

Birmingham City Council Equality Act 2010 Fact sheet

RELIGION OR BELIEF EQUALITY

The Equality Act (2010) consolidates all previous equality legislation and extends some protections to groups that were not previously covered. Although there are similarities, there are also significant differences concerning the types of protection afforded the different protected groups. The protected characteristics include: **age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and transgender**. For more detailed guidance and information about the provisions can be found in the [Equality Act 2010 Statutory Code of Practice](#)

[Employment, Services, Public functions and Associations](#), and Explanatory notes.

WHAT IS THE PROTECTED CHARACTERISTIC OF RELIGION OR BELIEF?

The Act defines religion or belief by reference to a person's religion/belief or no religion/belief group. The act replaces similar provisions in the Employment Equality (Religion or Belief) Regulations 2003 and the Equality Act 2006. Furthermore, the [Equality Act 2010 Explanatory Notes](#), Section 10 – article 51 explains that:

“The protected characteristic of religion or religious or philosophical belief, which is stated to include for this purpose a lack of religion or belief. It is a broad definition in line with the freedom of thought, conscience and religion guaranteed by Article 9 of the European Convention on Human Rights. The main limitation for the purposes of Article 9 is that the religion must have a clear structure and belief system. Denominations or sects within a religion can be considered to be a religion or belief, such as Protestants and Catholics within Christianity”.¹

EXAMPLES

- The Baha'i faith, Buddhism, Christianity, Hinduism, Islam, Jainism, Judaism, Rastafarianism, Sikhism and Zoroastrianism are all religions for the purposes of this provision.
- Beliefs such as humanism and atheism would be beliefs for the purposes of this provision but adherence to a particular football team would not be.¹

¹EQUALITY ACT 2010, EXPLANATORY NOTES Revised Edition August 2010 (p17)

What is a “philosophical belief?” - Article 52 determines the criteria that it must be genuinely held; be a belief and not an opinion or viewpoint based on the present state of information available; be a belief as to a weighty and substantial aspect of human life and behaviour; attain a certain level of cogency, seriousness, cohesion and importance; and be worthy of respect in a democratic society, compatible with human dignity and not conflict with the fundamental rights of others.

EXAMPLES: Humanism, pacifism and atheism.¹

Any cult involved in illegal activities would not satisfy these criteria.

What are the Prohibitions - The act prohibits unfair treatment in the workplace, when providing goods, facilities and services, when exercising public functions, in the disposal and management of premises, in education and by associations (such as private clubs).

However, section 29 (9) explains that the prohibition on harassment when providing services or exercising public functions does not cover religion or belief.² The prohibitions in this section apply, in relation to religion or belief, to any actions taken in connection with the grant of entry clearance to enter the United Kingdom, even if the act in question takes place outside the United Kingdom.

WHAT FORM OF PROTECTION DOES THE ACT PROVIDE?

The Equality Act sets out the different ways in which it is unlawful to treat someone, such as direct and indirect discrimination, harassment and victimisation. Those who share the protected characteristic of religion or belief are protected from direct and indirect discrimination, harassment and victimisation. Such protection applies in a range of areas including **employment**; the **provision of services**; the **exercise of public functions** and **membership associations**³.

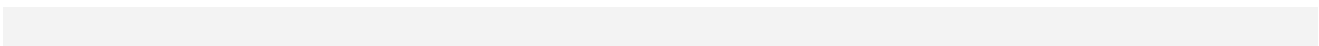
Direct discrimination is where someone is unfairly treated in comparison with another.

EXAMPLE:

- At interview it becomes apparent that a job applicant is Hindu. Although the applicant has all the skills and competences required of the job, the organisation decides not to offer him the job because he is a Hindu. They do this because they believe that the applicant would not fit in with the rest of the workforce, who are predominantly Christian.

² **EQUALITY ACT 2010, EXPLANATORY NOTES** Revised Edition August 2010 (p8)

³ Membership associations generally provide services or other benefits to their members, associates or guests. Under the Act, associations include those bodies which have membership criteria such as private clubs and political parties. Only associations with at least 25 members have obligations under the Act. (Cited in the Equality Act 2010 Code of Practice (Services, public functions and associations).



- An observant Jewish engineer who is seeking an advanced diploma decides not to apply to a specialist training company because it invariably undertakes the selection exercises for the relevant course on Saturdays (Sabbath - Saturday, observed as a day of religious worship and rest from work in Judaism and some Christian denominations). The company will have indirectly discriminated against the engineer unless the practice can be justified.⁴

Harassment is unwanted conduct related to religion or belief has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

EXAMPLES

- Jenny is a humanist and is claiming harassment against her line manager after he frequently teased and humiliated her about her beliefs. Caroline shares an office with Jenny and she too is claiming harassment, even though she does not share Jenny's beliefs, as the manager's behaviour has also created an offensive environment for her.

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Dress - Some may wish to dress in a particular way for reasons related to religion or belief. Unjustifiable policies and rules may constitute indirect discrimination, so you should ensure that your policies on dress and appearance are a proportionate means of achieving a legitimate aim. Legitimate aims in imposing rules on dress or appearance could include health and safety, security or the necessity for staff to project a professional image. The guiding principle in assisting decision-making around employee dress should always be based around the “impact of dress upon the employee’s ability to do their job”. If you consider this, decisions will, by definition, tend to be objective, fair and consistent.¹¹

EXAMPLES

- Some women may wish to dress modestly for reasons related to religion or belief. A dress code which requires a blouse to be tucked inside a skirt may conflict with that requirement as it accentuates body shape. However, if the individual is allowed to wear the blouse over the outside of the skirt it may be quite acceptable.
- Sukhvinder works in a hardware store, where a uniform is to be worn by all staff so that customers can easily identify a staff member to ask for assistance. Sukhvinder asks permission to wear a turban for religious reasons. The management consider his request and conclude that wearing a turban will not impact on Sukhvinder’s ability to do his job, provided that his turban colours match the colours of his uniform.

Occupational Requirements

In certain circumstances, it will be lawful for employers to specify that job applicants must have, or must not have, a particular protected characteristic under the Equality Act 2010. For example, an employer might specify that job applicants must be Hindu or must be female. This is known as an ‘occupational requirement’.

In the area of religion and belief, occupational requirements most commonly apply in circumstances where:

- organisations with an ethos based on religion or belief have a requirement to limit some roles to people who share the organisation’s belief
- organisations providing services targeted at particular religion or belief groups have a requirement to employ people who have a particular protected characteristic, in order to ensure that the target group can avail of the service¹²

¹¹ Acas – a guide for employers and employee “Religion or belief and the workplace”, Page 19

¹² Acas – a guide for employers and employee “Religion or belief and the workplace”, Page 22

EXAMPLES

- A Christian charity with a religious ethos may be able to demonstrate that it is an occupational requirement for some roles in the organisation to be restricted to Christians.
- For religious reasons, unemployed Muslim women might not take advantage of the services of an outreach worker to help them find employment if these services were provided by a man. If the outreach organisation is able to demonstrate that being female is an occupational requirement, it would be lawful for them to advertise a position for women only.

What is now outlawed? - It is now an offence to 'stir up hatred' against any persons on religious grounds. The legislation is intended to ensure that protection against harm is provided to people because of their religious beliefs (or lack of).

In addition, there are now a number of new offences intended to prevent recruitment and training of potential terrorists, including: acts preparatory to terrorism; encouragement to terrorism (including the 'glorification' of terrorism); dissemination of terrorist publications; and terrorist training offences. The potential for Universities to be used as sites for some of these activities receives particular attention in the Home Office Prevent Strategy (2011).

DO PUBLIC BODIES HAVE A DUTY TO Prevent

