

**Equality and  
Human Rights  
Commission**

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# **The Equality Act 2010**

## **Securing Equality for all in Britain**

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# Overview of the Act

This presentation will cover four areas:

- The goals and importance of the Act
- The Evolution of the Act
- The key changes to equality law
- The implementation of the Act

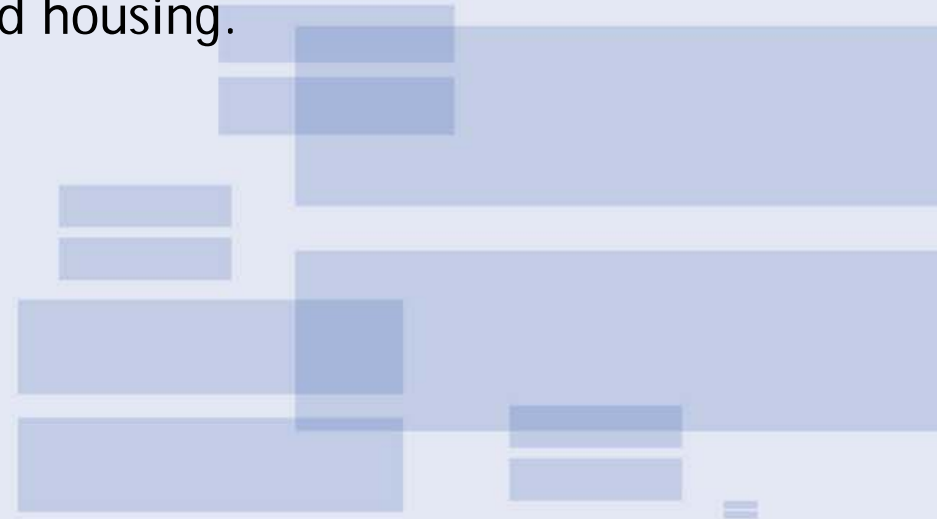


# Importance of the Act

The Act is important for everyone in every aspect of their lives:

**Everyone:** most people at some stage of their lives are likely to face some form of discrimination protected under the Act and therefore everyone will benefit from it

**Everyday:** the Act benefits people in all aspects of their lives from employment, to gaining education and housing.




# The Evolution of the Act

Improvements to existing equality law were necessary to:

- **Simplify and harmonise:** the Act consolidates into one piece of legislation a large volume of equality legislation and seeks to harmonise upwards the levels of protection
- **Improve effectiveness:** the Act creates enhanced mechanisms to overcome systematic discrimination by improved public sector duties and positive action measures
- **Modernise:** the Act introduces a range of new measures to modernise equality law and make it fit for the 21<sup>st</sup> century

# The Key Changes

The improvements in the Act can be grouped:

- Improved protection for particular groups
  - Increased scope of prohibited discrimination
  - Enhanced and new public duties to reduce systemic inequality and discrimination;
  - Improved positive action provisions;
  - Improved powers of tribunals.
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# The Key Changes

## Improved protection for particular groups

### Disabled people

- **New grounds of discrimination arising from disability and indirect disability discrimination**
- **Helping disabled children at school.** Schools will have to provide auxiliary aids and services for disabled pupils, for example special equipment and large-print books, where reasonable.
- **Protecting disabled people from discrimination in the recruitment process.** The Bill makes it unlawful for employers to ask job applicants questions about disability or health before making a job offer, except in specified circumstances. This will prevent employers screening potential employees to avoid recruiting disabled people.

# The Key Changes

## Improved protection for particular groups

### Disabled people

- **Making life easier for disabled people at home.** The Equality Act gives disabled people who live in rented homes the right to have reasonable adjustments made to communal areas like entrances and hallways, provided they meet the cost.
- **Protecting carers from discrimination.** The Equality Act will protect people who are, for example, caring for a disabled child or relative. They will be protected by virtue of their association to that person.
- **Increasing the number of wheelchair-accessible taxis.** The number of wheelchair-accessible taxis is set to increase, as the Act means a local authority that doesn't have enough wheelchair-accessible taxis in its area cannot refuse a licence to such a vehicle simply because it has a policy of controlling the overall number of taxis.

# The Key Changes

## Improved protection for particular groups

### Age groups

- **Outlawing unjustifiable age discrimination in the provision of goods facilities and services.** In 2006 the Government banned age discrimination in the workplace. The Equality Act extends this protection to the provision of goods, services and facilities such as in shops, hospitals, and when buying financial products. Justifiable exceptions will apply. Children (under 18s) are not covered.

### **Placing a new duty on public bodies to take account of peoples' age.**

The Act places a legal duty on public bodies to consider the needs of people of all ages when designing and delivering services. This will ensure that public bodies consider the needs of children, teenagers and younger and older adults.

# The Key Changes

## Improved protection for particular groups

### Women

- **Tackling the pay gap between women and men.** The Act seeks to increase transparency on pay gaps by:
  - requiring public bodies with 150 or more staff to publish their gender pay gap;
  - in the private sector enabling the government to require private and voluntary sector employers with at least 250 employees to publish details of their gender pay gap. This will be possible from 2013 if insufficient progress is made;
  - banning pay secrecy clauses in contracts which conceal inequality.

# The Key Changes

## Improved protection for particular groups

### Women

- **Protecting pregnant women and mothers from discrimination.** The Equality Act makes clear that mothers can breastfeed their children in places like cafes and shops and not be asked to leave. The Act also prohibits schools from discriminating against pupils who are pregnant or new mothers.
- **Protecting carers from discrimination.** The Equality Act protects carers (who are often women) who are caring for example a disabled child or older relative. They will be protected by reason of their connection with that person.

# The Key Changes

## Improved protection for particular groups

### Lesbian gay and bisexual people

- **Introducing a public sector equality duty to take into account the needs lesbian gay and bisexual (LGB) people.** The new Equality Duty will require public authorities to consider the needs of LGB people in designing and delivering services.
- **Removing the prohibition preventing civil partnership registrations taking place on religious premises.** The Equality Act removes the express prohibition in the Civil Partnerships Act 2004 that prevents civil partnership registrations on religious premises. Such registrations will be permitted if the religious organisation wishes to do so but no religious organisation will be forced to do so.

# The Key Changes

## Improved protection for particular groups

### Transgender people

- **Introducing a public sector equality duty to take into account the needs transgender people.** The new Equality Duty will require public authorities to consider the needs of transgender people in designing and delivering services.
- **Revising the definition of gender reassignment.** This is to make clear that a trans person does not have to be under medical supervision to be protected from discrimination and harassment.
- **Extending protection against gender reassignment discrimination to cover schools.**
- **Protecting people who face discrimination because of their association with transsexual people such as partners.**

# The Key Changes

## Improved protection for particular groups

### People with or without religious or philosophical beliefs

- **Introducing a public sector equality duty to take into account the needs people based on their religious or philosophical beliefs.** The new Equality Duty will require public authorities to consider the needs of people based on their religious or philosophical beliefs in designing and delivering services.

### People from ethnic minorities

- **The Equality Act creates a power for the government to make discrimination or harassment unlawful because of caste** if the available evidence (including research commissioned by the GEO) shows that it is appropriate.

# The Key Changes

## Increased scope of prohibited discrimination

Equality law has been modernised by the:

- **Extension of discrimination by association and perception** to all protected groups in relation to direct discrimination and harassment (this includes carers);
- In recognition that individuals sometimes suffer multiple discrimination, a claim of **dual discrimination** can be made (two grounds and direct discrimination only).

# The Key Changes

## Public Sector Equality Duty

The public sector duty seeks to build on and improve the existing race, gender and disability duties by:

- Extending the duty to the protected groups based on age, sexual orientation, being transgender, and religious or philosophical beliefs, pregnancy and maternity and being in a civil partnership;

Government Equalities Office now consulting on the proposals for draft regulations relating to the specific duties to help public bodies meet the general duty

# The Key Changes

## Public Sector Socio-economic Duty

This requires key public authorities to:

- Consider using their functions to reduce inequality of outcomes caused by socio-economic disadvantage when making strategic decisions;
- This also links to the human rights obligations of the UK government in relation to socio-economic rights such as the right to an adequate standard of living and the right to health.



# The Key Changes

## Positive action provisions

Positive action provisions have been strengthened in several ways:

- Permitting an employer to utilise a “tie break” mechanism to employ or promote a person from a protected group that has suffered disadvantage;
- Political parties can select candidates for election to reduce inequality in the parties representation of protected groups in Parliament. This right is time limited to 2030 unless extended;
- Enabling the government to require political parties to publish diversity data on parliamentary candidate selections in order to reduce under-representation of particular groups in parliament such as women and disabled persons.

# The Key Changes

## Improved powers of tribunals

In terms of changes practices in society, the Act has improved the powers of Employment Tribunals. They will be able to:

- provide remedies to the claimant;
- Make recommendation to the employer for the benefit of the claimant;
- Make recommendations to the employer which are directed at reducing adverse impact on the wider workforce.

For example recommendations could be made to:

- Introduce an equal opportunities policy;
- Retrain staff on equality issues.

# Implementation of the Act

Most of the Act comes into force from **October 2010**

In several areas the new government has not decided when or if the provisions will come into force. The previous government proposed:

- **April 2011:** integrated Public Sector Equality Duty, the Socio-economic Duty and dual discrimination protection
- **September 2011:** auxiliary aids and services provision in schools
- **2012:** The prohibition on age discrimination in provision of goods, facilities, services and public functions
- **2013:** Private and voluntary sector gender pay transparency regulations (if required) and political parties publishing diversity data.

# Implementation of the Act

There are number of aspects to this work the Commission is undertaking:

- **Codes and Guidance:** Produce, publish and disseminate a range of Statutory and Non-Statutory guidance to support the implementation of the Act and promote good practice;
- **Stakeholder Engagement** - Develop Equality Act themes for implementation in collaboration with umbrella bodies and regulators, each demonstrating ownership and leadership. This is essential to increase awareness and build capability through activities that encourage compliance by proxy.
- **Legal** – advise the government on the development and implementation of the relevant secondary legislation, work with regulators to embed equality standards and use all the Commission’s legal powers to address persistent forms of unlawful discrimination, promote equality of opportunity, and monitor compliance with the public sector equality duty.

# Implementation of the Act

## Codes and Guidance

The Statutory and Non-Statutory Guidance will explain the provisions of the Act, helping those with obligations with the practical application of the Act, and helping stakeholders understand their rights under the Act.

The Codes of Practice are statutory documents whose primary intended use will be by courts, tribunals, and legal staff in the application of the law. The Non-Statutory Guidance, by contrast, is intended for use by a wider public audience.

The guidance is being delivered in two tranches aligned with the main commencement dates of the Act.

- Tranche 1 – for commencement 1st October 2010
- Tranche 2 – for commencement 1st April 2011

# Implementation of the Act

## Non Statutory Guidance

In Tranche 1 the Commission committed to producing 5 pieces of non-statutory guidance

- Employment Guidance - a guide for employers and a guide for employees,
- Services Public Functions and Associations – a guide for service providers, a guide for service users; and
- A 'What's New Guide'.

These will be available in July 2010.

Tranche 2 is being developed on the public sector duty and education provisions.

# Implementation of the Act

## Statutory Guidance (Codes of Practice)

In tranche 1 we are producing three Codes:

- An Employment Code;
- A Services, Public Functions and Associations Code;
- An Equal Pay Code.

In tranche 2 we are producing 6 Codes of Practice:

- 3 x Education Codes of Practice - a GB-Wide Further and Higher Education Code, a Scotland Schools' Code and an England and Wales Schools' Code; and
- 3 x Public Sector Equality Duty Codes of Practice - One for each for England, Scotland and Wales.

'Building a society built on fairness and respect where people are confident in all aspects of their diversity.'