



# Equal Opportunities at Work

A guide for small businesses on  
how to avoid race, sex, age and  
disability discrimination at work

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## Discrimination in Employment - it's unlawful

Discrimination in employment - whether through discrimination on the grounds of sex, race or disability - is unlawful. The laws described in this publication apply to all employers, both large and small. Large employers will usually have Personnel or HR departments with managers who are aware of the law in these matters, but other business owners often have to fend for themselves and may be unaware of their full obligations.

The Commission for Racial Equality (now part of the Equality and Human Rights Commission) has published an excellent leaflet 'aimed to help small businesses in understanding their obligations. The leaflet provides basic guidance on avoiding discrimination at work. It also offers advice and information on general good practice to help small businesses act within the law.

### EC Equal Treatment

The Government must comply with the EC Equal Treatment Framework Directive which requires the UK to have legislation in place to prohibit discrimination on grounds of age, disability, religion or belief, and sexual orientation in employment and training. New legislation or directives have already been put in place to cover discrimination on grounds of race, sexual orientation, religion and disability. New legislation covering age discrimination was introduced in October 2006.

### Equality and Human Rights Commission

On 30 October 2003, the Government announced that a single Equality and Human Rights Commission would be set up to replace the three prevailing organisations tackling race, sex and disability discrimination.

The move saw the demise of the Equal Opportunities Commission, the Commission for Racial Equality and the Disability Rights Commission, though the new body's remit also includes tackling discrimination on grounds of sexual orientation, religion or age, as well as a brief to promote human rights.

The Government established the Commission for Equality and Human Rights (CEHR) in October 2007 through the Equality Act which received Royal Assent in February 2006. However, The CRE did not transfer its responsibilities until 2009. For more information see our later section on the Commission for Equality and Human Rights.

## Sex Discrimination

The Sex Discrimination Act 1975 proscribes discrimination in the spheres of employment and education, on grounds of sex and marriage.

According to the Act there is direct discrimination where an individual, on the grounds of his or her sex is treated less favourably than a member of the other sex would be treated; there is indirect discrimination where a requirement or condition is applied:

- which is such that a considerably smaller proportion of persons of one sex can comply with it than the proportion of persons of the other sex who can comply; and
- which cannot be shown to be justifiable irrespective of the sex of the person to whom it is applied; and
- which is to the detriment of the person concerned because he or she cannot comply with it.

An example of indirect discrimination on grounds of sex might be a rule that applicants must be under a specified age. It is also unlawful for an individual to be victimised for having brought proceedings under the Acts, or for giving evidence or information relating to such proceedings, or for alleging that discrimination has occurred.

The Sex Discrimination (Indirect Discrimination and Burden of Proof) Regulations 2001 (SI 2001/2660) came into force on 12 October 2001. The Regulations make amendments to the Sex Discrimination Act 1975 in order to implement Articles 2 and 4 of the EC Burden of Proof Directive (97/80) in the UK.

### Discrimination by Association – Landmark case

A landmark decision by the European Court of Justice (ECJ) in the high-profile Sharon Coleman case could lead to thousands of 'discrimination by association' claims by able-bodied people under the Disability Discrimination Act.

Sharon Coleman, an employee of Attridge Law brought a claim for constructive dismissal and disability discrimination on various grounds against her employer Attridge Law, including their refusal to give her the same flexibility as regards her working arrangements as those of her colleagues with non-disabled children.

The Advocate General, stated that direct discrimination and/or harassment by association is prohibited by the EC Equal Treatment Framework Directive. However, the UK law only legislated for discrimination against a worker on the grounds of the disabled person's disability.

The Advocate General further indicated that the same principle will apply to other forms of discrimination including discrimination on grounds of religion or belief, disability, age or sexual orientation.

The case was then referred to the ECJ for clarification. On 17 July 2008, the ECJ ruled in favour of Coleman by finding that able-bodied people can be unlawfully subjected to disability discrimination.

Sharon Coleman's case has now been referred back to an Employment Tribunal.

More information is available at: [www.disabilityalliance.org/coleman.htm](http://www.disabilityalliance.org/coleman.htm)

The Regulations bring about two important changes:

- First, the definition of indirect discrimination found in Ss.1 and 3 of the SD Act is brought in line with that contained in Article 2(2) of the Directive. The amended sections provide that, in employment cases, indirect discrimination occurs where a person applies a provision, criterion or practice to the detriment of a woman which would also be to the detriment of a considerably larger proportion of women than of men and which is not justifiable by factors unrelated to sex. These new provisions apply equally to the less favourable treatment of men;
- Secondly, a new S.63A has been inserted into the SD Act dealing with the issue of burden of proof in sex discrimination cases, as required by Article 4 of the Directive. The new S.63A provides that the burden of proof is initially on the complainant to establish facts from which a court or tribunal may presume that there has been sex discrimination. The burden then shifts to the respondent to prove that there has been no such discrimination.

The Regulations can be found at:  
[www.legislation.hmso.gov.uk/si/si2001/20012660.htm](http://www.legislation.hmso.gov.uk/si/si2001/20012660.htm)

On 1 October 2005, the Employment Equality (Sex Discrimination) Regulations 2005 came into force. These Regulations give effect to the Amended European Equal Treatment Directive. A key amendment was the clarification - that had been laid down in case law - that less favourable treatment of women on grounds of pregnancy or maternity leave is unlawful sex discrimination. The new regulations are also designed to help businesses spot indirect sexual discrimination and harassment.

The Government was required to implement the European Gender Directive – 2004/113/EC by 21 December 2007. The Directive implements the principle of equal treatment between men and women in the access to and supply of goods and services, e.g. housing, banking and insurance. The Sex Discrimination Act 1975 already applied to the provision of goods, facilities and services and therefore the amendments necessary to implement the Directive were few.

The main changes are as follows:

- Extend the employment definition of indirect discrimination to goods and services;
- Make explicit that harassment on grounds of sex and sexual harassment in access to and the provision of goods and services is unlawful;
- Extend protection from discrimination on grounds of gender reassignment to the provision of goods and services;
- Make explicit that less favourable treatment for reasons of pregnancy and maternity in the provision of goods and services is sex discrimination;
- In relation to financial and insurance products, make clear that where there are proportionate differences in individuals' premiums and benefits as a result of sex being a determinant factor in risk assessment, then these differences must be based on relevant, accurate data, and this data must be compiled, published and regularly updated.

The Equal Opportunities Commission (EOC) dealt with sex discrimination and inequality related to gender, including good practice in the fair and equal treatment of men and women. It produced a code of practice on sexual discrimination in employment that has been endorsed by Parliament. The Code does not have the force of law, but can be brought in evidence in industrial tribunals. The Equality and Human Rights Commission replaced the EOC on 1 October 2007 and continues its work. The Code can be viewed at: [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

The Sex Discrimination Act 1975 (Amendment) Regulations 2008 came into force on 6 April 2008 and introduced some important new benefits in relation to pregnancy, maternity leave discrimination and harassment following the Equal Opportunity Commission's (now Equality and Human Rights Commission) successful judicial review application in relation to the UK's implementation of the Equal Treatment Directive. The main changes are:

- Eliminate the requirement for a comparator in discrimination cases involving pregnancy and maternity leave and clarify women's rights in bringing such cases.
- Amend the definition of harassment to facilitate claims which are not "on the grounds of sex" (but merely related to a person's sex) and claims relating to harassment by a third party.

### Sexual Orientation discrimination legislation extended

Legislation prohibiting discrimination on grounds of religion or belief and sexual orientation in the provision of goods, facilities and services came into force on 30 April 2007.

Similar legislation already existed in relation to discrimination on the grounds of sex, race and disability.

The new legislation includes "discrimination by association" for example where goods or services are offered to married couples but not to civil partners.

The legislation has not been welcomed by faith based adoption and fostering agencies who have been given until 31 December 2008 to comply with the sexual orientation discrimination legislation.

The legislation is contained in The Equality Act (Sexual Orientation) Regulations 2007 available at: [www.opsi.gov.uk/si/si2007/draft/20075920.htm](http://www.opsi.gov.uk/si/si2007/draft/20075920.htm) and The Equality Act 2006, Part II available at: [www.opsi.gov.uk/ACTS/acts2006/ukpga\\_20060003\\_en.pdf](http://www.opsi.gov.uk/ACTS/acts2006/ukpga_20060003_en.pdf)

The Department for Communities & Local Government has published two guides to the new regulations.

"Guidance on new measures to outlaw discrimination on the grounds of sexual orientation – part 3 of the Equality Act" is available at: [www.communities.gov.uk/index.asp?id=1510066](http://www.communities.gov.uk/index.asp?id=1510066)

"Frequently asked questions: What the Regulations mean for members of the public and providers of goods, facilities and services" is available at: [www.communities.gov.uk/index.asp?id=1510343](http://www.communities.gov.uk/index.asp?id=1510343)

- New liability for employers who fail to take reasonable steps to protect an employee from third-party harassment, where such harassment is known to the employer to have occurred on at least two other occasions.
- A right for women on compulsory maternity leave (this is the two-week period following childbirth) to payment of any bonus that relates to that period. This right applies to women whose expected week of childbirth falls on or after 5 October 2008.
- A right for women on additional maternity leave to make claims for discrimination in relation to terms and conditions of employment in the same way as during ordinary maternity leave. Again, this applies to women whose babies are expected on or after 5 October 2008.

### Gender Reassignment

The Sexual Discrimination (Gender Reassignment) Regulations 1999 make unlawful discrimination against transsexual people on the grounds of sex in pay and treatment in employment and vocational training.

### Sexual Orientation Discrimination

From 1 December 2003, discrimination on the grounds of sexual orientation in the employment field is unlawful under the Employment Equality (Sexual Orientation) Regulations 2003, as amended by the Employment Equality (Sexual Orientation) (Amendment) Regulations 2003.

## Disability Discrimination

The Disability Discrimination Act 1995 (DDA 1995) introduced measures to prevent discrimination against disabled people<sup>2</sup> in employment, in the provision of goods and services, and in buying and renting land and property - discrimination also occurs if, without justification, a "reasonable adjustment" is not made.

The DDA 1995 was the Government's response to the increasingly effective campaign for comprehensive and enforceable anti-discrimination legislation for disabled people. The DDA 1995 addresses discrimination against disabled people in

employment and in the provision of goods and services. The Act abolishes the employment quota for disabled people established by the Disabled Persons (Employment) Act 1944.

The DDA 1995 was amended by the Disability Discrimination Act 1995 (Amendment) Regulations 2003. These Regulations, which came into force on 1 October 2004, made significant changes to the DDA including: ending the exemption of small employers from the scope of the DDA; and bringing within its remit a number of previously excluded occupations, such as the police, fire-fighters, prison officers and partners in business partnerships. Legislation was also introduced concerning discrimination of disabled students and the occupational pensions of disabled employees.

The DDA 1995 was replaced by the Disability Discrimination Act 2005 (DDA 2005) which received Royal Assent on 7 April 2005 and included new legislation to:

- Create a new duty to promote disability equality for the public sector. This includes duties to promote positive attitudes towards disabled people, tackle all forms of harassment and bullying and promote participation in public life;
- Extend protection to cover people who have HIV infection, cancer and multiple sclerosis from the moment they are diagnosed;
- Remove the requirement that a 'mental illness' be "clinically well-recognised";
- Making it unlawful for operators of transport vehicles to discriminate against disabled people;
- Making it easier for disabled people to rent property and for tenants to make disability-related adaptations;
- Ensuring that discrimination law covers all the activities of public authorities;
- Cover larger private members' clubs (i.e. those with 25 or more members);
- Cover bodies that award general qualifications (like GCSEs and A Levels);
- Protect disabled councillors against discrimination.

For further information see:  
[www.disability.gov.uk/legislation](http://www.disability.gov.uk/legislation)

### Discrimination in the provision of goods and services extended

Legislation prohibiting discrimination on grounds of religion or belief and sexual orientation in the provision of goods, facilities and services came into force on 30 April 2007.

Similar legislation already existed in relation to discrimination on the grounds of sex, race and disability.

The new legislation includes "discrimination by association" for example where goods or services are offered to married couples but not to civil partners.

The legislation was not welcomed by faith based adoption and fostering agencies who were given until 31 December 2008 to comply with the sexual orientation discrimination legislation.

The legislation is contained in The Equality Act (Sexual Orientation) Regulations 2007 available at: [www.opsi.gov.uk/si/si2007/draft/20075920.htm](http://www.opsi.gov.uk/si/si2007/draft/20075920.htm) and The Equality Act 2006, Part II available at: [www.opsi.gov.uk/ACTS/acts2006/ukpga\\_20060003\\_en.pdf](http://www.opsi.gov.uk/ACTS/acts2006/ukpga_20060003_en.pdf)

The Department for Communities & Local Government has published two guides to the new regulations.

"Guidance on new measures to outlaw discrimination on the grounds of sexual orientation - part 3 of the Equality Act" is available at: [www.communities.gov.uk/index.asp?id=1510066](http://www.communities.gov.uk/index.asp?id=1510066)

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The Disability Rights Commission (DRC) was established in April 2000 by Act of Parliament to stop discrimination and promote equality of opportunity for disabled people. It produced a number of codes of practice, explaining legal rights and requirements under the Disability Discrimination Act 1995. These Codes are practical guidance - particularly for disabled people, employers, service providers and education institutions - rather than definitive statements of the law. However, courts and tribunals must take them into account.

The DRC was replaced by the Equality and Human Rights Commission on 1 October 2007. The codes of practice are now available from the Equality and Human Rights Commission at:  
[www.equalityhumanrights.com](http://www.equalityhumanrights.com)

For further information about the provisions of the DDA 2005, please ask for our publication *IP270:- Disability Discrimination*.

### Equality Act 2010

The Equality Act 2010 received Royal Assent on 8 April 2010 and the Government has now published accompanying Explanatory Notes. These summarise the background to the Act and set out the range of existing discrimination and equalities legislation. They also provide a summary of the Act and an overview of its structure, as well as more detail on many of its provisions. The purpose of the notes is to assist in developing an understanding of the Act and they are intended to be read in conjunction with it. They do not form part of the Act, nor have they been endorsed by Parliament.

The Act has two main purposes: (a) to harmonise discrimination law and to (b) to strengthen the law to support progress on equality. It prohibits direct and indirect discrimination, discrimination arising from disability, harassment and victimisation and provides protection against discrimination on the grounds of:

- age;
- disability;
- gender reassignment;
- marriage and civil partnership;
- pregnancy and maternity;
- race;
- religion or belief;
- sex; and
- sexual orientation.

The Government Equalities Office currently envisages that the provisions in the Act will come into force as follows:

- October 2010: Main provisions.
- April 2011: The integrated public sector Equality Duty, the Socio-economic Duty and dual discrimination protection.
- 2012: The ban on age discrimination in provision of goods, facilities, services and public functions.
- 2013: Private and voluntary sector gender pay transparency regulations (if required) and political parties publishing diversity data.

**The explanatory notes are available at:**  
[www.opsi.gov.uk/acts/acts2010/en/ukpgaen\\_20100015\\_en.pdf](http://www.opsi.gov.uk/acts/acts2010/en/ukpgaen_20100015_en.pdf)

**Source:** [www.equalities.gov.uk/equality\\_act\\_2010.asp](http://www.equalities.gov.uk/equality_act_2010.asp)

## Age Discrimination

Many assumptions about people - both young and old - are outdated and work against the interests of both the individuals involved and the employer.

In line with the EU Directive, the Employment Equality (Age) Regulations 2006 came into force on 1 October 2006. The regulations (which do not affect the age at which people can claim their state pension):

- ban age discrimination in terms of recruitment, promotion and training;
- ban unjustified retirement ages of below 65;
- remove the current age limit for unfair dismissal and redundancy rights.

The Age Positive Team working within the Department of Work and Pensions produce Good Practice standards to help employers recognise the business benefits of an age-diverse workforce. This is voluntary guidance to encourage employers to make decisions that do not discriminate against someone because of how old they are. The information covers good practice in six areas of employment and can be viewed at:

[www.agepositive.gov.uk/codeOfPractice.cfm?sectionid=90](http://www.agepositive.gov.uk/codeOfPractice.cfm?sectionid=90)

For further information about the Age Discrimination Legislation, please ask for our publication *304-AdvantAGE-Age Diversity in Employment*.

## Racial Discrimination

Employees of all racial groups have a right to equal opportunity. The Race Relations Act 1976 proscribes discrimination on racial grounds. According to the Act, there is direct discrimination where an individual, on the grounds of his or her racial group, is treated less favourably than someone of a different racial group would be treated<sup>3</sup>. Segregating a person from others on racial grounds constitutes less favourable treatment.

There is indirect discrimination where a requirement or condition is applied:

- which is such that a considerably smaller proportion of persons of the same racial group can comply with it than the proportion of persons not of that racial group who can comply; and

### Equality Direct

In January 2001, the Government launched an information and advice service for businesses on a whole range of equality issues such as providing better access for disabled people or equal pay. The service is called 'Equality Direct' and has a telephone advice centre and supporting website to help employers resolve management issues. It offers information and advice on both good practice and the law and provides information on effective equal opportunities strategies.

Equality Direct is about:

- Practical solutions for business.
- Getting equal opportunities right.
- Providing direct access to information and advice.

The Equality Direct service is now provided by ACAS and can be contacted on:  
08456 00 34 44

### ACAS revises discrimination guide

ACAS has revised its discrimination booklet to help businesses understand and tackle discrimination in the workplace. It now contains a sample equality policy and practical checklists for use in preventing discrimination.

To access "Tackling discrimination and promoting equality - good practice guide for employers" visit:  
[www.acas.org.uk/publications/B16.html](http://www.acas.org.uk/publications/B16.html)

- which cannot be shown to be justifiable irrespective of the colour, race, nationality, or ethnic or national origins of the person to whom it is applied; and
- which is to the detriment of the person concerned because he or she cannot comply with it.

An example of indirect discrimination on racial grounds might be a rule that candidates must have a British or European degree, or where an employer requires higher language standards than are needed for safe and effective performance of the job. It is also unlawful for an individual to be victimised for having brought proceedings under the Acts, or for giving evidence or information relating to such proceedings, or for alleging that discrimination has occurred.

The Race Relations Amendment Act 2000 requires named public authorities to review their policies and procedures; to remove discrimination and the possibility of discrimination; and to actively promote race equality. It amends the Race Relations Act 1976, which makes it unlawful to discriminate against anyone on grounds of race, colour, nationality (including citizenship), or ethnic or national origin. Nothing is taken away from the 1976 Act, but the amended duties are more enforceable and include a positive duty to promote racial equality.

The Race Relations Act 1976 (Amendment) Regulations 2003 enhance the Race Relations Act by, for example, amending the definition of indirect discrimination and changing the way in which the burden of proof applies, as well as removing a number of exceptions from the legislation. For more details visit: [www.homeoffice.gov.uk/comrace/race](http://www.homeoffice.gov.uk/comrace/race)

The Commission for Racial Equality (CRE) worked towards the elimination of racial discrimination and the promotion of racial equality. The Equality and Human Rights Commission replaced the CRE on 1 October 2007 and continues its work.

On 6 April 2006, the CRE's statutory code of practice on racial equality in employment for England, Scotland and Wales took legal effect. It is a set of recommendations and guidance on how to avoid unlawful racial discrimination and harassment in employment. It outlines employers' legal obligations under the Race Relations Act 1976 and contains general advice on the policies they need to safeguard against discrimination and harassment, as well as

more detailed recommendations on the procedures and practice that help ensure fair and equal treatment for everyone.

The Code aims to give practical guidance to help employers, trade unions, employment agencies and employees to understand not only the provisions of the Race Relations Act and their implications, but also how best they can implement policies to eliminate racial discrimination and to enhance equality of opportunity. Employment tribunals will take the Code's recommendations into account as evidence in any legal proceedings brought on or after 6 April 2006 under the Race Relations Act.

The codes of practice are now available from the Equality and Human Rights Commission at: [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

## Equal Pay

The Equal Pay Act 1970 makes it unlawful for employers to discriminate between men and women in terms of their pay and conditions where they are doing the same or similar work; work rated as equivalent; or work of equal value. The Act applies to both men and women but does not give anyone the right to claim equal pay with a person of the same sex. In other words, any comparison must be with a person of the opposite sex. The Equal Pay Act was passed in 1970, when the pay gap between men and women stood at 37%. By the time the Act came into force in 1975, it had closed to 30%.

The *Equal Pay Act 1970 (Amendment) Regulations 2003* took effect on 19 July 2003. They lengthen the time limits for bringing cases and for which arrears payments can be made under the Equal Pay Act.

Their main effect is to:

- remove current provisions in Equal Pay Act 1970 s.2(5) under which compensation for breach is limited to two years back pay (so as to comply with the judgment of the ECJ in *Preston v Wolverhampton Health Authority*); and
- extend the six month period after employment has ended during which a claim must be brought if an employer deliberately conceals relevant facts or if the claimant was under a disability.



The Regulations<sup>4</sup> amend and add to the Equal Pay Act 1970. Important changes are:

- Equal pay proceedings must be instituted on or before the "qualifying date" (as defined) and an award to cover back-pay cannot go back beyond the "arrears date" as defined;
- The "qualifying date" is defined (normally 6 months after the last day of the employment);
- The "arrears date" is defined (normally the date which is 6 years before the day on which the proceedings are instituted). There are different rules for Scotland (normally the period of 5 years ending on the day on which the proceedings are instituted);
- The "qualifying date" for members of the armed forces is defined (normally nine months after the end of service);
- The "arrears date" for members of the armed forces is defined (normally the date which is 6 years before the day on which complaint under the service redress procedures was made);
- "Disability" is defined.

The new rules make special provision to extend both the "qualifying date" and the "arrears date" in favour of a claimant if the employer deliberately concealed relevant facts or if the employee was under a disability. "Disability" for this purpose means under a legal disability (i.e. being under age or mentally incapable) and has nothing to do with the definition used in the *Disability Discrimination Act 1995*.

### Gender Pay Gap

The Equal Pay Act addresses one aspect of the gender pay gap — that of unequal pay. The Government is helping to tackle wider causes of the pay gap such as job segregation and differences in work experience.

On 5 December 2001, the Government announced a number of measures aimed at closing the gender pay gap, in response to the Kingsmill Report on women's employment and pay, which showed that on average, women working full time still earned only 81% of full time male earnings. The proposals included:

- A new measure to make it easier for women to get information from employers about whether they have equal pay problems;
- Developing new reporting requirements for larger companies including 'human capital management' - for example how they train, invest and recruit staff - where relevant;

- Encouraging private and public sector organisations to conduct employment and pay reviews covering all aspects of women's employment;
- Spreading best practice through 'fair pay champions';
- Recognising best practice through a new award for equal pay and equality, the 'Castle Awards', named after former Labour Employment Minister the Rt. Hon Baroness Barbara Castle.

Since then, the gender pay gap has decreased so that means that women working full time are currently paid, on average, 12.6% less per hour than men. A fact sheet produced by the Women & Equality Unit entitled "*Tackling The Gender Pay Gap*" can be viewed at: [www.womenandequalityunit.gov.uk/publications/genpaygap\\_facts\\_jun06.doc](http://www.womenandequalityunit.gov.uk/publications/genpaygap_facts_jun06.doc)

### Equal Value cases

On 22 March 2004, Jacque Smith, the Deputy Minister for Women and Equality announced proposals to reduce the time that equal value tribunal cases take. The intention is to reduce the process to just six to nine months, instead of the current two years for straightforward cases. These tribunals arise where workers claim equal pay on the basis that they are doing work of equal value to that of someone of the opposite sex, rather than the same or a similar job.

New regulations were brought into force simultaneously with Employment Tribunal changes in October 2004 to reduce the time of equal value tribunal cases. Guidance on the procedures for equal value tribunal cases can be found at: [www.womenandequalityunit.gov.uk/publications/equal\\_value\\_guidance\\_2004.doc](http://www.womenandequalityunit.gov.uk/publications/equal_value_guidance_2004.doc)

## Commission for Equality and Human Rights

On 30 October 2003, the Government announced that a single Equality and Human Rights Commission (CEHR) would be set up to replace the three existing organisations tackling race, sex and disability discrimination. The move sees the demise of the Equal Opportunities Commission, the Commission for Racial Equality and the Disability Rights Commission, though the new body's remit also tackles discrimination on grounds of sexual orientation, religion or

### The Government Equalities Office

On 26 July 2007, the Prime Minister announced the establishment of the new Government Equalities Office (GEO). It is responsible for the Government's overall strategy and priorities on equality issues. This includes the Discrimination Law Review, the Single Equality Bill, and the Equality PSA; sponsorship of the Equality and Human Rights Commission; and the response to the CEHR's Equalities Review.

It is also responsible for policy on gender equality, including the Minister for Women's priorities, and sexual orientation and for integrating work on race and religion or belief equality into the overall equality framework.

More information is available at: [www.equalities.gov.uk](http://www.equalities.gov.uk)

age, as well as a brief to promote human rights.

The CEHR is effective from 1 October 2007 as legislated for by the Equality Act 2006. The new Commission is a Non-Departmental Public Body (NDPB) and independent influential champion whose stated purpose is to reduce inequality, eliminate discrimination, strengthen good relations between people and protect human rights.

The CEHR has taken on all of the powers of the existing Commissions as well as new powers to enforce legislation more effectively and promote equality for all. The Commission champions the diverse communities that make up modern Britain in their struggle against discrimination. It also promotes awareness and understanding of human rights and encourages good practice by public authorities in meeting their Human Rights Act obligations. New powers to take human rights cases have given a new arrow to the bow of many minorities who suffer discrimination.

The Commission covers England, Scotland and Wales. In Scotland and Wales there will be statutory committees responsible for the work of the CEHR. Further information on the CEHR can be viewed at: [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

## The Equality Bill

The Government has a stated commitment to reduce disadvantage and promote equality and opportunity for all. In 2007, it established the new Government Equalities Office, set up the Equality and Human Rights Commission, agreed an ambitious Public Service Agreement target on equality, and set up the National Equality Taskforce.

Despite considerable progress, inequality and discrimination still exist:

- Women are paid on average 12.6% less per hour than men;
- Disabled people are two and a half times more likely to be out of work;
- Ethnic minorities are a fifth less likely to find work; and
- Two thirds of over-fifties feel that they are turned down for a job because they are too old.

The much anticipated Equality Bill was published on 27 April 2009. It will strengthen equality law by:

- Introducing a new public sector duty to consider reducing socioeconomic inequalities;
- Putting a new Equality Duty on public bodies;
- Using public procurement to improve equality;
- Banning age discrimination outside the workplace;
- Introducing gender pay and equality reports;
- Extending the scope to use positive action;
- Strengthening the powers of employment tribunals;
- Protecting carers from discrimination;
- Protecting breastfeeding mothers;
- Banning discrimination in private members' clubs; and
- Strengthening protection from discrimination for disabled people.

The Equality Bill is expected to come in to force in Autumn 2010. More information is available at: [www.equalities.gov.uk/equality\\_bill.aspx](http://www.equalities.gov.uk/equality_bill.aspx)

In addition to the Equality Bill and its linked package of measures, the Government will do further work on whether the law can be toughened to give redress to people who suffer discrimination on combined multiple grounds, for example by a black woman, or an older man. It is also considering whether there is a case for representative actions, which would allow bodies such as trade unions or the Equality and Human Rights Commission to take one claim to court on behalf of a number of individuals.

### End age discrimination

The Equality Bill includes powers to ban all unjustified discrimination against older people, such as denying them medical treatment. Things that help older people, such as free bus passes, will still be allowed.

Public bodies will also have a new legal duty to eliminate age discrimination and promote equality.

There will be a transitional period to allow organisations time to adjust. Work is already underway, and the Government will consult on provisions to bring the new law into force more quickly in sectors, which are ready to comply.

### Compensation - Key facts

The Equal Opportunities Review (EOR) has published a survey of discrimination compensation awards for 2006. The key message is that the median awards for discrimination claims are much lower than newspaper headlines would have you believe. Based on this survey, the median compensation awards for 2006 were:

- £7,294 for sex discrimination;
- £5,302 for race discrimination;
- £9,480 for disability discrimination;
- £1,550 for religious discrimination; and
- £11,561 for sexual orientation discrimination.

These figures may be slightly misleading: they do not take account of settled claims, which tend to represent the higher end of the scale; also, the survey figures are based on the information available to the researchers, and as Tribunals are no longer required to provide written reasons of decisions or a breakdown of compensation (unless requested), information was lacking in 38% of cases.

Awards for injury to feelings are assessed subject to the "Vento guidelines" which sets out three award bands:

- £500 - £5,000 for less serious cases such as an isolated incident of discrimination;
- £5,000 - £15,000 for more severe cases or for acts extending over a period of time;
- £15,000 - £25,000 for the most serious cases of discrimination such as where there has been a lengthy campaign of harassment.

According to the survey, just over half of all injury to feelings awards made in 2006 fell into the lowest Vento band, 25% of awards fell into the middle band, with less than 3% falling into the highest band. The median award for injury to feelings was £5,000 or less.

Source:  
Addleshawgoddard

### Increase transparency and ban 'gagging clauses'

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Inequality cannot be tackled if it is hidden. Transparency is essential to eradicate discrimination:

- The Equality Bill bans 'gagging clauses' so that work colleagues can compare wages and challenge employers who unlawfully pay them less. Nearly a quarter of employers ban their staff talking about their wages, with women more likely to be in the dark about colleagues' pay than men.
- Public authorities will report on important inequalities like gender pay, disability employment and ethnic minority employment.
- At the moment Employment Tribunals can only make judgments work for the individual who brought the case. The Bill will allow tribunals to make recommendations which will benefit everybody in the workforce and stop similar types of discrimination happening again.
- £160 billion is spent every year by the public sector on British businesses - Government will look at how public procurement can be used to deliver transparency and change.
- The Equality and Human Rights Commission will conduct a series of inquiries in sectors where there is clear inequality, for example the gender pay gap in financial services is 41.5% compared with the national figure of 12.6%.
- Businesses will be challenged through the development of an equality "kite-mark" to report on the gender pay gap in their organisation and their employment of disabled and ethnic minority staff.
- The Government will work with the CBI and Unions to collect evidence on the effectiveness of equal pay job evaluation audits.

The Government expects business increasingly to regard reporting on their progress on equality as an important part of explaining to investors and others the prospects for the company. It will review progress on transparency and its contribution to the achievement of equality outcomes, and in light of this, consider over the next five years, using existing legislation for greater transparency in company reporting on equality.

### Positive Action for women, and other under-represented groups

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Employers will get the right to address under-representation, for example:

- Under-representation of ethnic minorities in the police;
- Local authorities which want to promote more women to higher positions or to recruit more black, Asian and ethnic minority candidates.

This will allow employers to take under-representation into account when deciding between two equally qualified candidates, and so allow workforces to better reflect society.

Recognised business benefits of a diverse workforce include attracting new business, understanding customers' needs, and filling skills gaps. This will be entirely permissive, rather than compulsory, and will help organisations such as police forces which want to increase the number of ethnic minority officers to better reflect the local community.

### New equality duty on the public sector

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Public authorities already have a duty to consider how their spending decisions, employment practices and service delivery affect people whatever their race, disability or gender, which has created a positive culture change. The Bill replaces this with a new streamlined and strengthened equality duty which will also include age and sexual orientation.

This means that public bodies will need to consider how services affect a wide range of different people. For example a library may provide IT training specifically for older people, or a police authority may provide an emergency mobile phone text service for deaf people.

## Contact Details

### Age Positive

Age Positive Team  
Department for Work and Pensions  
Room W8d, Moorfoot, Sheffield S1 4PQ  
Website: [www.agepositive.gov.uk](http://www.agepositive.gov.uk)

### The Equality and Human Rights Commission

#### England - disability

Equality and Human Rights Commission  
Disability Helpline (England)  
FREEPOST MID02164  
Stratford upon Avon  
CV37 9BR

Telephone: 08457 622 633  
Textphone: 08457 622 644  
Fax: 08457 778 878

#### England - race, age, gender, sexual orientation, religion and belief and human rights

### Equality and Human Rights Commission Helpline England

Freepost RRLG-GHUX-CTRX  
Arndale House  
Arndale Centre  
Manchester  
M4 3EQ

0845 604 6610 - England Main  
0845 604 6620 - England textphone  
0845 604 6630 - England fax

### Wales

Equality and Human Rights Commission  
Helpline Wales  
Freepost RRLR-UEYB-UYZL  
1st Floor  
3 Callaghan Square  
Cardiff  
CF10 5BT

0845 604 8810 - Wales main number  
0845 604 8820 - Wales textphone  
0845 604 8830 - Wales fax

### Scotland

Equality and Human Rights Commission  
Helpline Scotland  
Freepost RRLG-GYLB-UJTA  
The Optima Building  
58 Robertson Street  
Glasgow  
G2 8DU

0845 604 5510 - Scotland Main  
0845 604 5520 - Scotland Textphone  
0141 228 5912 - Scotland - Fax

### Employers Forum on Disability

Employers' Forum on Disability  
Nutmeg House  
60 Gainsford Street  
London, SE1 2NY  
Tel: 0207 403 3020

### Equality Direct (ACAS)

Tel: 08456 00 34 44

### Women and Equality Unit

2nd Floor  
Ashdown House  
123 Victoria Street  
London  
SW1E 6DE  
United Kingdom

## Further Information

This guide is for general interest - it is always essential to take advice on specific issues. We believe that the facts are correct as at the date of publication, but there may be certain errors and omissions for which we cannot be responsible.

If you would like to receive further information about this subject or other publications, please call us – see our contact details on the next page.

Other information can be obtained from the Equality and Human Rights Commission at [www.equalityhumanrights.com](http://www.equalityhumanrights.com) – they have inherited from the Commissions they replaced a series of Good Practice Guides for employers including the following:

- Dealing with Sexual Harassment;
- For Employers - An introduction to Equal Pay;
- Job Evaluation Schemes Free of Sex Bias;
- How to manage arrangements in the workplace for parental leave and leave for dependants;
- How to manage flexibility in the workplace;
- How to manage genuine occupational

qualifications in the care sector;

- How to manage Genuine Occupational Qualifications in the workplace;
- How to manage maternity in the workplace;
- How to manage successful positive action under S47 and S48 of the Sex Discrimination Act 1975;
- How to monitor by gender and marital status;
- How to set targets for gender equality;
- Equal Pay Policy and Pay Systems Review: Guidance for Employers;
- Sex Equality and Advertising;
- Sex Equality and Services for Service Providers;
- Code of Practice on Equal Pay - practical guidance and recommends good practice on pay arrangements;
- Code of Practice on Sex Discrimination - practical guidance on equal opportunity policies, procedures and practices in employment;
- Equal Opportunities is Your Business Too - produced jointly by the EOC, CRE and NDC, this good practice guide is aimed at helping small firms deal with equal opportunities;
- Equal Pay Definitions;
- Illustrative Job Advertisements.

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## References:

<sup>1</sup> The leaflet, obtainable free of charge from the CEHR, is called: "*Equal Opportunities is Your Business Too*".

<sup>2</sup> The DDA 1995 defines a disabled person as a person with 'a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities'. The definition was extended in the DDA 2005, e.g. to include people in remission from cancer.

<sup>3</sup> Racial grounds are the grounds of race, colour, nationality, - including citizenship – or ethnic or national origins, and groups defined by reference to these grounds are referred to as racial groups.

<sup>4</sup> See: [www.legislation.hmso.gov.uk/si/si2003/20031656.htm](http://www.legislation.hmso.gov.uk/si/si2003/20031656.htm)

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