

## Equality Guidance

This **guidance** aims to help you deliver these **Outcomes** by providing you with an overview of the effect of the Equality Act. You should refer to the Act itself in determining what steps are appropriate and reasonable for you to take in meeting the Act's requirements.

Government Equalities Office - Equality Act 2010

### Scope of the Equality Act 2010

1. The Equality Act 2010 received Royal assent on 8 April 2010. The Act not only amalgamates existing discrimination law but strengthens the law by:
  - protecting a broader range of characteristics, and
  - extending the duties regarding age, sexual orientation and religion or belief.

### Characteristics protected by the Act

2. The Act protects the following characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation:

<b>Age</b>	A person belonging to a particular age group. This applies to both young and older people, though much of the Act's emphasis is upon equality for older people.
<b>Disability</b>	A person has a disability if they have a physical or mental impairment, and the impairment has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. This can also apply to a person who has previously had a disability.
<b>Gender reassignment</b>	A person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex. A transsexual person is a person who has the protected

	characteristic of gender reassignment.
<b>Marriage and civil partnership</b>	A person who is married or is a civil partner. This does not include someone who is engaged or a divorcee or person whose civil partnership has been dissolved.
<b>Pregnancy &amp; Maternity</b>	This includes any illness the woman may suffer as a result of the pregnancy.  Covers the period from when the pregnancy begins to 26 weeks after she has given birth.
<b>Race</b>	Includes colour, nationality and ethnic or national origins.
<b>Religion and Belief</b>	Any religion and includes a lack of religion. Belief means any religious or philosophical (not political) belief and includes a lack of belief.
<b>Sex</b>	A man or a woman.
<b>Sexual orientation</b>	A person's sexual orientation towards—  (a) persons of the same sex,  (b) persons of the opposite sex, or  (c) persons of either sex.

### What does this all mean for me?

- 3.1 You must ensure that service delivery and if you are an employer, employment **arrangements**, provide equality of opportunity and experience for individuals or groups with the protected characteristics.
- 3.2 You must not discriminate, victimise or harass anyone on the basis of the protected characteristics. Terms in contracts, collective agreements or rules of undertakings are unenforceable/void if they result in unlawful discrimination or victimisation. In some circumstances, employers are explicitly liable for harassment by third parties in the workplace.
- 3.3 You are required to make reasonable adjustments to prevent a person with a disability being placed at a disadvantage from someone who does not have a disability. An adjustment can be a one-off, physical, action such as making premises more accessible, or it may be an adjustment which is made on numerous cases, such as visiting a **client** at home if they are unable to access your premises.

- 3.4 You are not permitted to ask job applicants questions related to health or disability prior to offering a position (unless the questions are made for prescribed relevant reasons).
- 3.5 You cannot discriminate against someone because they are perceived to have, or are associated with someone who has, a protected characteristic e.g. carers. NB. This is bolstered by the concept of 'discrimination arising from disability'.
- 3.6 The enforceability of pay secrecy clauses is limited.
- 3.7 Tribunals are able to make recommendations that will affect all of an employer's staff, not just the claimant.
- 3.8 The Act also repeals or replaces rules of family property law which discriminated between husbands and wives.

**What is meant by discrimination, harassment and victimisation?**

4. This table provides an overview of each term:

<b>Direct discrimination</b>	A person is treated less favourably than another person because of their age, disability, marital status, race, religion or belief, sex, or sexual orientation.  Includes less favourable treatment because of the victim's association with someone who has that characteristic (e.g. is disabled), or because the victim is wrongly thought to have it (e.g. a particular religious belief).
<b>Indirect discrimination</b>	A requirement or condition has a disproportionately adverse effect on a particular equalities group and cannot be objectively justified.
<b>Victimisation</b>	A person is treated less favourably than other persons because they have made allegations of discrimination or harassment.
<b>Harassment</b>	A person feels that the behaviour of another has violated their dignity, or created an intimidating, hostile, degrading, humiliating or offensive environment for them.

**Reasonable adjustments**

- 5.1 You have a duty, wherever reasonable, to remove barriers which would place a disabled person at a substantial disadvantage due to:
  - a) a provision/criterion/practice (PCP) e.g. making information available in an accessible format, such as large print;
  - b) a physical feature e.g. making premises accessible; or

c) the absence of an auxiliary aid or service e.g. providing special computer software for a disabled **employee**.

5.2 The cost of a reasonable adjustment must be incurred by the business and cannot be passed onto a disabled **client** by way of a disbursement or additional charge.

5.3 The definition of what constitutes 'reasonable' is based upon a 'substantial disadvantage' or 'unreasonably adverse experience' threshold.

### **Service Provision**

6. A provider of services to the public or a section of the public (for payment or not) must not discriminate, harass or victimise a person requiring the service.

### **Employment Arrangements**

7.1 Employers must not discriminate, harass or victimise any person in their employment **arrangements**, offers, terms and opportunities for promotion, transfer or training (or for any other benefit, facility or service).

7.2 As an employer you are responsible for the actions of your **employees** and as a **manager** you are responsible for the actions of agents.

### **Partnerships**

8. A firm or proposed firm must not discriminate, harass or victimise any person in its partner **arrangements**, offers, terms and opportunities for promotion, transfer or training (or for any other benefit, facility or service).

### **Limited liability partnerships (LLP)**

9. An LLP or proposed LLP must not discriminate, harass or victimise any person in its partner **arrangements**, offers, terms and opportunities for promotion, transfer or training (or any other benefit, facility or service).

### **Ancillary Duties**

10.1 You must not discriminate or harass where the discrimination or harassment arises out of, or is closely connected with, the end of a service or employment relationship.

10.2 You must not instruct, cause, induce or aid another party to contravene their responsibilities under the Act.

### **Family Law**

11. The Equality Act abolishes the presumption of advancement, by which, for example, a husband is presumed to be making a gift to his wife if he transfers property to her, or purchases property in her name.

### **Other**

## Human Rights Act 1998

12. You should also be mindful of the Human Rights Act which incorporated the European Convention on Human Rights into English Law. The basic human rights protected by this legislation include:

- the right to liberty;
- the right to a fair trial;
- the right to respect for private and family life;
- freedom of thought, conscience and religion, and freedom to express your beliefs;
- freedom of expression;
- freedom of assembly and association; and
- the right not to be discriminated against in respect of these rights and freedoms.

## Enforcement

13.1 The **CLC** will investigate concerns relating to discrimination and disciplinary proceedings will be taken if it is satisfied that there is a case to answer.

13.2 Where a court or tribunal decides that you have committed an unlawful act of discrimination that finding will be treated by the **CLC** as a breach of the **Overriding Principle to Promote Equality of Access and Service**.

## Equality – Example Policy

### Introduction

Principle 6 of the **CLC Code of Conduct** requires you to promote equality of access and service. The Policy template aims to help you comply with that principle. Whilst you are not required to have a written policy, we expect you to act in a way which is consistent with the Example Policy. Should you use the provided example as your starting point it is likely that you would need to amend this policy to ensure that it matches your particular circumstances. The policy you adopt should take into account the number of **employees**, the nature of your work and your **Clients**.

### Equality & Diversity Policy [Example]

#### 1. Our commitment

We are committed to:

- recognising diversity;
- preventing and tackling unlawful discrimination;
- promoting equality of opportunity for all our clients and staff; and
- providing an equally high standard of service to all clients, irrespective of their age, disability, marital status, race, religion or belief, sex (including people who have had gender reassignment), or sexual orientation;
- making reasonable adjustments so a person with a disability is not placed at a substantial disadvantage to a person without a disability;
- all stakeholders and **employees** complying with the commitments of this policy.

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- 2. We will comply with Principle 6 of the **CLC Code of Conduct** which requires us to promote equality and diversity, and with the duties of the Equality Act 2010.
- 3. We will neither enable nor tolerate any of the following:

<b>Direct discrimination</b>	A person is treated less favourably than another person due to their age, disability, marital status, race, religion or belief, sex, or sexual orientation.
<b>Indirect discrimination</b>	A requirement or condition has a disproportionately adverse effect on a particular equalities group and said requirement/condition cannot be justified.
<b>Victimisation</b>	A person is treated less favourably than other persons because they have made allegations of discrimination.
<b>Harassment</b>	A person feels that the behaviour of another has violated their dignity, or created an intimidating, hostile, degrading, humiliating or offensive environment for them.

**4. Clients**

- 4.1 We will ensure that no individual client, or a client group, is discriminated against in accessing our services and functions or in the quality of service provided.
- 4.2 Instructions will not be refused on the basis of unlawful discrimination.
- 4.3 Our complaints handling-process is responsive to Client’s individual needs (particularly those that are vulnerable or have disabilities).

**5. Employees**

- 5.1 We will ensure that all partners, **employees** and applicants have equal employment opportunities. Our recruitment, appointment, appointment terms and conditions, promotion, training and benefits opportunities will not be discriminatory.

**6. Policy Implementation & Evaluation**

- 6.1 A senior member of staff is responsible for the implementation of this policy and ensuring all **employees** are aware of their duties under it, providing training and information as appropriate.
- 6.2 This member of staff will monitor the extent of compliance with this policy across the organisation. Appropriate data will be collected to inform this review.

- 6.3 Allegations of discrimination will be investigated under our grievance procedures. We will take such allegations very seriously and where an **employee** or stakeholder is found not to have complied with the policy we will take disciplinary action against them.
- 6.4 We will provide training to ensure staff are aware of their responsibilities under this Policy.
- 6.5 This policy will be updated as legislative and regulatory requirements are revised, in light of lessons learned by the business and in view of any good practice identified.

## **Good Practice**

### **Introduction**

1. Equality is about providing everyone with the same level of fairness i.e. an equal chance to contribute and participate. Diversity is about understanding and treating people as individuals i.e. recognising difference.
2. The recognition of diversity and promotion of equality should not be an additional consideration but an intrinsic element of any business as it can bring great benefits and economic advantages - increasing your capacity to serve a diverse **client** base, offering **clients** a range of skills sets and attributes, and the opportunity to harness creativity and continuously improve and enhance your reputation as both an employer and a service provider – but it is only when a body's cultural ethos and structural factors recognise this that these benefits can truly be felt. The following section highlights some principles of good practice that you may wish to consider adopting in order to feel these benefits.

### **Equality Policy**

3. It is important that the implementation and success of an organisation's Equality & Diversity Policy is **systematically** monitored, reviewed and evaluated. The policy is only likely to be successful if it is accompanied by a diversity training plan and communications plan which embeds diversity within the organisation's culture. This may include education provision to ensure senior partners/ **managers** are aware of the benefits of diversity and providing frontline staff with training to equip them for dealing with the different needs of a diverse range of **clients**.

### **Flexible and part-time working**

4. Working parents and carers (and those who are applying to care for a child) have the statutory right to request flexible working. It is likely to benefit both staff and the needs of the business if flexible and part-time working patterns are available on request to all staff, not just those with child care responsibilities.
5. Arrangements might include four-day weeks or nine-day fortnights, working from home, working hours other than 9 to 5, career breaks, sabbaticals, or longer periods of unpaid leave over the summer months,
6. Provision of such arrangements can help you retain existing staff (who feel that the business allows them to achieve an appropriate work/life balance) as well as recruit new staff (who

are drawn to you as an employer who provides such arrangements). It can also enable the business to better meet the needs of **clients** e.g. open for business at times other than Monday to Friday 09.00-17.00.

7. Provision of such arrangements should be positively promoted. It is important that these working patterns are not equated with lesser commitment, meaning those choosing to work flexibly are penalised for doing so i.e. adoption of flexible working patterns should not adversely impact upon an individual's career progression – transparent work allocation and promotion procedures will aid this - and terms/targets/ workloads should be rearranged appropriately.

### **Outreach/mentoring**

8. The combination of an outreach programme and provision of formal support networks and mentoring schemes (as opposed to informal mentoring which can cause, or reinforce, diversity-based segmentation and segregation) can help make entry into, and retention and progression within, the legal profession less challenging for those from 'non-traditional' backgrounds. Where such schemes are in place they should be evaluated to determine their effectiveness.

### **Quality Internships**

9. If your firm offers internships, or is thinking of doing so, you should give consideration to adopting the [Common Best Practice Code for Quality Internships](#) as signed up to the Gateways to the Professions Collaborative Forum. The Code seeks to deliver internships which are transparent and open to all, irrespective of background.

### **Accreditation Schemes**

10. Equality accreditation and organisational assessment schemes - such as those provided by [Cornwall Diversity Toolkit](#), [Stonewall Diversity Champions Programme](#) , [Job Centre Plus Two Ticks Disability Scheme](#) , the [Working Families Charity](#), [Back to Work Company](#) and the jobs recruitment website [Where to Work](#) - can assist you in benchmarking your procedures against best practice as well as giving the business external endorsement of its diversity credentials.

### **Diversity Profile**

11. All **CLC**-regulated firms are required to participate in the biennial diversity profiling of the regulated community. The firm must publish a summary of the firm's profile, the details of which will be prescribed by the **CLC** at the time of profiling. The summary provides potential staff and **clients** with information on the representative nature of the business and will help you identify any under-representation at varying stages of recruitment and career progression, indicating areas where action may be needed to address under-representation.
12. Equality Impact Assess every major activity or policy decision you plan to undertake, enabling you to ensure that in delivering the **outcomes** you intend does not have an unintended consequence on, or create an unnecessary barrier to, different groups. The [local](#)

government website gives you an overview of Equality Impact Assessments, but you may wish to develop your own toolkit.