

Policy Bulletin #7 ***The Equality Act 2010***

Background

Over the past 40 years, successive UK Governments 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 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. In this respect, the Equality Act 2010 is key consolidating legislation that is also introducing further safeguards to promote a fair society.

The Issue at European Union Level

The European Union represents the common interests of 27 member states working to a *European Social Model* built on firm historical principles of social justice and human rights. Indeed, institutions such as the Council of Ministers, European Parliament and European Commission work closely with the European Court of Human Rights. Since 2000, in addition to laws covering the equal treatment of men and women, EU anti-discrimination legislation has been in place to ensure minimum levels of equal treatment and protection for everyone living and working in Europe, irrespective of: racial or ethnic origin, religion and belief, disability, sexual orientation, and age.

As financial instruments of the EU consuming over a third of total EU expenditure, the European Structural Funds play a crucial role in achieving social goals such as social cohesion, high employment, *active inclusion* and equality. As one of these Funds focused on the labour market, the European Social Fund responds to such challenges in several ways:

- regulations specifically require gender equality to be promoted in programmes
- current disability, gender and race equality duties apply to ESF programmes and activities
- equal opportunities must be integrated into all of the planning and delivery of ESF activities, including publicity, monitoring and evaluation
- ESF programmes have gender and equal opportunities as a cross cutting theme, and the England Programme has produced a Mainstreaming Plan setting out due processes.

The Issue at UK Level

The Equality Act 2010 received Royal Assent, in April, with certain measures coming into force from October. At one level, The Act performs the function of consolidating the disparate range of established English (and UK) law. The Act will bring together and subsume a range of existing legislation on equality, including:

- The Disability Discrimination Act 1995 and 2005
- The Race Relations Act 1976
- The Sex Discrimination Act 1975
- The Equal Pay Act 1970
- The Employment Equality (Age) regulations 2006
- The Employment Equality (Religion or Belief) regulations 2003
- The Employment Equality (Sexual orientation) regulations 2006

Beyond consolidation, the Act introduces several new requirements:

- an integrated *public sector duty* covering age, disability, gender, race, sexual orientation and religion or belief
- protection against age discrimination outside of employment
- a *socio economic duty* on certain public bodies
- an extension of positive action measures, allowing employers to treat a job candidate from an underrepresented group more favourably in a tie break situation
- a reserve power that, if enacted in 2013, would allow the government to compel larger private sector employers to measure and report on their gender pay gaps

However, questions remain over the force of the *public sector duty* clauses:

- at the moment there are 3 separate duties on disability, gender and race.
- the Act introduces a new integrated duty that will cover age, disability, gender, gender reassignment, pregnancy and maternity, race, religion and belief and sexual orientation.
- the Government will publish a list setting out who is covered by the new general duty.
- the general duty has been published, and draft proposals for the specific duties have been produced for consultation.

The former government produced some draft specific duties:

- setting equality objectives
- reporting on progress in achieving the equality objectives
- reporting important equality data in the workforce
- demonstrating the impact on equality of policies and services
- involvement and consultation
- procurement
- reporting duty on central government

How the new Coalition Government will determine the precise impact of the legislation is, as yet, unclear: implementing the socio-economic duty, the new positive action provisions and the pay reporting clause; continuing with the proposed specific duties and with the timetable for implementing the goods and services age discrimination provisions. Even so, voluntary and community providers may well be able to exploit opportunities around: procurement; assessing impact; as well as involvement and consultation.

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