

Diversity & Inclusion

Understanding the Equality Act 2010 and D&I in the workplace



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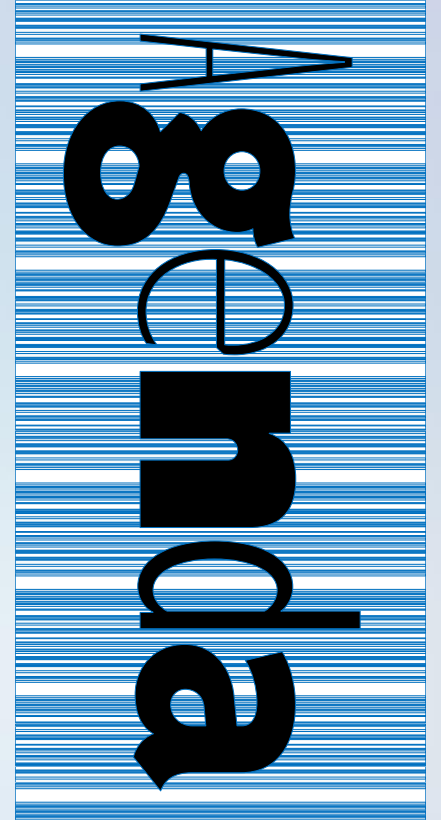
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Agenda

1. D&I – what is it and why is it important?
2. The Equality Act 2010
3. The Equality Act 2010 and protected characteristics
4. Discrimination outside of the Equality Act
5. How can we create a fair and equal workplace?



**D&I – what is it and why
is it important?**

D&I – what is it and why is it important?

Diversity & inclusion (D&I) is a generic name given to a range of measures that aim to create an environment in which people have equal opportunities, treatment and rights.

D&I is informed by a variety of factors, including:

- Society and culture
- Custom and convention
- Social progression
- Changing value systems
- Law, politics, media

It is never static.



D&I – what is it and why is it important?

D&I reflects social change – attitudes and laws that were acceptable in the past may no longer be acceptable now.

In the same way some current attitudes are likely to be regarded differently in the future.

One of the challenges of D&I is therefore keeping up with societal change in real-time, ensuring that different groups enjoy the same rights and privileges as others.



D&I – what is it and why is it important?

How can we define D&I?

Diversity in the workplace

Diversity refers to the different types of people who make up our organisation.

When we consider the diversity of the organisation we might think of people from different races, cultures, sexes, sexualities and religions, as well as other groupings of people.

Inclusion

Inclusion (and inclusivity) mean creating a workplace where all members of staff feel valued, safe and welcome at work and that differences do not lead to people being treated unfairly.



D&I – what is it and why is it important?

What are we trying to achieve?

We are concerned with D&I in the workplace and will therefore focus on how we can create a working environment that complied with its requirements.

Sometimes D&I is not easy to achieve, for example an employer can only recruit from the available pool of applicants, and sometimes members of staff may have values that contradict each other.

It is the duty of the employer to work through these difficulties to create an environment that benefits all employees and complies with discrimination legislation.



D&I – what is it and why is it important?

What are we trying to achieve?

Remember, we are only responsible for our workplace and the actions of our employees.

We are not mandated to achieve wider social change or to become involved in politics, campaigning or activism.

We can if we want to, of course, and we might want to consider some groups of people not covered by the Act.



D&I – what is it and why is it important?

Why create a D&I friendly workplace?

The main reason is to create a place of work where everyone feels as welcome, valued and included as we would like to feel at work, because one wants to be in a workplace where they are not accepted for who they are or where things that are important to them are disparaged.

Our primary concern here is to ensure that our workplace is legally compliant.

However, doing so will naturally lead to consideration of the wider factors as well.



D&I – what is it and why is it important?

Summary

A workplace that is D&I-focused will create the following environment:

- Friendly and contented
- Cooperative and motivated
- Successful and profitable
- Attractive to staff from different backgrounds
- Orientated to different customers
- Free from damaging legal consequences (e.g. allegations of racism, sexism, harassment, constructive dismissal)



The Equality Act 2010

The Equality Act 2010

What is the Equality Act?

The Equality Act 2010 is the main Act of Parliament governing equality law. It came into force in October 2010, bringing together over 100 separate pieces of legislation.

We are probably familiar with some of the legislation that the act consolidated:

- Equal Pay Act 1970
- Sex Discrimination Act 1975
- Race Relations Act 1976
- Disability Discrimination Act 1995
- Equality Act (Sexual Orientation) Regulations 2007

The Equality Act 2010



The Equality Act 2010

In what circumstances does it apply?

Under the Equality Act, protection from discrimination applies:

- **In the workplace**
- Using a public service (e.g. the NHS, education)
- Using a businesses and other organisations that provide services and goods (e.g. shops and restaurants)
- Using transport
- Joining a club or association (e.g. a football or tennis club)
- In any dealings with a public body (e.g. the local council)

The Equality Act 2010



The Equality Act 2010

The Equality Act 2010 and protected characteristics

Under the Equality Act there are certain 'protected characteristics' that provide protection in the workplace.

(We will consider these in detail later on.)

They are discrimination on the grounds of:

1. Race
2. Sex
3. Sexual orientation
4. Gender reassignment
5. Religion or belief
6. Age
7. Disability
8. Marriage and civil partnership
9. Pregnancy and maternity

The Equality Act 2010



The Equality Act 2010

What does the Equality Act do?

There are different **causes of complaint and action** that can be taken if discrimination occurs.

The Equality Act protects people from:

- **Direct discrimination**
- **Indirect discrimination**
- **Harassment**
- **Victimisation**

The Equality Act 2010



The Equality Act 2010

Direct discrimination

Direct discrimination is when someone is treated differently or unfairly compared to another person. It can happen if:

- The person treated differently has a **protected characteristic**
- They are **connected** to someone with a protected characteristic (known as discrimination by association)
- Someone **believes** they have a protected characteristic (known as discrimination by perception)

The Equality Act 2010



The Equality Act 2010

Direct discrimination

Direct discrimination tends to be overt and relatively easy to recognise.

The protected characteristic must be the defining difference in the way a person is treated (e.g. they are similar in other respects, such as professional qualifications to do the job).

For direct discrimination to occur, it must have taken place in one of the situations covered by the Equality Act (e.g. in the workplace).

The Equality Act 2010



The Equality Act 2010

Example

Direct discrimination

Someone is not offered promotion because they are male, with the promoted role being given to a less qualified woman (this being the only deciding factor).

In the absence of special circumstances this could be seen as direct discrimination.

The Equality Act 2010



The Equality Act 2010

Other types of direct discrimination

Associative discrimination

This is where someone is treated unfairly because of someone else's protected characteristic (for example, someone they know or someone they associate with).

The Equality Act 2010



The Equality Act 2010

Example

Associative discrimination

Colleagues learn that someone's partner is a Muslim and do not invite him to the pub for a works social event (assuming that as their partner is a Muslim they might not want to come because alcohol is being served).

The presumption is direct discrimination, even though the person affected does not necessarily share the characteristic of their partner.

The Equality Act 2010



The Equality Act 2010

Other types of direct discrimination

Discrimination by perception

This is where someone is treated unfairly because of a protected characteristic that they are believed to have, whether or not they do.

The Equality Act 2010



The Equality Act 2010

Example

Discrimination by perception

In the workplace, it is 'assumed' that an employee is gay, and this leads colleagues to treat her differently. (For example, some employees may no longer want to associate with her or may make comments/jokes about her perceived sexuality.)

It does not matter if the person is gay or not – the actions of her colleagues may amount to direct discrimination.

The Equality Act 2010



The Equality Act 2010

Indirect discrimination

Indirect discrimination may occur when there are rules or policies that are applied to a group (e.g. staff or applicants) but are actually unfair to a certain protected characteristic within that group.

Indirect discrimination does not have to be intentional.

The Equality Act 2010



The Equality Act 2010

Indirect discrimination

For indirect discrimination to occur, it must be shown that:

- There is a rule or policy that the organisation is applying to everyone
- It is unfair to people with the same protected characteristic (e.g. sex discrimination against all women, affecting them because they are female)
- It is unfair compared to those who do not have the protected characteristic (for example, unfair to employees who are women, but not to men)
- It has disadvantaged or could disadvantage the complainant personally

The Equality Act 2010



The Equality Act 2010

Indirect discrimination

Other decisions of the organisation, for example selection for **redundancy or changes to conditions**, may also amount to indirect discrimination if they disproportionately affect a protected group.

As we can see, indirect discrimination requires us to think very carefully about the unintended possible consequences of our actions.

The Equality Act 2010



The Equality Act 2010

Harassment

This is unwanted behaviour linked to a protected characteristic that violates someone's dignity or creates an offensive environment for them (e.g. degrading, humiliating, hostile or intimidating).

Examples of unwanted behaviour:

- Any form of spoken or written abuse (e.g. comments, emails, social media posts)
- Images displayed
- Physical gestures
- Certain opinions and 'banter'

To be harassment, the unwanted behaviour must **intend** to violate the dignity of another or have that **effect** and it must happen in one of the situations covered by the Equality Act (e.g. in the workplace).

The Equality Act 2010



The Equality Act 2010

Victimisation

This is treating someone unfairly because they have **complained about** discrimination or harassment, for example they may act as a witness to an act of discrimination against another employee (doing a 'protected act').

A 'protected act' is:

- Complaining about discrimination under the Equality Act
- Assisting another person to make a claim, e.g. giving evidence on their behalf
- Alleging that the Act has been breached
- Other actions in connection with the Act

The reason for the treatment does not need to be linked to a protected characteristic.

The Equality Act 2010



The Equality Act 2010 and protected characteristics

The Equality Act 2010 and protected characteristics

As stated above, under the Equality Act there are certain 'protected characteristics' that provide protection in the workplace:

1. Race
2. Sex
3. Sexual orientation
4. Gender reassignment
5. Religion or belief
6. Age
7. Disability
8. Marriage and civil partnership
9. Pregnancy and maternity

This limits causes of complaint and action under the Act to these groups.



The Equality Act 2010 and protected characteristics

These are the **protected characteristics** set out in law.

Discrimination as a result of any of these characteristics is against the law and can lead to serious sanctions.

It should be remembered though, that D&I is not just about complying with the law – our ambition should be to create a **fair and inclusive workplace** whether mandated to do so or not.

We consider each of the protected characteristics below.



The Equality Act 2010 and protected characteristics

1. Race discrimination

Race discrimination can occur when a person is treated differently because of their race.

The Equality Act 2010 prohibits discrimination based upon race. For it to apply, the discrimination must take place in one of the settings covered by the Act.



The Equality Act 2010 and protected characteristics

Race discrimination

Race is defined by the Act as including:

- Colour
- Nationality (including citizenship)
- Ethnic or national origins (which may be different to nationality)
- Ethnic and racial groups (group sharing the same protected characteristic of ethnicity or race)

Racial groups can be made up of more than one characteristic, for example, Black Britons, British Asians, British Sikhs, Irish Travellers.



The Equality Act 2010 and protected characteristics

Race discrimination

Discrimination based upon race can happen in a variety of circumstances, for example a **single event** or the consequence of a **policy** within the organisation. It need not be intentional.

Race discrimination may be **direct or indirect** and can occur either at the individual level (for example, a remark made by one colleague to another) or by the organisation (for example a policy or procedure that discriminates intentionally or unintentionally).

It includes the four categories of direct discrimination, indirect discrimination, harassment and victimisation.



The Equality Act 2010

Example

Racial discrimination

A news organisation only assigns black presenters to stories covering music, sport or urban crime. This is because of presumptions about audience expectations. This is an example of direct discrimination on the grounds of race.



The Equality Act 2010 and protected characteristics

Situations where race discrimination is lawful

There are some circumstances where it is lawful to discriminate on the grounds of race.

For example when belonging to a particular race is essential to the job. This is known as an occupational requirement.

Positive discrimination is also a way in which one racial group can be advantaged over another. This may occur when an organisation is trying to encourage people from an underrepresented racial group to apply for a particular role.



The Equality Act 2010 and protected characteristics

2. Sex discrimination

Sex discrimination is when a person is treated differently because of their sex in situations covered by the Equality Act (e.g. work).

It can happen in a variety of circumstances, for example a single event or the consequence of a policy within the organisation. It need not be intentional.



The Equality Act 2010 and protected characteristics

Sex discrimination

The Equality Act states that a person must not be discriminated against because:

- They are or are not a particular sex
- A person treats you differently because they believe you are of the opposite sex (known as discrimination by perception)
- A person may be connected to someone of a particular sex (known as discrimination by association)



The Equality Act 2010 and protected characteristics

Sex discrimination

In the Equality Act, sex can mean either male or female, or a group of people like men or boys, or women or girls. **The Act defines sex as binary** – being either a man or a woman – where a person's legal sex is their biological sex as recorded on their **birth certificate**.

A **trans person** can change their legal sex by obtaining a Gender Recognition Certificate. A trans person who does not have a Gender Recognition Certificate retains the sex recorded on their birth certificate for the purposes of the Act.

Sex discrimination includes the four categories of direct discrimination, indirect discrimination, harassment and victimisation.



The Equality Act 2010 and protected characteristics

Situations where sex discrimination is lawful

The Equality Act has some exceptions that allow employers or organisations to discriminate because of sex.

For example when belonging to a particular sex is essential to the job. This is known as an occupational requirement (considered below).

Positive discrimination is also a way in which one sex can be advantaged over another.

This may occur when an organisation is trying to encourage people from an underrepresented sex to apply for a particular role.



The Equality Act 2010 and protected characteristics

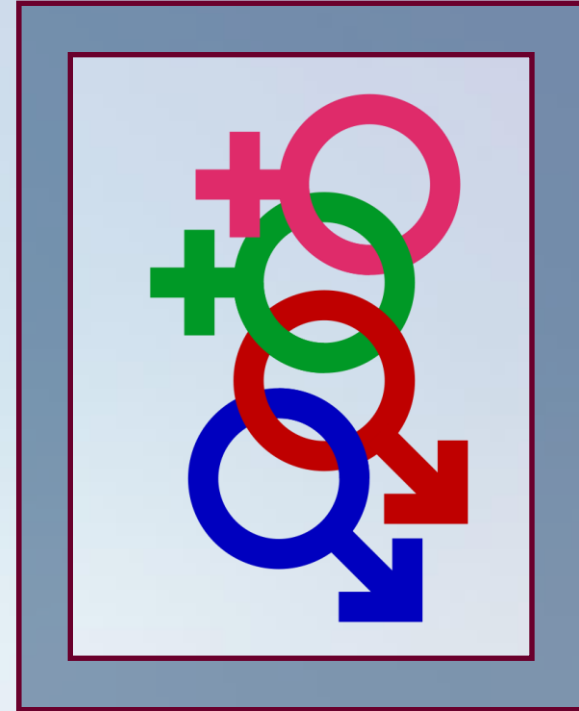
3. Sexual orientation

Discrimination can occur when a person is treated differently because of their sexual orientation.

The Equality Act 2010 prohibits discrimination based upon sexual orientation. For it to apply, the discrimination must take place in one of the settings covered by the Act.

It can happen in a variety of circumstances, for example a single event or the consequence of a policy within the organisation.

It need not be intentional.



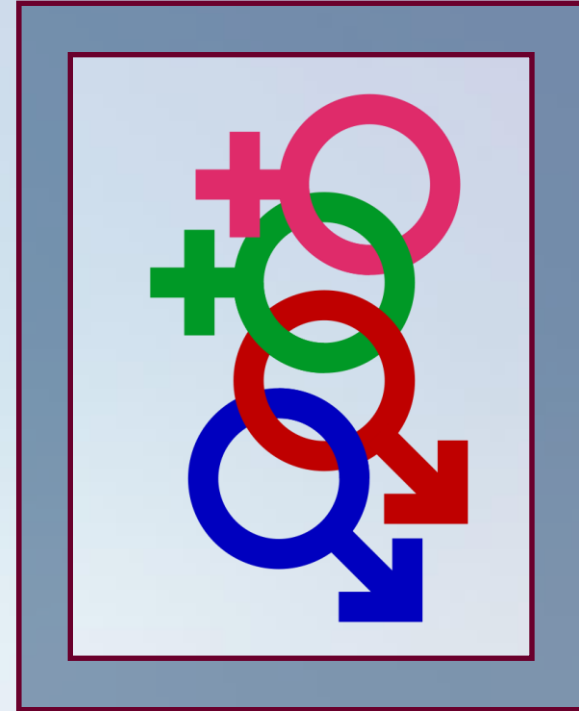
The Equality Act 2010 and protected characteristics

Sexual orientation

The Act makes it illegal to discriminate because:

- A person is heterosexual, gay, lesbian or bisexual
- A person is believed to have a particular sexual orientation (discrimination by perception)
- They are connected to someone who has a particular sexual orientation (discrimination by association)

Sexual orientation includes the way someone chooses to express their sexual orientation, for example through their appearance, and includes the four categories of direct discrimination, indirect discrimination, harassment and victimisation.



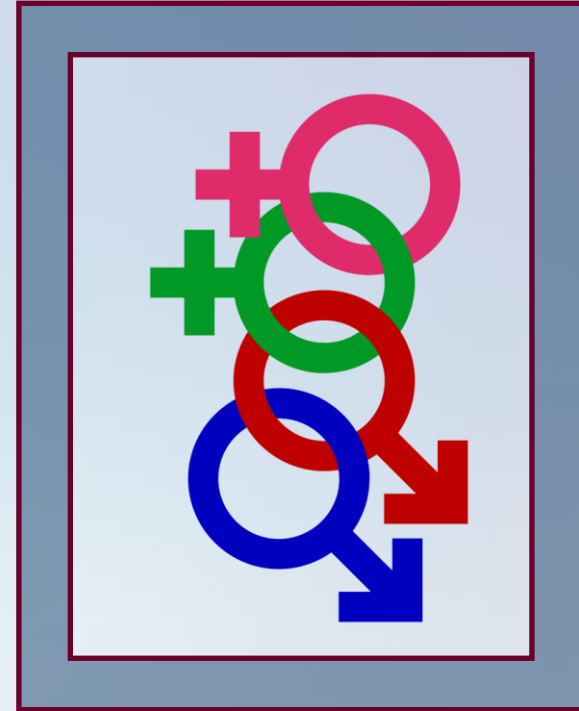
The Equality Act 2010 and protected characteristics

Situations where sexual orientation discrimination is lawful

The Equality Act has some exceptions that allow employers or organisations to discriminate because of sexual orientation:

- Belonging to a particular sexual orientation is essential for a job (an occupational requirement). For example, an employer might specify gay male applicants for a job to work with gay men
- Positive discrimination is also a way in which one sexual orientation can be specified. This may occur where an organisation is trying to encourage people from an underrepresented sexual orientation to apply for a particular role

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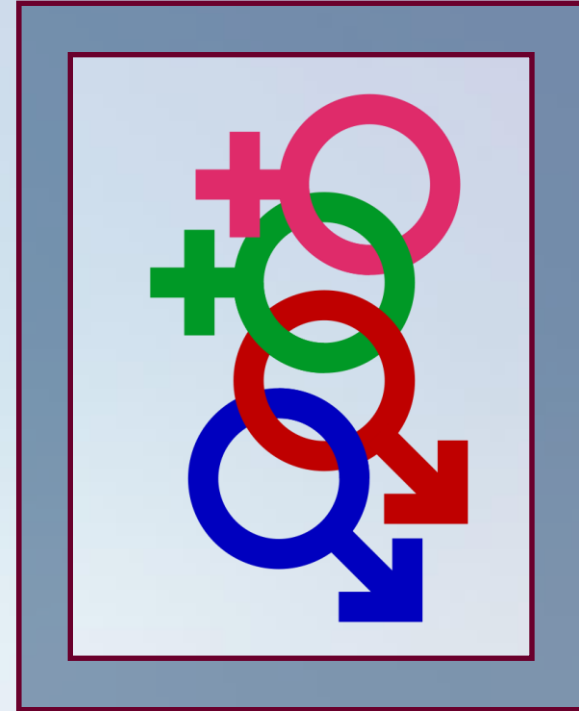


The Equality Act 2010 and protected characteristics

Situations where sexual orientation discrimination is lawful

(cont...)

- The activity is in one of the exceptions that allow discrimination on the grounds of sexual orientation (e.g. an organisation only providing services to LGBTQ people)
- A religious/belief organisation is excluding persons of a particular sexual orientation from its membership, activities, provision of goods, facilities and services. (The restriction must be necessary to comply with the doctrine of the organisation or avoid conflict with its 'strongly held religious convictions'.)



The Equality Act 2010 and protected characteristics

4. Gender reassignment (Trans)

Gender reassignment discrimination occurs when a person is treated differently because they are **trans** in one of the situations included in the Equality Act (e.g. work).

It can happen in a variety of circumstances, for example a single event or the consequence of a policy within the organisation. It need not be intentional.

The Equality Act 2010 makes it illegal to discriminate against someone who is trans (**when their gender identity is different from their sex at birth**).



The Equality Act 2010 and protected characteristics

Gender reassignment (Trans)

It is **not necessary** for a person to have undergone any treatment (e.g. surgery) to change from their birth sex to their preferred sex in order for them to be protected under trans discrimination laws. (i.e. being trans is not necessarily a medical process, but rather a personal one.)

A person will have the protected characteristic of gender reassignment irrespective of where they are in their transition.

For example, if they are proposing to undergo, are undergoing or have undergone a process (or part of a process) to reassign their sex by changing physiological or other attributes of sex.



The Equality Act 2010 and protected characteristics

Gender reassignment (Trans)

To be protected, there is no requirement for a trans person to have any kind of medical supervision or intervention, **nor to have a Gender Recognition Certificate.**

Trans people are legally protected from discrimination from the moment they propose to change their sex.



The Equality Act 2010 and protected characteristics

Gender reassignment (Trans)

The Equality Act says a trans person must not be discriminated against because:

- Of their trans status, as defined
- A person **thinks** they are trans and treats them differently even though they are not (discrimination by perception)
- A person is **connected** to a trans person, or someone wrongly thought to be trans (discrimination by association)



The Equality Act 2010 and protected characteristics

Gender reassignment (Trans)

A person who is intersex (a physical conditions where a person is born with a reproductive anatomy that is atypical) is **not** explicitly protected from trans discrimination by the Equality Act.

They may be protected by provisions for sex discrimination or disability discrimination.

Trans discrimination includes the four categories of direct discrimination, indirect discrimination, harassment and victimisation.



The Equality Act 2010 and protected characteristics

Situations where trans discrimination is lawful

A difference in treatment may be allowable under the Equality Act if:

- An organisation is taking positive action to encourage trans people to participate in a role or sector in which they are under-represented or disadvantaged
- Competitive sports. Where a sports organisation restricts trans participation
- An organisation only provides single-sex services (generally, if a trans person is accessing a service provided for men-only or women-only, the organisation should treat the trans person according to their **gender identity**. Only rarely is it legal for the organisation to provide a different service or to refuse the service to someone who is trans)



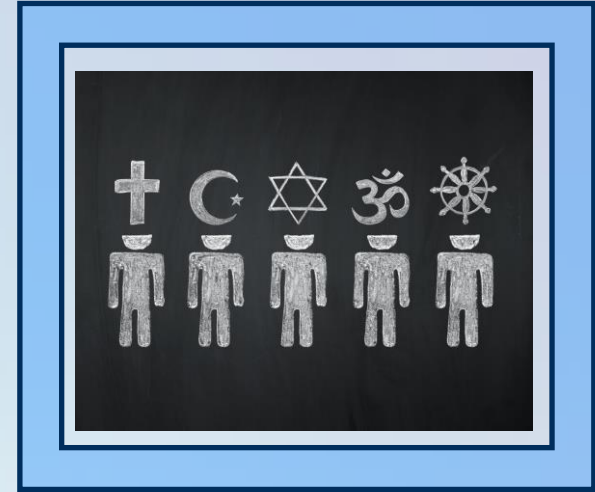
The Equality Act 2010 and protected characteristics

5. Religion or belief

Religion or belief discrimination occurs when a person is treated differently because of their religion or belief, or lack of religion or belief, in one of the situations included in the Equality Act (e.g. work).

It can happen in a variety of circumstances, for example a single event or the consequence of a policy within the organisation. It need not be intentional.

Religion or belief discrimination includes the four categories of direct discrimination, indirect discrimination, harassment and victimisation.

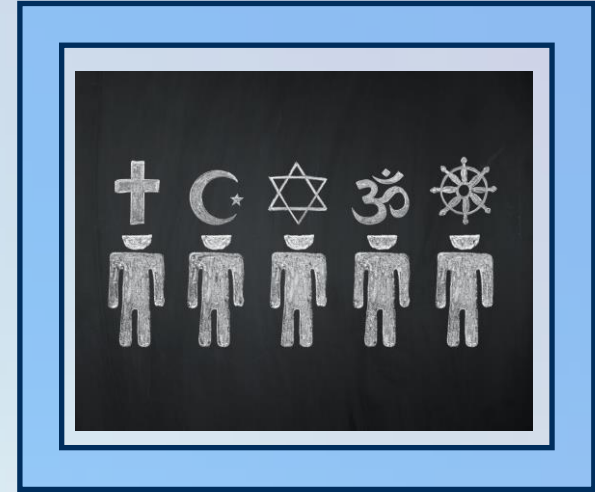


The Equality Act 2010 and protected characteristics

Religion or belief

The Equality Act 2010 makes it illegal to discriminate because:

- A person is (is not) of a particular religion
- A person holds (does not hold) a particular philosophical belief
- They are treated differently because someone thinks they are of a particular religion or hold a particular belief (discrimination by perception)
- They are treated differently because they are connected to someone who has a religion or belief (discrimination by association)



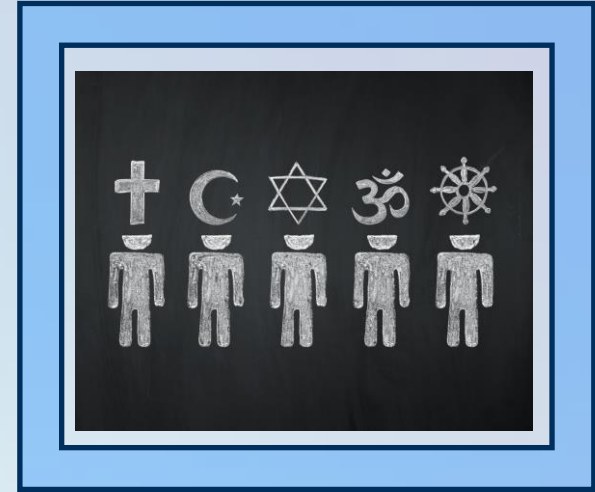
The Equality Act 2010 and protected characteristics

Religion or belief

The Equality Act defines religion or belief widely. It can include any religion (e.g. a large, organised religion such as Christianity), or a smaller religion like Wicca or Paganism.

The religion or belief must have an identifiable structure and belief system.

To be a protected philosophical belief under the Equality Act, it must be genuinely held and amount to more than just an opinion. The belief concerned must apply to an important aspect of life and be capable of definition and application.



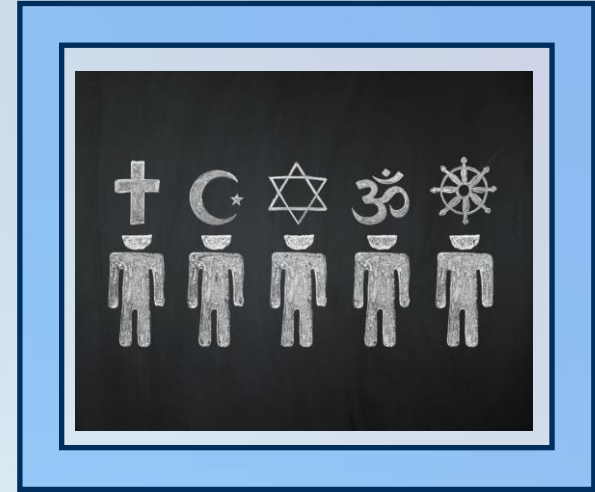
The Equality Act 2010 and protected characteristics

Religion or belief

The belief need not be a 'classical' philosophy, e.g. existentialism, but may include beliefs such as environmentalism, naturism and ethical veganism (the definition is likely to be widened by tribunal decisions).

However, not all beliefs are capable of being philosophical beliefs. To be so, they must also be 'worthy of respect in a democratic society and not affect other people's fundamental rights'.

For example, a deeply held belief that women should not be employed other than domestically would not be protected.

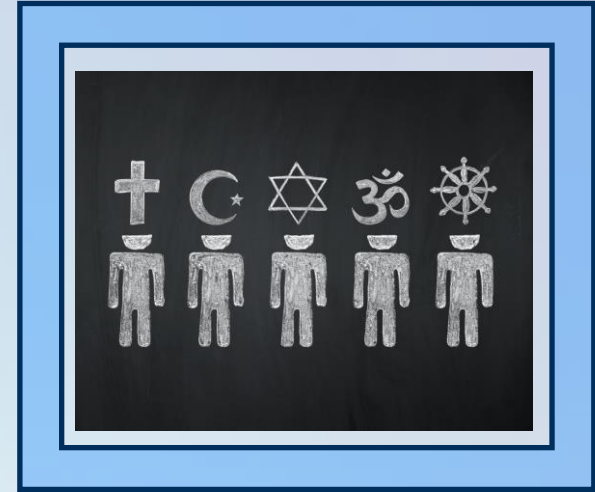


The Equality Act 2010 and protected characteristics

Situations where discrimination due to religion or belief is lawful

A difference in treatment may be lawful in employment situations if:

- Being a member of a particular religion is essential for the job (an occupational requirement)
- An organisation is taking positive action to encourage representation from an underrepresented religion or belief group
- A faith school that appoints staff on the basis of their religion
- An organisation with a particular religion or belief ethos/culture only employs people of the same religion or belief. For example, a Catholic charity may specify that its chief executive is Catholic (for this to apply, the nature or context of the work must make such an appointment a requirement)



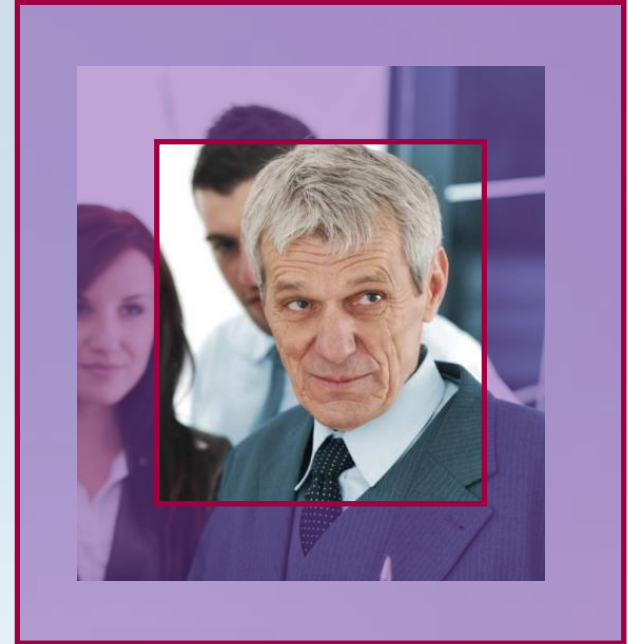
The Equality Act 2010 and protected characteristics

6. Age

Age discrimination is where a person is treated differently because of their age in one of the situations that are covered by the Equality Act (e.g. work).

It can happen in a variety of circumstances, for example a single event or the consequence of a policy within the organisation. It need not be intentional.

Age discrimination includes the four categories of direct discrimination, indirect discrimination, harassment and victimisation.



The Equality Act 2010 and protected characteristics

Age

The Equality Act 2010 makes it illegal to discriminate because:

- A person is (is not) a certain age or in a certain age group
- It is (wrongly) believed that they are or are not a specific age or age group (discrimination by perception)
- They are connected to someone of a specific age or age group (discrimination by association)

'Age groups' can include all different categories of age (e.g. 'people under 50', 'youthful' or 'elderly').

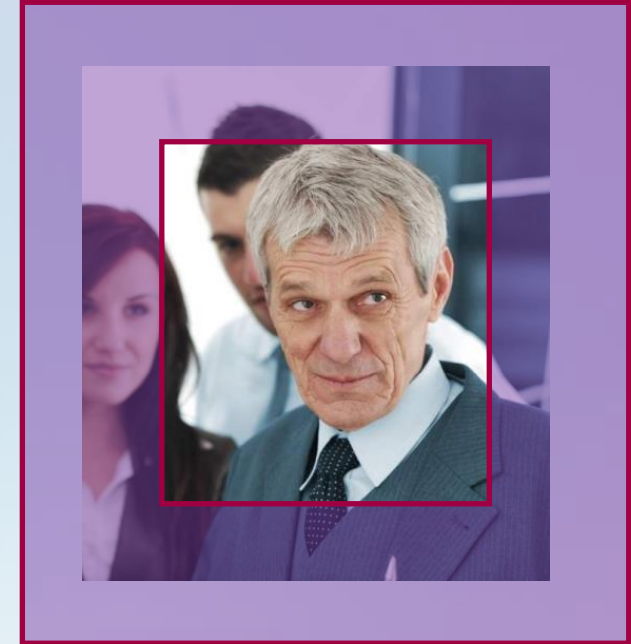


The Equality Act 2010 and protected characteristics

Situations where discrimination due to age is lawful

Exceptions can be made if:

- It is essential to belong to a certain age group to do the job (an occupational requirement)
- An organisation is taking positive action to encourage people in an age group that is under-represented
- An employer has set a compulsory retirement age that can be justified (objective justification)

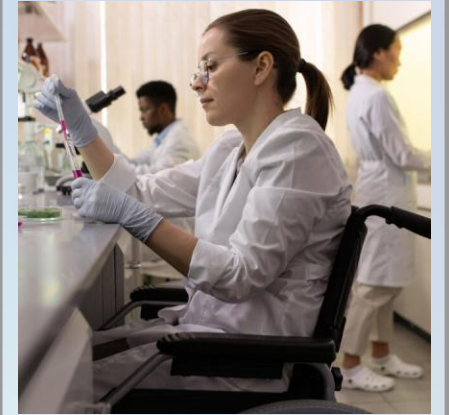


The Equality Act 2010 and protected characteristics

7. Disability

Disability discrimination occurs when a person is disadvantaged because of their disability in one of the situations covered by the Equality Act (e.g. work).

In the Equality Act a disability means a **physical or a mental condition which has a substantial and long-term impact on your ability to do normal day to day activities** (this includes being diagnosed with a progressive condition (e.g. MS or HIV)).



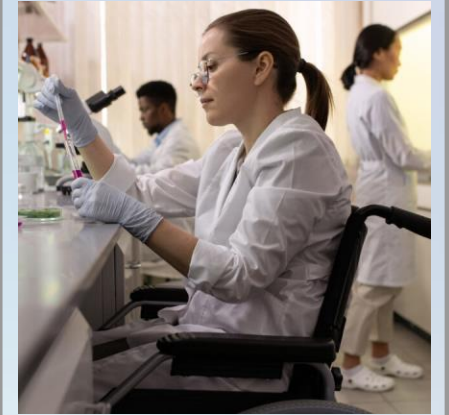
The Equality Act 2010 and protected characteristics

Disability

Discrimination can happen in a variety of circumstances, for example a single event, the consequence of a policy within the organisation or the existence of barriers that affect access.

It need not be intentional.

Disability discrimination includes the four categories of direct discrimination, indirect discrimination, harassment and victimisation.

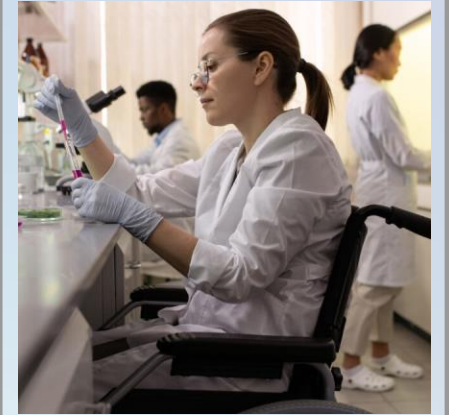


The Equality Act 2010 and protected characteristics

Disability

The Equality Act makes it illegal to discriminate against a disabled person because:

- They have a disability
- They are believed (wrongly) to have a disability (discrimination by perception)
- They are discriminated against because they are connected to someone with a disability (discrimination by association)



The Equality Act 2010 and protected characteristics

Disability

The Act also includes:

Failure to make reasonable adjustments

The Equality Act makes it a requirement for employers and organisations to make reasonable adjustments to ensure disabled people can access jobs and other services as easily as non-disabled people.

Discrimination arising from disability

A disabled person is protected from discrimination arising because of something connected to their disability (e.g. having an assistance dog).



The Equality Act 2010 and protected characteristics

Situations where discrimination due to disability is lawful

With regard to non-disabled people, it is always lawful to treat a disabled person more favourably than a non-disabled person.

Positive discrimination is also a way in which a person with a disability can be advantaged over another person.

This may occur when an organisation is trying to encourage people from an underrepresented group to apply for a particular role.



The Equality Act 2010 and protected characteristics

8. Marriage and civil partnership

Marriage and civil partnership discrimination can take place when a person is treated differently at work because they are married or in a civil partnership.

Marriage and civil partnership is defined as someone who is legally married or in a civil partnership, either between a man and a woman or partners of the same sex.



The Equality Act 2010 and protected characteristics

Marriage and civil partnership

This characteristic therefore does not apply to those who are:

- Single
- Living with someone as a couple neither married nor civil partners
- Engaged but not married
- Divorced or dissolved civil partnership



The Equality Act 2010 and protected characteristics

Marriage and civil partnership

There are three types of marriage and civil partnership discrimination:

- Direct discrimination
- Indirect discrimination
- Victimisation

Harassment is not actionable for discrimination on the grounds of marriage or civil partnership. In the event that a person is exposed to hostile or humiliating treatment (i.e. harassment) because they are married/in a civil partnership, they could take action for direct discrimination.



The Equality Act 2010 and protected characteristics

Situations where discrimination due to marriage or civil partnership is lawful

In certain circumstances it may be legal for an employer to refuse to employ a person because they are married or in a civil partnership.

For example, if the work is for the purposes of an organised religion (for example, Catholic holy orders).



The Equality Act 2010 and protected characteristics

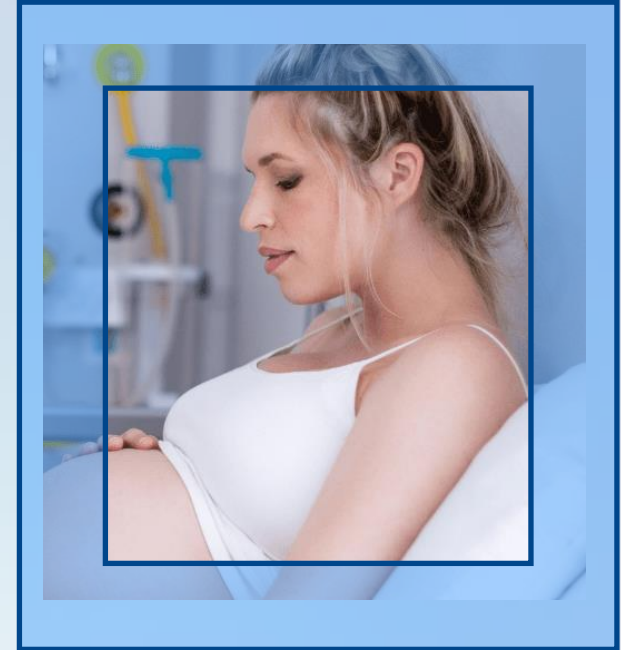
9. Pregnancy and maternity

Pregnancy and maternity discrimination occur when a woman is treated unfavourably because of pregnancy, they are breastfeeding or have given birth.

The Equality Act only applies in one of the situations that are covered by the Act (e.g. work).

It can happen in a variety of circumstances, for example a single event or the consequence of a policy within the organisation.

It need not be intentional.



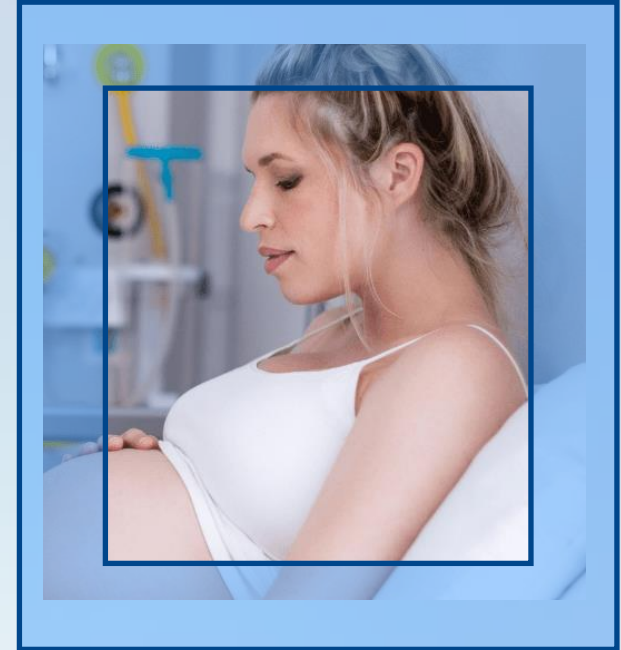
The Equality Act 2010 and protected characteristics

Pregnancy and maternity

The Equality Act 2010 protects women against the following types of pregnancy and maternity discrimination:

- Direct discrimination
- Victimisation

Indirect discrimination and harassment are not specifically applied to pregnancy and maternity in the Equality Act. In such cases it is often possible to claim sex discrimination instead.



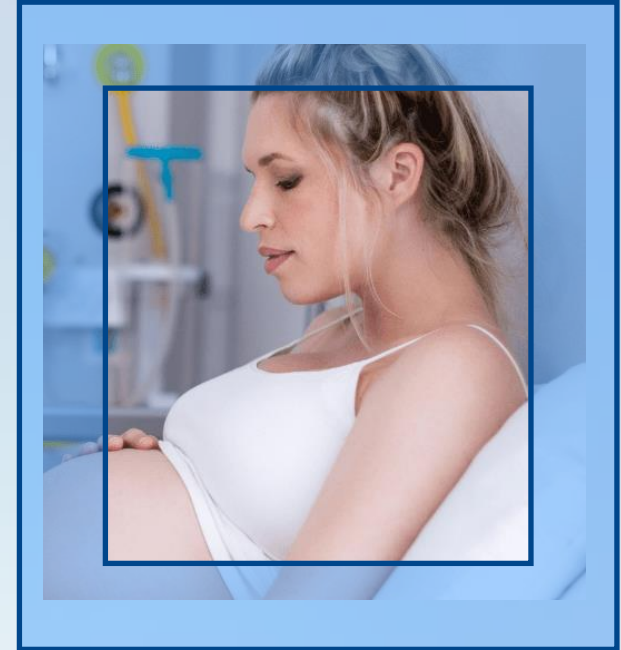
The Equality Act 2010 and protected characteristics

Pregnancy and maternity

At work, the Equality Act says a woman must not be treated unfavourably because:

- Of pregnancy or reasons relating to pregnancy
- Of illness that results from pregnancy
- She is on compulsory maternity leave
- She is exercising her right to ordinary or additional maternity leave

The Act applies to all employees, casual and agency workers, freelancers and self-employed women. Protection is from the first day of employment.



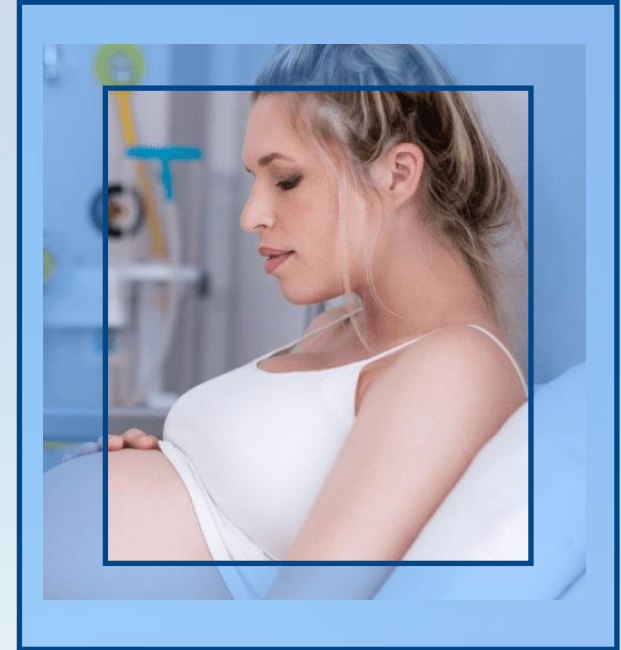
The Equality Act 2010 and protected characteristics

The protected period

The Equality Act protects a woman from discrimination from when she becomes pregnant until:

- The right to maternity leave (for employees) ends and she returns to work, or
- If there is no right to maternity leave (non-employees, e.g. agency staff), two weeks after the child is born

This period of time is called the protected period.



The Equality Act 2010 and protected characteristics

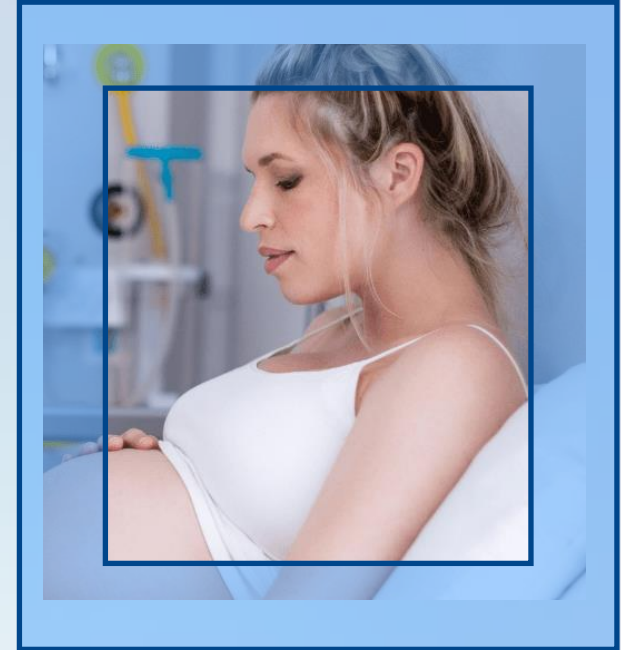
Unlawful maternity discrimination

For employees, this is discrimination related to a woman's maternity leave.

There are three types of maternity leave:

- Compulsory maternity leave: two weeks immediately after the birth, which all employees entitled to maternity leave must take
- Ordinary maternity leave: the first 26 weeks of leave, including the compulsory maternity leave period
- There is also a legal right to additional maternity leave for a further 26 weeks (52 weeks in total)

It is unlawful to treat a woman unfavourable when on maternity leave.



Discrimination outside of the Equality Act

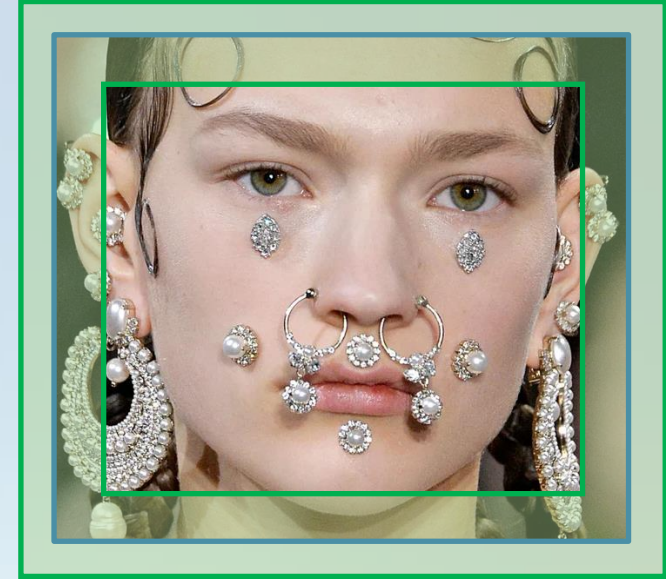
Discrimination outside of the Equality Act

What about people who do not have protected characteristic?

As will be obvious, there may be instances of discrimination or preferential treatment that are not covered by the legislation.

For example:

- People with tattoos
- Facial/body piercings
- Political views
- Aspects of their appearance (e.g. body weight, 'attractiveness')

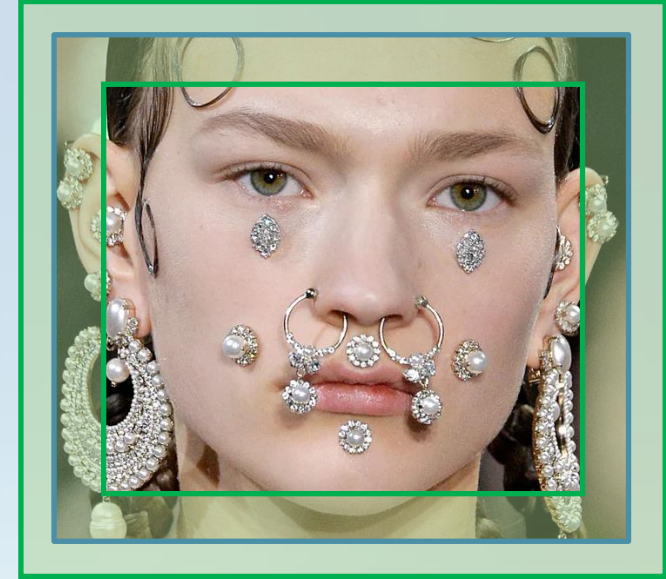


Discrimination outside of the Equality Act

What about people who do not have protected characteristic?

In such circumstances, employees are not protected by the Equality Act, which only protects those with 'protected characteristics'.

However, it may be possible for an employee to take action under one of the other protected areas.



Discrimination outside of the Equality Act

Example

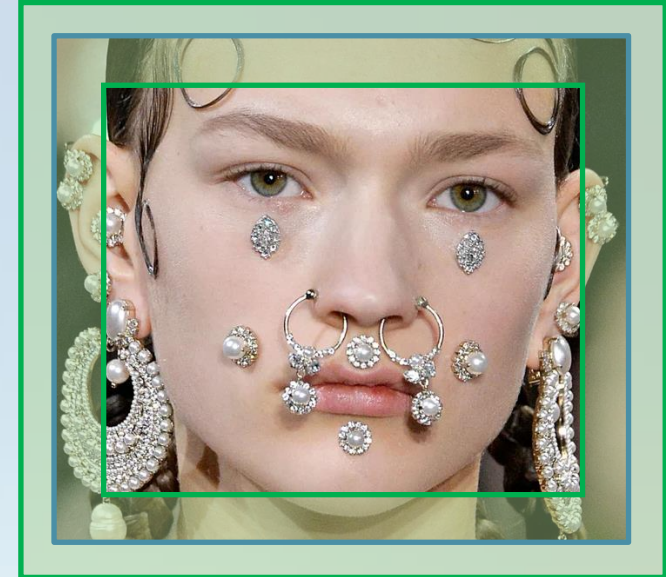
Discrimination outside of the Equality Act

A gymnasium (employer) refuses to allow a +size woman to work on reception in the belief that it would give 'the wrong impression' to customers.

However, it allows +size male employees to work on reception (rationalising that many male powerlifters and strength athletes are +size, which could give a positive impression).

In this instance, even though weight may not be a protected characteristic, it is likely to be a case of sexual discrimination.

(The same would apply to different treatment because of tattoos, piercings, etc.)



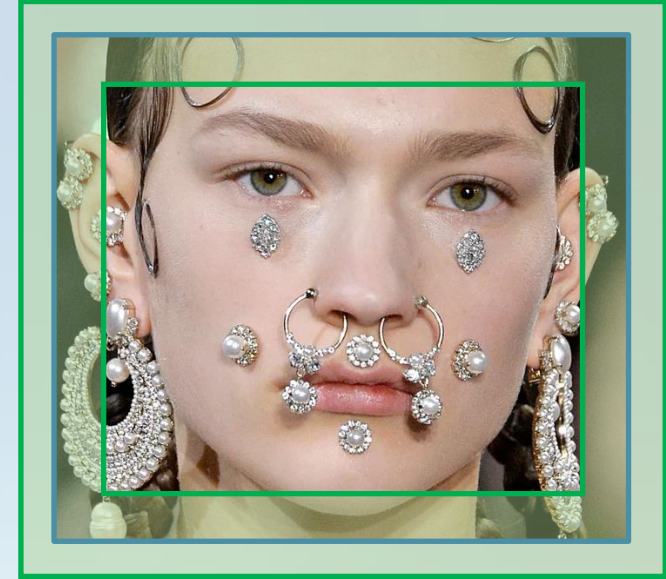
Discrimination outside of the Equality Act

What about people who do not have protected characteristic?

Here, we come back to the 'why' of creating a fair and equal workplace:

The main reason is to create a place of work where everyone feels as welcome, valued and safe as we would like to feel at work, because one wants to be in a workplace where they are not accepted for who they are or where things that are important to them are disparaged.

As organisations, we therefore need to be mindful of people who may not be in a protected group but nevertheless should enjoy work and feel welcomed in the workplace.



**How can we create a fair
and equal workplace?**

How can we create a fair and equal workplace?

How can we create a fair and equal workplace?

Some obvious measures we can adopt include:

- Creating an up-to-date **D&I policy**
- Providing regular anti-discrimination training, including updates
- Having clear lines of enquiry and complaint in the event of an allegation of discrimination
- Embedding D&I in the company culture (e.g. including your commitment to D&I in company communications, your website and marketing, your interactions with clients)



How can we create a fair and equal workplace?

Your D&I policy

A policy or SOP about D&I should be created and shared across the organisation as well as being mandated as part of a new employee's induction and continuous staff training.

Any training given should reflect and be reflected in the policy.

The policy should at the least state the following:

- Your D&I ambitions for the organisation and what you intend to achieve
- Your values
- What D&I looks like in practice
- Acceptable behaviour
- Available training
- A review process (to assess ongoing effectiveness)



How can we create a fair and equal workplace?

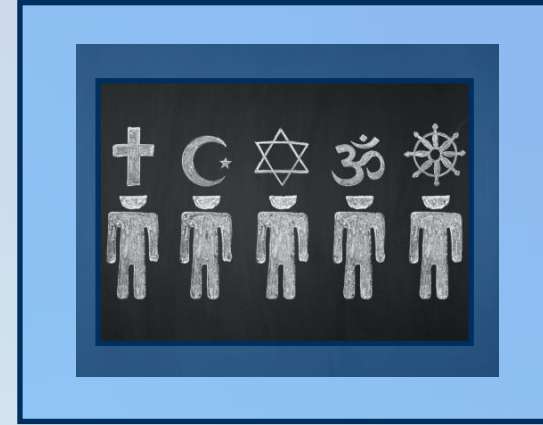
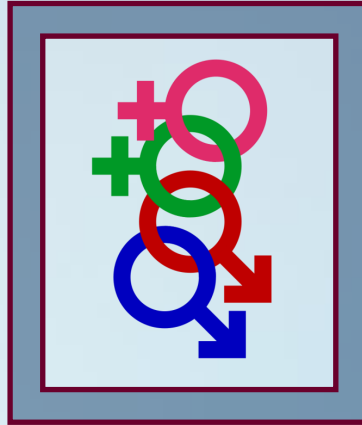
Creating the culture

Your D&I policy should include input from your staff (not just a committee), who are essential to creating a supportive D&I culture.

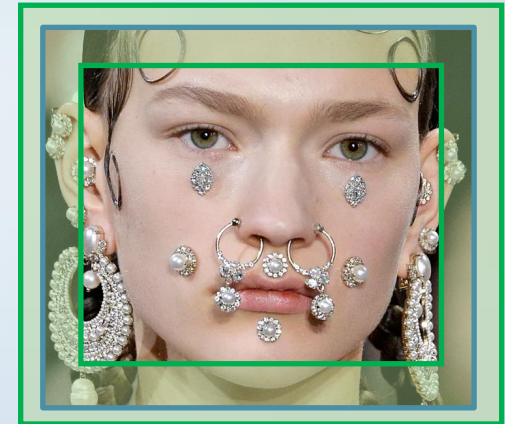
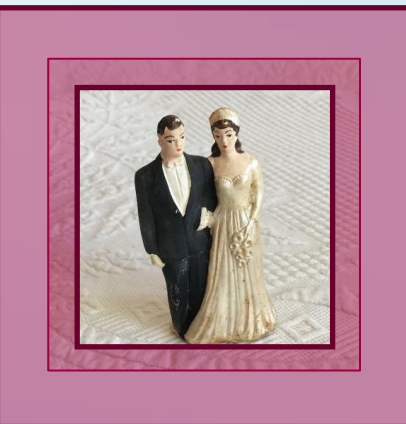
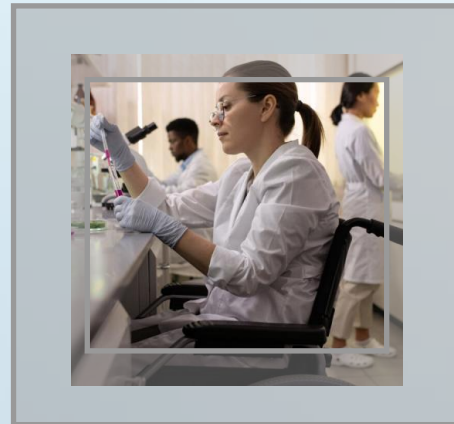
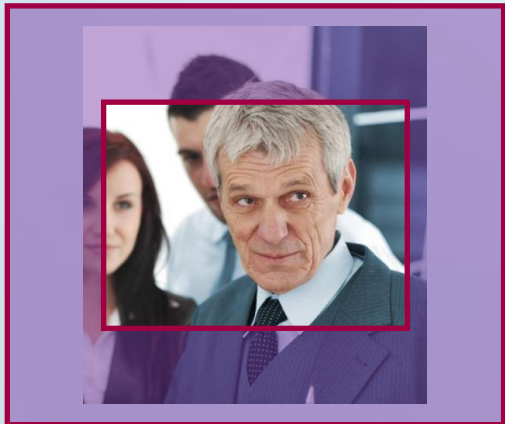
This is especially important if we want everyone to live and breathe a D&I-centred workplace, rather than see it as a set of rules imposed from above.



Summary



Intersections





For more information about W:2
and what we do, please contact:

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