

Increasing voluntary sector influence

Module 8 – Equalities issues

Factsheet – Examples of prohibited conduct

Direct Discrimination

A treats B less favourably than others because of B's protected characteristic; Lawful in some circumstances e.g. disability;

Covers:

- Discrimination by association - i.e. because of a service user's association with another person who has protected characteristics;
- Discrimination by perception – i.e. service provider mistakenly thinks the service user has a protected characteristic;
- Less favourable treatment includes segregating B from others.

A Gypsy couple are refused access to a community centre that displays on its door a 'No Gypsies or Travellers' sign.

A youth club has had trouble with racial conflicts between young people. It decides to open on Tuesdays and Thursdays for black young people only, and on Wednesdays and Fridays for white young people only. Separating users of the club by race is a deliberate policy of the club, this is therefore likely to amount to segregation and would be unlawful.

Indirect discrimination

- Application of an apparently **neutral provision, criterion or practice** which put persons sharing a protected characteristic at risk
- Four requirements must be met:
 - A applies the provision, criterion or practice equally to everyone within the relevant group including B
 - The provision, criterion or practice puts people who share B's protected characteristic at a particular disadvantage
 - The provision, criterion or practice puts B at that disadvantage
 - A cannot prove that the provision, criterion or practice is a proportionate means of achieving a legitimate aim
- Does not apply to pregnancy/ maternity

A practising Jew wishes to join a yoga class on a Wednesday evening but the advertising leaflet states that all new members must first take part in a full day introductory session, only available on a Saturday. He is therefore deterred from joining the class because he has to observe the Sabbath. This will be indirect discrimination unless the policy can be justified.

Harassment

- A harasses B if:
 - A engages in unwanted conduct related to a relevant protected characteristic, and



- The conduct has the purpose or effect of;
 - Violating B's dignity, or
 - Creating an intimidating, hostile, degrading, humiliating or offensive environment for B.
- Applies to race, disability, sex and gender reassignment

A party of adults with learning difficulties attend an event accompanied by support workers. Some of the event staff make fun of the party with gestures and silently mimicking them. The support workers are upset by the conduct of the staff in creating a degrading and humiliating environment for all involved. The support workers could bring a claim of harassment related to disability.

Victimisation

- A victimises B if A subjects B to a detriment because B has done a 'protected act'
- 'Protected act' includes:
 - Bringing proceedings under the Equality Act
 - Giving evidence or information in connection with proceedings under the Equality Act
 - Doing any other thing in connection with the Equality Act
 - Making an allegation that A has contravened the Equality Act

A gay man sues a community centre for discrimination on the basis that one of the employee makes persistent derogatory remarks to other users about his sexuality. Because of this, the centre bars him altogether. This would be victimisation.

Ended relationships

- The Act makes it unlawful to discriminate against or harass someone after a relationship involving public function or service delivery has ended.
- Action can be taken against the person or organisation as if the relationship were still live.
- Reasonable adjustments must be continued for disabled people if they would be placed at a substantial disadvantage in comparison to people without a disability.

A woman with a visual impairment attended a course. When registering the provider aware that she required any information to be sent by email, they agreed to make this reasonable adjustment. Six months later, the provider sent letters to all attendees offering a 50 per cent discount on the next course if they returned the enclosed form. The woman was unable to enjoy the discount for the next course afforded to the other attendees. Failing to ensure that information was sent in an appropriate manner is likely to amount to a failure to make a reasonable adjustment, even though the woman is no longer undertaking a course with them.

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