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ECAY5005: Health and Social Care: Disability and Wellbeing The Equality Act 2010 2023

Trawsnewid Addysg; Trawsnewid Bywydau
Transforming Education; Transforming Lives



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The Equality Act 2010

What is an 'Act'?

- An Act of Parliament creates a new law or changes an existing law.
- An Act is a Bill that has been approved by both the House of Commons and the House of Lords and been given Royal Assent by the Monarch.
- Taken together, Acts of Parliament make up what is known as Statute Law in the UK.

(UK Parliament, 2021)

Tackling inequality



- Over the years, laws have been introduced to tackle discrimination and to help ensure people with particular characteristics are treated fairly.
- These laws are called civil laws.
- Civil law mostly involves disagreements between people, companies or other organizations. It is enforced by one person suing another person or corporation and the case will end up in a civil court.
- Whereas criminal laws are enforced by the police and the courts, and if they are broken you can face very serious consequences, including time in prison.

Anti-discrimination laws timeline

Slavery Abolition Act 1833:

Abolished slavery throughout the British Empire.

1918 Representation of the People Act:

Gave women of property over the age of 30 the right to vote – not all women could vote. It took until 1928 for women to have the same voting rights as men.

Equal Pay Act 1970:

Made it unlawful for there to be less favourable treatment between men and women in terms of pay and conditions of employment.

Anti-discrimination laws timeline

Race Relations Act 1976:

Prevents discrimination because of race in employment, the provision of goods and services, education and public functions.

Sex Discrimination Act 1975:

Protects men and women from discrimination because of sex or marriage in employment, training, education, provision of goods and services, and the disposal of premises.

Disability Discrimination Act 1995:

Prevents discrimination against people because of disabilities in employment, the provision of goods and services, education and transport.

Anti-discrimination laws timeline

The Employment Equality (Sexual Orientation) Regulations 2003:

Made it unlawful to discriminate because of sexual orientation in employment.

The Employment Equality (Religion or Belief) Regulations 2003: Made it unlawful to discriminate because of religion or belief in employment.

The Employment Equality (Age) Regulations 2006: Made it unlawful for employers to discriminate against employees because of age.

The Equality Act (Sexual Orientation) Regulations 2007: Made it unlawful to discriminate because of sexual orientation in the provision of goods, facilities, services, education and public functions.

Equality Act (2010)

- The Equality Act 2010 brings together all previous equality laws.
- It makes it law that every private, public and voluntary sector must not discriminate against employees and service users because of particular characteristics
- So, if they discriminate against their employees or service users, they could be breaking the law

Equality Act (2010)

- Defines definitions of discrimination
- Introduces a new Public Sector Equality Duty
- Harmonise provisions allowing positive action
- Restricts circumstances employers can ask health/disability related questions in recruitment and selection
- Introduces and strengthens powers of Employment Tribunals to make recommendations to benefit wider workforce.

Equality Act (2010)

- The Act provides a consistent legal recognition of the following types of discrimination:
 - Direct discrimination including associative and perception
 - Indirect discrimination
 - Harassment
 - Discrimination arising from a disability
 - Failure to make reasonable adjustments
 - Positive action verses positive discrimination.

**The Equality Act
(2010) has 9
'protected
characteristics', can
you think what they
might be?**



The 9 Protected Characteristics

age

disability

gender reassignment

marriage and civil partnership

pregnancy and maternity

race

religion or belief

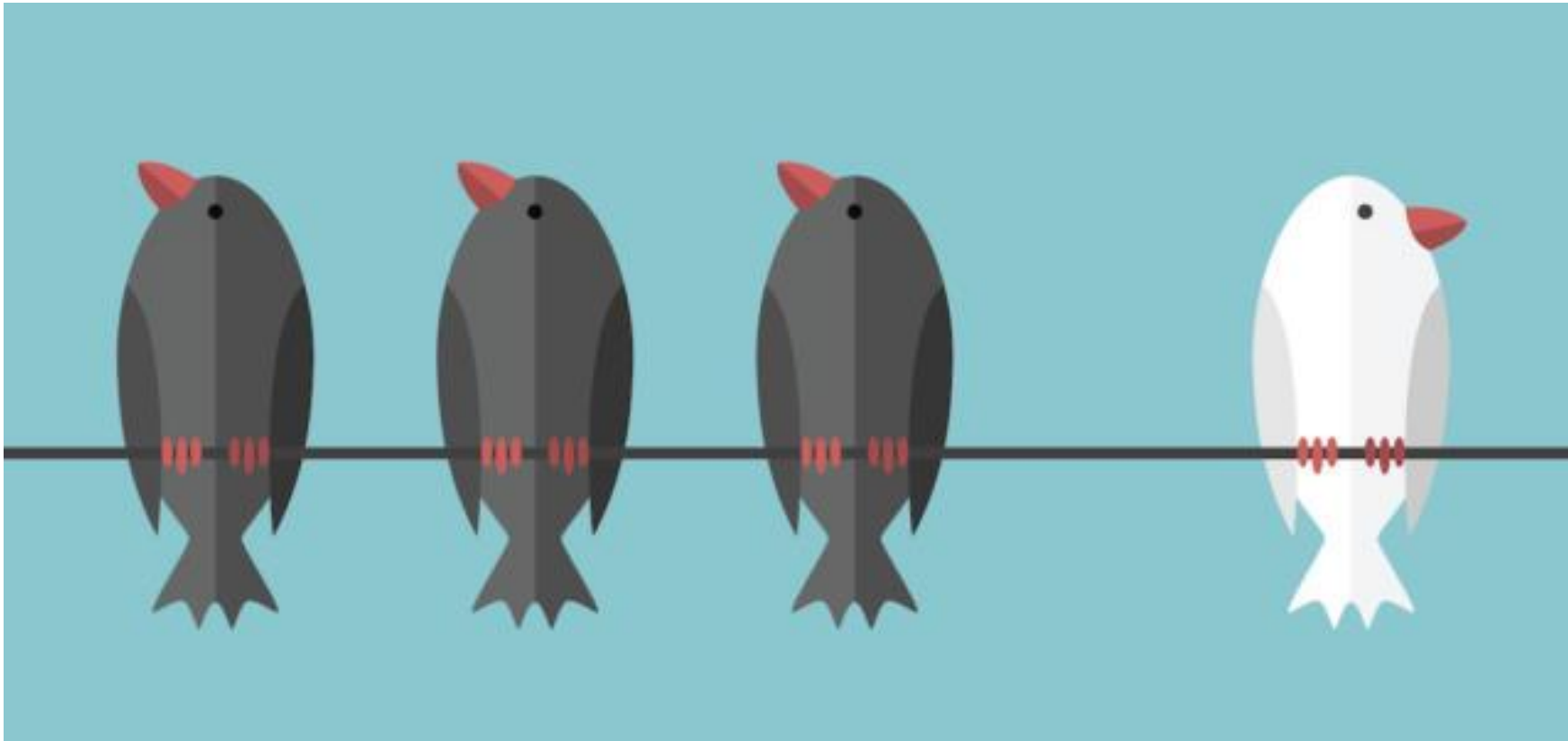
sex

sexual orientation

How are they Protected?

- Individuals will be protected so that they do not suffer from socio-economic inequalities because of one of the characteristics
- e.g., No one should be disadvantaged because they are gay, transgender or elderly,
- they should not receive a lower standard of care or education
 - or be unable to get work due to one of the characteristics.

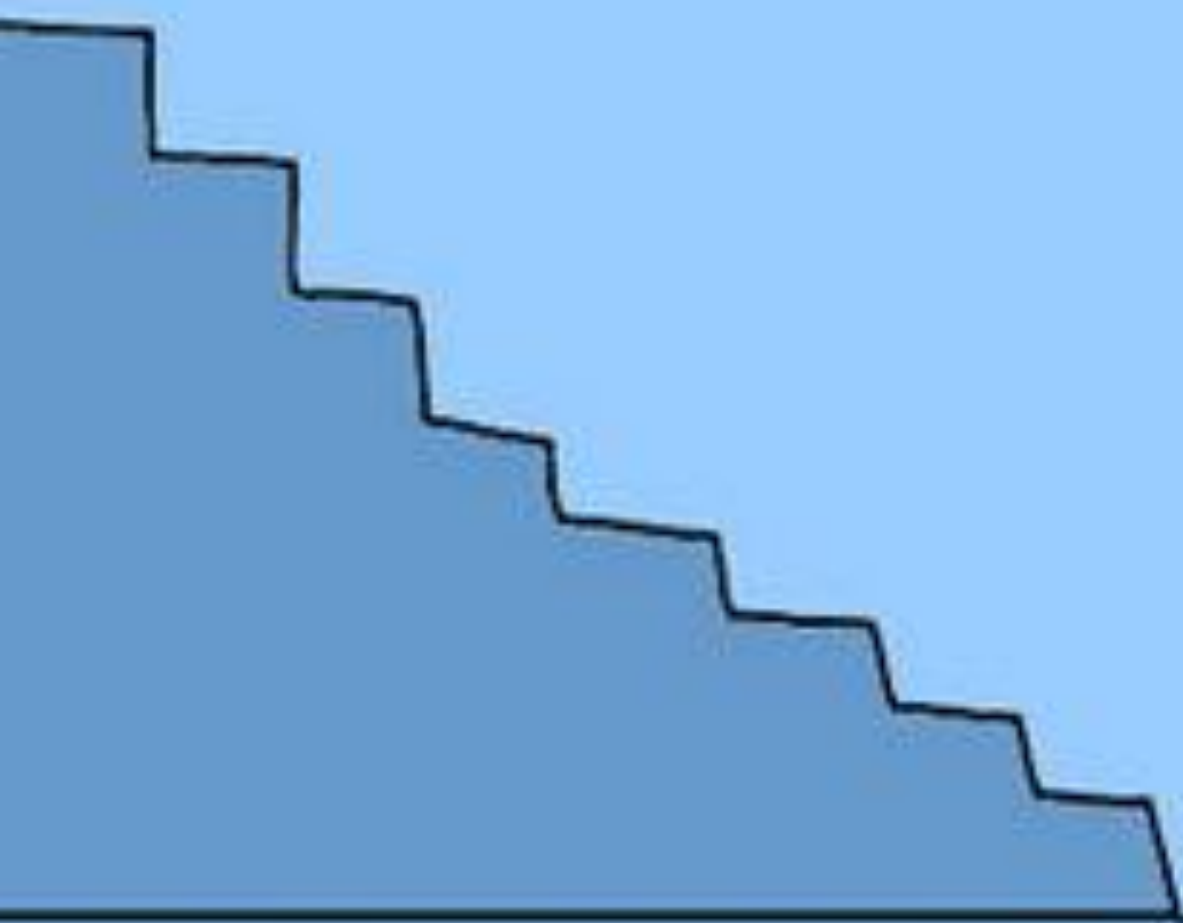
Types of Discrimination



Direct Discrimination

- This is when someone is treated less favorably than someone else.
- It is obvious, such as you cannot have a place here because you use a wheelchair.
- Section 14 refers to 'Combined discrimination': 2 protected characteristics

Dear Disabled Friend



You have
got to be
joking!

Sorry. I never even thought about checking the stairs!

Indirect Discrimination

- This can be when there is a requirement for all staff that will especially affect one member of the community.
- E.g.
 - Short skirts in the uniform
 - Making people work overtime with no notice

Discrimination By Association

- This is where you do not have a protected characteristic, but someone close to you does, it could be that you are caring for a parent with dementia, sister to someone who is gay.
- E.g., You are hassled at work because your brother has just gone through a civil partnership with his boyfriend.

Perception on Discrimination

- You may look as if you have a protected characteristic, but do not actually possess it.
- Having naturally dark skin, looking younger, or older than you really are.

Harassment

- Unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.
- This applies to all protected characteristics apart from pregnancy, maternity & civil partnership
- E.g,. When someone else is teased because of a computer and you share the same computer

Third Party Harassment

- Harassment by someone connected to but not actually a part of your organization.
- E.g., This could be a sub-contracted worker at a college making offensive remarks in your hearing

Victimization

- Being treated badly because you've made a complaint or raised a grievance under the Equality Act.
- E.g., You might be excluded by your colleagues

Objective Discrimination

- Objective justification gives a defence for applying a policy, rule or practice that would otherwise be unlawful indirect discrimination.
- To rely on the objective justification defence, the employer, service provider or other organisation must show that its policy or age-based rule was for a good reason – that is 'a proportionate means of achieving a legitimate aim'.
- E.g., a women's refuge only employing women



THE PROTECTED CHARACTERISTICS AND DISCRIMINATION

Age

(Equality Act 2010, Section 5)

- The Equality Act 2010 says that you must not be discriminated against because:
 - you are (or are not) a certain age or in a certain age group
 - someone thinks you are (or are not) a specific age or age group, this is known as discrimination by perception
 - you are connected to someone of a specific age or age group, this is known as discrimination by association

(Equality and Human Right Commission, 2019)

Age discrimination

- Direct Discrimination: your employer refuses to allow you to do a training course because she thinks you are 'too old', but allows younger colleagues to do the training
- Indirect discrimination: an optician allows customers to pay for their glasses by instalments, provided they are in employment. This could indirectly discriminate against older people, who are less likely to be working
- Harassment: during a training session at work, the trainer keeps commenting how slow an older employee is at learning how to use a new software package because of his age. The employee finds this distressing

(Equality and Human Right Commission, 2019)

Disability

(Equality Act 2010, Section 6)

- The Equality Act 2010 says that you must not be discriminated against because:
 - you have a disability
 - someone thinks you have a disability (this is known as discrimination by perception)
 - you are connected to someone with a disability (this is known as discrimination by association)

(Equality and Human Right Commission, 2019)

Disability discrimination

- Direct Discrimination: during an interview, a job applicant tells the potential employer that he has multiple sclerosis. The employer decides not to appoint him even though he's the best candidate they have interviewed, because they assume he will need a lot of time off sick
- Indirect Discrimination: a job advert states that all applicants must have a driving licence. This puts some disabled people at a disadvantage because they may not have a licence because, for example, they have epilepsy
- Failure to make reasonable adjustments: an employee with mobility impairment needs a parking space close to the office. However, her employer only gives parking spaces to senior managers and refuses to give her a designated parking space
- Discrimination arising from disability: This protects you from being treated badly because of something connected to your disability, such as having an assistance dog or needing time off for medical appointments. This does not apply unless the person who discriminated against you knew you had a disability or ought to have known
- Harassment: a disabled woman is regularly sworn at and called names by colleagues at work because of her disability

(Equality and Human Right Commission, 2019)

Gender Reassignment (Equality Act 2010, Section 7)

- The Equality Act 2010 says that you must not be discriminated against because you are transsexual, when your gender identity is different from the gender assigned to you when you were born
 - e.g., a person who was born female decides to spend the rest of his life as a man
- You do not need to have undergone any specific treatment or surgery to change from your birth sex to your preferred gender.
 - This is because changing your physiological or other gender attributes is a personal process rather than a medical one.

(Equality and Human Rights Commission, 2019)

Gender reassignment discrimination

- Direct Discrimination: you inform employer that you intend to spend the rest of your life living as a different gender. Your employer transfers you off your role against your wishes because they don't want you to have client contact
- Indirect Discrimination: a local health authority decides that it will not fund breast implants. As a result, the health authority refuses to provide this treatment for a woman undergoing gender reassignment even though she considers it essential to make her look more feminine. The same policy is applied to all women but puts transsexuals at a greater disadvantage.
- Harassment: a transsexual woman is having a drink in a pub with friends, the landlord keeps calling her 'Sir' and 'he' when serving drinks, despite her complaining about it

(Equality and Human Rights Commission, 2019)

Marriage or Civil Partnership (Equality Act 2010, Section 8)

- The Equality Act says you must not be discriminated against in employment because you are married or in a civil partnership.
- In the Equality Act marriage and civil partnership means someone who is legally married or in a civil partnership. Marriage can either be between a man and a woman, or between partners of the same sex. Civil partnership is between partners of the same sex
- People do not have this characteristic if they are:
 - single
 - living with someone as a couple neither married nor civil partners
 - engaged to be married but not married
 - divorced or a person whose civil partnership has been dissolved

(Equality and Human Rights Commission, 2019)

Marriage and civil partnership Discrimination

- Direct Discrimination: a woman works night shifts in a distribution warehouse but is dismissed when she gets married because her employer thinks a married woman should be at home in the evening
- Indirect Discrimination: a ban on recruiting people who have children may disadvantage married job applicants

(Equality and Human Rights Commission, 2019)

Race

(Equality Act 2010, Section 9)

- In the Equality Act, race can mean your colour, or your nationality (including your citizenship). It can also mean your ethnic or national origins, which may not be the same as your current nationality.
 - For example, you may have Chinese national origins and be living in Britain with a British passport.
- Race also covers ethnic and racial groups. This means a group of people who all share the same protected characteristic of ethnicity or race.
- A racial group can be made up of two or more distinct racial groups
 - for example, black Britons, British Asians, British Sikhs, British Jews, Romany Gypsies and Irish Travellers.
- You may be discriminated against because of one or more aspects of your race,
 - for example, people born in Britain to Jamaican parents could be discriminated against because they are British citizens, or because of their Jamaican national origins.

(Equality and Human Rights Commission, 2019)

Race Discrimination

- Direct Discrimination: if a letting agency would not let a flat to you because of your race, this would be direct race discrimination
- Indirect Discrimination: a hairdresser refuses to employ stylists that cover their own hair, this would put any Muslim women or Sikh men who cover their hair at a disadvantage when applying for a position as a stylist
- Harassment: a young British Asian man at work keeps being called a racist name by colleagues. His colleagues say it is just banter, but the employee is insulted and offended by it

(Equality and Human Rights Commission, 2019)

Religion or belief

(Equality Act 2010, Section 10)

- The Equality Act 2010 says you must not be discriminated against because:
 - you are (or are not) of a particular religion
 - you hold (or do not hold) a particular philosophical belief
 - someone thinks you are of a particular religion or hold a particular belief (this is known as discrimination by perception)
 - you are connected to someone who has a religion or belief (this is known as discrimination by association)
- Religion or belief can mean any religion, for example an organised religion like Christianity, Judaism, Islam or Buddhism, or a smaller religion like Rastafarianism or Paganism, as long as it has a clear structure and belief system.
- The Equality Act also covers non-belief or a lack of religion or belief

(Equality and Human Rights Commission, 2019)

Religious or belief discrimination

- Direct Discrimination: a bank refuses you a loan because you're Jewish
 - A Hindu businessman interviews two women for a job as his personal assistant. One is Hindu and the other is not religious. The Hindu woman is the best candidate at interview, but he gives the job to the other woman because he thinks his clients (who are mainly Christian or have no religion or belief) will prefer it.
- Indirect Discrimination: you are Jewish and you finish early on Fridays in order to observe the Sabbath. Your manager has changed the weekly team meetings from Wednesday afternoons to Friday afternoons and you are therefore often absent
- Harassment: Muslim man visits his local takeaway regularly. Every time he goes in, one of the staff makes comments about him being a terrorist. He finds this offensive and upsetting

(Equality and Human Rights Commission, 2019)

Religious dress and symbols

- Everyone has a human right to manifest their religion or belief under the European Convention on Human Rights.
- That means you have the right to wear articles of clothing or symbols to show that you have a particular religion or belief at your workplace, even if other people of your religion don't.
 - For example: some people wear a crucifix to show they are Christians, but not all Christians do
- However, because that human right is a qualified right an employer can prevent you from wearing particular articles of clothing or symbols if it is necessary for the role you are doing.
- For example:
 - a teacher is asked to stop wearing a floor length garment because it is a trip hazard. If this is necessary to protect health and safety in the workplace and there is no practical alternative, this may be justified

(Equality and Human Rights Commission, 2019)

Sex

(Equality act 2010, section 11)

- The Equality Act 2010 says you must not be discriminated against because:
 - you are (or are not) a particular sex
 - someone thinks you are the opposite sex (this is known as discrimination by perception)
 - you are connected to someone of a particular sex (this is known as discrimination by association)
- In the Equality Act, sex can mean either male or female, or a group of people like men or boys, or women or girls.

(Equality and Human Rights Commission, 2019)

Sex discrimination

- Direct Discrimination: a nightclub offers free entry to women but charges men to get in
- Indirect Discrimination: An employer decides to change shift patterns for staff so that they finish at 5pm instead of 3pm. Female employees with caring responsibilities could be at a disadvantage if the new shift pattern means they cannot collect their children from school or childcare.
- Harassment: A manager makes comments that there is no point promoting women because they go off to have children.
- Sexual Harassment: This is when someone makes you feel humiliated, offended or degraded because they treat you in a sexual way. This is known as 'unwanted conduct of a sexual nature' and covers verbal and physical treatment, like sexual comments or jokes, touching, or assault. It also covers sending emails of a sexual nature or putting up pornographic pictures.
- Another type of harassment is when someone treats you unfairly because you refused to put up with sexual harassment and it can also cover unfair treatment even if you had previously accepted sexual conduct

(Equality and Human Rights Commission, 2019)

Sexual orientation

(Equality Act 2010, Section 12)

- The Equality Act 2010 says you must not be discriminated against because:
 - you are heterosexual, gay, lesbian or bisexual
 - someone thinks you have a particular sexual orientation (this is known as discrimination by perception)
 - you are connected to someone who has a particular sexual orientation (this is known as discrimination by association)
- In the Equality Act, sexual orientation includes how you choose to express your sexual orientation, such as through your appearance or the places you visit.

(Equality and Human Rights Commission, 2019)

Sexual Orientation Discrimination

- Direct Discrimination: at a job interview, a woman makes a reference to her girlfriend. The employer decides not to offer her the job, even though she is the best candidate they have interviewed
 - A hotel owner refuses to provide a double bedroom to two men
- Indirect discrimination: if your company arranges a conference in a country where homosexuality is illegal
- Harassment: colleagues keep greeting a male worker by the feminine version of his name although he has asked them to use his proper name. The colleagues say this is just banter but the worker is upset and offended by it

(Equality and Human Rights Commission, 2019)

**Having gone through the
Equality Act 2010, can you
think of any criticisms?**



(some) Criticisms of the Equality Act 2010

- In 2016 a Women and Equalities Committee report made over 30 recommendations calling for government action to ensure full equality for trans people.
 - One of the report's recommendations was that the use of the terms 'gender reassignment' and 'transsexual' in the Equality Act 2010 are outdated and misleading, something that we fully agree with. The preferred umbrella term is trans
- The Fawcett Society (2018) argue that it:
 - Section 106 of the Equality Act requires political parties to report the diversity of their candidates. Political parties aren't collecting data on party representation at all in terms of disability, ethnicity, gender, etc
 - Doesn't recognise intersectional identities (only 2)
 - 'There is no point in having legislation that individuals are unable to access and challenge'



Covid, Women and Discrimination

- A coalition of organisations including the Trades Union Congress (TUC), Amnesty International, Save the Children and the Fawcett Society have accused the government of taking decisions that are deepening inequalities
- Two dozen signatories signed a letter to the Equality and Human Rights Commission (EHRC)
- It argues that the government has failed in its duty to consider the impact of key policies on women and other groups protected under the Equality Act.
 - e.g., self-employed women on maternity leave have received reduced Covid support payments
 - Women are less eligible for statutory sick pay
 - Women have taken on more caring responsibilities
- They are asking the EHRC to investigate the government

(Topping, 2021)



What are your thoughts?

Trawsnewid Addysg; Trawsnewid Bywydau
Transforming Education; Transforming Lives

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