EQUALITY ACT 2010: WHAT DO I NEED TO KNOW? A QUICK START GUIDE FOR VOLUNTARY AND COMMUNITY SECTOR ASSOCIATIONS
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 also strengthens the law in important ways to help tackle discrimination and inequality.

This quick start guide tells you how the Equality Act 2010 regulates the way in which an association treats its members, guests and associates. It also explains when an association can restrict its membership and the benefits of membership to people who share a particular protected characteristic. These parts of the Act will come into effect on 1 October 2010.

Introduction

The Equality Act 2010 brings together, harmonises and in some respects extends existing equality law. It aims to make the law more consistent, clearer and easier to follow in order to make society fairer. As a provider of goods, facilities or services in the voluntary and community sector your responsibilities remain largely the same, but there are some differences that you need to be aware of.

There are other guides that give useful information about the changes to the law which may affect you as a service provider. This summary guide for the voluntary and community sector gives an overview of the changes that affect you as a membership organisation. Other guides are available for employers, business and individuals. The guide for employers helps the voluntary and community sector with employment issues.

The main change is that the Act replaces associations’ separate obligations relating to disability, race and sexual orientation with a single set of requirements covering these characteristics, and extends them to include religion or belief, gender reassignment, pregnancy and maternity, sex and age. New obligations in respect of age discrimination will come into effect at a later date.
What is an association?

A voluntary or community organisation will be an association for the purposes of the Equality Act if:

• it has 25 or more people who are members, and
• it has rules (not necessarily formal or written) regulating who can be a member and there is some process of selection to become a member.

An organisation will not be an association if it is a trade or business organisation or a trade union.

Associations include private clubs; such as sports clubs; organisations established to promote the interests of their members (such as a retired women’s association); organisations such as the Scouts, Rotary International or Inner Wheel; and political parties.

How does the Act apply to associations?

The Act bans associations from discriminating against, harassing or victimising people in a number of ways. Associations must also make reasonable adjustments to allow disabled people to participate.

The main areas in which associations must not discriminate, harass or victimise are as follows:

• In the arrangements associations make for selecting or rejecting new members and the terms for joining.

Example

A women’s welfare association whose members provide services for older people rejects a lesbian’s membership application, telling her that because of her sexuality she would not be a suitable member. This would be direct sexual orientation discrimination.
In the ways in which associations give or deny members benefits or services or remove or vary the terms of membership.

Example
A local artists' association has always held its meetings in a room on the first floor of a local pub. It changes its meeting place to the ground floor to comply with the requirement in the new Act to make reasonable adjustments so that disabled people who cannot use stairs, such as wheelchair users, are able to attend its meetings.

In the ways in which associations give or deny associates benefits or services or remove or vary their rights as an associate. Associates are people who are not members but have some membership rights because they are a member of another association.

In the arrangements associations make for deciding who can be invited as a guest and the terms for inviting or refusing people as guests.

In the ways in which associations give or deny guests benefits or services.

Can associations restrict who can be a member?

The Act allows associations (other than political parties) to restrict membership and the benefits of membership to people who share a particular protected characteristic. In the case of disability, sharing a protected characteristic means sharing the same disability. This means, for example, it will be lawful to have an association for women, for people from Australia, for transsexual people, or for people who are HIV positive. The only exception is that an association cannot restrict who can be a member on the basis of skin colour. However, although the rules defining who can join must not use colour, an association could have a name that refers to colour.

Example
The constitution of the Black Women's Culture Club states that membership is open only to women whose national origins are in Africa or the Caribbean. This restriction would be permitted.

If an association restricts membership to people who share a protected characteristic, it may also choose to permit as guests only people who share that characteristic. It can also restrict access to benefits or services to associates who share that characteristic.

Example
Mr Alexander invites his daughter to be a guest at his tennis club. While she is waiting to play she hears the club manager make sexual remarks about her which she finds humiliating and offensive. This would be sexual harassment.
An association that restricts its membership to people who share a protected characteristic must not discriminate in relation to any other characteristic.

Example
An association to support men with prostate cancer that restricts its membership to men cannot exclude a man because he is, for example, gay, or Chinese, or disabled.

Further information

The Equality and Human Rights Commission is the statutory body established to help eliminate discrimination and reduce inequality. It will issue a Statutory Code of Practice explaining in more detail the law in relation to discrimination. It also produces a range of materials providing practical guidance on how to comply with the law.

www.equalityhumanrights.com

Advice UK
www.adviceuk.org.uk

Citizens Advice
www.citizensadvice.org.uk

Government Equalities Office
www.equalities.gov.uk

Law Centres Federation
www.lawcentres.org.uk

Charity Commission for England and Wales
www.charity-commission.gov.uk

National Council for Voluntary Organisations
www.ncvo-vol.org.uk

Office of the Scottish Charity Regulator
www.oscr.org.uk

Scottish Council for Voluntary Organisations
www.scvo.org.uk

Wales Council for Voluntary Action
www.wcva.org.uk