



Government
Equalities Office

Putting equality at the heart of government

A FAIRER FUTURE

THE EQUALITY BILL AND OTHER ACTION TO MAKE EQUALITY A REALITY

Foreword by Rt. Hon. Harriet Harman QC MP
Minister for Women and Equality



Equality matters

The Government is, and always has been, the champion of equality in public policy and in our democratic institutions.

Equality is not just right in principle, it is necessary for:

- **individuals:** everyone has the right to be treated fairly and the opportunity to fulfil their potential. To achieve this we must tackle inequality and root out discrimination;
- **the economy:** a competitive economy draws on all the talents and ability – it's not blinkered by prejudice; and
- **society:** a more equal society is more cohesive and at ease with itself.

Everyone has a stake in creating a fair society because fairness is the foundation for individual rights, a prosperous economy and a peaceful society.

Fairness and equality are the hallmarks of a modern and confident society.

Equality achievements

We are proud of our strong legal framework, and our record on fighting discrimination and against inequality. Over the last 40 years we have introduced laws both to create and respond to change in society and to promote civil rights and equality.

From the first Race Relations Acts back in the 1960s to the important steps towards equality for women in the Equal Pay and Sex Discrimination Acts in the 1970s. From strengthening rights for disabled people in the 1990s to the introduction of civil partnerships in 2004, the Government has led the way.

Britain is now a fairer and more confident nation because our commitment to greater equality has been at the heart of public policy.

While a combination of laws and wider action has brought us a long way over the past 40 years, inequality and discrimination persist today. That is why we are introducing a new Equality Bill.

A handwritten signature in black ink, appearing to read "Theresa May". The signature is written in a cursive, flowing style.

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PART ONE

Why we need the Equality Bill

We need the Equality Bill to strengthen the law and bring forward new measures to fight discrimination.

This is necessary because:

- Despite progress since 1997 to reduce the gender pay gap, women still earn, on average, 22.6% less per hour than men¹;
- Less academically able, but better off children, overtake more able, poorer children at school by the age of six;
- The gap between the employment rate of disabled people and the overall employment rate has decreased from 34.5% to 26.3% since 1998², but disabled people are still more than twice as likely to be out of work than non-disabled people³;
- If you are from an ethnic minority, you were 17.9% less likely to find work in 1997 than a white person. The difference is still 13%⁴;
- One in five older people are unsuccessful in getting quotations for motor insurance, travel insurance and car hire⁵; and
- 6 out of 10 lesbian and gay schoolchildren experience homophobic bullying⁶ and many contemplate suicide as a result.⁷

If we do not step up progress:

- the pay gap between men and women will not close until 2085; and
- it will take almost 100 years for people from ethnic minorities to get the same job prospects as white people.

We need the Bill to streamline the law, helping people to understand their rights and helping businesses to comply with the law.

This is necessary because:

- Our discrimination laws have helped us make progress on equality, but because they have been developed over more than 40 years, they have become complex and difficult for people to understand and navigate;

¹ As measured using the overall median gender pay gap, which is women's median hourly pay (excluding overtime) as a percentage of men's median hourly pay (excluding overtime)

² Labour Force Survey, Quarter 2

³ Family Resource Survey, 2006/7

⁴ Labour Force Survey, Q3, 2008

⁵ Age Concern/Help the Aged, Insurance and age - exploring behaviour, attitudes and discrimination, March 2007

⁶ Hunt, R and Jensen, J (2006) The School Report, The experiences of young gay people in Britain's schools, Stonewall

⁷ Rivers, I (2000) Social exclusion, absenteeism and sexual minority youth

- There are currently nine major pieces of discrimination legislation, around 100 statutory instruments setting out rules and regulations and more than 2,500 pages of guidance and statutory codes of practice.

The Bill will replace this thicket of legislation with a single Act, which will form the basis of straightforward practical guidance for employers, service providers and public bodies.

As well as streamlining the law, the Bill will have plain English explanations alongside each clause to clarify what the provisions mean.

What the Equality Bill will do

The Equality Bill will strengthen our equality law by:

1. Introducing a new public sector duty to consider reducing socio-economic inequalities;
2. Putting a new Equality Duty on public bodies;
3. Using public procurement to improve equality;
4. Banning age discrimination outside the workplace;
5. Introducing gender pay reports;
6. Extending the scope to use positive action;
7. Strengthening the powers of employment tribunals;
8. Protecting carers from discrimination;
9. Protecting breastfeeding mothers;
10. Banning discrimination in private clubs; and
11. Strengthening protection from discrimination for disabled people.

This document explains how the Bill, supported by other action being taken by the Government and our partners, will make Britain a fairer place to live and work now and in the future.

1. A NEW PUBLIC SECTOR DUTY TO CONSIDER REDUCING SOCIO-ECONOMIC INEQUALITIES

We know that inequality does not just come from your gender or ethnicity; your sexual orientation or your disability; your age, or your religion or belief. Overarching and interwoven with these specific forms of disadvantage is the persistent inequality of social class – your family background or where you were born.

Social class still holds a powerful grip over people's lives:

- class trumps ability - less academically able but better off children overtake more able poorer children at school by the age of six; and
- class trumps gender when it comes to life expectancy - while women generally have longer life expectancy than men, since the early 1980s poorer women can now be expected to live less long than rich men.

The Equality Bill will place a new duty on Government Ministers, departments and key public bodies such as local authorities and NHS bodies to consider what action they can take to reduce the socio-economic inequalities people face.

The duty will affect how public bodies make strategic decisions about spending and service delivery. It will enshrine in the law the role of our key public bodies in narrowing gaps in outcomes resulting from socio-economic disadvantage.

How the socio-economic duty could work:

A local education authority could evaluate the schools application process and find that some parents in social housing were having difficulty navigating the system and getting their child a place at a school. The authority could then target support at people living on housing estates to help them with the application process.

A transport authority could review how accessible its services are. It finds residents from deprived neighbourhoods find it difficult to travel to the local hospital because of infrequent public transport, low car ownership rates and high parking costs. The authority decides to work in partnership with the hospital to develop a strategy to tackle this, which could include introducing a free or subsidised shuttle bus service to the hospital from pick up points around town.

The Department of Health decides to do more to tackle health inequalities in deprived areas so allocates money from its central budget to a new funding stream for Primary Care Trusts which targets areas with the worst health outcomes.

What the duty will not mean:

The duty applies only to strategic decisions. It will not affect front line decisions taken by service providers which relate to individuals. For example, it would not require a doctor to prioritise a patient from a disadvantaged area.

The public service inspectorates such as the Audit Commission, the Care Quality Commission and Her Majesty's Inspectorate of Constabulary etc will check for compliance with the duty through their inspection frameworks.

We will publish guidance ahead of the new duty coming into force to help the inspectorates and public bodies to prepare.

The National Equality Panel which was set up last year underpins the new duty. The National Equality Panel brings together leading academics and experts on equality matters, and is chaired by Professor John Hills of the London School of Economics. It is investigating the relationship between people's characteristics: their gender, race, disability, etc, and other aspects of inequality, such as the job you do and where you come from. It will report at the end of the year providing an evidence base for further action.

2. A NEW EQUALITY DUTY ON PUBLIC BODIES

Public bodies such as local authorities, primary care trusts, schools, colleges, universities and Government departments can play an important role in creating a fair society in the way they provide services, through the jobs and training they offer, and the money they spend. The law will require public bodies to play their part in meeting our equality objectives.

We brought in three separate equality duties on public bodies: on race in 2000, disability in 2005 and gender in 2006. The duties have brought about a positive culture change in many public bodies because they have required them to consider the way their spending decisions, employment practices and service delivery affect people they serve.

Building on the success of the existing duties, the Equality Bill will create a new single public sector Equality Duty which will continue to cover race, gender, and disability but will be extended to cover age, sexual orientation, religion or belief, pregnancy and maternity explicitly, and gender-reassignment in full.

The new Equality Duty will require a range of public bodies to consider the needs of diverse groups in the community when designing and delivering public services so that people can get fairer opportunities and better public services.

For example, the Equality Duty could mean:

In respect of age, a local council putting extra park benches in local parks so older people can enjoy public spaces as well as younger people.

In respect of sexual orientation, a school adapting its anti-bullying strategy to explicitly address bullying of gay and lesbian school children.

In respect of religion or belief, a local council looking for a provider of meals on wheels that delivers culturally diverse food including Halal and Kosher meals.

The legislation will list the public bodies to which the Equality Duty applies. This will include central Government departments, local authorities, education bodies, NHS bodies and the police service, plus a wide range of other public bodies with whom we are holding further discussions over the summer. In addition the duty will apply to private bodies that deliver a public function, for example, a private firm running a prison.

We will publish details of the full list of public bodies as soon as possible to allow them to prepare in time for the duty to come into force.

3. USING PUBLIC PROCUREMENT TO IMPROVE EQUALITY

With an annual expenditure of around £175 billion every year on goods and services - about 13% of GDP - the public sector has an important opportunity to use its purchasing power to promote equality where possible. The public sector already has a legal obligation to consider the needs of women, disabled people and ethnic minorities and the new Equality Duty will extend this to cover age, sexual orientation, gender reassignment and religion or belief.

It is right that public money is spent on goods and services in a way that advances the Government's public policy objectives on equality. We want public services to meet the needs of our diverse society. Encouraging suppliers to promote equality in their own workforces allows public service delivery to benefit from diverse skills and talents. Individuals and wider society will benefit from reductions in pay gaps and improved employment rates among currently under-represented groups.

In the past, some public bodies have been uncertain about what they can do in relation to procurement and equality.

The Bill makes it clear that public bodies can use procurement to drive equality. It enables Ministers to set out how public bodies should go about doing so. Over the summer we will consult on the specific duties which will underpin the new Equality Duty.

Current guidance from the Office of Government Commerce Guidance sets out good practice which we will build on with the help of our stakeholders during the consultation.

For example, using procurement to promote and support equality could mean:

Pre-qualification questionnaires should assess the suitability of potential suppliers to be invited to tender, including requiring disclosure of breaches of the equality legislation.

A local council commissioning a new library specifies that there must be baby changing facilities for both men and women with small children, and that books are available in accessible formats such as audio and Braille.

A local council is commissioning a significant building project, in the context of a large social regeneration scheme, in an area where women are particularly affected by disadvantage. This requires work from plumbers, carpenters and plasterers, trades in which women are under-represented nationally. The contract for this work could include a condition that the contractor runs a positive action programme to train women in these skills.

A Government department contracting out its recruitment requires that all jobs must be advertised on either a part-time basis or with flexible working unless there is a business reason why this is not possible. This will help ensure that its work is available to all groups of people, in particular women.

A common approach to equality in public procurement could reduce burdens on business applying for public sector contracts. This could make it easier for small and medium-sized businesses to compete.

4. BANNING AGE DISCRIMINATION OUTSIDE THE WORKPLACE

The number of people aged over 85 is set to double over the next two decades. We need to ensure that older people are treated fairly, have fulfilling lives and are able to play a full part in society.

We banned age discrimination in the workplace in 2006 but we need to go further to close the remaining gap in our discrimination law. There is a significant amount of evidence that some older people are being discriminated against by those providing goods, services and public functions including health and social care, and some financial services such as travel insurance. Such treatment is not currently against the law.

The Equality Bill will make it unlawful to discriminate against someone aged 18 or over when providing services or carrying out public functions.

For example, banning age discrimination in the provision of goods, facilities and services could mean:

A Primary Care Trust ensuring they give an older person the same care and attention for a medical condition as they do a much younger person with the same condition.

A 75 year who enquires about travel insurance should get a quote which accurately reflects the level of risk she faces, not an arbitrary assumption about how healthy people of her age generally are.

What the ban will not mean:

It will not affect products or services for older people where age-based treatment is justified or beneficial, for example, priority flu vaccinations for over-65s. The law will only stop age discrimination where it has negative or harmful consequences.

This summer we will consult on the details of the new law. Alongside this, negotiations are taking place in the European Council on a proposed European Council Directive on Equal Treatment⁸, which could also cover age discrimination outside the workplace. We will therefore be considering carefully how progress on the Directive fits with our progress on the Equality Bill.

We will implement the new law in phases starting with those sectors most ready to comply. We expect to see the legislation in force in financial services and all other services, with the exception of health and social care, in 2012.

⁸ European Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation.

The Government recently announced that the chief executives of South West Strategic Health Authority and Bristol City Council will lead a review of the practical action that is needed to tackle age discrimination in health and social care. They will report in October. This will help us make as much progress as quickly as possible to prepare for age discrimination legislation in this sector.

5. GENDER PAY AND EQUALITY REPORTS

Nearly forty years after the Equal Pay Act, the gender pay gap remains at 22.6%. It is higher in the private sector where around 80%⁹ of all employees work. The Equality and Human Rights Commission's inquiry into the financial services sector has revealed gender pay gaps of up to 60% in annual gross pay and as much as 79% in annual incentive (bonus) pay.

We cannot tackle pay discrimination if it is hidden. Shining a spotlight on the problem, workplace by workplace, will help employers and employees identify the causes and take action.

The private sector

The Bill will contain a power to require reporting on the gender pay gap by employers with 250 or more employees. However the Government has committed not to use this power before 2013 and it will only be used if sufficient progress on reporting has not been made. The Equality and Human Rights Commission will develop a set of metrics for gender pay reports in consultation with business, unions and others over the summer. The Commission will monitor progress on reporting within the private sector annually.

The public sector

The Equality Bill includes powers for Ministers to require public authorities to report on equality issues. We will consult on the precise details in the summer but we anticipate that public bodies with over 150 employees will be required to publish annual details of:

- their gender pay gap;
- their ethnic minority employment rate; and
- their disability employment rate.

Banning secrecy clauses on pay

According to research carried out in 2003 by the former Equal Opportunities Commission¹⁰, 22% of employers did not permit employees to share pay information with their colleagues, and women were more likely than men to be in the dark about colleagues' pay.

The Equality Bill will ban pay secrecy or 'gagging' clauses which stop employees discussing their pay with their colleagues.

This does not mean that people will be compelled to disclose their pay details. But in situations where colleagues work closely together but are paid different

⁹ Economic and Labour Market Review, 2009 edition, ONS

¹⁰ Monitoring Progress Towards Pay Equality, Neathey F, Dench S, Thomson L, Research Discussion Series, Equal Opportunities Commission, 2003

amounts or have different benefits packages, it is right that they should be able to compare them if they want to.

The Equality and Human Rights Commission industry inquiries

We know that the level of inequality varies between different industries within our economy. That is why the Minister for Women and Equality asked the Equality and Human Rights Commission to conduct two inquiries – the first inquiry, which is underway, focusing on sex discrimination in the financial services sector and the second on opportunities for ethnic minority workers in the construction industry.

The Commission is examining the evidence to find out what is causing the inequality in both sectors, and to make recommendations accordingly. The inquiries will support the measures contained in the Equality Bill to increase transparency in the workplace.

6. POSITIVE ACTION

Despite having equivalent educational qualifications, certain groups do not get the same opportunities as others.

- Out of 646 MPs only 15 are black or Asian. To be representative of the population we should have more than four times that number;
- There are only three ethnic minority High Court Judges¹¹;
- There is only one Chief Constable from an ethnic minority;
- Only 15.8% of University Vice Chancellors are women¹²; and
- There are only 131 women on UK FTSE 100 boards (11.7%).

Positive action in the workplace

Positive action allows employers to make their workforces more diverse if they want to. It can already be used in some circumstances, for example, when placing adverts to attract a more diverse range of job applicants, or training staff from under-represented groups to help them compete for promotion.

Positive action is already being used by some employers:

British Gas

British Gas is taking action to increase the diversity of its 9,000 strong workforce. Since April 2003 it has been working to increase the number of ethnic minority and female engineers in a number of ways. It has been promoting British Gas as an employer to school children aged 13-16 who are interested in engineering, by attending science open days and careers fairs, and advertising in schools and colleges. It has developed a network of engineering ambassadors, and are generating interest amongst women by holding women-only open days to give a taster of what working life would be like as an engineer. British Gas has also targeted job adverts in specific media aimed at young women and ethnic minorities.

Recent research by Catalyst¹³ shows that Fortune 500 companies with a good gender balance on their board perform better. Companies with more women on their boards outperform their rivals with a 42% higher return in sales, a 66% higher return on invested capital, and a 53% higher return on equity. These findings are supported by research from McKinsey and Company¹⁴ for European companies.

¹¹ As at April 2008, Judiciary of England and Wales

¹² Universities UK

¹³ The Bottom Line: Corporate Performance and Women's Representation on Boards, Lois Joy, Ph.D., Director, Research, and Nancy M. Carter, Ph.D., Vice President, Research, at Catalyst Inc.; Harvey M. Wagner, Ph.D., and Sriram Narayanan, Ph.D., October 2007

¹⁴ Women Matter – Gender Diversity, a corporate performance driver, McKinsey and Co., October 2007

Some employers want to diversify their workforce but there is uncertainty about what the law allows employers to do regarding positive action. Currently, our law does not allow under-representation to be taken into account when recruiting people for jobs. Uncertainty about what positive action is allowed has on occasion resulted in employers falling foul of the law.

The Equality Bill will expand the way positive action can be used so that employers can pick someone for a job from an under-represented group when they have the choice between two or more candidates who are equally suitable, provided they do not have a general policy of doing so in every case.

The new positive action measures could mean:

The board of a bank that is 100% male decides to appoint a woman when making a choice between two equally suitable candidates. Choosing a woman will help to address the gender imbalance at the top, making the management more representative of its customer base, which is 50% female.

The Bill will not allow positive discrimination, which will remain unlawful. Positive discrimination means employing or promoting people just because they are from an underrepresented group, even if they are less suitable. The Equality Bill will not allow this to happen and will not allow employment quotas.

Positive action is not about banning certain groups from certain jobs. It is about allowing employers to increase diversity if they want their workforce to better reflect the local community or customer base.

The Equality and Human Rights Commission will publish clear, user-friendly guidance on the new positive action measures to illustrate the range of actions which employers will be able to take, if they wish to.

Positive action in political life

It is important that Parliament and our other democratic institutions properly reflect the make up of our society. At present, Parliament is not representative of the communities it serves.

All-women shortlists for selection of parliamentary candidates have increased the number of women MPs from 60 in 1992 to 128 in 2005. But women still only account for one in five MPs despite making up 51% of the population.

That is why the Equality Bill will extend the permission to use women-only shortlists until 2030.

The Bill will also enable political parties, as part of their process of selecting candidates, to take positive measures to bring on candidates from under-represented groups. This could include reserving a specific number of places on every electoral shortlist for ethnic minority candidates, or organising mentoring schemes for lesbian, gay and bisexual candidates.

Other action to increase representation

As well as the Equality Bill we are taking forward measures to make our democratic institutions more representative

Black, Asian and Minority Ethnic Women Councillors Taskforce

The Taskforce, chaired by Baroness Uddin, is travelling around the country providing advice and support to ethnic minority women to encourage them to become councillors.

Speaker's Conference

The Speaker's Conference is a year-long inquiry into how Parliament can become more representative.

Positive action in public appointments

We have given the Commissioner for Public Appointments a stronger diversity role, with the power to take action to promote diversity in the procedures for making public appointments that fall within her remit.

Positive action beyond employment

The Bill will allow service providers to take positive action measures to meet the particular needs of disadvantaged groups. For example, a local sexual health centre runs a weekly session just for young women.

7. STRENGTHENING THE POWERS OF EMPLOYMENT TRIBUNALS

Discrimination often arises as a result of institutional policies and practices, many of which have been in place for years and are part of an organisation's culture. Tackling this requires a more systematic, far-reaching approach and tribunals can play a role.

Currently, employment tribunals can make a recommendation where an employer is found to have discriminated against someone, but only if the recommendation would benefit the individual who brought the claim. This presumes he or she is still with the company or organisation. However, because 70% of employees involved in discrimination cases leave the organisation, this ties the hands of tribunals.

The Equality Bill will allow employment tribunals to make recommendations in discrimination cases which benefit the whole workforce and not just the individual who won the claim. This will help to prevent similar types of discrimination occurring in the future. Failure to comply with a recommendation could be used as evidence to support subsequent similar discrimination claims.

For example, strengthening the role of tribunals could mean:

A woman brings a sex discrimination claim but ends up leaving and the company she worked for. The tribunal could recommend that her employer reviews its equal opportunities policy to help prevent similar claims being brought in the future.

Other action

Trade Union Equality Representatives

Trade union equality 'reps' can help employers and employees with issues like flexible working, equal pay, discrimination and harassment. We are working with trade unions to strengthen the role of equality 'reps' in the workplace, and are helping to fund an evaluation of their work.

Representative actions

Currently, individuals who have been discriminated against have to shoulder the burden of bringing a claim. This has financial and emotional costs, as well as the risk of being seen as a 'trouble maker' whether they win the case or not. Representative actions would enable bodies such as trade unions or the Equality and Human Rights Commission to take cases to court or a tribunal on behalf of a group of individuals as a single claim. Any proposals for reforming this area of discrimination law will be subject to a full consultation. We are not, therefore, intending to include this in the Equality Bill.

Multiple discrimination

There are situations where people are discriminated against because of a particular combination of characteristics. For example a black woman may suffer prejudice and discrimination that is not faced by a black man or a white woman. This is called multiple discrimination. We have spoken to business and equality groups about how to address this issue, and are holding further discussions with them to clarify what the impact would be of allowing multiple discrimination claims to be brought for two protected characteristics combined.

8. PROTECTING CARERS FROM DISCRIMINATION

It is currently unlawful to discriminate against or harass someone because they are 'linked to' or 'associated with' a person who is of another sexual orientation, race, or religion or belief. For example, if an employer discriminates against an employee because she is married to an Asian man that is unlawful.

But the same protection does not apply in respect of age, disability, sex, or gender reassignment. So the same employer in the same company could lawfully discriminate against someone because they were married to a disabled person.

The Equality Bill will strengthen the law, protecting people from discrimination when they are associated with someone who is protected themselves, for example, as their carer.

For example, the changes for carers could mean:

An employer could not refuse to promote a member of staff just because he cares for an older relative.

9. OFFERING NEW MOTHERS STRONGER PROTECTION WHEN BREASTFEEDING

We want to do everything we can to support mothers who breastfeed. People are unsure of their rights and their responsibilities in this area.

Mothers have to be confident that they can feed their baby in a café, restaurant or shop without the embarrassment of having the owner ask them to stop.

This type of discrimination has been unlawful for women with babies of any age for more than thirty years, and the mother could challenge the owner under the Sex Discrimination Act 1975. In 2008, we strengthened this Act with extra 'maternity' protection, which means that if the baby is less than six months old the mother could also challenge the owner on the grounds of her maternity.

The Bill will make it clear that it is unlawful to force breastfeeding mothers and their babies out of places like coffee shops, public galleries and restaurants.

This will give women confidence that the law is on their side when they are breastfeeding their babies.

For example, the protection for new mothers could mean:

If a woman is breastfeeding her baby on the bus she cannot be asked to get off the bus for that reason. The same would apply to a woman breastfeeding her baby in an art gallery.

10. PRIVATE MEMBERS' CLUBS

The Equality Bill will make it unlawful for associations, including private members' clubs, to discriminate against members, or guests of members invited to a club.

We recognise that there are positive benefits to having clubs for people who share a characteristic and we understand that it is important for groups of people to have their own space. This is why we have no intention of changing the position of single-sex clubs or clubs for people with a shared characteristic, for example, gay clubs or clubs for people of a particular religion.

However, the Equality Bill will mean that clubs which admit a range of members will have to treat them all equally.

For example, the changes for private members clubs could mean that:

A private members' golf club, which has members of both sexes, could not prohibit its female members from playing only on certain days, while allowing male members to play whenever they like.

A private members' club could not refuse to admit a member's partner as a guest at a club day, open to all members' partners, simply because she is disabled. It would be required to consider making any reasonable adjustments for her disabled partner.

11. IMPROVING PROTECTION FROM DISABILITY DISCRIMINATION

The Equality Bill will make it easier for disabled people who live in homes with common areas, like hallways and stairs, to be able to use these areas. It will place a new duty on landlords and managers of residential properties to make alterations for disabled people where it is reasonable to do so.

The outcome of an important legal case¹⁵ (Lewisham v Malcolm) recently altered the legal protection that disabled people have. The Equality Bill will provide disabled people with new protections in law to ensure their rights are broadly the same as they were before the ruling.

The Equality Bill will make it unlawful to knowingly treat a disabled person in a particular way which amounts to poor treatment, unless the treatment can be justified.

The new provisions to protect disabled people could mean:

A woman with a learning disability is asked to leave a restaurant because she is eating in a messy way, which is caused by her disability. If the restaurant owner could reasonably be expected to know that she is disabled and could not justify asking her to leave, this would be unlawful discrimination.

¹⁵ Mayor and Burgesses of the London Borough of Lewisham v Malcolm [2008] UKHL 43

Next steps

The Equality Bill was introduced in the House of Commons on 24th April, 2009. We expect second reading to take place in May, with the Bill entering Commons Committee stage in June. We expect it to reach the House of Lords at the beginning of the new parliamentary session. Subject to the approval of both Houses, we expect the Bill to receive Royal Assent in Spring 2010.

Spring 2009:

We will be seeking views on the impact of a provision to protect people from multiple discrimination.

Summer 2009:

We will consult on our proposals for the detailed requirements under the public sector Equality Duty and on age discrimination.

The Commission will work with business and unions to develop measures against which employers with 250 or more employees will be encouraged to report.

Autumn 2010:

We expect the majority of the Bill to come into force at this time. This is the earliest possible commencement date after the Bill has received Royal Assent.

Spring 2011 and beyond:

Certain parts of the Bill, such as the socio-economic duty on public bodies, and the public sector Equality Duty are likely to come into force in 2011.

The new law on age discrimination will come into force in phases starting with those sectors most ready to comply.

Where the Equality Bill will apply

Our equality law affects Great Britain but Northern Ireland has separate equality legislation. The new Equality Bill will generally apply in Scotland and Wales as well as in England. The Socio-economic Duty applies to England and Wales only.

In a number of areas the Bill provides powers to Scottish and Welsh Ministers. One of these is the power for Scottish Ministers to impose specific public sector equality duties on Scottish bodies and for Welsh Ministers to do likewise for Welsh bodies.

The Government is committed to working with the devolved administrations to promote equal opportunities for all across the UK.

PART TWO

What the Equality Bill means for different people

Part Two of this document sets out what the Bill means for different groups in society.

It is an at-a-glance summary of the most important measures in the Bill, alongside other action to improve fairness for people facing inequality and discrimination. It also explains what the Bill will mean for the public and private sector.

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FAIRNESS FOR WOMEN

The Equality Bill will make life fairer for women by:

- **Bringing in gender pay reports.** This will apply to the public sector first. The private sector will follow in 2013 if insufficient voluntary progress is made in the meantime. It will help to make our workplaces more transparent. The Bill will also ban secrecy clauses that prevent employees discussing their pay with colleagues.
- **Using public procurement to improve equality.** We want public services to meet the needs of our diverse society and promote equality in their workforce. For example, a Government department contracting out its recruitment services requires that all jobs must be advertised on a part-time basis or with flexible working unless there is a business reason why this is not possible. This will help to ensure that its work is available to all groups of people, in particular women.
- **Extending the use of positive action in the workplace.** Employers can choose to make their workforce more diverse when selecting between two job candidates who are equally suitable.
- **Extending the power of employment tribunals.** The Bill will ensure that employment tribunals can make recommendations that benefit the whole workforce and not just the individual who brought the claim, who often ends up leaving the company.
- **Putting a new Equality Duty on public bodies.** The Duty will mean public bodies need to think about the needs of everyone who uses their services or works for them, whatever their gender. This will specifically apply to pregnant women and new mothers.
- **Extending the permission to use women-only shortlists to 2030.** This will help to increase the proportion of women in Parliament.
- **Protecting carers from discrimination.** The Equality Bill will protect women (and men) who are, for example, caring for a disabled child or an older relative. They will be protected by virtue of their link to that person.
- **Protecting breastfeeding mothers.** The Equality Bill will make it clear that it is unlawful to force breastfeeding mothers and their babies out of places like coffee shops, public galleries and restaurants.
- **Ensuring private members' clubs do not discriminate against women.** Women will have to be treated equally if they belong to clubs with over 25 members.

So for example, women members of golf clubs cannot be prevented from playing at particular times if men are allowed to play whenever they like.

FAIRNESS FOR PEOPLE FROM ETHNIC MINORITIES

The Equality Bill will make life fairer for people from ethnic minorities by:

- **Bringing in equality reports.** The Equality Bill includes powers for Ministers to require public bodies to report on equality issues. We anticipate that public bodies with over 150 employees will be required to publish, annually, details of their ethnic minority employment rate.
- **Using public procurement to improve equality.** We want public services to meet the needs of our diverse society and promote equality in their workforce.
- **Extending the use of positive action in the workplace.** Employers can choose to make their workforce more diverse when selecting between two job candidates who are equally suitable.
- **Extending the use of positive action in political life.** The Bill will allow political parties to do more to increase diversity on their electoral shortlists. For example, this could include reserving a specific number of places on every electoral shortlist for ethnic minority candidates.
- **Extending the power of employment tribunals.** The Bill will ensure that employment tribunals can make recommendations that benefit the whole workforce and not just the individual who brought the claim, who often ends up leaving the company. For example, if a black man brings a race discrimination claim the tribunal could recommend his employer reviews its equal opportunities policy to ensure other employees benefit and the employer is less likely to face claims like this again in the future.
- **Putting a new Equality Duty on public bodies.** The Duty will mean public bodies need to think about the needs of everyone who uses their services or works for them, whatever their race.

FAIRNESS FOR DISABLED PEOPLE

The Equality Bill will make life fairer for disabled people by:

- **Protecting carers from discrimination.** The Equality Bill will protect people who are, for example, caring for a disabled child or relative. They will be protected by virtue of their link to that person.
- **Putting a new Equality Duty on public bodies.** The Duty will mean public bodies need to think about the needs of everyone who uses their services or works for them, in particular, disabled people.
- **Using public procurement to improve equality.** We want public services to meet the needs of our diverse society and promote equality in their workforce.
- **Bringing in equality reports.** The Equality Bill includes powers for Ministers to require public bodies to report on equality issues. We anticipate that public bodies with other 150 employees will be required to publish annually details of their disability employment rate.
- **Making it easier for disabled people who live in homes with common areas, like hallways and stairs, to be able to use these areas.** The Equality Bill will place a new duty on landlords and managers of residential properties to make alterations for disabled people where it is reasonable to do so.
- **Making it easier for disabled people to show they have been treated less favourably because of their disability.** For example, a woman with a learning disability who is asked to leave a restaurant because she is eating in a messy way would be discriminated against if the restaurant owner could reasonably be expected to know she was disabled.
- **Extending the use of positive action in political life.** The Bill will allow political parties to do more to increase diversity on their electoral shortlists. For example, this could include reserving a specific number of places on every electoral shortlist for disabled candidates.
- **Extending the powers of employment tribunals.** The Bill will ensure that employment tribunals can make recommendations that benefit the whole workforce and not just the individual who brought the claim, who often ends up leaving the company.

FAIRNESS FOR PEOPLE OF DIFFERENT RELIGIONS OR BELIEFS

The Equality Bill will make life fairer for people of different religions or beliefs by:

- **Putting a new Equality Duty on public bodies.** The Duty will mean public bodies need to think about the needs of everyone who uses their services or works for them whatever their religion or belief. For example a local council could look for a provider of meals on wheels that delivers culturally diverse food including Halal and Kosher meals.
- **Using public procurement to improve equality.** We want public services to meet the needs of our diverse society and promote equality in their workforce.
- **Putting a new Equality Duty on public bodies.** The Duty will mean public bodies need to think about the needs of everyone who uses their services or works for them, regardless of their religion or belief.
- **Extending the power of employment tribunals.** The Bill will ensure that employment tribunals can make recommendations that benefit the whole workforce and not just the individual who brought the claim, who often ends up leaving the company. For example if an employer has been found to have discriminated against a Christian employee the tribunal could recommend that the employer undertakes, and offers staff, training on different religions and beliefs to help prevent similar claims being brought in the future.
- **Ensuring people private members' clubs do not discriminate against people of different religions or beliefs.** For example, a Jewish person who is a member of a gentleman's club, or visiting as a guest, cannot be refused entry to the bar because he is Jewish.
- **Extending the use of positive action in the workplace.** Employers can choose to make their workforce more diverse when selecting between two job candidates who are equally suitable.
- **Extending the use of positive action in political life.** The Bill will allow political parties to do more to encourage diversity on their electoral shortlists. They may, for example, decide to reserve a specific number of places on every electoral shortlist for candidates with different religions or beliefs.

FAIRNESS FOR OLDER PEOPLE

The Equality Bill will make life fairer for older people by:

- **Banning age discrimination outside the workplace.** It is already unlawful to discriminate against older people at work and the Equality Bill will make this apply outside work. This is not about stopping older people enjoying free bus passes, it is about tackling unjustifiable age discrimination where it has negative consequences.
- **Putting a new Equality Duty on public bodies.** The Duty will mean public bodies need to think about the needs of everyone who uses their services or works for them, regardless of their age. For example, a local council puts extra benches in local parks so older people can enjoy the park too.
- **Protecting carers from discrimination.** The Equality Bill will protect people who are, for example, caring for an older relative. They will be protected by virtue of their link to that person.
- **Using public procurement to improve equality.** We want public services to meet the needs of our diverse society and promote equality in their workforce.
- **Extending the powers of employment tribunals.** The Bill will ensure that employment tribunals can make recommendations that benefit the whole workforce and not just the individual who brought the claim, who often ends up leaving the company. For example, if an older person brings an age discrimination claim the tribunal could recommend the employer's reviews their equal opportunities policy to ensure other employees benefit and the employer does not face claims like this again in the future.
- **Ensuring private members' clubs do not discriminate against older people.** For example, a man in his 60s who is going to a nightclub as a guest with a younger friend cannot be refused entry simply because he is considered too old.

FAIRNESS FOR LESBIAN, GAY AND BISEXUAL PEOPLE

The Equality Bill will make life fairer for lesbian, gay and bisexual people by:

- **Putting a new Equality Duty on public bodies.** The Duty will mean public bodies need to think about the needs of everyone who uses their services or works for them. For example, a residential care home would have to consider the needs of same sex couples.
- **Using public procurement to improve equality.** We want public services to meet the needs of our diverse society and promote equality in their workforce.
- **Extending the use of positive action in the workplace.** Employers can choose to make their workforce more diverse when selecting between two job candidates who are equally suitable.
- **Extending the use of positive action in political life.** The Bill will allow political parties to do more to increase diversity on their electoral shortlists. For example, this could include organising mentoring schemes for lesbian, gay and bisexual candidates.
- **Extending the powers of employment tribunals.** The Bill will ensure that employment tribunals can make recommendations that benefit the whole workforce and not just the individual who brought the claim, who often ends up leaving the company. For example, if a lesbian is bullied at work because of her sexual orientation the tribunal could recommend her employer conducts some awareness training to help prevent similar claims being brought in the future.
- **Ensuring private members' clubs do not discriminate against people on the basis of their sexual orientation.** For example, a working men's club could not refuse to serve a drink to a man because he was gay.

FAIRNESS FOR TRANSEXUAL PEOPLE

The Equality Bill will make life fairer for transsexual people by:

- **Putting a new Equality Duty on public bodies.** The new Equality Duty will require public authorities to advance equality of opportunity for transsexual people. For example, a local authority notices that there are no support groups for people undergoing gender reassignment in their area, and decides to fund a charity to help reach out to the transsexual community.
- **Revising the definition of 'gender reassignment'** to make it clear that a person does not have to be under medical supervision to be protected from discrimination.
- **Protecting people who face discrimination because of their association with transsexual people,** for example, as their partner.
- **Ensuring private members' clubs do not discriminate against transsexual people.** For example, a woman who is a member of a golf club, or visiting as a guest cannot be refused entry to the bar or be prevented from playing when others are allowed to because she has undergone gender reassignment.

WHAT FAIRNESS MEANS FOR THE PUBLIC SECTOR

The new Equality Bill will mean some important changes for the way the public sector operates as an employer and a provider of services: The Bill will;

- **Introduce a new duty on public authorities to consider reducing socio-economic inequalities.** The new duty will apply to Government Ministers, departments and key public bodies such as local authorities and NHS bodies. The duty will affect how public bodies make strategic decisions about spending and service delivery.
- **Bring in equality reports.** The Equality Bill includes powers for Ministers to require public bodies to report on equality issues. We anticipate that public bodies with over 150 employees will be required to publish annually details of their ethnic minority and disability employment rate, and their gender pay gap.
- **Make it clear that public bodies can use procurement to drive equality.** For example, in a contract to manage its recruitment, a department, to ensure that its work is available to all groups of people, requires that all jobs must be advertised on either a part-time basis or with flexible working unless there is a business reason why this is not possible.
- **Ban age discrimination.** It is already unlawful to discriminate against people at work because of their age. The Equality Bill will make it unlawful to discriminate against someone aged 18 or over when providing services or carrying out public functions. For example, this could mean a Primary Care Trust ensuring they give an older person the same care and attention for a medical condition as they do a much younger person with the same condition.
- **Put a new Equality Duty on public bodies.** The Duty will mean public bodies need to think about the needs of everyone who uses their services or works for them. The new Duty will be easier for the public sector to understand and comply with.
- **Extend the use of positive action in the workplace** so public bodies will be able to address under-representation when, for example, recruiting staff. This will help to create a more diverse workforce in the public sector.
- **Extend the use of positive action in service delivery** so public bodies will be able to take positive action measures to meet the particular needs of disadvantaged groups.

WHAT FAIRNESS MEANS FOR THE PRIVATE SECTOR

The new Equality Bill will bring about some important changes for businesses, and open up some new opportunities. The Bill will:

- **Bring in gender pay reports.** The Bill will contain a power to require reporting on the gender pay gap by employers with 250 or more employees. The Equality and Human Rights Commission will develop a set of metrics for gender pay reports in consultation with business, unions and others over the summer. The Commission will monitor progress on reporting within the private sector annually. If sufficient progress is not made over the next four years, it is the Government's intention to use the gender pay reporting power from 2013.
- **Using public procurement to improve equality.** We want public services to meet the needs of our diverse society and promote equality. A common approach to equality in public procurement could reduce burdens on business applying for public sector contracts. This could make it easier for small and medium sized businesses to compete.
- **Extend the use of positive action in the workplace** so public bodies will be able to address under-representation when, for example, recruiting staff. This will help to create a more diverse workforce in the public sector. The use of positive action will remain voluntary but we expect businesses will increasingly see the benefits of using it to make their work force more diverse, and to help them grow.
- **Ban age discrimination.** It is already unlawful to discriminate against people at work because of their age. The Equality Bill will make it unlawful to discriminate against someone aged 18 or over when providing services. For example, a mobile phone company should not assume that an older person is unable to understand a mobile phone contract and therefore require a younger person to be present when they sign it.
- **Streamline the law, condensing nine major pieces of legislation into a single Act,** making it easier to understand and comply with. This is particularly important at a time when resources are stretched. The Equality and Human Rights Commission will produce guidance to help businesses and others understand what the Equality Bill means in practice.