

## Equality Act 2010

### What it means for your business

#### Introduction

The Equality Act 2010 was introduced for two main purposes: to harmonise discrimination law and to strengthen the law to support progress on equality. The Act brings together and re-states the various existing anti-discriminatory legislation including that in relation to equal pay, gender, race, disability, age and sexual orientation discrimination and consolidates them into one single act. It also adds new protections.

#### What aspects of employment are covered?

The Act governs all aspects of the employment relationship including job adverts, job interviews, dismissal and giving job references.

#### Key Changes

##### Combined discrimination

The Act extends the circumstances in which a person is protected against discrimination by allowing people to make a claim if they are directly discriminated against because of a combination of two relevant protected characteristics.

##### Positive Action

The Act allows an employer or service provider or other

organisation to take positive action so as to enable existing or potential employees or customers to overcome or minimise a disadvantage arising from a protected characteristic. This includes an ability for employers to take into account the fact that a particular group which is under-represented at the organisation when deciding between two applicants who in other respects are equally qualified for the job.

##### Health questions

Pre-employment health enquiries are now banned, except in certain circumstances (for example, the employer needs to know that the applicant will be able to "carry out a function that is intrinsic to the work concerned").

An employer asking a pre-employment health question will not necessarily be guilty automatically of discrimination, but if they act on the answers they may be.

##### Secrecy clauses

Secrecy clauses require employees to keep details of their pay secret and prevent them discussing their pay with their colleagues. Although secrecy clauses have not been banned, they will be unenforceable against employees who make or request a "relevant pay disclosure". The disclosure must be made with the possibility of pay discrimination in mind. Victimising an employee because they make, seek or

receive a "relevant pay disclosure" is unlawful.

##### Harassment at work

Harassment occurs when an individual engages in unwanted conduct that has the purpose or effect of violating another individual's dignity or creates a hostile, degrading, humiliating or offensive environment for that individual. Your business could be liable, in some circumstances, for the harassment of an employee by a third party in the workplace.

The definition of harassment has been widened to include harassment based on perception or.

##### Enforcement by employment tribunals

The Act also enables an employment tribunal to make a recommendation to a respondent who has lost a discrimination claim to take certain steps to remedy matters not just for the benefit of the individual claimant (who may have already left the organisation concerned) but also the wider workforce.

*Our Employment Team can provide specialist advice in all employment matters and would be happy to speak with you without commitment to see if we could help you, whatever your problem.*

*Please call Martin Stevens, Darren Thorneycroft or Marcus Self on 01233 625 711 for more information, or email them on ms@hallettandco.co.uk.*