

The Equality Act 2010 – an overview

You'll find this factsheet useful if you want an outline of how the Equality Act 2010 protects people who are deaf or have hearing loss from discrimination (unfair treatment). See the other factsheets in this range for more detailed information (see [page 7](#) for details).

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i If you'd like this factsheet in Braille, large print or audio, please contact our Information Line – see last page for contact details.



Disclaimer

This information is not legal advice and you should not rely on it as such. You should consider taking independent legal advice from a solicitor or other qualified legal adviser. Action on Hearing Loss does not accept any liability for any actions that you or anyone else may take, or fail to take, on the basis of the information contained in this factsheet.

What is the Equality Act 2010?

The Equality Act 2010 is the law that bans discrimination (unfair treatment) and helps achieve equal opportunities in the workplace and in wider society.

Before the Equality Act, disability discrimination came under the Disability Discrimination Act 1995 (DDA).

The Equality Act protects people from discrimination because of certain ‘protected characteristics’. It also promotes equality of opportunity to prevent discrimination arising.

The nine protected characteristics are:

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

The Equality Act applies to England, Wales and Scotland but not Northern Ireland, where the DDA still applies. If you live in Northern Ireland, visit the NI Direct website to find out more:

nidirect.gov.uk/information-and-services/people-disabilities/rights-and-obligations

Am I protected under the Equality Act?

You may have rights in relation to any of the nine protected characteristics, but this factsheet focuses on how the Equality Act affects people with a disability.

The Equality Act covers people who have, or have previously had, a disability.

A disability under the Equality Act is a physical or mental impairment that has a substantial and long-term adverse (negative) effect on your ability to carry out normal day-to-day activities.

In certain situations, the Equality Act also protects people who are discriminated against because of their association with someone who has a disability or because they are mistakenly thought to be disabled.



To find out more, see our factsheet *How does the Equality Act define ‘disability’?*

Who has responsibilities under the Equality Act?

The Equality Act puts legal responsibilities on:

- employers
- service providers – anyone who offers goods, facilities or services to the public; for example, banks, courts, solicitors, hospitals, GPs, dentists and many more
- those who carry out public functions – for example, the police, planning controllers and prisons; and private or voluntary organisations that carry out public functions on behalf of the state – for example, when voluntary organisations take on responsibilities for child protection
- private clubs and associations with 25 members or more
- educational bodies, such as local education authorities, schools, universities and colleges
- landlords
- transport providers.

For simplicity, we only refer to employers, service providers and public bodies in this factsheet.

 For more information, see our factsheet *Your rights when using services*.

What is unlawful under the Equality Act?

The Equality Act protects you from certain kinds of unlawful behaviour. These are called ‘discrimination’, ‘harassment’ and ‘victimisation’. They are outlined below. It’s also unlawful to order someone to behave in these ways or to help them do so.

Direct discrimination

This occurs when, because of disability, you’re treated less favourably (worse) than someone who isn’t disabled. The disability itself is the reason for the treatment.

It may happen even if you’re not disabled. Direct discrimination includes worse treatment because of your association with someone who has a disability – for example, as a carer of a child who is disabled (discrimination by association).

It also includes worse treatment because you’re mistakenly thought to have a disability (discrimination by perception).

Discrimination arising from disability

This happens when you’re treated unfavourably – you’re put at a disadvantage – because of something connected with your disability, rather than because of the disability itself. For example, you’re disciplined because you take too long to follow verbal instructions, when the time it takes you is a result of your hearing loss.

It is not discrimination, however, if the employer or service provider didn't know, and couldn't have known, about your disability, or if they can justify how they treated you. That means showing that they acted in a fair, reasonable and balanced way to meet the needs of the organisation. This is called 'objective justification'.

Indirect discrimination

This happens when a rule or practice applies to everyone but puts people who are disabled at a particular disadvantage. But it's not discrimination if it is an objective justification, as described above.

Discrimination in failing to comply with the duty to make reasonable adjustments

The Equality Act requires employers and service providers to make reasonable adjustments (changes) to enable you to access employment opportunities and services. This duty occurs when you're put at a substantial disadvantage, compared to people who aren't disabled, by:

- a provision, criterion or practice (the way things are done)
- a physical feature (such as steps to a building), or
- the absence of an auxiliary aid or service (any kind of extra help).

The aim of the duty is to remove the disadvantage. If the adjustments are not made, this is discrimination.

The Equality Act says 'substantial' means more than minor or trivial, so reasonable adjustments have to be made unless the disadvantage is insignificant.

A 'provision, criterion or practice' covers things like a policy, a rule or a practice. An 'auxiliary aid' could be a hearing loop, which helps people who use hearing aids set to the 'loop' setting to hear more clearly over background noise. An 'auxiliary service' might be a sign language interpreter.

If reasonable adjustments are not made to enable you to access employment opportunities and services, you can make a complaint ([see page 6](#)).

Harassment related to disability

This is unwanted behaviour that violates your dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for you. The Equality Act protects you from harassment when using services as well as at work.

You're also protected if you're harassed because you associate with someone who has a disability or because someone mistakenly thinks you have a disability.

If you're an employee, you can complain about behaviour that you find offensive, even if it's not directed at you.

The government has removed the requirement of the Equality Act making the employer responsible if third parties, such as customers, harass you. You may still have a claim under the employer's general harassment duty, or under another law, but it may be harder to prove.

Victimisation

This occurs when you're treated badly because you've made or supported a complaint under the Equality Act, or you're suspected of doing so – as long as you believed the complaint was true. This applies whether or not you're disabled. You only have to show that you have been treated badly, not that you have been treated worse than anyone else. If other people have been treated badly, it doesn't affect your position.

 For more information and examples of the different types of unlawful behaviour, see our factsheets *Your rights when using services* and *Your rights as an employee*.

What else does the Equality Act cover?

Limits on enquiries about disability and health

Enquiries about your health or disability before an employer offers you work are banned, except for specific purposes such as:

- to monitor equality
- to see if you need reasonable adjustments for the recruitment process
- to establish if you could carry out a function essential to the job.

If you think an employer has asked you questions that aren't allowed, you can complain to the Equality and Human Rights Commission (EHRC – [see page 8](#)), which can take enforcement action against the employer. But if an employer asks you a question that isn't allowed and you don't get the job, and you think it's because of your disability, that would be direct discrimination ([see page 3](#)) – so you could bring a claim against the employer.

Positive action

Apart from protecting people from unfair treatment, the Equality Act seeks to promote equality of opportunity. It allows employers and service providers to take positive steps to help groups of people who are disadvantaged, have particular needs or are under-represented in particular activities. Positive action is voluntary and must be in proportion to what it's trying to achieve.

The law allows people who are disabled to be treated more favourably than people who are not disabled. But positive action can also be used to give preferential treatment to people with a particular disability: for example, employment programmes specifically for people with hearing loss.

The Equality Act also gives employers the option, when faced with candidates of equal merit, to choose a candidate from a disadvantaged or under-represented group: for example, a male teacher in a primary school where there are no male members of staff.

The public sector Equality Duty

The public sector Equality Duty seeks to bring equality into the day-to-day business of public bodies. It recognises that the needs of people who are disabled are different from the needs of those who are not disabled. It requires public bodies – such as councils, the NHS, the police and others with public functions – to take account of disabled people’s impairments, such as hearing loss, when making decisions on policies or services.

Public bodies must have ‘due regard’ to the need to eliminate discrimination, advance equality of opportunity and foster good relations. Having ‘due regard’ means public bodies must consciously and carefully think about these aims in their day-to-day work.

Most public bodies also have specific duties that require them to set objectives and publish information to show how they have performed. Different specific duties apply in Scotland and Wales.

 For more information, see our factsheet *The public sector Equality Duty*.

What if I have a complaint?

The Equality Act gives you rights to take action if you think you have been discriminated against, but you should first try to talk to the employer or service provider.

If it’s a work issue, you can take your case to an employment tribunal, but the government has introduced rules requiring you to try conciliation first – where you settle the case out of court. You can find out more about this process in our factsheet *Your rights as an employee*. If it’s a goods or services issue, you can take proceedings in the county court or, in Scotland, in the Sheriff Court.

Employment tribunals can make a recommendation requiring the employer to take steps to help you: for example, implementing a harassment policy more effectively or providing equality training for staff involved in promotion procedures.

You can’t take action against a public body for not carrying out the Equality Duty; only the EHRC ([see page 8](#)) can do this. It may be possible to challenge a public body’s decision by asking a judge to look at the way in which it was made. This is called a judicial review.

Citizens Advice ([see page 7](#) for contact details) can give you more information about how to make a complaint, how to take legal action, and how to get help in a number of areas, including:

- discrimination in goods and services
- discrimination in health and care services
- discrimination about housing
- harassment.

Where can I get further information about my rights?

Action on Hearing Loss

The other factsheets in our **Your rights** range are:

- *How does the Equality Act define ‘disability’?*
- *The public sector Equality Duty*
- *Your rights as an employee*
- *Your rights when using services*
- *The Human Rights Act.*

You can order these from our Information Line ([see last page](#) for contact details) or download them from our website at actiononhearingloss.org.uk/factsheets

Other organisations

You can get helpful information from the following organisations in relation to your rights. As noted, some also provide free legal advice and support.

Citizens Advice

The Citizens Advice service helps people resolve their legal, money and other problems by providing free information and advice. To find your nearest Citizens Advice Bureau, and for useful online information, visit the Citizens Advice website.

England and Wales: citizensadvice.org.uk
Scotland: citizensadvice.org.uk/scotland
Northern Ireland: citizensadvice.org.uk/nireland

Discrimination advice in BSL: citizensadvice.org.uk/resources-and-tools/advice-in-bsl/discrimination-advice-in-bsl

Civil Legal Advice (CLA)

A free and confidential service in England and Wales for people who are eligible for legal aid. If you are not eligible for legal aid, CLA will direct you to other services. You can request online advice or speak to someone on the phone.

Telephone: **0345 345 4345**

Textphone: **0345 609 6677**

Text message: text ‘legalaid’ and your name to **80010** to ask CLA to call you back (costs the same as a normal text message)

Website: gov.uk/civil-legal-advice

BSL (booking an online interpreter): interpretingline.co.uk/home

Contact Scotland BSL

Scotland’s British Sign Language Interpreting Video Relay Service (VRS) – enabling contact with all of Scotland’s public bodies and third sector organisations, including those that provide information on rights.

Online contact form:

contactscotland-bsl.org/contact

Website: contactscotland-bsl.org

Department of Justice Northern Ireland

Provides information on all aspects of the legal system in Northern Ireland, including compensation, courts, tribunals and legal aid.

Department of Justice
Block B
Castle Buildings
Stormont Estate
Belfast
Northern Ireland
BT4 3SG

Telephone: **028 9076 3000**

Textphone: **028 9052 7668**

Website: justice-ni.gov.uk

Disability Law Service (DLS)

A charity providing free legal advice and support to people who are disabled (including people who are deaf) in England and Wales (and details on where to go for advice in Scotland and Northern Ireland). It has a range of factsheets available online and by post.

The Foundry
17 Oval Way
London SE11 5RR

Telephone: **020 7791 9800**

Email: advice@dls.org.uk

Website: dls.org.uk

You can request advice by email or post if you can't use the phone. If you say you have a hearing loss, DLS will try to respond more quickly.

Equality Advisory Support Service (EASS)

The EASS helpline gives information, advice and support on discrimination and human rights issues to people in England, Scotland and Wales.

FREEPOST EASS HELPLINE FPN6521

Freephone: **0808 800 0082**

Textphone: **0808 800 0084**

Online contact form:

www.equalityadvisoryservice.com/app/ask

Website: equalityadvisoryservice.com

Equality and Human Rights Commission (EHRC)

The EHRC promotes and protects human rights, promotes equality and challenges discrimination. It has a lot of useful information about human rights on its website, including guides explaining how human rights operate in practice. Visit:

England: [equalityhumanrights.com/
your-rights/human-rights](http://equalityhumanrights.com/your-rights/human-rights)

Scotland: [equalityhumanrights.com/en/
commission-scotland](http://equalityhumanrights.com/en/commission-scotland)

Wales: [equalityhumanrights.com/en/
commission-wales](http://equalityhumanrights.com/en/commission-wales)

For wide-ranging advice and guidance, on disability, discrimination and more, for individuals, organisations and public sector bodies, visit: equalityhumanrights.com/en/advice-and-guidance

Equality Commission for Northern Ireland

An independent public body that promotes equality and challenges discrimination, through advice, support and enforcement.

Equality House
7-9 Shaftesbury Square
Belfast
BT2 7DP

Telephone: **028 90 500 600**
Textphone: **028 90 500 589**
Fax: **028 90 248 687**
Email: information@equalityni.org
Website: equalityni.org/Individuals

Equally Ours

A partnership between eight national charities to raise public awareness of human rights in everyday life. The website includes lots of real-life case studies:
equally-ours.org.uk

Gov.uk

A government website providing information about a wide range of topics, including the Equality Act 2010, disability rights and welfare benefits. It also gives links to online government services and organisations that can give you advice and support:

Website: gov.uk/browse/disabilities
Website (legal aid): gov.uk/check-legal-aid
Website (Equality Act 2010 guidance): gov.uk/guidance/equality-act-2010-guidance

HM Courts & Tribunals Service

Provides information on a range of subjects, including finding a court or tribunal, court and tribunal forms, and fees and help with fees.

Website: gov.uk/government/organisations/hm-courts-and-tribunals-service

Law Centres Network

Law Centres provide free advice and representation. You can find details of your local Law Centre from the Law Centres Network:

Online contact form:
lawcentres.org.uk/contact-us
Website: lawcentres.org.uk/i-am-looking-for-advice

LawWorks

A charity working in England and Wales to connect volunteer lawyers with people in need of legal advice, who are not eligible for legal aid and cannot afford to pay, and with the not-for-profit organisations that support them.

Website (find a clinic near you):
lawworks.org.uk/legal-advice-individuals/find-legal-advice-clinic-near-you

Liberty

A campaigning organisation that protects civil liberties and promotes human rights. It has a telephone advice line for free legal advice in England and Wales, or you can use the online query form.

Telephone: **020 7403 3888**

Online contact form:

liberty-human-rights.org.uk/contact-us

Website: liberty-human-rights.org.uk

NI Direct

Comprehensive information about government services in Northern Ireland, including on a wide range of services for people with disabilities.

Website (Contacts A–Z):

nidirect.gov.uk/contacts

Website: nidirect.gov.uk

Website (people with disabilities):

nidirect.gov.uk/information-and-services/people-disabilities

Office for Disability Issues

Works across government to ensure equality becomes a reality for people who are disabled. Its website has information about the UN Disability Convention.

Website: gov.uk/government/organisations/office-for-disability-issues

Royal Association for Deaf people (RAD)

Provides a wide range of services that Deaf people want and need. All services are delivered in British Sign Language. Also works with mainstream services to help them to ensure their services are accessible to Deaf people.

Telephone: **0845 688 2525**

Email: info@royaldeaf.org.uk

Website: royaldeaf.org.uk

Scottish Court Service

Information about the Scottish Courts and Tribunals Service, the Judiciary of Scotland, the Supreme Courts, Sheriff Courts, Sheriff Appeal Courts, Justice of the Peace Courts, Tribunals and Office of the Public Guardian.

Scottish Courts and Tribunals Service
Saughton House
Broomhouse Drive
Edinburgh
EH11 3XD

Telephone: **0131 444 3300**

Fax: **0131 443 2610**

Email: enquiries@scotcourts.gov.uk

Website: scotcourts.gov.uk

Scottish Government

St Andrew's House
Regent Road
Edinburgh
EH1 3DG

Telephone: **0300 244 4000**
Text relay service: **18001+ 0300 244 4000**
Email: ceu@gov.scot
Website: scotland.gov.uk
Website for BSL users:
contactSCOTLAND-bsl.org
Website (equality and rights policies): beta.gov.scot/policies/?topics=Equality%20and%20rights

Scottish Legal Aid Board

Provides information about legal aid and whether you may qualify, and where to find a legal aid solicitor.

Thistle House
91 Haymarket Terrace
Edinburgh
EH12 5HE

Telephone (switchboard): **0131 226 7061**
Telephone (legal aid information line):
0845 122 8686
Telephone (financial assessment for legal aid): **0845 123 2330**
Email: general@slab.org.uk
Website: slab.org.uk

Welsh Government

Cathays Park
Cardiff
CF10 3NQ

Telephone (English): **0300 060 4400**
Telephone (Welsh): **0300 060 4400**
Email (English): customerhelp@wales.gsi.gov.uk
Email (Welsh): cymorth@cymru.gsi.gov.uk
Website: wales.gov.uk

Information you can trust

The Information Standard certifies us as producers of high-quality, evidence-based information.

Thank you to **Jenny White, our legal expert**, for helping us review and update this factsheet, published August 2017, using the latest government legislation.

Did you find this factsheet helpful?

We'd love to know what you think of this factsheet – please email us at reviewpanel@hearingloss.org.uk

If you'd like to join our Readers' Panel, to help us create new publications and improve existing ones, please let us know.

Further information from Action on Hearing Loss

Our expert information covers everything you need to know about:

- hearing loss and deafness
- tinnitus
- ear problems and treatments
- hearing aids and cochlear implants
- useful products and technology
- communication tactics and support
- benefits and grants
- your rights.

Visit our website actiononhearingloss.org.uk or call our Information Line ([see last page](#)) for information, support and publications. You can also find out about services in your area, our hearing research, and how you can get involved.

Please help us support others

We provide our leaflets, factsheets and Information Line service free of charge to anyone affected by deafness, tinnitus or hearing loss in the UK. We rely on the generosity of our supporters to help us do this. We would be very grateful if you would consider making a donation - of as little or as much as you can afford.

Please send a cheque, payable to Action on Hearing Loss, to:

Freepost RTLX-CZKX-BTTZ
Action on Hearing Loss
1-3 Highbury Station Road
London N1 1SE
(No stamp needed)

Donate online at actiononhearingloss.org.uk/icanhelp
Or make a donation over the phone by credit or debit card:

 **0203 227 6182**

 **0203 227 6185**

Thank you.

Our purpose is to help people confronting deafness, tinnitus and hearing loss to live the life they choose. We enable them to take control of their lives and remove the barriers in their way.

To find out more about what we do and how you can support us, go to actiononhearingloss.org.uk

Action on Hearing Loss Information Line

Telephone **0808 808 0123**
Textphone **0808 808 9000**
SMS **0780 000 0360**
(standard text message rates apply)
Email **information@hearingloss.org.uk**

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