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Equalities

The Equality Act 2010 came into force in October 2010. It brought together a raft of equality legislation under one Act. It protects people against discrimination or other disadvantages on the basis of certain defined characteristics called **protected characteristics**.

The Equality and Human Rights Commission has published an extensive Code of Practice for organisations involved in the delivery of services and public functions.

The full Code of Practice can be found at

<https://www.equalityhumanrights.com/en/publication-download/services-public-functions-and-associations-statutory-code-practice>.

It is recommended that Community Councils use this as a reference book to consult when needed. It is a weighty tome but it is very well laid out and has lots of examples. Chapter 12 of the Code of Practice does not apply to Community Councils.

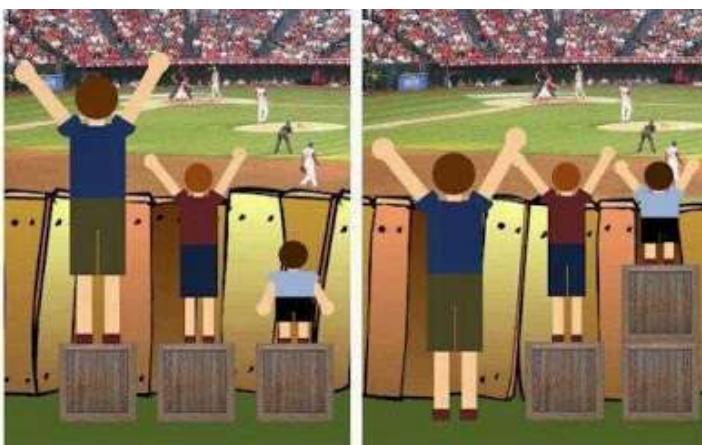
This section of your handbook will give a brief summary of the main points from the Equality Act.

Protected Characteristics

Part 3 of the Equality Act is based on the principle that people with the protected characteristics set out in the Act should not be discriminated against when using any service provided publicly or privately, whether that service is for payment or not.

This does not mean that everyone should be treated the same. Sometimes services will have to do a bit extra to ensure that people can receive the same standard of service as far as this is possible.

This is well illustrated in the following picture.



On the left of the picture, everyone is treated the same, whereas in the picture on the right everyone enjoys the same access to a service, i.e. the chance to watch a match.

The Equality Act defines the following protected characteristics;

1. Age
2. Disability
3. Gender reassignment
4. Pregnancy and maternity
5. Race (including nationality and ethnic origins)
6. Religion or belief (including atheism or humanism)
7. Sex
8. Sexual orientation

Protected groups are any number of people that share something in relation to any of these 8 characteristics. For example age can mean anyone of a certain age (18 year olds) or age group (anyone over 65).

Protection against ...?

The Equality Act protects people against

- Discrimination
- Harassment
- Victimisation
- Failure to implement reasonable adjustments

There are various types of discrimination. Direct discrimination means treating someone less favourably because of a protected characteristic. For example: refusing to provide a service to someone because of the colour of their skin.

Indirect discrimination happens when a rule or criteria are applied equally to everyone which puts certain groups at a disadvantage. For example: arranging council meetings to take place during lunchtime on Fridays. This would mean that Muslims are unable to attend because of their religious requirement to attend Friday prayers.

Does the difference between direct and indirect discrimination matter? Yes, direct discrimination is always unlawful (except for age) whereas indirect discrimination is sometimes unavoidable and can, under certain circumstances, be justified. However, it is recommended to take legal advice before taking action which can be indirectly discriminatory.

Harassment is carrying out an act in relation to a protected characteristic which has the intention or the effect of creating a hostile or intimidating environment. It is important to note that even if this was unintended, it can still be harassment.

Victimisation is treating someone unfavourably because they have asserted their rights under the Equality Act or have helped someone in doing this, provided this was done in good faith.

Reasonable adjustments

In order to ensure that people with a disability have the same access to services or public functions it is sometimes necessary to put reasonable adjustments in place. These don't need to always be expensive. Often it can be enough to change the way things are done, for example change the venue for meetings to a place that is on the ground floor. At other times it may be necessary to use auxiliary aids. Polling stations, for example, must have a tactile voting device for people who are registered blind. It has a sticky backing, which attaches on top of the ballot paper. It has numbered lift up flaps (the numbers are raised and in braille) directly over the boxes where people mark their vote.

If you are unsure about what to do to make reasonable adjustments, please get in touch with the Moray Council's Equal Opportunities Officer (contact details below).

FAQs

Does the Equality Act apply to all the main religions, including Christianity?

Yes, all commonly recognised religions are covered under the Equality Act, for example Baha'I, Buddhism, Christianity, Hinduism, Islam, Jainism, Judaism, Rastafarianism, Sikhism and Zoroastrianism, as well as humanism. Where there is any doubt it will be up to the courts to determine what constitutes a religion. For example: the courts have clearly ruled that "Jedi Warrior" does not constitute a religion.

Is it disrespectful to other religions to celebrate Christmas?

Definitely not. Despite what some newspapers like us to believe, the Equality Act does not prevent local authorities from celebrating Christmas or for schools to put on a nativity play. The only people that have banned Christmas in the UK were Oliver Cromwell and John Knox, so we're going back a few hundred years.

Do some protected characteristics take precedent over others?

There is no hierarchy of protected characteristics nor of groups within each protected characteristic. Men have the same protection under the protected characteristic of sex as women; Islam and Christianity under religion; white British the same as Black African. If one group is seen to be favoured over another, this is usually in order to address the particular disadvantages faced by a group.

What do I do if someone complains they have been discriminated?

Get in touch with the Moray Council's Equal Opportunities Officer.

Don Toonen

Equal Opportunities Officer

Moray Council

Chief Executive's Office

Council HQ

Elgin

IV30 1BX

01343 563321 / don.toonen@moray.gov.uk or equalopportunities@moray.gov.uk.