



Wandsworth Voluntary Sector Development Agency

enabling voluntary action

Policy Briefing, October 2010

Equality Act 2010

Introduction

This Briefing note summarises the changes in Equality law that have come into effect from 1 October 2010 and gives guidance on what Voluntary and Community groups need to consider. Sources for more detailed information and the changed duties of the Public Sector are given.

What is the Equality Act 2010?

The Act brings together and streamlines a number of different pieces of legislation covering equality in society. The Act makes it unlawful for discrimination against people on basis of a number of 'protected' characteristics. These are:

- disability
- gender reassignment
- pregnancy and maternity
- religion or belief
- sex and
- sexual orientation.
- race

In relation to these protected characteristics, the law prohibits direct and indirect discrimination (by perception and by association), victimisation and harassment.

Some of the protected characteristics were covered by previous legislation, and rules about them changed, whereas some characteristics may not have previously been covered. A summary of what has changed and definitions can be seen on the [ACAS table](#). Clear explanations about what is covered and examples can be found on the guidelines produced by the Government Equalities Office (GEO).

The majority of the Act came into effect 1 Oct 2010. However, the Act covers a number of other provisions which are not yet implemented (dual discrimination, age discrimination and extended public sector equality duties) and further announcements about these provisions are forthcoming.

Who has responsibilities under the Act?

All service providers to the public, all those who sell goods and all those who provide facilities, whether or not these services are charged for. Also all private clubs and associations over 25 people have to comply. The Act therefore applies to new and existing Voluntary and Community groups (VCS).

What does it mean for VCS groups?

The Act is relevant to VCS groups in two respects:

- Goods, facilities and services provided to the public (or members in the case of associations)
- Employment and recruitment issues.

With respect to goods and services provision, VCS groups must ensure that they are not applying unlawful discrimination. However, the Act does permit exemptions enabling groups to restrict their provision of services to people with particular protected characteristics. This is called 'charity exemption' but is only permitted under certain circumstances, namely that this restriction is defined in the charity's governing principles and:

- can be justified as intended to meet a legitimate objective in a fair, balanced and reasonable way, or
- is for the purpose of preventing or compensating for a disadvantage linked to that protected characteristic.

The rules regarding membership of associations have been clarified by the Act. Definition of an association and the impact of the new Act can be seen in the [GEO guidelines](#).

With respect to employment and recruitment issues VCS need to ensure that they are aware of where existing equality law has been extended. ACAS has produced a guide for employers with examples. Changes in employment law covered by the new Act include:

- changes in definition of some protected characteristics (disability) and new protected characteristics (gender reassignment).
- changes with respect to positive action
- pre employment health checks
- employment tribunal powers
- pay inequality, comparison with other employees
- changes with respect to pay secrecy

What do VCS groups need to do?

If you are providing services to a restricted group of people with

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particular protected characteristics then you must confirm that this is legal and meets the requirements of the charity exemptions. The Charity Commission cites two tests that can be used to check whether a restricted service is legal under the new Act:

1. Test A. Tackling Disadvantage. This test is met if an organisation limits its services to a restricted group of people with protected characteristics, provided those people are at a disadvantage compared to the rest of the population and the organisation is taking steps to tackle those disadvantage.
2. Test B. Achievement of a legitimate aim. i.e. If you can justify the restriction as being carried out in a fair, balanced way in pursuit of a legitimate aim.

More details and examples can be found in the [guidelines from the Charity Commission](#).

Beyond this, it would be prudent to:

- Make sure management are aware of the new Act and its requirements
- Check your existing equalities policy to confirm your status with respect to changed protected characteristics
- Ensure that there are no staff training needs identified

It may also be worth monitoring or considering the diversity of your users and staff – to confirm a fair service is offered and/or staff is being recruited. This is only worth doing once you have a clear idea about what you are going to do with the data.

The Act provides enhanced opportunities for 'positive action', i.e. greater scope in meeting the needs of people with protected characteristics and you may wish to consider this. Further information on positive action is given in the [GEO guidelines](#).

Public Sector duties

The Equality Act includes a new Public Sector Equality Duty which is expected to come into force in April 2011. This will require all public sector organisations to take into account the needs of all protected groups with respect to service provision and employment.

This 'general' duty is to be accompanied by specific duties which are the result of consultation between the Government and various parties. The [consultation](#) period ends 10 November 2010 and a Statutory Code of Practice and guidelines will be presented by the government after this.

Learn more

The Government Equalities Office (GEO) has provided a [number of guidelines](#) for organisations in the voluntary and community

sector and for employers.

As well as a summary guide, specific guidelines for voluntary and community organisations are available as follows:

- [Positive action in service provision for voluntary and community organisations](#)
- [Voluntary and community sector associations](#)
- [Guide to discrimination by association and perception for voluntary and community organisations](#)
- [Guide on religion or belief discrimination in service provision](#)
- [Guide on harassment in service provision](#)

Equalities & Human Rights Commission (EHRC) guides:

- [Core information for charities and voluntary groups](#)
- [Service provision to restricted groups](#)
- [Exceptions for charities and religious belief organisations](#)
- [Further guidance on volunteers, good practice, your responsibilities and a glossary of terms are also available.](#)

There are also guides for businesses selling goods and services, and for employers:

- [Equality Act 2010: What do I need to know? A summary guide for businesses who sell goods and services](#)
- [Equality Act 2010: What do I need to know? Quick-start guide for businesses who sell goods and services](#)
- [Acas guide on The Equality Act – what's new for employers?](#)

Contact us

For enquiries regarding this briefing and to subscribe to policy updates, please contact Wandsworth Voluntary Sector Development Agency, Policy and Advocacy Project: policy@wvsda.org.uk



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