



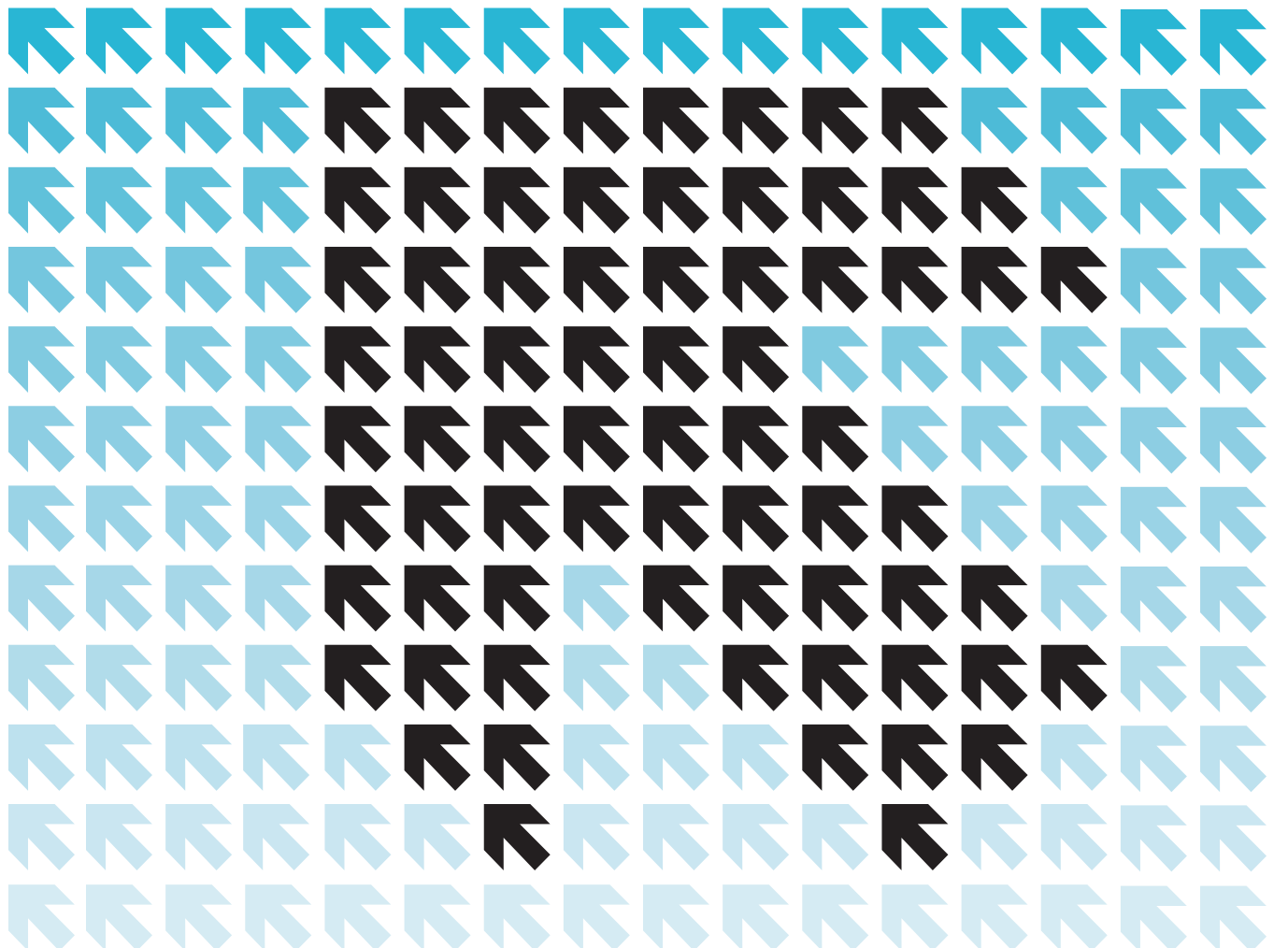
Government  
**Equalities Office**

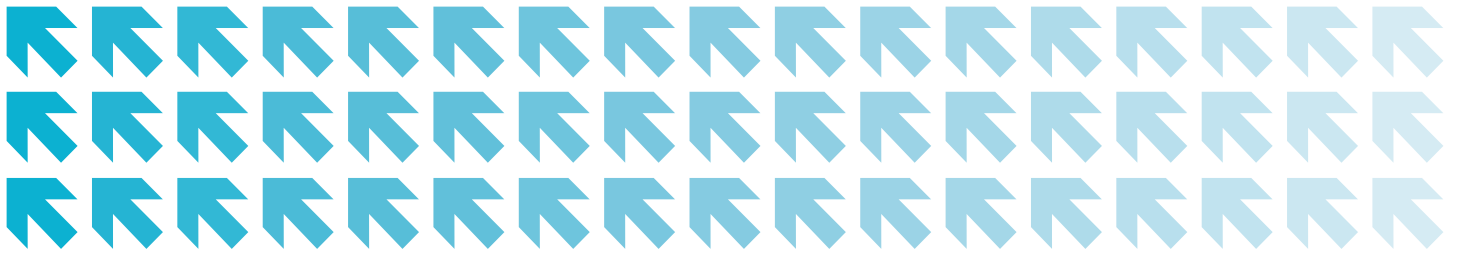
Putting equality at the heart of government



Equality and  
Diversity Forum

# **EQUALITY ACT 2010: WHAT DO I NEED TO KNOW? A SUMMARY GUIDE FOR VOLUNTARY AND COMMUNITY SECTOR SERVICE PROVIDERS**

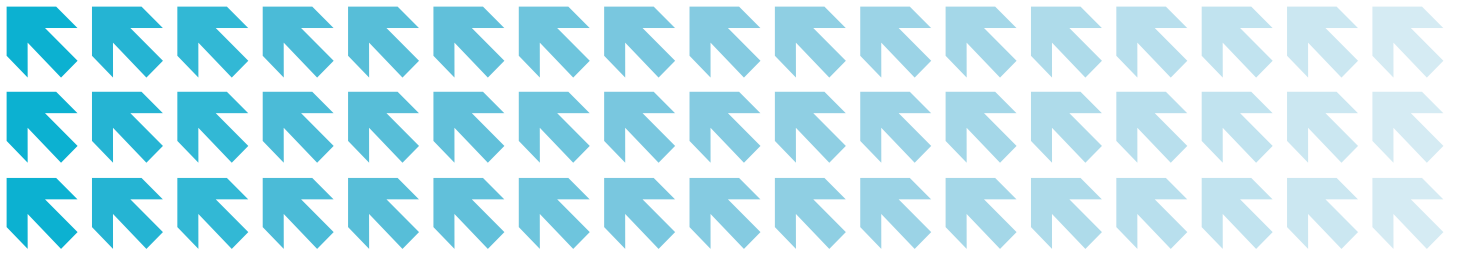




## Foreword

The Equality Act 2010 replaces the existing anti-discrimination laws with a single Act. It simplifies the law, removing inconsistencies and making it easier for people to understand and comply with it. It also strengthens the law in important ways to help tackle discrimination and inequality.

This summary guide tells you how the Equality Act 2010 changes how you have to act in order to prevent and address discrimination when you provide goods, facilities and services to the public, for example as a residential care home, community shop or after-school club. These parts of the Act will come into effect on 1 October 2010.



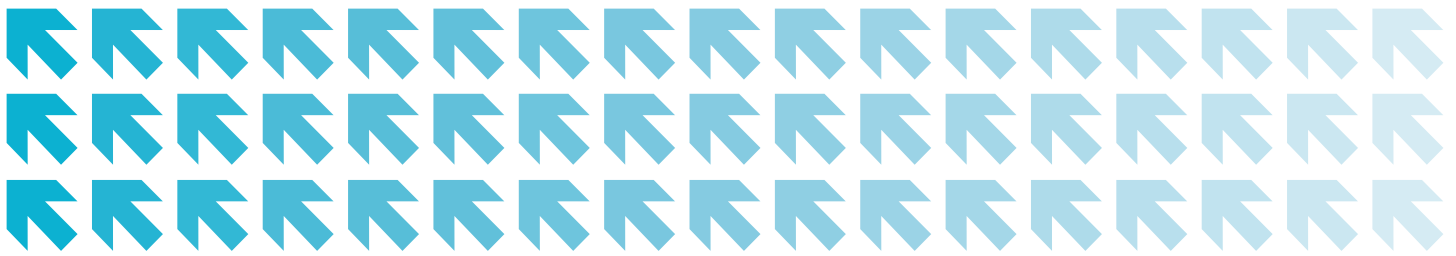
## Introduction

The Equality Act 2010 brings together, harmonises and in some respects extends the current equality law. It aims to make it more consistent, clearer and easier to follow in order to make society fairer. As a provider of goods, facilities or services in the voluntary and community sector your responsibilities remain largely the same, but there are some differences that you need to be aware of. These changes are summarised in the table on the next page.

There are other guides for employers, business and individuals. The guide for employers will help the voluntary and community sector with employment issues.

This series of guides covers key changes that are coming into effect on 1 October 2010. The Equality Act also contains other provisions, including the new concept of dual discrimination, an extended public sector Equality Duty and a prohibition on age discrimination in services and public functions. The Government is looking at how the rest of the Act can be implemented in the best way for business, and will make an announcement in due course.

The Act protects the same groups of people that were covered by previous equality legislation, by reference to what are now called 'protected characteristics'. The characteristics covered by this guide are disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.



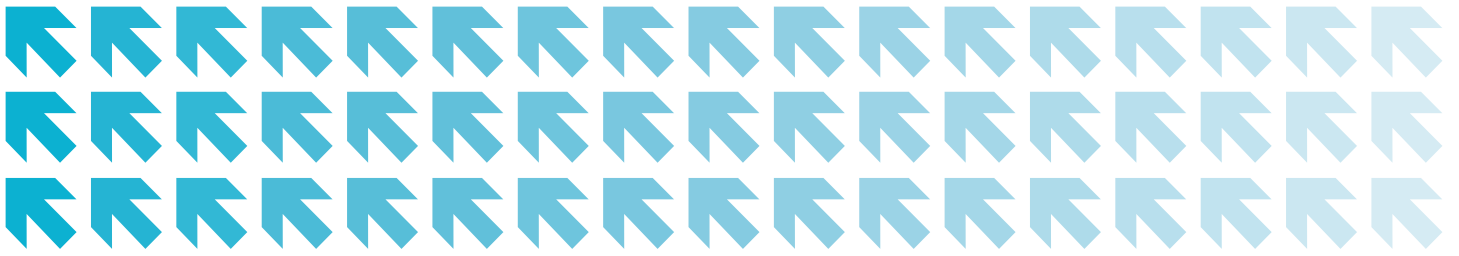
## What's new for the voluntary and community sector – an overview

### Key

Characteristic covered in existing legislation – no changes	No change
Characteristic covered in existing legislation – but some changes	Changes
Characteristic not covered in existing legislation – now covered	New
Characteristic not covered in existing legislation – still not covered	No protection

	Disability	Gender reassignment	Pregnancy and maternity	Race	Religion or belief	Sex	Sexual orientation
Direct discrimination	Changes	No change	No change	No change	No change	No change	No change
Discrimination by association	New	New	No protection	No change	No change	New	No change
Discrimination by perception	New	New	No protection	No change	No change	New	No change
Indirect discrimination	New	New	No change	No change	No change	No change	No change
Harassment	Changes	Changes	No protection*	Changes	No protection*	Changes	No protection*
Victimisation	Changes	Changes	Changes	Changes	Changes	Changes	Changes
Positive action	Changes	Changes	Changes	Changes	Changes	Changes	Changes
Associations and private members' clubs	No change	New	New	No change	New	New	No change
Charities	Changes	Changes	Changes	Changes	Changes	Changes	Changes
Discrimination arising from disability	New						
Reasonable adjustments	Changes						

\* Where there is no specific harassment protection, direct discrimination protection prohibits treatment such as bullying and harassment which results in a person being treated less favourably.



## Who has responsibilities?

The Act applies to all organisations that provide a service to the public, or a section of the public (service providers). It also applies to anyone who sells goods or provides facilities. For example, it will cover community centres, information and advice agencies, charity shops, sports clubs, internet-based services, and residential care homes and day care centres. It applies to all your services, whether or not a charge is made for them. It also applies to private clubs and other associations with 25 or more members.

## Who is protected?

The Act protects people who have a 'protected characteristic' (these used to be called 'grounds'). The relevant characteristics are:

- disability (definition changed)
- gender reassignment (definition changed)
- pregnancy and maternity
- race – this includes ethnic or national origins, colour and nationality
- religion or belief
- sex, and
- sexual orientation.

### Disability (changed)

The protected characteristic of disability applies to a person who has a physical or mental impairment that has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.

### What has changed?

To qualify for protection from discrimination, a disabled person no longer has to show that their impairment affects a particular capacity, such as mobility or speech, hearing or eyesight.

For further details see the Disability Quick Start Guide.

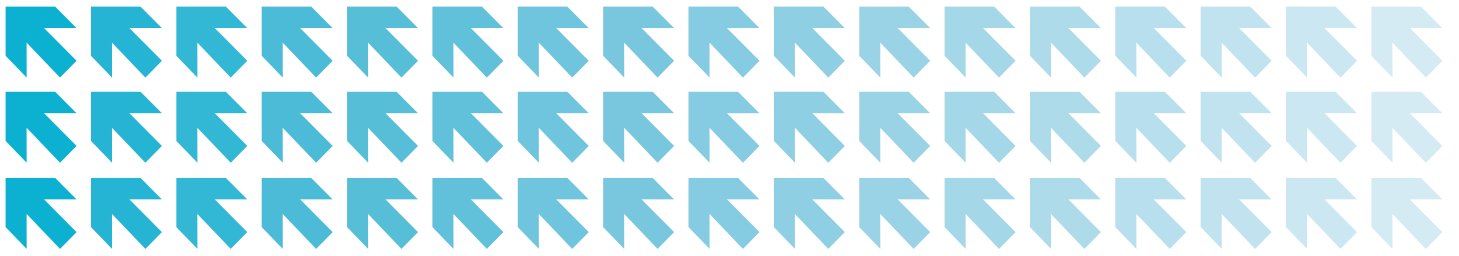
### Gender reassignment (changed)

The protected characteristic of gender reassignment will apply to a person who is proposing to undergo, is undergoing or has undergone a process to change their sex.

### What has changed?

To qualify for protection from discrimination a transsexual person no longer has to show that they are under medical supervision.

For further details see the Gender Reassignment Quick Start Guide.



## What the law prohibits

Here are some examples of the different kinds of conduct that are prohibited under the Act.

### Direct discrimination (changed)

Direct discrimination occurs when a person is treated less favourably than another person because of a protected characteristic.

#### Example

Beatrice visits her local credit union. She asks for a small loan to enable her to buy a fridge. They refuse to lend her any money because they say that a woman is less likely to have a job and be able to repay the loan. This is direct sex discrimination.

#### What has changed?

Protection from direct discrimination in services is new for disability.

### Association and perception

Direct discrimination can also take place because of a protected characteristic a person does not personally have. For example, it includes a person being treated less favourably because they are linked or associated with a person who has a protected characteristic.

#### Example

Jane is not allowed into her local community centre with her son because he is disabled. This is discrimination against her by association.

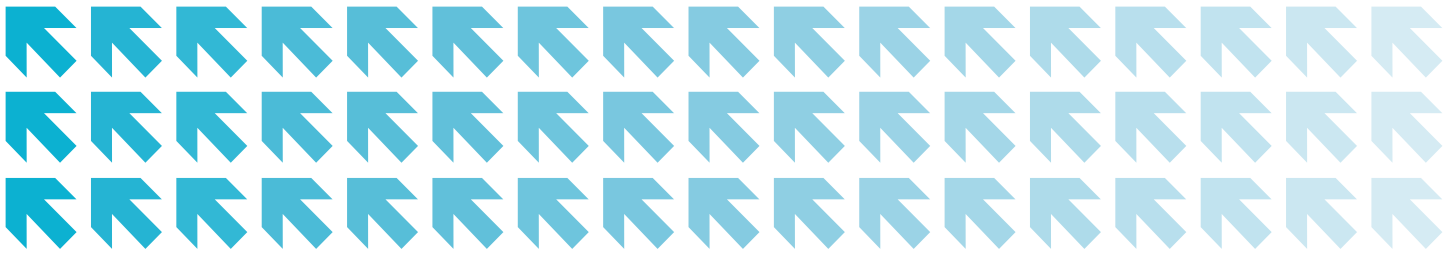
Direct discrimination also includes discrimination because a person is wrongly thought to have a particular protected characteristic or is treated as if they do.

#### Example

Samantha, who is straight, goes on a Gay Pride march to support some of her lesbian, gay, bisexual and transgender colleagues, and while there collects a 'Support Gay Pride' badge. After the march she goes into the community centre bar for a drink. The barman refuses to serve her as he believes that she is a lesbian because of the badge she is wearing and because he saw her on the march. This is discrimination by perception.

#### What has changed?

Previously protection extending wider than the person's own protected characteristic – such as protection from discrimination because of association and perception – applied only to race, religion or belief, and sexual orientation. Now it applies to sex, disability and gender reassignment as well.



### Indirect discrimination (changed)

Indirect discrimination happens when there is a rule, a policy or even a practice that applies to everyone but which particularly disadvantages people who share a particular protected characteristic. Indirect discrimination can be justified if it can be shown that the rule, policy or practice is intended to meet a legitimate objective in a fair, balanced and reasonable way. If this can be shown it will be lawful. When considering introducing a new rule or policy, you should first consider whether there is any other way to meet your objectives that would not have a discriminatory effect or that is less likely to disadvantage people who have a protected characteristic. Remember that a lack of financial resources alone is unlikely to be a sufficient justification.

#### Example

Jamal is a devout Muslim refugee who wishes to get advice on his immigration status. He finds that the local advice centre only offers immigration advice on Fridays at 12.00. This is a rule that disadvantages him as he cannot attend then because he has to go to the mosque. This will be indirect discrimination if the advice centre cannot show a good reason for only holding advice sessions on immigration at that time on a Friday. They may be able to offer him an appointment at another time, in which case there will be no indirect discrimination.

### What has changed?

Indirect discrimination now applies to disability and gender reassignment as well as the other protected characteristics.

### Discrimination arising from disability (new)

Discrimination arising from disability occurs when a disabled person is treated unfavourably because of something connected with their disability and this unfavourable treatment cannot be justified. Treatment can be justified if it can be shown that it is intended to meet a legitimate objective in a fair, balanced and reasonable way. If this can be shown then the treatment will be lawful.

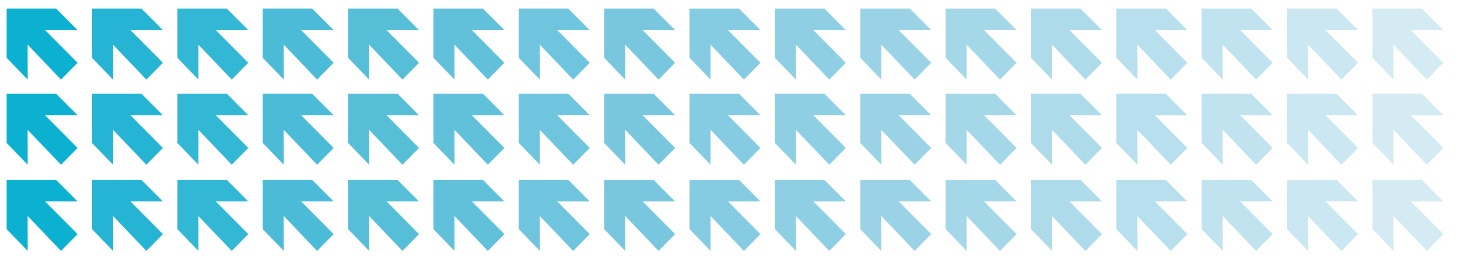
This form of discrimination can occur only if the service provider knows or can reasonably be expected to know that the disabled person is disabled.

#### Example

Janet is blind and requires the assistance of a guide dog. She is not allowed into a cafe because the owner believes that the dog would be a safety risk. She is excluded not because she is blind, but because of her use of a guide dog, which is something connected with 'arising from' her disability. Unless the cafe owner can objectively justify his treatment of Janet, she will have experienced discrimination arising from disability.

### What has changed?

This is a new form of protection. It replaces different protection in disability discrimination law that was not fully effective.



### Harassment – disability, gender reassignment, race or sex (changed)

Harassment means unwanted behaviour related to a protected characteristic that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

#### Example

Ahmed, a refugee from Afghanistan and a keen footballer, joins his local football club. Whenever he goes to a practice session the coach asks him why he does not go home to where he came from. Ahmed could bring a claim of harassment related to his race.

#### What has changed?

Harassment protection has now been extended to disability and a single definition of harassment now applies to disability, gender reassignment, race and sex.

For further details see the Harassment Quick Start Guide.

### Harassment – religion or belief or sexual orientation (no change)

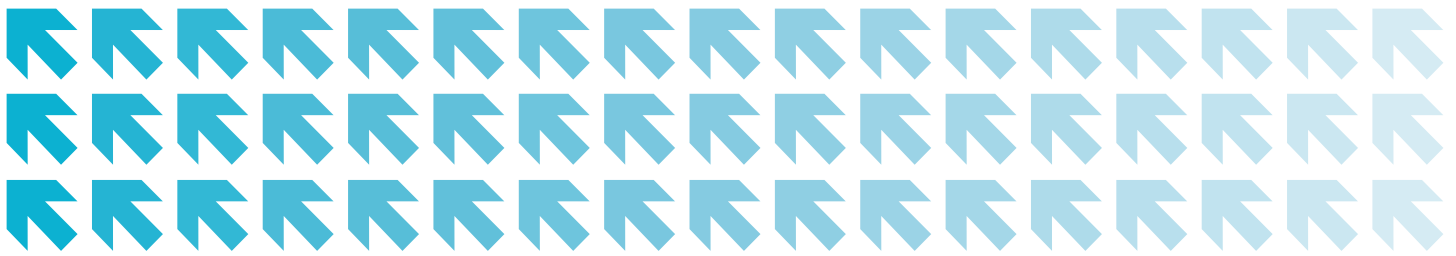
There is no specific prohibition on harassment related to religion or belief or to sexual orientation. However, if you harass someone because of their religion or belief or their sexual orientation, and consequently treat them less favourably than you would treat someone else, a court would count this as direct discrimination, which is unlawful.

#### Example

Elsie and Frances, a lesbian couple, visit their local lunch club regularly. Recently a new helper has been taken on. This new helper keeps asking them about their sex life and refuses to serve them until after everyone else. She does not ask any of the other users about their sex lives. This unwanted conduct is occurring because of Elsie's and Frances's sexual orientation and puts them at a disadvantage. It is likely to amount to direct discrimination.

For further details see the Harassment Quick Start Guide.





## Victimisation (changed)

Victimisation occurs when a service provider treats someone badly because they have made or supported a complaint about discrimination or harassment, or because the service provider thinks that they are doing or may do these things. It will also be victimisation if a service provider treats someone badly because they support someone else who makes a discrimination claim. A person is not protected from victimisation if they have maliciously made or supported an untrue complaint.

### Example

Comfort, who has schizophrenia, and her friend Christine regularly go to a bingo session at their local community centre. One day one of the assistants at the centre makes an offensive remark to Comfort about her schizophrenia. Comfort complains to the manager of the centre and Christine supports Comfort's complaint. The manager promises to investigate but the next time Comfort and Christine go to the centre they are told that they are no longer welcome there. This is unlawful victimisation of both women.

### What has changed?

There is now no need for a victim to show that they have been less favourably treated than someone who has not made or supported a complaint under the Act. They need only show that they have been treated badly.

## Other changes you need to know about

### Positive action (changed)

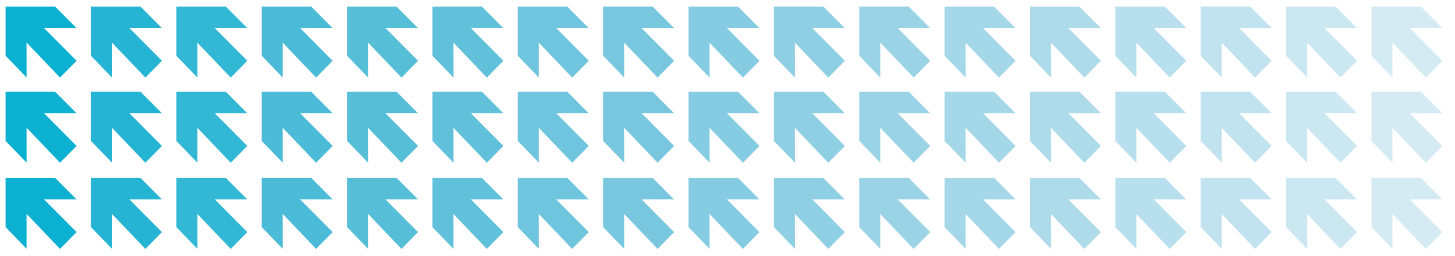
Some people with protected characteristics are disadvantaged or under-represented in some areas of life, or have particular needs linked to their characteristic. They may need extra help or encouragement if they are to have the same chances as everyone else. The new positive action provisions enable service providers to take proportionate steps to help people overcome their disadvantages or to meet their needs.

Note that:

- there is no requirement to take positive action, and
- there is no restriction on treating disabled people more favourably than non-disabled people. It is also permitted to take steps to meet the needs of people with a particular disability.

### Example

The organisers of a north London youth club in an area with a substantial Muslim population notice that they have very few Muslim members. They therefore decide to advertise their sessions at the local mosque and ensure that they serve some halal food in order to attract more Muslim members and meet their dietary needs. This is permitted positive action.



## What has changed?

The previous provisions were complicated and difficult to apply. These new provisions are simpler and clearer to use.

### Breastfeeding

The Act has specifically clarified that it is unlawful to discriminate against a woman because she is breastfeeding.

For further details see the Business – Breastfeeding Quick Start Guide.

### Associations and clubs (changed)

Special rules apply to clubs and other associations with 25 or more members whose membership is controlled by rules and involves a selection process. They can restrict their membership to people with a protected characteristic, provided that this is not a group defined by colour. However, they cannot discriminate against members or people applying to become members or members' guests on any other protected ground.

#### Example

An association could restrict its membership to Afro-Caribbean boys or to people of African origin. It would not be permitted to restrict its membership to black boys or to black people.

## What has changed?

These special rules have now been extended beyond race, disability and sexual orientation to cover sex, religion or belief, gender reassignment, and pregnancy and maternity.

For further details see the Clubs and other Associations Quick Start Guide.

### Charities (changed)

Special rules allow charities to provide benefits only for people with a particular protected characteristic (but not a group defined by colour), provided that the charity acts on the basis of its charitable instrument (the document that set it up), and this:

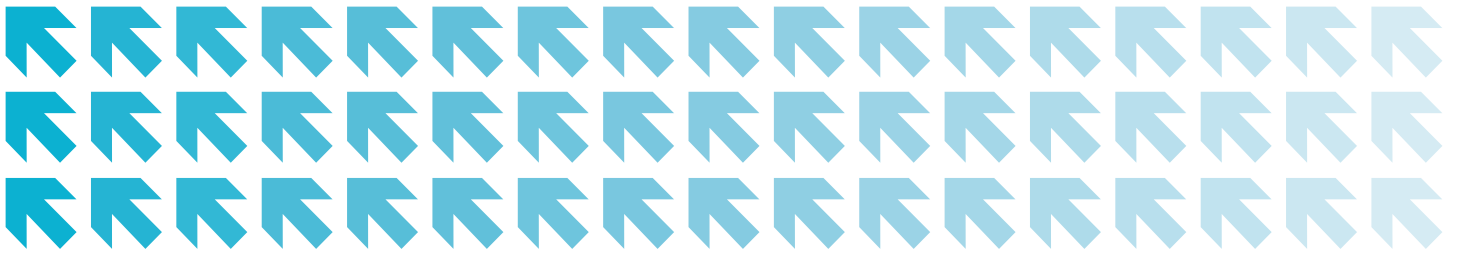
- can be justified as intended to meet a legitimate objective in a fair, balanced and reasonable way, or
- is for the purpose of preventing or compensating for a disadvantage linked to that protected characteristic.

#### Example

A charity, whose constitution states that its objective is to provide facilities and care for transsexuals, plans to provide support for a transsexual to help her adapt to and cope with the changes she and her family experience. This is a legitimate aim and the provision of specialist support only for transsexual people is a proportionate way to achieve this aim.

## What has changed?

Charities benefiting only people of the same racial group, religion or belief, or sexual orientation must now show that this is intended to meet a legitimate objective in a fair, balanced and reasonable way or that it is positive action as well as being in line with their charitable instrument. There is also now an exception along these lines for charities benefiting only people with the same disability.



## What do you need to do now?

Voluntary and community organisations that already have good equality procedures in place will not need to take much further action. However, it will be wise to:

- inform your staff and management committee of the new provisions,
- review your equality policies and make sure that they cover all relevant protected characteristics, and
- consider whether your staff need any further training.

You may also wish to consider whether there are any groups that are not as well represented among your service users as they should be, and if so consider whether you could use positive action to encourage them to use your organisation more.

## Further sources of information

The Equality and Human Rights Commission is the statutory body established to help eliminate discrimination and reduce inequality. It will issue a Statutory Code of Practice explaining in more detail the law in relation to service provision and discrimination. It also produces a range of material providing practical guidance on how to comply with the law.

[www.equalityhumanrights.com](http://www.equalityhumanrights.com)  
0845 604 6610

Law Centres Federation  
[www.lawcentres.org.uk](http://www.lawcentres.org.uk)

Citizens Advice  
[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

Advice UK  
[www.adviceuk.org.uk](http://www.adviceuk.org.uk)

Government Equalities Office  
[www.equalities.gov.uk](http://www.equalities.gov.uk)

National Council for Voluntary Organisations  
[www.ncvo-vol.org.uk](http://www.ncvo-vol.org.uk)

Charity Commission for England and Wales  
[www.charity-commission.gov.uk](http://www.charity-commission.gov.uk)

Office of the Scottish Charity Regulator  
[www.oscr.org.uk](http://www.oscr.org.uk)

Scottish Council for Voluntary Organisations  
[www.scvo.org.uk](http://www.scvo.org.uk)

Wales Council for Voluntary Action  
[www.wcva.org.uk](http://www.wcva.org.uk)

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JN401727

July 2010