

# SOLIHULL METROPOLITAN BOROUGH COUNCIL

## EQUALITY ACT 2010 SUMMARY

### Background

The new Equality Act 2010 brings together and re-states all previous anti-discrimination and harassment legislation ( this includes the Race Relation Amendment Act 2000, the Disability Discrimination Act 2005 and the Equality Act 2006), together with equal pay law, harmonising previous provisions to give a single approach where appropriate, but also introducing some changes and additions to previous law. Some changes are still under consideration and will not come into force until a later date.

- The Act has two main purposes: -
  - to simplify and harmonise existing discrimination and equalities law
  - to strengthen the law to further advance equality
- Provides basic legal framework for protection against discrimination, harassment and victimisation in services, public functions, premises, work, education, associations and transport
- Brings together and restates all previous anti-discrimination, harassment and equal pay law
- Introduces a number of changes/additions to previous legislation
- Gained Royal Assent on 8 April 2010

### Protected characteristics

- Introduces concept of protected characteristics, rather than “equality strands”, these are: -
  - age
  - disability
  - gender reassignment
  - marriage and civil partnership
  - pregnancy and maternity
  - race
  - religion and belief
  - sex
  - sexual orientation
- Note – not all of the provisions of the Act apply for each of the protected characteristics

### Key changes

- **Single equality duty:** replaces existing race, sex and disability duties. Duty to advance equality of opportunity, foster good relations and eliminate discrimination, harassment and victimisation

- **New terminology:** brings together all of the grounds/strands previously protected by anti-discrimination legislation – now referred to as ‘protected characteristics’ (see above)
- **Positive action:** public sector organisations able to take proportionate steps to help people/groups of people with a particular protected characteristic to overcome their disadvantage or to meet their needs
- **Positive action:** in recruitment and selection, able to treat a person from an under-represented protected characteristic favourably in recruitment if candidates are equally qualified
- **Discrimination:** widens scope of when discrimination is unlawful
- **Discrimination by perception or association:** clarifies that protection from discrimination by perception and by association is prohibited for most of the protected characteristics
- **Dual discrimination:** a person can now be treated less favourably because of a combination of two relevant characteristics
- **Indirect discrimination:** extended to include disability and gender reassignment
- **Harassment:** now provides protection against behaviour even if it is not directed at the complainant, and the complainant need not possess the relevant characteristic themselves
- **Harassment by a third party:** extends provision from sex to other protected characteristics – employers are now potentially liable to harassment of their employees by people they don’t employ – such as visitors, suppliers, customers etc
- **Victimisation:** unlawful to treat someone badly because they have made or supported a complaint about discrimination or harassment – no longer have to show treated less favourably than someone who has not made a complaint (only that treated badly)
- **Tribunals:** recommendations to eliminate discrimination no longer restricted to just the claimant, can apply to wider workforce (even if claimant has left organisation)
- **Equal pay:** allows for pay discrimination claims to be made based on hypothetical comparators if no real person can be found
- **Pay secrecy:** companies no longer able to stop employees discussing pay with colleagues
- **Disability:** changes the previous definition of disability by no longer requiring a disabled person to show that their impairment affects a particular capacity (e.g. mobility, speech, sight etc). A person has a disability for the purposes of the Act if he or she has a physical or mental impairment and the impairment has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities
- **Disability:** unlawful to ask job applicants disability and health related questions before short-listing and job offers, except in prescribed circumstances
- **Disability:** strengthens protection from direct discrimination – where a person receives worse treatment than someone who does not have a disability, because of their disability – prohibited in goods and services, as well as employment
- **Disability:** new provision of ‘discrimination arising from disability’ – a person is treated less favourably because of something connected to their disability
- **Reasonable adjustments:** in addition to adjusting the way things are done or the physical environment, requirement to provide auxiliary aids – to prevent disabled people experiencing a ‘substantial disadvantage’

- **Gender reassignment:** changes to the previous definition of gender reassignment to no longer require a person to be under medical supervision
- **Breastfeeding mothers:** Act has clarified that unlawful to discriminate against a woman because she is breastfeeding (non-work) – must not stop a woman who is breastfeeding

## Timescales

- The majority of the provisions came into force on 1 October 2010, others came into force on 5 April 2011, but some are still being considered by government, these include:
  - Dual discrimination
  - Prohibition of age discrimination in service delivery
  - Provision of auxiliary aids in schools
  - Allowing civil partnership registrations to take place on religious premises
  - Expansion of race to include caste
  - Default retirement age still allowed until 2011

## Further information

- Further guidance and information can be found at
  - Legislation  
<http://www.legislation.gov.uk/ukpga/2010/15/contents>
  - Government Equalities Office  
[http://www.equalities.gov.uk/equality\\_bill.aspx](http://www.equalities.gov.uk/equality_bill.aspx)
  - Equality & Human Rights Commission  
<http://www.equalityhumanrights.com/home/advice-and-guidance/new-equality-act-guidance/>
  - Acas (particularly employment)  
<http://www.acas.org.uk/index.aspx?articleid=3017>
- If you require support understanding what the legislation means for your area of work please contact a member of The Equality & Diversity Team on 0121 704 6442 or email [equalities@solihull.gov.uk](mailto:equalities@solihull.gov.uk)