October 2010

If you were subjected to unlawful treatment (eg discrimination, harassment or victimisation) before 1 October 2010, the Equality Act won't apply. Instead, you'll be covered by the legislation that was in force at the time.

For example, if you experienced race discrimination on 30 September 2010 and want to make a complaint or bring legal proceedings, the Race Relations Act 1976 will apply, not the Equality Act.

This is also true of any legal proceedings. They will go ahead according to the legislation under which they were brought, even if they may have continued after 1 October 2010.

- Questionnaires and guidance booklets for complaints under previous legislation (<https://www.equalityhumanrights.com/en/multipage-guide/gathering-evidence-your-complaint>)

Complaints: after October 2010

If you were subject to unlawful treatment on or after 1 October 2010, the Equality Act applies.

For example, if you experienced sex discrimination on 30 September 2010, which continued until 2 October 2010, the Equality Act will apply, not the Sex Discrimination Act.

Find out more about how to complain about unlawful treatment in the [Discrimination: your rights](https://www.gov.uk/discrimination-your-rights/what-you-can-do) (<https://www.gov.uk/discrimination-your-rights/what-you-can-do>) guide.

Equality Act provisions: commencement dates

To allow people and organisations enough time to prepare for the new laws, the provisions of the Act were brought in at different times (known as commencement dates).

October 2010

Equality Act provisions which came into force on 1 October 2010:

- the basic framework of protection against direct and indirect discrimination, harassment and victimisation in services and public functions, premi, work, education, associations and transport
- changing the definition of gender reassignment, by removing the requirement for medical supervision
- providing protection for people discriminated against because they are perceived to have, or are associated with someone who has, a protected characteristic
- clearer protection for breastfeeding mothers
- applying a uniform definition of indirect discrimination to all protected characteristics
- harmonising provisions allowing voluntary positive action

Provisions relating to disability

- extending protection against indirect discrimination to disability

- introducing the concept of “discrimination arising from disability” to replace protection under previous legislation lost as a result of a legal judgment
- applying the detriment model to victimisation protection (aligning with the approach in employment law)
- harmonising the thresholds for the duty to make reasonable adjustments for disabled people
- extending protection against harassment of employees by third parties to all protected characteristics
- making it more difficult for disabled people to be unfairly screened out when applying for jobs, by restricting the circumstances in which employers can ask job applicants questions about disability or health

Provisions relating to work

- allowing claims for direct gender pay discrimination where there is no actual comparator
- making pay secrecy clauses unenforceable
- extending protection in private clubs to sex, religion or belief, pregnancy and maternity, and gender reassignment
- introducing new powers for employment tribunals to make recommendations which benefit the wider workforce

April 2011

Equality Act provisions which came into force in April 2011:

- positive action - recruitment and promotion
- public sector Equality Duty (see section below)

Ministers are considering how to implement the remaining provisions in the best way for business and for others with rights and responsibilities under the act. Their decisions will be announced in due course.

Equality Act Provisions that the government has decided not to take forward:

- public sector duty regarding socio-economic inequalities
- combined discrimination - dual characteristics

Age discrimination

The Equality Act 2010 includes provisions that ban age discrimination against adults in the provision of services and public functions. The ban came into force on 1 October 2012 and it is now unlawful to discriminate on the basis of age unless:

- the practice is covered by an exception from the ban
- good reason can be shown for the differential treatment (‘objective justification’)

The ban on age discrimination is designed to ensure that the new law prohibits only harmful treatment that results in genuinely unfair discrimination because of age. It does not outlaw the many instances of different treatment that are justifiable or beneficial.

You can read the original consultation on the archived Government Equalities Office website.

(http://webarchive.nationalarchives.gov.uk/20110608160754/http://www.equalities.gov.uk/equality_act_2010/age_consultation_2011.aspx)

There is an overview of how the ban works and tailored guides for small businesses, private clubs and the holiday sector in the Equality Act guidance. (<https://www.gov.uk/government/publications/equality-act-guidance>)

Age discrimination: exceptions

The government response (<https://www.gov.uk/government/publications/age-discrimination-government-response-to-the-consultation-on-exceptions>) to the consultation includes the draft Exceptions Order. You can also read the impact assessment (<https://www.gov.uk/government/publications/banning-age-discrimination-impact-assessment>).

Exceptions under the Order are:

- age-based concessions
- age-related holidays
- age verification
- clubs and associations concessions
- financial services
- immigration
- residential park homes
- sport

These specific exceptions are in addition to:

- general exceptions already allowed by the Act
- positive action measures
- 'objective justification'

There are no specific exceptions to the ban on age discrimination for health or social care services. This means that any age-based practices by the NHS and social care organisations need to be objectively justified, if challenged.

Public sector Equality Duty

The public sector Equality Duty (<http://www.legislation.gov.uk/ukpga/2010/15/section/149>) came into force across Great Britain on 5 April 2011. It means that public bodies have to consider all individuals when carrying out their day-to-day work – in shaping policy, in delivering services and in relation to their own employees.

It also requires that public bodies have due regard to the need to:

- eliminate discrimination
- advance equality of opportunity
- foster good relations between different people when carrying out their activities

Who the Equality Duty applies to

The Equality Duty applies across Great Britain to the public bodies listed in Schedule 19 (as amended) (<https://www.gov.uk/government/publications/equality-act-2010-schedule-19-consolidated-april-2011>), and to any other organisation when it is carrying out a public function.

Specific duties

The Equality Act 2010 (Specific Duties) Regulations 2011 came into force on 10 September 2011.

The specific duties require public bodies to publish relevant, proportionate information showing compliance with the Equality Duty, and to set equality objectives.

Guidance for public bodies

The Government Equalities Office has published 2 quick-start guides to help public bodies understand the Equality Duty and the specific duties:

- Quick start guide: public sector Equality Duty (<https://www.gov.uk/government/publications/public-sector-quick-start-guide-to-the-public-sector-equality-duty>)
- Quick start guide: Specific duties (<https://www.gov.uk/government/publications/public-sector-quick-start-guide-to-the-specific-duties>)

The Equality and Human Rights Commission (<http://www.equalityhumanrights.com/>) is the statutory body established to help eliminate discrimination and reduce inequality. The Commission has published new non-statutory guidance on:

- The essential guide to the public sector Equality Duty (<https://www.equalityhumanrights.com/en/publication-download/essential-guide-public-sector-equality-duty>)
- Meeting the Equality Duty in policy and decision-making (<https://www.equalityhumanrights.com/en/publication-download/meeting-equality-duty-policy-and-decision-making-england-and-non-devolved>)
- Engagement and the Equality Duty (<https://www.equalityhumanrights.com/en/publication-download/engagement-and-equality-duty>)
- Equality objectives and the Equality Duty (<https://www.equalityhumanrights.com/en/publication-download/objectives-and-equality-duty-guide-public-authorities>)
- Equality information and the Equality Duty (<https://www.equalityhumanrights.com/en/publication-download/equality-information-and-equality-duty-guide-public-authorities>)
- Technical guidance on the public sector Equality Duty - England (<https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>)

Devolution

Section 153 of the act enables the Welsh and Scottish ministers to impose specific duties on certain Welsh and Scottish public bodies through secondary legislation. For Welsh and cross-border Welsh public bodies, specific duties have been finalised by the Welsh Assembly government and came into force on 6 April 2011.

The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 (http://www.legislation.gov.uk/wsi/2011/1064/pdfs/wsi_20111064_mi.pdf)

For Scottish public bodies, the Scottish government launched a consultation on revised draft Regulations for specific duties on 9 September 2011. The consultation closed on 25 November 2011.

More information from the Scottish Government (<http://www.scotland.gov.uk/Topics/People/Equality/PublicEqualityDuties>)

Guidance on the Equality Duty specific to Wales and Scotland is available from the Equality and Human Rights Commission (<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/>).

Equalities Act 2010: legislation

Equality Act 2010 (<http://www.legislation.gov.uk/ukpga/2010/15/contents>) on the [legislation.gov.uk](http://www.legislation.gov.uk) website

Explanatory notes (<http://www.legislation.gov.uk/ukpga/2010/15/notes/contents>) on the [legislation.gov.uk](http://www.legislation.gov.uk) website

Legislation repealed or revoked by the Equality Act

A list of all legislation that was repealed or revoked on 1 October 2010 is available in Schedule 27 to the act.

Equality Act Statutory Instruments

Statutory Instruments made under the act are available:

- all UK Statutory Instruments (<http://www.legislation.gov.uk/uksi?title=Equality%20Act%202010>) related to the Equality Act on the [legislation.gov.uk](http://www.legislation.gov.uk) website
- all Welsh Statutory Instruments (<http://www.legislation.gov.uk/wsi?title=Equality%20Act%202010>) related to the Equality Act on the [legislation.gov.uk](http://www.legislation.gov.uk) website
- all Scottish Statutory Instruments (<http://www.legislation.gov.uk/ssi?title=Equality%20Act%202010>) related to the Equality Act on the [legislation.gov.uk](http://www.legislation.gov.uk) website

Guidance on the Equality Act

We have produced a series of guides outlining the key changes in the law made by the act (<http://www.homeoffice.gov.uk/publications/equalities/equality-act-publications/equality-act-guidance/>).

To sign up to receive email updates of the work of the Government Equalities Office please contact GEOcomms@geo.gsi.gov.uk.

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1. 16 June 2015
Removed links to set of forms and guidance which are no longer in use.
2. 27 February 2013
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(<https://www.gov.uk/government/publications/public-sector-quick-start-guide-to-the-public-sector-equality-duty>)
- **Equality Act 2010: how it might affect you** (<https://www.gov.uk/government/publications/equality-act-guidance>)
- **Easy Read: The Equality Act - making equality real** (<https://www.gov.uk/government/publications/easy-read-the-equality-act-making-equality-real>)
- **Management and decontamination of flexible endoscopes (HTM 01-06)**
(<https://www.gov.uk/government/publications/management-and-decontamination-of-flexible-endoscopes>)
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