

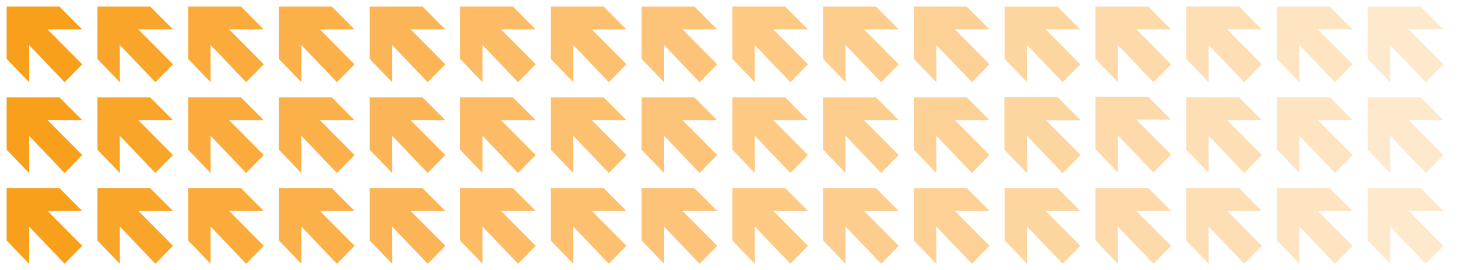


Government  
**Equalities** Office

Putting equality at the heart of government

# **EQUALITY ACT 2010: WHAT DO I NEED TO KNOW? A SUMMARY GUIDE FOR PUBLIC SECTOR ORGANISATIONS**

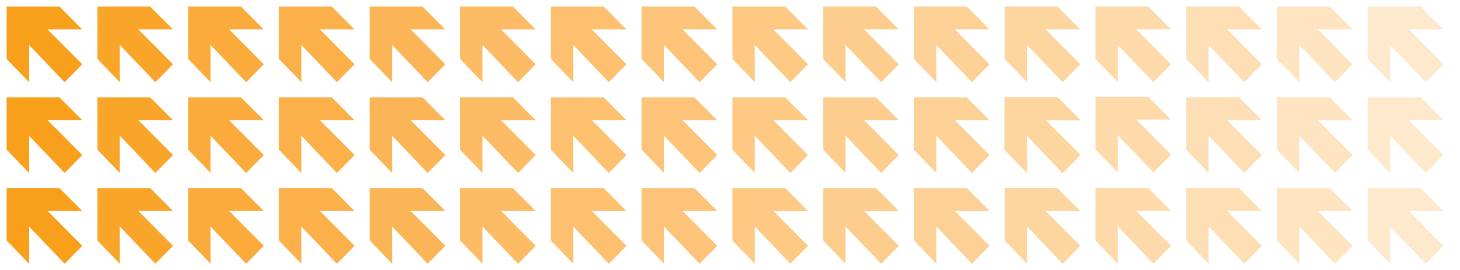




## Foreword

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 is intended to help public sector organisations understand what the aspects of the Act coming into force in October 2010 mean for them.

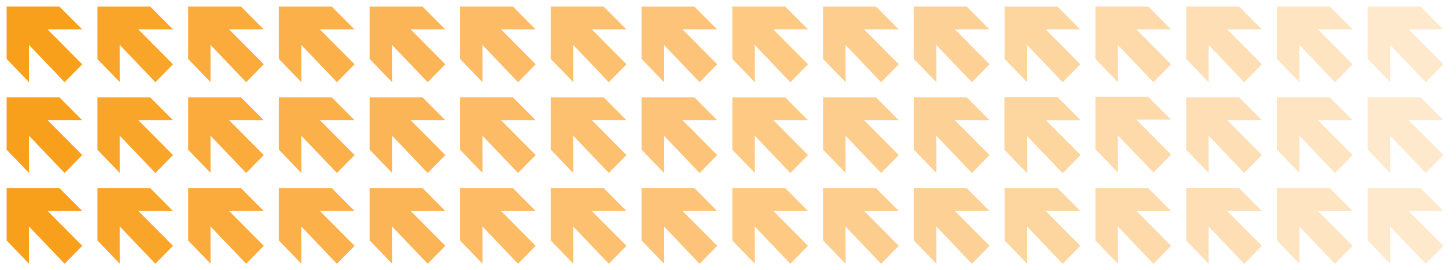


## Introduction

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 public sector organisation your responsibilities remain largely the same but there are some differences that you need to be aware of. These changes are summarised in table opposite.

There are other guides for employers, business and individuals. The guide for employers will help the public 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.



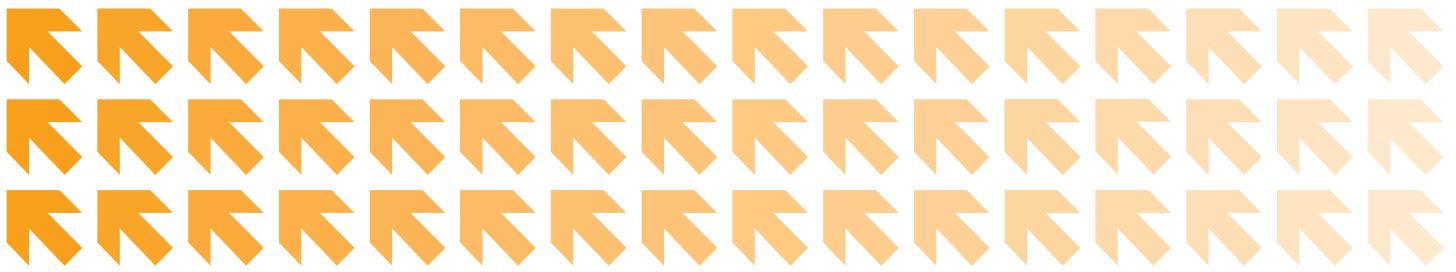
## What's new for the public sector – an overview

### 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 change	No change	No change	New	No change
Discrimination by perception	New	New	No change	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

\* 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. It applies to all your services, whether or not a charge is made for them.

## Who is protected

The Act protects people from discrimination on the basis of 'protected characteristics' (these used to be called 'grounds'). The relevant characteristics for services and public functions 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 Gender Reassignment Quick Start Guide.

## What the law prohibits

### Direct discrimination

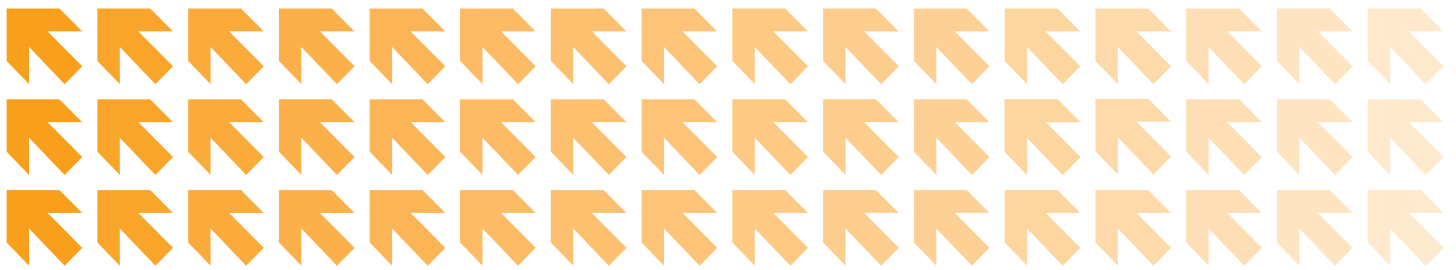
Direct discrimination in services and public functions happens when someone is treated less favourably than another person because of a protected characteristic.

#### What has changed?

Direct discrimination has been extended to cover disability.

### Example

A local authority advice centre refuses to provide advice that it would normally provide to a member of the public to Denise, a person with a learning disability, as staff assume that she will not be able to understand the advice because of her disability. This is direct discrimination.



Direct discrimination can also occur when a person is treated less favourably because of a protected characteristic even though that person does not have the characteristic. For example, it includes a person being treated less favourably because they are linked or associated with someone who has a protected characteristic.

### Example

Jonathan is the partner of Kate, who is a resident of a local authority care home. Jonathan decides to undergo gender reassignment and staff at Kate's care home discover this. As a result Kate is now treated less favourably by staff compared with other residents. This is discrimination because of association with a transsexual.

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

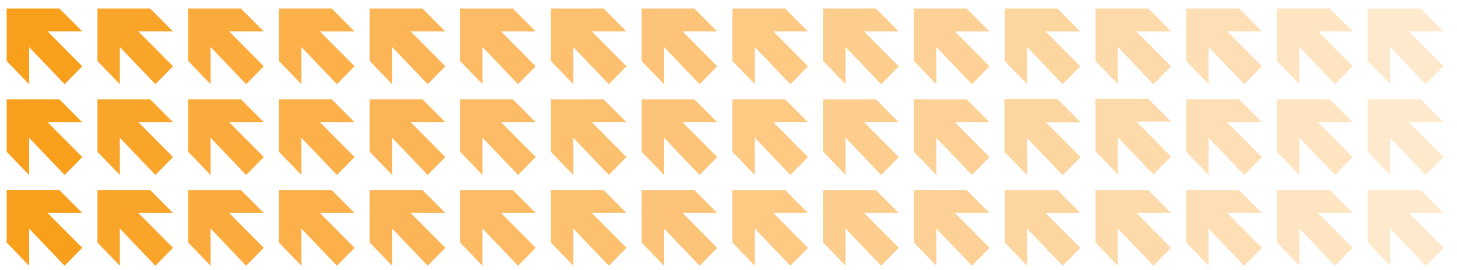
Sam is a local authority tenant who calls the local authority to query an electrical repair. Sam has a high voice and Bob, the engineer dealing with the query, thinks that Sam is a woman. Bob is very dismissive of Sam's query and refuses to explain the issue properly because he believes that a woman would not be able to understand it. This is sex discrimination against Sam because he has been wrongly perceived to be a woman.

### 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 (extended to disability and gender reassignment)

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

A local authority housing department has a policy of reminding tenancy applicants of forthcoming appointments by telephone. This puts deaf people who cannot use the telephone at a disadvantage, as they do not receive a reminder of their appointment. Unless the department can justify its policy of making contact only by telephone as being a proportionate means of achieving a legitimate aim, this is likely to amount to indirect discrimination.

### What has changed?

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

*Note:* Pregnancy and maternity is not covered but policies and practices that would put pregnant women and new mothers at a disadvantage could constitute unlawful indirect sex discrimination.

### Harassment

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

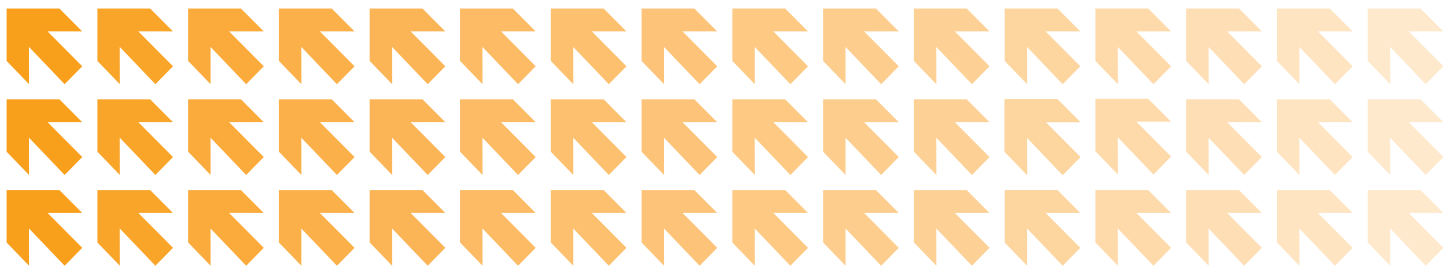
Janice, a black woman is queuing at the Passport Office when she overhears two members of staff making racially abusive comments. As this conduct was unwanted by Janice and it made her feel humiliated and degraded, she can bring a claim of harassment.

### Victimisation

Victimisation occurs when someone is treated badly because they have done something in relation to the Equality Act, such as making or supporting a complaint or raising a grievance about discrimination, or because it is suspected that they have done or may do these things. A person is not protected from victimisation if they have maliciously made or supported an untrue complaint.

### Example

Fabio makes a formal complaint against his Primary Care Trust because he feels that the Trust has discriminated against him because he is gay. The complaint is resolved through the organisation's grievance procedures. However, as a result of making the complaint Fabio is subsequently removed from his GP's list. This is victimisation.



### 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.

### Discrimination arising from disability

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

Vikram, who has an assistance dog, is not allowed to enter his local mobile library because staff say there is not enough room for his dog. This may be discrimination arising from disability unless it can be justified (e.g. the dog poses a genuine health and safety risk as opposed to merely being inconvenient for staff).

## Other changes you need to know about

### Positive action

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 public sector organisations to take proportionate steps to help people overcome their disadvantages or to meet their needs.

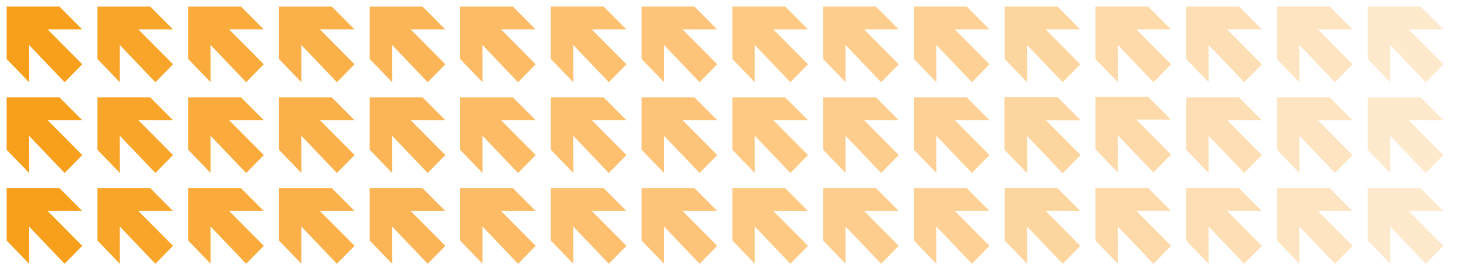
Note:

- There is no requirement to take positive action
- 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

A police force becomes aware of a series of homophobic incidents taking place locally, most of which seem to be going unreported. Following consultation with the local lesbian, gay and bisexual (LGB) community which reveals little confidence that any complaints raised will be investigated fully, the police force appoints a specific liaison officer to act as the first point of contact between the service and local LGB residents.





### *What has changed?*

These new provisions are simpler and clearer to use than the previous provisions, which were complicated and difficult to apply.

### **Breastfeeding mothers**

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

This means that you need to allow women to whom you are providing goods, facilities or services to breastfeed if they so wish.

### **Example**

Julie is breastfeeding her baby in a court waiting room. The usher tells her to stop feeding the baby or go to the ladies' toilets to feed it in privacy. This is unlawful discrimination.