

## The Equality Act 2010

The Equality Act came into force on 1 October 2010. The Act has replaced the Equal Pay Act 1970, the Sex Discrimination Act 1975, the Race Relations Act 1976, the Disability Discrimination Act 1995, Employment Equality Regulations on Religion or Belief, Sexual Orientation and Age, and other ancillary pieces of legislation.

The Act has harmonised the existing provisions to give a single approach and seeks to strengthen the law to support progress on equality.

The Act confirms the "Protected Characteristics" which form the basis of the discrimination provisions as follows: Age, Sex, Race, Marriage and Civil Partnership, Sexual Orientation, Religion or Belief, Pregnancy and Maternity, Disability and Gender Reassignment.

The core provisions of the Act have come into force but there are some additional provisions that are scheduled to come into force in 2011 and beyond. Some of the core provisions now in force include:

- Employers are not allowed to discriminate, harass or victimise another person because they belong to a group that the Act protects, they are thought to belong to one of those groups or are associated with someone who does.
- Employers will also be prevented from asking prospective employees about disability or health before making a job offer (except in specific circumstances).
- Protection from harassment has been further extended so that the employer can be held liable for harassment by a third party, such as a customer or contractor.
- The Act widens the tribunals' powers so that where there is a finding of discrimination made against an employer, tribunals will be able to make recommendations in respect of the employer's workforce as a whole for example a tribunal might recommend that the employer introduce or amend an equal opportunities policy or retrain staff.
- The new law will make pay secrecy clauses unenforceable (but not ban them altogether), and will protect an individual from victimisation if action is taken against them for discussing their pay with their colleagues.
- A change to the test of what 'disability' means has been introduced which now makes it easier for someone to show that they are having difficulty carrying out their day-to-day activities, and therefore that they are disabled in accordance with the new act.
- A new right protecting disabled people from 'indirect discrimination' has been introduced. This is where a policy or practice is applied in the same way to everyone, but it puts disabled people at a particular disadvantage.

- “Disability related discrimination” has been replaced by a new concept called “discrimination arising from disability”. This applies quite widely and can include scenarios where people are mistakenly perceived to be disabled or where a person is treated less favourably because they are linked or associated with a disabled person.
- The definition of Gender Reassignment has been changed to remove the requirement of medical supervision.

The Act applies to all employers regardless of size and requires them to avoid discrimination and promote equality in the workplace.

The Act therefore will have an impact on all employers and you should ensure that your employment documentation including policies and procedures are compliant, in particular your equal opportunity and recruitment policies.

If you need advice or assistance please contact Jo Cullen or Ellen Crabtree in the Employment Team on 020 8549 5186.