

November 2010

Briefing 3: The Equality Act

After being passed into law by the Labour government in 2009, the majority of the Act came into force in October 2010. Some parts are yet to be enforced, and these are highlighted here. The Equality Act brings together more than forty years of equality legislation and aims to make Britain a more equal society. It will impact on all UK employers, regardless of size, and apply across the public, private and voluntary sectors. The groups under the protection of the Act (known as 'protected characteristics') are as follows:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion and belief
- Sex
- Sexual orientation

Protections for age and marriage and civil partnership currently apply only at work or if someone is being trained for work. Age discrimination also applies only to those 18 or over. The marriage and civil partnership characteristic is not about creating equality between marriage and civil partnership, but to ensure that someone is protected from discrimination at work (or in training for work) because they are married OR in a civil partnership.

What does the Equality Act mean for the LGB&T community?

Single Equality Duty

The Act introduces a Single Equality Duty that will require the public sector to actively promote equality for all protected characteristics except marriage and civil partnership. This new duty was consulted on in autumn 2010 and is planned to come into force in April 2011.

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Public bodies, including the NHS, schools, local authorities, and the police will have to take account of the needs of LGB&T people when designing and delivering services. For example, a health centre could start running a promotional campaign to encourage more lesbian and bisexual women to attend clinics for cervical screenings, or a school could start working with parents to tackle homophobia in their school.

Discrimination

Another part of the Act that is yet to come into force is protection from 'dual discrimination', protecting people who are discriminated against because, for example, they are both a woman and a lesbian, or because they are gay and from an ethnic minority. This is the first time the law has recognised that people may identify with more than one protected characteristic.

Private members' clubs (for example, traditional gentlemen's clubs) will no longer be able to discriminate against members or guests based on their sexual orientation or gender reassignment.

Discrimination by Association and Perception

For the first time, people who face discrimination because they are perceived to have a protected characteristic, or because they associate with someone who has a protected characteristic, will be covered by law. For example, the stigmatised nature of HIV means that many people who care for someone living with HIV face discrimination, and this discrimination is now unlawful.

Civil Partnerships

The ban on civil partnerships being held in religious premises has been lifted by the Act. Exactly how this change will be made in practice is yet to be decided. Religious organisations will probably not be forced to hold civil partnerships, but this is still a huge step forward, particularly for LGB people of faith.

Employment

Also yet to come into force is the use of 'positive action' in recruitment and

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promotion. Employers will be allowed to select candidates from under-represented groups when two people applying for a job have the same qualifications. Positive action is one way of tackling discrimination in employment.

Employers will no longer be allowed to ask job applicants to fill in a healthcare questionnaire before offering them employment. Previously, employers have been able to ask applicants whether they have a disability, are taking medication or have a medical condition - even if it has no relevance to the role. This will remove the barrier to people living with HIV entering the workplace.

Trans Equality

The Act significantly extends the rights of trans people. Schools will not be allowed to discriminate on the grounds of gender reassignment. The law also bans discrimination against people because they are mistakenly thought to be transsexual, or because they are connected with a transsexual person.

The Act slightly extends the definition of gender reassignment, so that transsexual people who are living, or have started to live, full time in their new gender role are protected from discrimination. Previously, a person would have had to have seen a doctor and begun a medical reassignment procedure in order to be recognised as a transsexual.

Could it go further?

The Act bans harassment by providers of goods and services on grounds of age, disability, gender, gender reassignment, and race, but it does not ban such harassment on grounds of sexual orientation or religion and belief. The Government says that all such harassment would be a form of discrimination and so is unlawful anyway. However, in such an important piece of equality legislation, one would think that all protected characteristics would be given the same protections.

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The Government backed down over an Equality Act amendment which sought to stop religious organisations from denying jobs to LGB&T people. This means that churches are still free to discriminate against lesbian, gay and bisexual people. Faith schools are also exempt from certain functions of the Act.

Trans people who do not intend to transition are not protected by the Act, except if the discrimination happens because they were thought to be transsexual.

What do you think?

You can ask your local authority, GP practice or any public body what they are doing to support their LGB&T service users and staff. If you don't get anywhere, please get in touch with the LGF.

If in doubt, complain! If you feel you've been subject to any form of discrimination or disadvantage, put it in writing to a senior person in the relevant organisation. If your complaint isn't dealt with please contact the LGF.

If you're trying to get things changed in your local area, consider joining or forming a group. You can visit www.lgf.org.uk/directory if you'd like to see the groups in your local area.

Further info

For more detailed information and to read the Act in full, see the Government Equalities Office website: http://www.equalities.gov.uk/equality_bill.aspx

For specific queries, call the Equality and Human Rights Commission helpline on 0845 604 6610