

# Equality Act 2010

# Key Concepts

- Protected Characteristic
- Reasonable Adjustment
- Objective Justification
- Positive Action
- Removal of Barriers for Disabled People
- Substantial Disadvantage

# Key Concepts

- Direct Discrimination
- Indirect Discrimination
- Discrimination by association
- Discrimination arising from a disability
- Perception
- Victimisation
- Harassment

# As an organisation...

You may be held responsible for how your staff

OR agents behave:

- If they were carrying out an unlawful instruction for you
- If in the course of doing their job they were behaving unlawfully

Whether or not you knew or approved of what they were doing

# Good Practice

- Consult in a meaningful way
- Research on future needs, not just immediate
- Share good practice with your local network
- Have an effective equal opportunities policy
- Perform *regular* equality health check
- Make equality work for you – use it as a selling point

# If someone complains...

- They may do so to you directly
- Use third party mediation/advocacy
- Make a claim through court
  
- **PREVENTION IS BETTER THAN CURE!**
  - Train your staff
  - Equality Policy
  - Observe usual good practice in handling complaints

# If someone complains...

- Try alternative dispute resolution

ADRnow – <http://www.adrnow.org.uk>

EHRC Mediation - <http://www.equalities-mediation.org.uk/>

# If someone complains...

- The complainant may ask questions of you related to their issue
- You are not legally bound to respond, but if you don't this may harm your case
- Court may take this into account if reply not made within 8 weeks
- Court may take evasive or unclear answers into account



# If a claim is made against you...

- Third sector org: County Court
- Public Authority: Judicial Review in High Court
- Claim must be brought within 6 months of problem
- If no solid evidence of actual timeframe, there is some leeway
- If problem is harassment and is subject to EHRC conciliation, time limit is nine months

# If a claim is made against you...

- Burden of proof rests with claimant that discrimination has taken place
- If court decides that it has done, onus shifts onto you to defend your position
- If you lose, court may order a “remedy”
  - Damages
  - Injunction to prevent you from acting in a certain way, or to force you to act a certain way (eg change policies)
  - Declaration – a statement by the court that the claimant has been discriminated against

# If a claim is made against you...

- If the case is Indirect Discrimination, if you can prove that you did not intend to discriminate then the court can take this into account when deciding on the Remedy
- You may be obliged to pay the claimants legal costs as well as your own

# Useful Resources

- HR Issues

<http://www.xperthr.co.uk/faqs/topics/6,163/equality-act-2010.aspx>

- Employment issues

<http://www.acas.org.uk/CHttpHandler.ashx?id=2833&p=0>

- Charity Issues

[http://www.charitycommission.gov.uk/charity\\_requirements\\_guidance/charity\\_governance/good\\_governance/equality\\_act\\_summary.aspx](http://www.charitycommission.gov.uk/charity_requirements_guidance/charity_governance/good_governance/equality_act_summary.aspx)