

EQUALITY ACT 2010

Briefing Note

On 6 April 2010 the Equality Bill completed the final stage of its passage through Parliament, and will become law in autumn of this year. The Equality Act (“the Act”) harmonises all existing discrimination legislation into one Act and contains a further range of new rights, powers and obligations that will, in the Government’s view, help the drive towards equality.

Single Equality Duty

The Act will impose a single equality duty on the public sector extend the current legal obligations on the public sector in relation to race, disability and gender to nine ‘protected characteristics’ namely: Age, disability, gender reassignment, marriage and civil partnership, pregnancy, race, religion or belief, sex and sexual orientation.

The principle of equality is intended to promote and protect the dignity of all persons in society. In the exercise of its functions a public authority must have due regard to the need to:

- eliminate discrimination, harassment and victimisation or any other conduct prohibited by the Act in relation to the protected characteristics;
- advance equality of opportunity between all persons; and
- foster good relations between groups of people sharing a protected characteristic and those that do not.

Specific Duties

Further regulations will be made under the Act to impose specific duties on public authorities for the purpose of enabling better performance of the single equality duty. The Scottish Government held a consultation on the specific duties which lasted until 15th January 2010. Results from the consultation will be made available later this month.

Schedule 19 of the Act provides a list of all public bodies who must comply with the new legislation. These include:

- Local authorities
- Government Departments
- The Armed Forces
- Educational establishments
- Health bodies
- Police
- Fire and Rescue Services

The single equality duty also extends to those who are performing public functions regardless of whether they are in the Schedule 19 list.

The key concepts introduced by the Act:

- Unlawful discrimination in relation to nine “protected characteristics” – age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race (which includes colour, nationality, ethnic or national origin); religion or belief; sex; and sexual orientation.
- Discrimination arising from disability - protecting disabled people who are disadvantaged because of a consequence of their disability.
- A duty on Landlords to make reasonable adjustments in common areas.
- Limits on the use of pre-employment health questions.
- Introduction of unlawful age discrimination in the provision of goods, facilities or services.
- Limits on the validity of secrecy clauses which prevent staff from discussing their pay and contractual benefits.
- Extension of the scope of positive action allowing the taking of proportionate measures to overcome disadvantage or to meet specific needs based on a protected characteristic.
- The potential to claim direct discrimination because of a combination of two protected characteristics.

Additional obligations on the public sector:

- A new public sector duty requiring public authorities to consider how they tackle socio-economic disadvantage.
- A duty to tackle discrimination, promote equality of opportunity and encourage good community relations across all protected characteristics (except marriage and civil partnerships).
- A duty to report on equality issues in the workplace including gender, pay, ethnic and disability minority employment rates.
- Use of public procurement to promote equality.

Implementation

The Equality Act will become law in autumn 2010. The single equality duty is expected to come into force in April 2011. Guidelines for public sector bodies are expected to be published towards the end of 2010.

Further updates will be provided on the Specific Equality Duties as and when information becomes available.

This Equality Act 2010 briefing note will be included in the next update report to Corporate Policy Committee but, in the meantime, if you have any queries please contact Melinda Dolan, Policy Officer, by e-mail: Melinda.Dolan@dumgal.gov.uk or by telephone: 07712 666 903.