



Government
Equalities Office

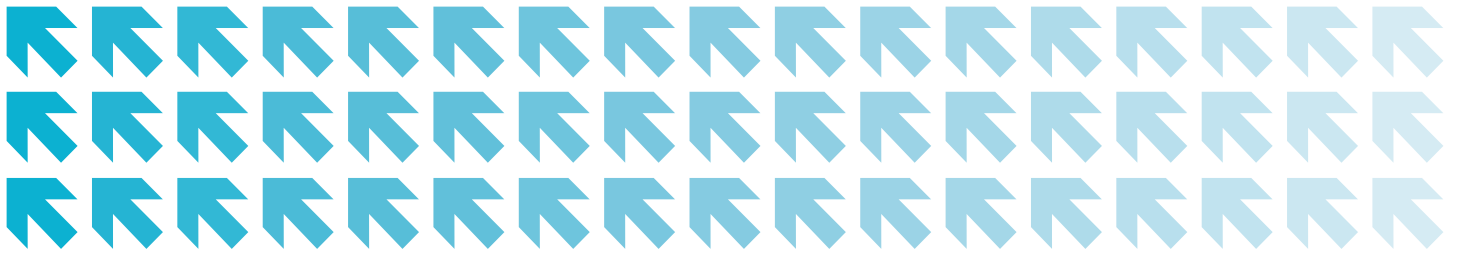
Putting equality at the heart of government



Equality and
Diversity Forum

EQUALITY ACT 2010: WHAT DO I NEED TO KNOW? A QUICK START GUIDE ON RELIGION OR BELIEF DISCRIMINATION IN SERVICE PROVISION FOR VOLUNTARY AND COMMUNITY ORGANISATIONS

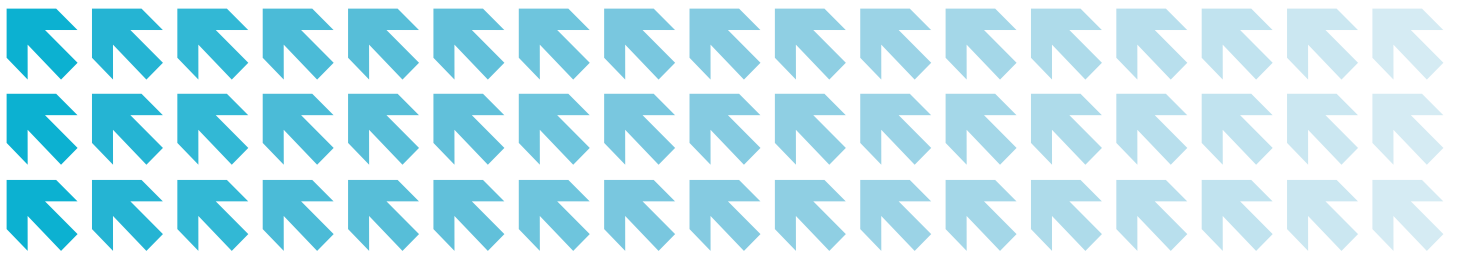




Foreword

The Equality Act 2010 replaces the existing anti-discrimination laws with a single Act. It simplifies the law, removing inconsistencies and making the law 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 changes what voluntary and community organisations need to do to prevent and address discrimination on grounds of religion or belief when providing goods, facilities or services to the public. These parts of the Act will come into effect on 1 October 2010.



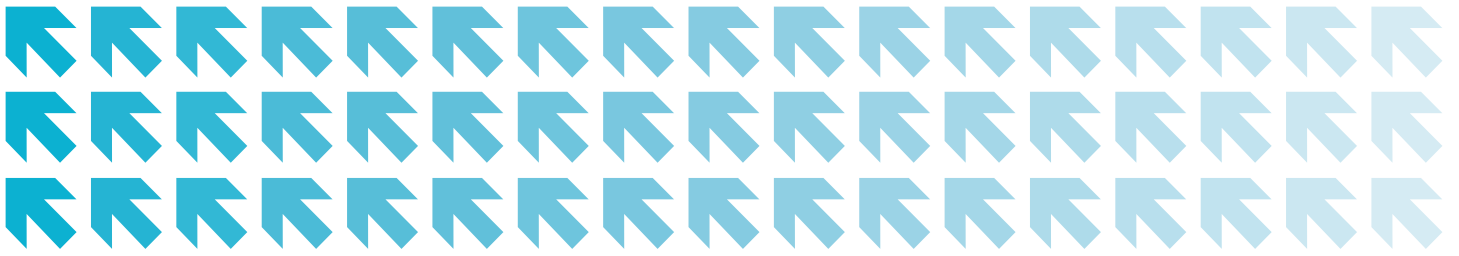
Introduction

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 Equality Act changes how you have to act in order to prevent and address discrimination on grounds of religion or belief when you provide goods, facilities or services to the public, for example through a residential care home, community shop or after-school club.

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, businesses 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 includes 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.

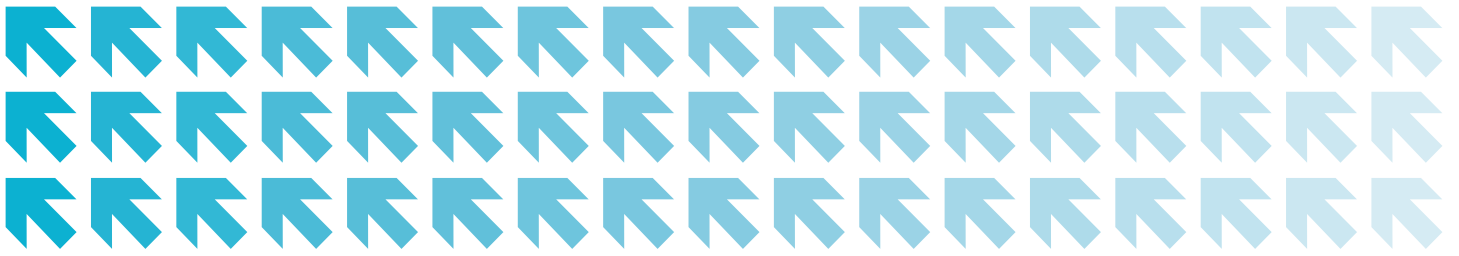


Who is protected from discrimination because of religion or belief? (no change)

The Equality Act protects people from discrimination because of religion or religious or philosophical belief. To be protected, a person must belong to a religion that has a clear structure and belief system. Denominations or sects within a religion can be considered a protected religion or religious belief, for instance Protestants and Catholics within Christianity. A philosophical belief must satisfy various criteria, including that it is a belief about a weighty and substantial aspect of human life and behaviour – so, for example, humanism is a philosophical belief.

People are also protected from being discriminated against because of lack of religion or belief, so they cannot be treated less favourably because they do not follow a certain religion or have no religion or belief at all.

Discrimination because of religion or belief can occur even where both the discriminator and victim share the same religion or belief – for example, discrimination on grounds of being Sunni or Shia within Islam, or discrimination on grounds of being Protestant or Catholic within Christianity.



Who has responsibilities?

The law applies to all organisations that provide a service to the public or a section of the public (service providers). It applies to voluntary and community organisations that provide goods, services or facilities. For example, it will cover community centres, information and advice agencies, charity shops, sports clubs, residential care homes and daycare centres run by voluntary or community organisations. It applies to religious organisations such as a Jewish care home. It applies to all your services, whether or not a charge is made for them. It also applies to clubs and associations with 25 or more members.

Discrimination and harassment

The Act prohibits discrimination because of religion or belief and also harassment related to religion or belief. The different types of treatment it deals with are explained below.

Direct discrimination (no change)

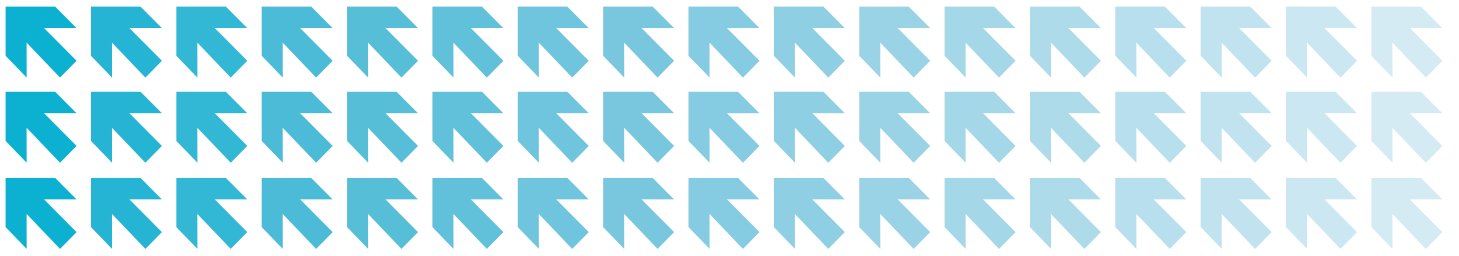
When you treat another person less favourably because of their religion or belief, this will be direct discrimination.

Example

A project for young people which runs evening sessions for teenagers decides to exclude all Rastafarians after a violent incident involving two rival groups. However, the two groups involved in the violence contain only half of the Rastafarian membership of the evening sessions. By imposing a blanket ban going beyond the individuals known to have been involved in the violence, the project would have directly discriminated because of religion or belief.

Association and perception

Direct discrimination can also occur when a person who is not of a particular religion or belief is treated unfairly because they are linked or associated with someone of a particular religion or belief. This is called discrimination by association.



Example

Julie applies to join a language class and discloses to the tutor that her boyfriend is Jewish, although she is not. The tutor then tells Julie that he made a mistake and the class is actually full. Subsequently, however, Julie discovers that others have been allowed to join the class after she was refused entry. The tutor's conduct is likely to amount to direct discrimination because of religion or belief as a result of Julie's association with her Jewish boyfriend.

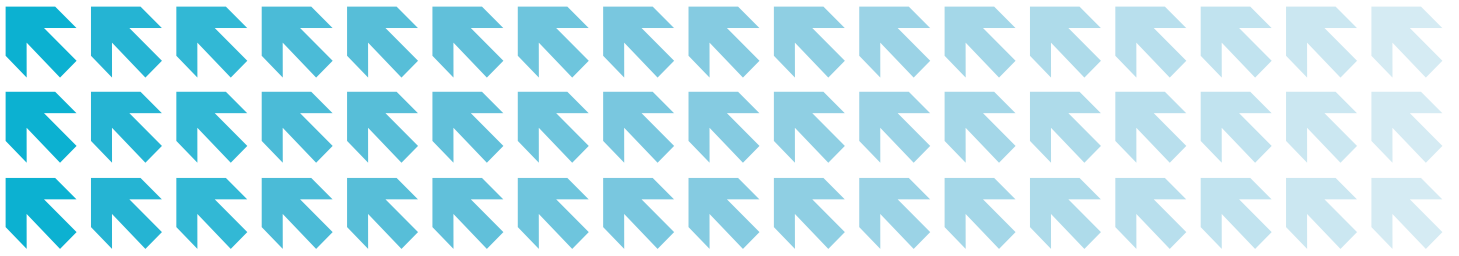
Direct discrimination also occurs when a person is discriminated against because they are thought to be of a particular religion or belief, even though they are not. This is known as discrimination by perception. It is also unlawful to discriminate against a person by treating them as if they were of a particular religion or belief, even when you know they are not.

Example

Rupert, a landlord, advertises a flat in a local paper and Mary phones Rupert to find out further details. When Mary introduces herself she gives her surname which is Carne. Rupert assumes that Mary's surname is in fact Khan and that she is a Muslim. As Rupert does not want to rent his property to Muslims, he informs Mary that the flat is no longer on the market. This is direct discrimination because of religion or belief, due to the landlord's perception that Mary is a Muslim.

Indirect discrimination (no change)

This can occur when you have a rule or a policy or even a practice that you apply to everyone but which particularly disadvantages people who have a particular religion or belief. Unlike direct discrimination, indirect discrimination can be justified where the policy is intended to meet a legitimate organisational objective in a fair and reasonable way. When considering introducing a new rule or policy, you should first consider if there is another way to achieve your objective which does not have a discriminatory effect on people of a particular religion or belief, or which is less likely to disadvantage them. Remember that lack of financial resources alone is unlikely to be a sufficient justification.



Example

In a neighbourhood that includes a large Jewish community, a local community group provides lunches for elderly people but they say that because their supplier cannot provide kosher meals they are unable to provide meals for their Jewish customers. The policy not to provide kosher meals would disadvantage Jewish people in particular. The community group's policy not to provide kosher meals is unlikely to be justifiable since they could simply seek alternative suppliers that can supply kosher food.

Example

A volunteer at a women's aid centre which provides temporary accommodation for women suffering domestic abuse subjects a Muslim woman to constant questions about forced marriage and how Muslim women are treated by their husbands, which the service user finds humiliating. This could amount to direct discrimination if others who use the service are not asked questions in this way.

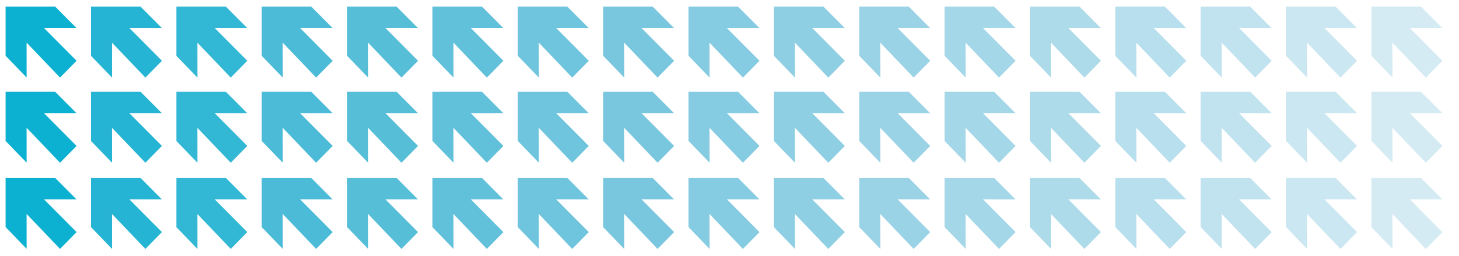
For more information about harassment, see *Equality Act 2010: What do I need to know? A quick start guide on harassment in service provision for voluntary and community organisations*.

Harassment (no change)

The specific definitions of harassment in the Equality Act do not apply to religion or belief. However, subjecting a service user to this type of unwanted behaviour because of their religion or belief will usually amount to unlawful direct discrimination if, as a result of the behaviour, the service user suffers a disadvantage when compared with other service users.

Victimisation (changes)

Victimisation occurs when a service provider treats someone badly because they have made or supported a complaint related to the Equality Act, or a service provider thinks that the person is going to do so. It will be victimisation even if a service provider treats someone without the protected characteristic badly because they support someone who is claiming discrimination because of a religion or belief. A person is not protected from victimisation if they have maliciously made or supported an untrue complaint.



Example

A training project ran a seminar for unemployed people to help them prepare their CVs. Mehmet, a Muslim delegate, wrote to complain that he was not excused from the seminar to go and observe his afternoon prayers. The next time Mehmet applied to attend the seminar, he was told that there were no places left but he later found out that his friend had been given a place, even though he had applied later than Mehmet. Mehmet argued that this was victimisation because he had made a complaint related to his religion.

What has changed?

There is now no need for the victim to show that they have been less favourably treated than someone who has not made or supported a complaint under the Act.

When can goods, facilities and services be provided only to people from a particular religion or belief? (no change)

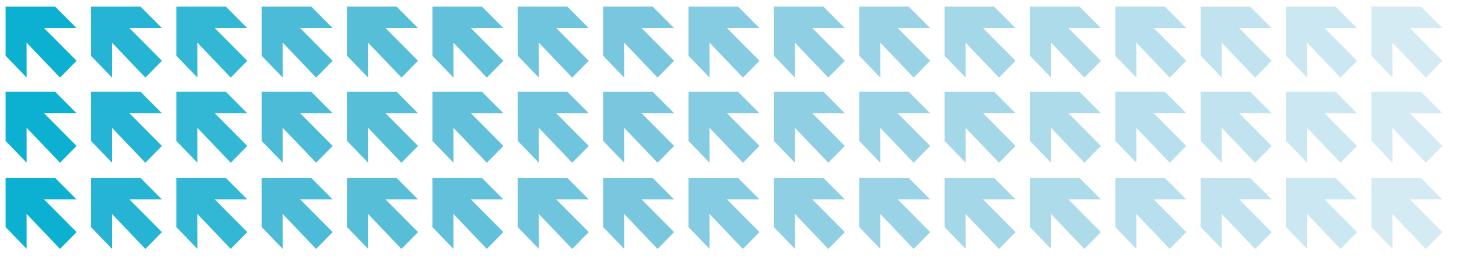
In certain circumstances, you may be able to specify that you will provide goods, facilities or services only to people of a particular religion or belief. This will apply if your organisation exists to:

- practise, teach or advance a particular religion or belief,
- provide benefits for people who hold a particular religion or belief, or
- promote good relations between people of different faiths.

If one of these apply then you may be able to specify the religion or belief of those to whom you provide goods, services or facilities. You will have to be able to show that your services are restricted:

- because of the purpose of your organisation, or
- in order to avoid causing offence, on grounds of your organisation's religion or belief, to followers of that religion or belief.

However, these specific rules do **not** apply if the sole or main purpose of your organisation is commercial.



Example

A Baha'i community group runs a not-for-profit retreat which includes a residential summer camp. Attendance at the camp is restricted to followers of the faith. This would be allowed if the purpose of the group was to educate followers in the Baha'i religion.

Additionally, provided you do not turn away or discourage other users, you are entitled to provide your services in a way that appeals particularly to service users of a specific religion or belief.

- the purpose is to avoid conflict with the strongly held convictions of a significant number of a religion or belief's followers.

Example

A Baptist church was asked by a lesbian and gay support group if they could use its hall for training sessions for new volunteers. The church said that it could not let them use the hall because its doctrine rejects homosexuality and it would cause upset to a significant number of its members. This would not be unlawful discrimination.

However, if you have a contract with a public body, such as a local council, to provide services for them, then you cannot discriminate because of sexual orientation in relation to that service.

Can you discriminate because of other protected characteristics? (no change)

You must not discriminate because of other protected characteristics, such as race. However, if your organisation exists to:

- practise, teach or advance a particular religion or belief, or
- provide benefits for people who hold a particular religion or belief,

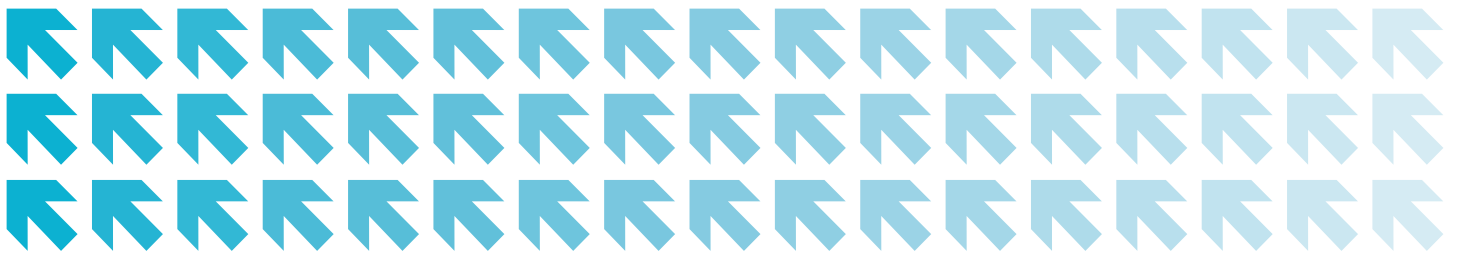
you will be able to specify that your service users are of a particular sexual orientation where:

- this is necessary to comply with the doctrine of your organisation's religion or belief, or

What is the position of charities? (changed)

In general, charities are not allowed to discriminate because of religion or belief. However, they can restrict benefits to people of a particular religion or belief if their 'charitable instrument' (the document that set up the charity) requires or permits them to do so. This will **only** be allowed where:

- it is a fair and reasonable way of achieving a legitimate aim, or
- the restriction seeks to compensate for or prevent a disadvantage linked to religion or belief.



Example

A charity established specifically to provide funding for Catholic education will be entitled to do so where its governing document states that its purpose is to secure Catholic values in the local community, since it is in an area where there is a large Catholic community but few establishments are focused on the provision of Catholic education.

Example

A charity whose founding document states that it is dedicated to providing housing for members of the Buddhist faith in an area where there is a high proportion of homelessness among Buddhists would not be required to provide housing to people of other faiths.

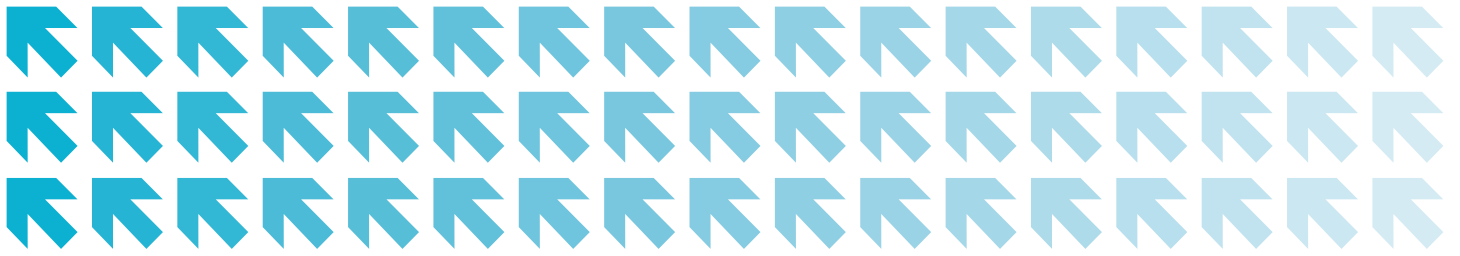
Charities, such as the Scout Association, can require prospective members to make a statement to adhere to the principles of a particular religion, such as asserting a belief in a deity. Where membership itself is not subject to a requirement like this, charities can refuse members access to benefits where they do not agree to adhere to the principles of the religion of the charity. This exception only applies if the charity imposed the requirement before 18 May 2005 and has continued to do so.

What has changed?

These are new rules for charities. Charities will need to check their governing documents and how they provide their services to ensure that they have good grounds to restrict provision in that way to a particular religious or belief community.

What do you need to do now?

It is important to check the way you provide goods, facilities and services to ensure that you are providing them in a way that does not discriminate against people because of their religion or belief, or because they do not belong to a particular religion or hold a particular belief. If you are a religious or belief-related organisation and you restrict some or all of your services to people with a particular religion or belief, then you must make sure that you are only doing so where this is allowed by one of the specific rules set out above.



Further sources of information and advice

The Equality and Human Rights Commission is the statutory body established to help eliminate discrimination, and reduce inequality. It produces 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

Government Equalities Office
www.equalities.gov.uk

Law Centres Federation
www.lawcentres.org.uk

Citizens Advice
www.citizensadvice.org.uk

Advice UK
www.adviceuk.org.uk

National Council for Voluntary Organisations
www.ncvo-vol.org.uk

Scottish Council for Voluntary Organisations
www.scvo.org.uk

Wales Council for Voluntary Action
www.wcva.org.uk

Charity Commission for England and Wales
www.charity-commission.gov.uk

Office of the Scottish Charity Regulator
www.oscr.org.uk

Big Lottery Fund
www.biglotteryfund.org.uk

© Crown copyright 2010

JN402901

September 2010