

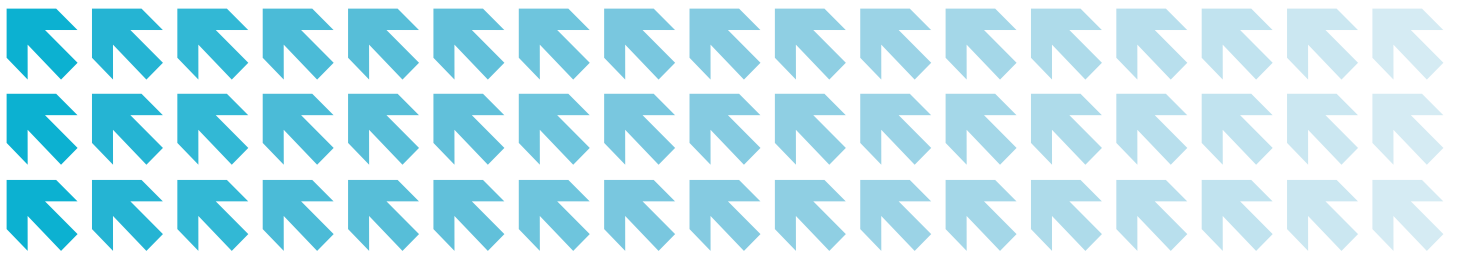


Government
Equalities Office
Putting equality at the heart of government



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

This quick start guide tells you how the Equality Act 2010 changes what voluntary and community organisations need to do to prevent harassment when providing goods, facilities or services to the public. These parts of the Act will come into effect on 1 October 2010.

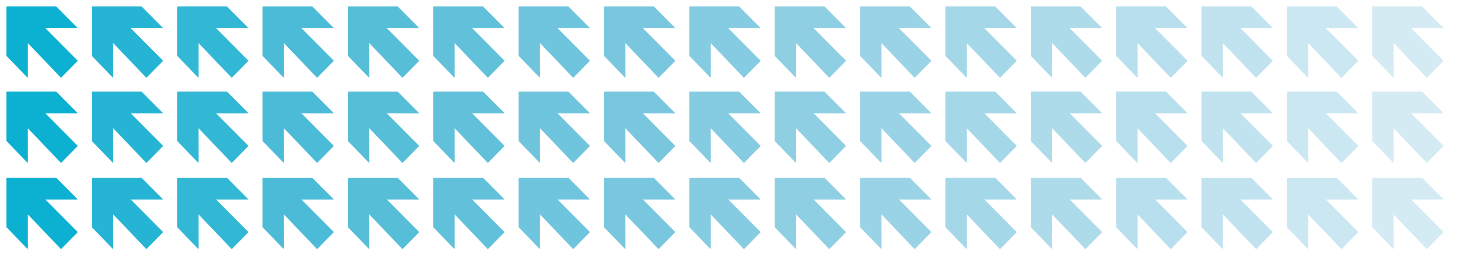
Introduction

The Equality Act 2010 brings together, harmonises and in some respects extends the current equality law. It aims to make it 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.

This quick start guide explains how the Act affects you and what you have to do in order to prevent harassment when you provide goods, facilities or services to the public, for example as a residential care home, community shop or after school club. The main change is that protection from harassment now covers harassment related to disability.

There are other guides that explain the changes to the law. The summary guide for the voluntary and community sector describes the main changes that affect you as a service provider. Other guides are available for employers, business and individuals. The guide for employers helps the voluntary and community sector with employment issues. If you are a private club or other type of association, you should also see *Equality Act 2010: what do I need to know? A quick start guide for community and voluntary sector associations*.

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 is harassment?

There are three specific types of unlawful harassment. All three types involve the service user being subjected to unwanted behaviour; which is defined as behaviour that has the purpose, or the effect, of degrading, offending, humiliating or intimidating the service user or violating his/her dignity.

In deciding whether or not unwanted behaviour is unlawful harassment, a court will take into account:

- the perception of the service user; as well as the circumstances of the situation being complained about
- the circumstances of the situation being complained about, and
- whether or not it would be reasonable for the unwanted behaviour to be seen as offensive or intimidating, etc.

The three specific types of harassment are as follows.

1. Harassment – disability, gender reassignment, race or sex (changed)

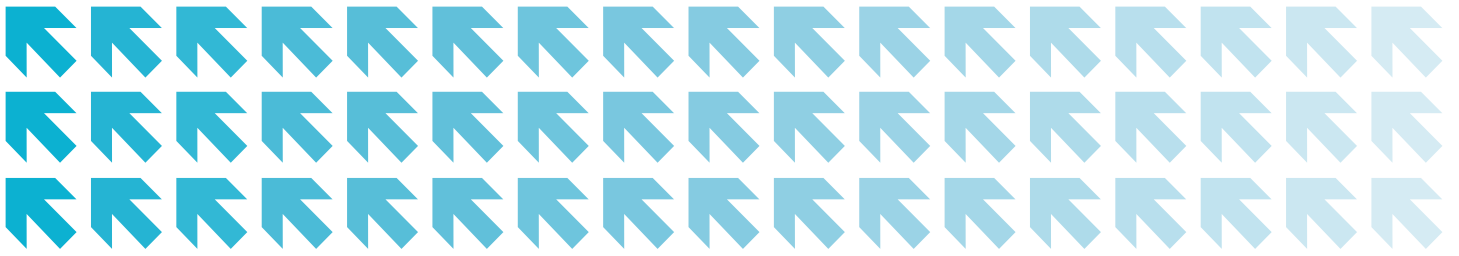
If the unwanted behaviour relates to disability, gender reassignment, race or sex, then it is unlawful harassment.

Example

Hamed, who is blind, needs help filling out some forms and is queuing up for assistance at an advice agency. An advice centre employee makes some offensive comments about blind people. Hamed is offended by these comments. This is likely to amount to unlawful harassment related to disability.

What has changed?

Protection from harassment related to disability now extends to service users. Previously it only applied with regard to employment.



2. Sexual harassment (unchanged)

If the unwanted behaviour is sexual in nature then it is unlawful harassment. In law, behaviour that is sexual in nature can be verbal or non-verbal and would include sexual comments and gestures as well as sexual touching.

Example

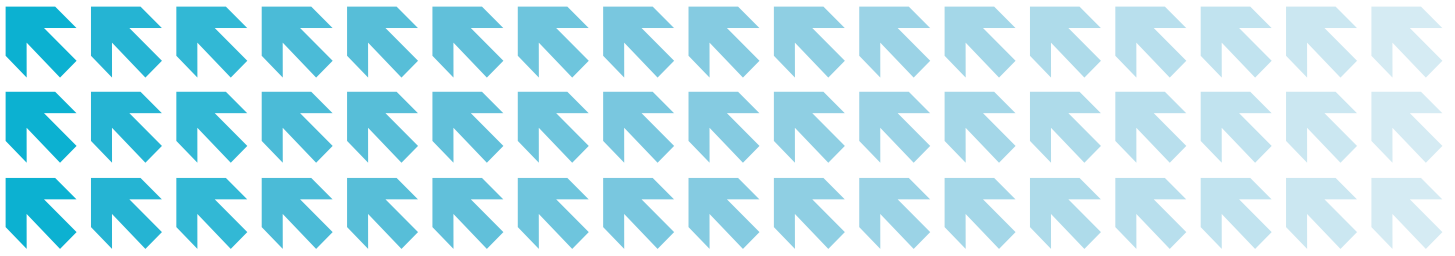
Sarah goes to a social event at a community centre. The person selling tickets on the door comments that she has 'nice breasts'. Sarah finds this offensive and intimidating. This is likely to amount to unlawful sexual harassment.

3. Harassment linked to rejection or submission to unwanted behaviour (unchanged)

Harassment also occurs if the service user has experienced unwanted behaviour of a sexual nature, or unwanted behaviour related to gender reassignment or sex, and then the service provider treats the service user unfairly because the service user has either rejected or submitted to that behaviour. The unwanted behaviour can come from the service provider or another person.

Example

Adrian works for a charity providing free childcare to working parents on low incomes. Hannah is a single mother who relies on the charity to look after her son while she is at work. One afternoon when Hannah goes to collect her son, Adrian puts his hand on her bottom and asks her to come back to his place. As a result of Hannah telling him to stop touching her and leave her alone, Adrian tells her that the charity will no longer provide care for her son. Hannah could bring a claim of harassment as Adrian has treated her unfairly because she rejected his advances.



Harassment linked to religion or belief or sexual orientation (unchanged)

The specific definitions of harassment don't apply to religion or belief or sexual orientation. However, subjecting a service user to this type of unwanted behaviour because of religion or belief or sexual orientation will usually amount to unlawful direct discrimination if, as a result of the behaviour, the service user suffers a disadvantage when compared to the treatment of other service users.

Example

Mick runs a hotel. Ben and Andrew, a gay couple, arrive at reception and try to book a double room. Mick tells them that he will not accommodate 'queers' and refuses to offer them a double room even though there is one available. Mick would have offered the double room to a heterosexual couple and would have done so without using any abusive expressions related to sexual orientation. This would be unlawful direct discrimination because of sexual orientation.

Who has responsibilities?

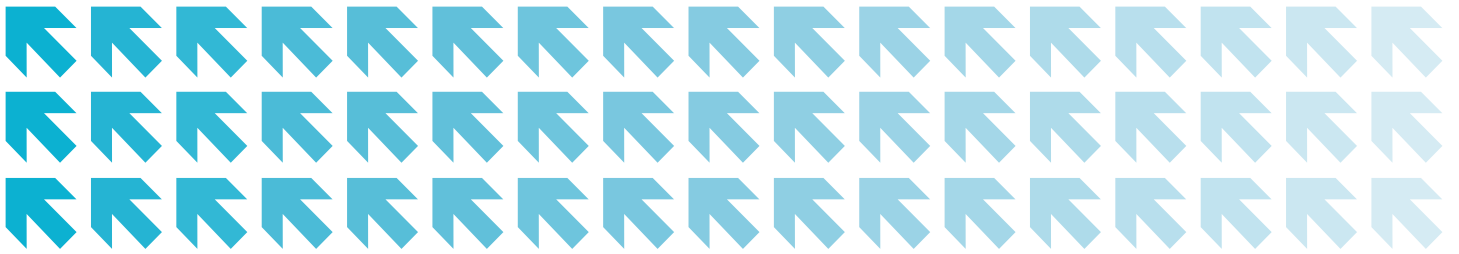
Service providers are usually responsible for any harassment by their employees in the course of their employment. However, if the service provider can show that it took all reasonable steps to prevent its employees from engaging in harassment before the harassment took place, it has a defence.

What do you need to do now?

Service providers should:

- develop, adopt and implement anti-harassment policies appropriate for their organisations
- draw these to the attention of all staff and management, and
- consider whether their staff need any further training.

Taking such steps should help to stop harassment from occurring in the first place and help the service provider's defence should harassment occur.



Further sources of 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 service provision and discrimination. It also produces a range of material providing practical guidance on how to comply with the law.

www.equalityhumanrights.com
0845 604 6610

Law Centres Federation
www.lawcentres.org.uk

Citizens Advice
www.citizensadvice.org.uk

Advice UK
www.adviceuk.org.uk

Government Equalities Office
www.equalities.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