

# All Saints CE Primary Response to Equality Act 2018

## The Equality Act 2010: protected characteristics and types of discrimination

*(12 Dec 2013)*

The Equality Act, which came into force on 1 October 2010, replaced previous anti-discrimination legislation. Although your responsibilities under the Act are largely the same as they always have been, there are some changes that will affect businesses, including the introduction of '**protected characteristics**' and multiple forms of discrimination.

The Equality Act covers exactly the same groups of individuals that were protected by the previous legislation. However, the headings of age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership, and pregnancy and maternity are now to be known as 'protected characteristics'.

### **Protected characteristics**

Each characteristic is addressed in the new Act in summary as follows:

#### **1. Age**

The Act protects employees of all ages but remains the only protected characteristic that allows employers to justify direct discrimination, i.e. if an employer can demonstrate that to apply different treatment because of someone's age constitutes a proportionate means of meeting a legitimate aim, then no discrimination will have taken place.

#### **2. Disability**

A person is a disabled person (someone who has the protected characteristic of disability) if they have a physical and/or mental impairment which has what the law calls 'a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities'.

There is no need for a person to have a medically diagnosed cause for their impairment; what matters is the effect of the impairment not the cause.

a. Conditions that affect the body such as arthritis, hearing or sight impairment (unless this is correctable by glasses or contact lenses), diabetes, asthma, epilepsy, conditions such as HIV infection, cancer and multiple sclerosis, as well as loss of limbs or the use of limbs are covered

b. HIV infection, cancer and multiple sclerosis are covered from the point of diagnosis

c. Severe disfigurement (such as scarring) is covered even if it has no physical impact on the person with the disfigurement.

e. People who are registered as blind or partially sighted, or who are certified as being blind or partially sighted by a consultant ophthalmologist.

f. Mental impairment includes conditions such as dyslexia, autism, Down's Syndrome and mental health conditions such as depression and schizophrenia.

The other **tests to apply** to decide if someone has the protected characteristic of disability are:

1. The length the effect of the condition has lasted or will continue: it must be long term. 'Long term' means that an impairment is likely to last for the rest of the person's life, or has lasted at least 12 months, or where the total period for which it lasts is likely to be at least 12 months. If the person no longer has the condition but it is likely to recur, or if the person no longer has the condition, they will be considered to be a disabled person.

2. The other the effect of the impairment is to make it more difficult and/or time-consuming for a person to carry out an activity compared to someone who does not have the impairment, and this causes more than minor or trivial

inconvenience; if the activities that are made more difficult are 'normal day-to-day activities' at work or at home

3. Whether the condition has this impact without taking into account the effect of any medication the person is taking, or any aids, assistance or adaptations they have (like a wheelchair, walking stick, assistance dog or special software on their computer). The exception to this is the wearing of glasses or contact lenses where it is the effect while the person is wearing the glasses or contact lenses, which is taken into account.

4. Progressive conditions and those with fluctuating or recurring effects are included, such as depression, provided they meet the test of having a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities.

### **3. Gender reassignment**

It is discriminatory to treat people who propose to start to or have completed a process to change their gender less favourably, for example, because they are absent from work for this reason.

### **4. Marriage and civil partnership**

The Act continues to protect employees who are married or in a civil partnership. Single people are however not protected by the legislation against discrimination.

### **5. Pregnancy and maternity**

The Act continues to protect women against discrimination because they are pregnant or have given birth.

[The National Childbirth Trust](#) produces useful 'returning to work' guides for parents and employers. The Equality and Human Rights Commission has loads of useful information for pregnant women - [Power to the Bump](#).

### **6. Race**

The Act continues to protect people against discrimination on the grounds of their race, which includes colour, nationality, ethnic or national origin.

### **7. Religion or belief**

The Act continues to protect people against discrimination on the grounds of their religion or their belief, including a lack of any belief.

### **8. Sex**

The Act continues to protect both men and women against discrimination on the grounds of their sex, for example paying women less than men for doing the same job.

### **9. Sexual orientation**

The Act continues to protect bisexual, gay, heterosexual and lesbian people from discrimination on the grounds of their sexual orientation.

### **Types of discrimination**

The 2010 Act also extends some of these protections to characteristics that previously were not covered by equality legislation. Employers and business owners now need to be aware of the seven different types of discrimination under the new legislation.

These are:

- Direct discrimination - where someone is treated less favourably than another person because of a protected characteristic
- Associative discrimination - this is direct discrimination against someone because they are associated with another person who possesses a protected characteristic
- Discrimination by perception - this is direct discrimination against someone because others think that they possess a particular protected characteristic. They do not necessarily have to possess the characteristic, just be perceived to.
- Indirect discrimination - this can occur when you have a rule or policy that applies to everyone but disadvantages a person with a particular protected characteristic

- Harassment - this is behaviour that is deemed offensive by the recipient. Employees can now complain of the behaviour they find offensive even if it is not directed at them.
- Victimisation - this occurs when someone is treated badly because they have made or supported a complaint or grievance under this legislation.

The Equality Act 2010 and Schools

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