



United Kingdom Council for Access and Equality
(UKCAE)

Guide to the Equality Bill

April 2009

Introduction

The Equality Bill (“the Bill”) was published on 27 April 2009 with the stated aim being to fight discrimination in all its forms and help make equality a reality for everyone.

The main thrust of the Bill is to:

- harmonise and clarify existing equality legislation
- introduce new provisions which address outstanding discrimination issues
- support wider work to promote equality

It is envisaged that Codes of Practice, guidance and regulations would supplement the Bill. If implemented, the current equality legislation would be repealed over a period of time and the Bill would eventually replace the following Acts and regulations (as amended):

- The Equal Pay Act 1970
- The Sex Discrimination Act 1975
- The Race Relations Act 1976
- The Disability Discrimination Act 1995
- The Employment Equality (Religion and Belief) Regulations 2003
- The Employment Equality (Sexual Orientation) Regulations 2003
- The Employment Equality (Age) Regulations 2006
- The Equality Act (Sexual Orientation) Regulations 2007

The existing Equality Act 2006 would be superseded by the new Bill, and those parts which relate to the regulatory framework would be incorporated.

The Government’s intention is that the Bill would come into force in mid to late 2010.

Key Concepts

The Bill introduces several key concepts:

1. It broadly defines the characteristics of nine protected groups which would replace the six strands:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion and belief
- sex (i.e. gender)
- sexual orientation

2. It defines discrimination by reference to:

- direct discrimination
- discrimination arising from disability
- indirect discrimination
- failure to comply with the duty to make reasonable adjustments (NB applicable in relation to disability only)
- harassment
- victimisation

3. In relation to the duty to make “reasonable adjustments” for disabled people the Bill defines this by reference to three requirements:

1. where a provision, criterion or practice puts a disabled person at a substantial disadvantage
2. where a physical feature puts a disabled person at a substantial disadvantage
3. where a disabled person is put at a substantial disadvantage by the failure to provide an auxiliary aid.

Key Proposals

The key proposals under the Bill are:

- introducing a new public sector duty, for certain specified public authorities, to give “due regard” to the aim of reducing socio-economic inequalities when making strategic decisions
- introducing a new Equality Duty for public bodies bringing together existing duties relating to disability, gender and race and extending those duties to cover age, gender re-assignment, religion and belief and sexual orientation
- using public purchasing power to promote and improve equality by, for example, including equality provisions in tender documents or by requiring suppliers to show that they operate an inclusive workplace
- extending positive action so that employers can take into account, when selecting between two equally qualified candidates for recruitment or promotion, under-representation of disadvantaged groups
- extending the protection from harassment by third parties that currently applies to sexual harassment to the other protected groups
- introducing a requirement for private sector employers with more than 250 staff to report on the pay gap between male and female employees. The Government has made a commitment not to use these before 2013 and only then if insufficient progress has been made on voluntary reporting in the meantime. The Equality and Human Rights Commission (“EHRC”) will develop a template for these reports in consultation with business, unions and other interested bodies; the EHRC will monitor progress annually
- banning secrecy (“gagging”) clauses which prevent people from discussing their pay with colleagues

- banning unjustifiable age discrimination in the provision of goods, facilities and services. There will be further consultation on the scope and design of this legislation to allow businesses and public bodies sufficient time to prepare for the change
- protecting against discrimination by association, for example making it unlawful to discriminate against someone because they care for an elderly relative
- banning discrimination by private members' clubs with 25 or more members
- strengthening protection for breastfeeding mothers by making it unlawful to force a mother and her baby out of public places, such as bars, restaurants, galleries etc
- strengthening and extending the powers of Employment Tribunals by allowing them to make wide recommendations that would benefit the whole workforce and not just limited to the person who brought the claim. Further consideration will also be given to the introduction of representative actions
- strengthening of protection from discrimination for disabled people by prohibiting discrimination arising from disability and extending indirect discrimination to disability
- clarifying vicarious liability – that is the liability of employers and principals in relation to the conduct of their employees or agents
- extending use of women-only short lists to 2030 ~ no proposals on ethnic minority short lists.
- consider whether the Commissioner for Public Appointments should have specific power to encourage diversity for appointments
- the Government is also currently consulting on whether the Bill should contain provision for multiple discrimination claims, for example alleging discrimination against an older woman ~ consultation closes on 5 June 2009.

By embracing change you can help
create an inclusive environment.

Consultation, collaboration and consensus
will make a difference.

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