



CVS Rochdale **Policy Briefing**

The Equality Act 2010 10 Things Every Employer Should Know

The Equality Act 2010 came into force on 1st October 2010. It replaces all existing discrimination legislation, and while many principles remain the same, employers will need to look at their current policies and procedures to make sure they comply with the Equality Act.

Here are ten things that employers should know about the Equality Act 2010:

1. Pre-Employment health questionnaires will no longer be permitted, unless specific questions are being asked in order to assess a candidate's ability to carry out a specific part of the job, e.g. lifting heavy items in a warehouse job. Once a job has been offered and accepted an employer may ask additional medical questions, although care still needs to be taken with how that information is used.
2. The Act allows employers some leeway to take proportionate measures to overcome a perceived disadvantage for a protected group, (i.e. a type of positive discrimination). However, employers should be cautious about using positive discrimination in recruitment as they will be left open to claims from unsuccessful applicants, and using positive discrimination simply to meet quotas should be avoided.
3. Employers may be liable if an employee suffers discriminatory harassment from a third-party, such as a customer or client, if they have not taken reasonable steps to prevent it.
4. Pay-secrecy clauses in employee contracts will no longer be enforceable where employees are discussing their pay in order to find out whether there is a connection between their level of pay and the fact that they may or may not have a protected characteristic.

5. Under the Act, all forms of discrimination based on a person's association with someone who has a protected characteristic are prohibited. This means, for instance, that carers now have the right not to be discriminated against on the grounds of being associated with someone who is disabled.
6. The list of capacities under which a person could be defined as disabled has been removed, meaning that disability is now defined only as a physical or mental impairment that has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities.
7. If a person who is employed by you or is carrying out your instructions (your agent) unlawfully discriminates, you as the employer could be held legally responsible for what they have done even if you did not know about or approve what they did, unless you can show that you took reasonable steps to stop them acting unlawfully (e.g. providing appropriate equality and diversity training for all staff).
8. Contrary to some rumours, the Equality Act 2010 does not expand the list of protected characteristics beyond those that were already protected in previous legislation. The list is: sex; race; disability; religion or belief; sexual orientation; maternity; pregnancy; gender reassignment; age.
9. The Act allows a claim from a third party in a harassment situation. For instance, if a manager was constantly teasing a staff member because of, for instance, their sexual orientation or religious belief, another staff member would be entitled to make a complaint on the grounds that the manager's harassment of their colleague was creating an unpleasant and offensive work environment. The third party can still make this complaint even if they don't share the protected characteristic of the harassed person.
10. An employee can make a complaint about harassment related to a protected characteristic whether they actually possess that characteristic or not. For instance, if workers were constantly making comments insinuating that a co-worker was gay, the co-worker affected could lodge a complaint regardless of his sexual orientation. The Act offers protection from harassment or victimisation related to a 'perceived' characteristic possessed by the complainant.