

Prisons and Courts Bill

Equalities Statement: Reform to statutory declarations in the County Court

Equality duties

1. The Public Sector Equality Duty comprises three limbs, set out in section 149(1) of the Equality Act 2010 whereby a public authority must, in the exercise of its functions, have due regard of the need to:
 - i. Eliminate discrimination (both direct and indirect), harassment, victimisation and any other conduct that is prohibited by the Act;
 - ii. Advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not. This includes removing or minimising disadvantages suffered by people due to their protected characteristic (PC), taking steps to meet the needs of people who share a particular PC, and encouraging participation in public life.
 - iii. Foster good relations between persons sharing a relevant protected characteristics and persons who do not. This includes tackling prejudice and promoting understanding.
2. Paying “due regard” needs to be considered against the nine “protected characteristics” under the Act, namely: race, sex, disability, sexual orientation, religion and belief, age, marriage and civil partnership, gender reassignment, pregnancy and maternity.

Equality considerations

3. The Government is committed to improving access to, and the efficiency of, civil justice. This includes taking forward a radical programme of reform to courts and tribunals including the civil justice system. The reforms aim to support citizens to present their own cases simply and to obtain justice more swiftly; to reduce complexity in language, process and systems; to reduce the costs of the courts and tribunals to taxpayers. There will be a particular focus on making better use of technology to help people resolve disputes in the provision of a simplified process accessible to all court users.
4. One of the reform changes is to replace statutory declarations in county court proceedings (specifically in traffic enforcement proceedings) with a witness statement verified by a statement of truth which should enable court users to utilise a straight forward procedure. This reform will replace outdated and currently inconsistent procedures, which are inconvenient for court users and resource intensive to administer, with a more modern approach, capable of digitisation, and which retains a robust penalty where a statement of truth is found to be false.

Direct discrimination

5. Our assessment is that the proposal would not be directly discriminatory within the meaning of the Act since it will be applied in the same way to all witnesses and will not treat anyone less favourably due to any protected characteristic.

Indirect discrimination

6. We recognise, however, that the digitisation and automation of HMCTS systems could indirectly affect users according to protected characteristics. For example such changes have the potential

to have adverse effects on the basis of age, disability, and ethnicity (linked to socio-economic disadvantage) to the extent that some groups are less internet or digitally enabled than others. We will be mitigating these effects by ensuring that there is reasonable provision of assisted digital support for those who may struggle or would not otherwise be able to use the service.

7. Overall however, the changes will improve accessibility from the current model, as new online tools improve navigation and advice, reduce reliance on paper (allowing people to get information in formats more suitable to them), reduce reliance on representation (allowing justice to be accessible to those populations who may not have the money to do so – which is not standard across protected characteristics).
8. Where we are introducing automation into the system, as with a witness statement verified by a statement of truth, this involves little change for the end user except an increase in speed and certainty. For those engaging with the system there will continue to be support to understand the impact of decisions – in fact this may improve for many users, as the design of digital services allows us to ensure information is understood before progressing.
9. Overall, we do not believe that the proposal will result in any indirect discrimination against users of the justice system since it is not considered likely to result in any particular disadvantage for people with protected characteristics. The approach is designed to make the process easier for all court users by offering other enforcement options to significantly improve user experience and reduce user costs by making an effective form of enforcement more readily available. Furthermore, we consider the proposals are a proportionate means of achieving the legitimate aim of supporting citizens to present their own cases simply and to obtain justice more swiftly whilst reducing the costs of the courts and tribunals to taxpayers.

Discrimination arising from disability and duty to make reasonable adjustments

10. We do not believe that the proposal mentioned above will result in any discrimination arising from disability for the reasons discussed above. This reform will replace outdated and currently inconsistent procedures, which are inconvenient for court users and resource intensive to administer, with a more modern approach, capable of digitisation, and which retains a robust penalty where a statement of truth is found to be false. Rather than having to book an appointment with a local county court, and travel to the court at court users' expense, in the future users may simply submit a witness statement verified by a statement of truth in support of the court proceedings. Overall the court reforms aim to provide a simplified process accessible to all court users. There will be a particular focus on making better use of technology to help people resolve disputes.
11. Our proposals do, however, recognise that it remains important to continue to make reasonable adjustments for disabled offenders, court users and clients to make sure appropriate support is given to enable fair access to justice when using digitised systems. The development of an assisted digital strategy including which means that the single biggest element of reform – the use of technology to make the system better – takes into account the needs of all our users and makes things better for them where possible (this includes advancing equality of opportunity).

Harassment and victimisation

12. We do not consider there to be a risk of harassment or victimisation as a result of the proposal.

Advancing equality of opportunity

13. Overall, there are some key features that we think will contribute to making the justice system more accessible and will therefore advance equality of opportunity. Improved digital working will reduce reliance on representation, allowing those who cannot afford legal advice to make better use of the system to solve their disputes or understand their rights. Improved online navigation will mean that those who currently struggle to make sense of the courts will be able to understand how to enforce their rights or contest a dispute better.
14. Reducing reliance on geography through digitisation – reducing the need to travel or do things in person, making life easier for many people with disabilities, and providing them with online support for the first time with staff trained to understand and cater for their needs.

Fostering good relations

15. We have considered how the proposals might impact on this limb of the duty but do not think there are any particular implications for this proposal.

Summary

16. Our assessment of equality impacts is that the implementation of the proposal to replace statutory declarations with a statement of truth in county court proceedings, specifically those related to traffic enforcement proceedings, will not result in any direct or unlawful indirect discrimination for courts and tribunal users, and in particular those with protected characteristics. Overall, we consider that the proposals will contribute to making the justice system more accessible and will therefore advance equality of opportunity.

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