

## Equality at Work

**The law proposed under the Equality Bill has not yet been enacted but, when it comes into effect (the government has suggested that may be in the autumn 2010), nine major anti-discrimination enactments will be brought together and re-stated within the new Act. Most of the existing legislation will generally be repealed.**

On the 27<sup>th</sup> April 2009, the government published the Equality Bill that had its first reading in the House of Commons on Friday 24<sup>th</sup> April 2009. The existing anti-discrimination legislation has developed over a period of more than 40 years, starting with the first Race Relations Act of 1965. During that time, other personal characteristics other than race have been given legislative protection from discrimination as have similar conduct. This legislation has either been enacted by the UK on its own initiative or by the implementation of European Directives into UK domestic law.

**The purpose and reason for the law in this area is to prohibit unlawful discrimination by the providers of employment, premises, services and goods against those whom the law deems to have certain ‘protected characteristics.’ In Part 2, Chapter 1, these protected characteristics are stated to be:**

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

**Importantly, the Equality Bill will:**

- place a new duty on certain public authorities (those listed in Part 1, clause 1 of the Bill) to consider **socio-economic disadvantage** when taking strategic decisions about how to exercise their functions;
- **extend the circumstances** in which a person is protected against discrimination, harassment or victimisation because of a protected characteristic;
- create a duty on listed public authorities when carrying out their functions and on other persons when carrying out public functions to have due regard when carrying out their functions to consider: the need to **eliminate conduct** which the Bill prohibits; the need to **advance equality of opportunity** between persons who share a relevant protected characteristic and those who do not; also the need to **foster good relations** between people who share a relevant protected characteristic and the people who do not. The practical effect is that listed public authorities will have to consider how their policies, programmes and service delivery will affect people with the protected characteristics;

- allow an employer or service provider or other organisation to take **positive action** so as to enable existing or potential employees or customers to overcome or minimise a disadvantage arising from protected characteristics;
- extend the permission for political parties to use **women-only shortlists** for election candidates to 2030;
- enable an employment tribunal to make a **recommendation** to a respondent who has lost a discrimination claim **to take certain steps** to remedy matters not just for the benefit of the individual claimant (who may have already left the organisation concerned) but also the wider workforce.

**This ‘Equality at Work’ heading is written in a colloquial style for quicker and easier reference. For example, instead of the formal written clauses of the Bill as shown in the first paragraph, this heading is written informally, with practical examples, as shown by the second and following paragraphs. In the Bill, clause 72 is formally written thus –**

**72 Discussions with colleagues.**

- (1) A term of a person’s work that prevents or restricts the person (P) from being involved in discussions with colleagues about the terms of P’s work is unenforceable against P in so far as P is involved in a relevant pay discussion.

**Clause 72 of the Bill is designed to protect people who discuss their pay with colleagues (as defined in clause 74) with a view to finding out if differences exist which are related to a protected characteristic. Any action taken against them by the employer as a result of doing so is treated as victimisation, as defined in clause 25, as applied in the clauses listed in the table.**

**Terms of employment or appointment which prevent or restrict people from disclosing their pay to the colleagues are made unenforceable to the extent that they would prevent or restrict such a discussion.**

**Two examples show how this provision may apply:**

- **A female employee thinks she is underpaid compared with a male colleague. She asks him what he is paid, and he tells her. The employer takes disciplinary action the man as a result. The man can bring a claim for victimisation against the employer for disciplining him;**
- **A female employee discloses her pay to one of her employer’s competitors in breach of a confidentiality clause in her contract. The employer could take action against her in relation to that breach.**

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