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Equality guidance for charities

Part 1: What is covered by equality law?



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Contents

Introduction	3
Types of discrimination	5
What is unlawful discrimination?	
What is indirect discrimination?	
What is harassment?	
Laws which have equality duties and exceptions for charities.	8
Exceptions for religious organisations.	10
Trading and the exception for religious organisations.	12
For further information	14

Introduction

In Northern Ireland there are several pieces of legislation which cover equality as it relates to:

- age
- disability
- gender/sex (including trans)
- race
- religious belief/political opinion
- sexual orientation.

These are underpinned by Section 75 of the Northern Ireland Act 1998, which also states that, for public bodies, *equality of opportunity and good relations are central to policy-making and service delivery* and that public bodies must have *due regard for the need to promote equality of opportunity between:*

persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
men and women generally;
persons with a disability and persons without;
persons with dependants and persons without.

To be a charity an organisation must provide a public benefit to the public or to a section of the public.

Organisations, including charities, are required by law not to discriminate on certain grounds when they provide services to the public. There are some exceptions for charities, which allow them to be established or operate for the benefit of certain groups of people, and not others.

In Northern Ireland equality duties are set out in seven different pieces of legislation. This guidance is designed to act as an introduction and signpost for charity trustees as they consider how equality law impacts their charity, especially how they meet the public benefit requirement and how they deliver their services. It is not an exhaustive guide nor definitive legal guide. It does not address charities as employers or those that are public bodies or Non-Departmental Public Bodies (NDPBs), who also have other duties under section 75 of the Northern Ireland Act (1998).

Legislation also changes from time to time and the information in this guidance reflects the law as it was when the guidance was written.

The Equality Commission for Northern Ireland (ECNI) deals with breaches of equality law. Charities with complex issues should contact the ECNI at www.equalityni.org for advice. The ECNI has also produced a number of *Every customer counts guides*, checklists and model policies.

[Model policies](#)

[Every customer counts accessible services guide](#)

[Every customer counts - access checklist](#)

[Every customer counts - accessible business action plan](#)

[Every customer counts - inclusive customer service policy](#)

[Equality plans](#)

[Outreach positive action](#)

The Commission strongly advises charity trustees who have questions about how equality legislation impacts their charity to seek advice from the ECNI and from their own legal advisers.

This guidance is in four parts:

Part 1: An overview of what is covered by equality law.

Part 2: Equality on the grounds of disability, race or age.

Part 3: Equality on grounds of political opinion or religious belief.

Part 4: Equality on grounds of sex, gender or sexual orientation.

Types of discrimination

The purposes of a charity set out what the charity was established to achieve. Sometimes purposes are called objects, aims or goals. The activities of a charity are the ways in which the charity tries to fulfill its purposes, for example, by running a club or producing information. A charity's purposes may be worded to restrict benefits to certain people on the basis of shared equality characteristics. This is lawful discrimination provided certain conditions are met. When restricting benefits in this way, it is important that a charity's trustees consider the issue of unlawful discrimination in the context of its purposes and its activities.

What is unlawful discrimination?

The legislation identifies several forms of discrimination: direct or indirect discrimination, harassment and failure to comply with the reasonable adjustment duty.

The easiest form of discrimination to recognise is called direct discrimination.

Examples

Refusing services to a beneficiary because of their gender or religion.

Providing services to an Irish Traveller on less favourable terms than other people they help.

Refusing to provide a grant to an applicant because they are disabled or gay.

Direct discrimination can be unlawful even if it is not intentional.

What is indirect discrimination?

Discrimination sometimes takes an indirect form, and charities should take steps to avoid this.

Indirect discrimination can be defined as a practice, policy or rule which is applied to everyone, but which has the potential to put certain groups of people, with a shared equality characteristic, at a disadvantage compared to other groups. This will be unlawful if it cannot be shown to be a proportionate means of achieving a legitimate aim.

Example

A charity which runs a drop-in centre decides to apply a 'no hats' rule for security reasons. Beneficiaries who wear head coverings for religious reasons, for example Sikhs, Jews, Muslims and Rastafarians, will not be able to use the drop-in centre. Unless the charity can demonstrate that this rule enables them to achieve a legitimate aim, this may be indirect discrimination.

When a charity places a restriction on who may benefit from its services, and the restriction is not related to an equality characteristic, trustees must still consider the potential impact of this restriction on individuals with a shared equality characteristic. An example of a restriction not related to an equality characteristic would be a restriction based on residence or geographic location.

If a charity can show that a restriction is a reasonable and proportionate way of achieving its purpose, even though there is potential disadvantage to some people who share an equality characteristic, then it is unlikely that indirect discrimination will have occurred.

Example

A charity, set up to relieve poverty, operates in a particular council area. People from the Unionist community are under-represented in this council area. It is unlikely that the charity can be accused of indirectly discriminating against people based on political opinion if it can show that:

- there is a reasonable link between the purpose of relieving poverty and a restriction to people in this council area, and
- anyone in the council area who is eligible, including those with any political opinion and those with no political opinion, have access to the charity's services.

Indirect discrimination can be unlawful even if it is not intentional.

What is harassment?

In general terms, harassment is unwanted conduct related to a particular equality characteristic. This can include unwelcome physical, verbal or non-verbal conduct.

Example

A volunteer in a charity drop-in centre makes demeaning comments about the appearance of a beneficiary who is a Sikh man and wears a turban to reflect his religion.

Discrimination can also arise from a failure to comply with a duty to make reasonable adjustments for disabled people.

Examples

A large charity carries out its activities in a building that is open to the public but is not accessible for wheelchair users. The charity makes no effort to help those users gain access.

A large charity holds a conference that is open to the public. The charity does not make any effort to meet the needs of disabled people who are attending, such as a sign language interpreter for deaf people in the audience.

The duty to make reasonable adjustments only applies in relation to people with a disability.

Laws which have equality duties and exceptions for charities.

Below is a list of Northern Ireland legislation which contains equality provisions and an exception for charities. These may be changed or updated in time. The Equality Commission for Northern Ireland can give advice on these exceptions. However, the law is complex and may need to be interpreted.

Age:

Employment Equality (Age) Regulations (Northern Ireland) 2006

At present, age discrimination law does not regulate the provision of goods, facilities and services but does apply to employment, vocational training and the provision of further and higher education.

Disability:

Disability Discrimination Act 1995 as amended

This law does not allow discrimination and harassment against disabled persons in relation to employment, vocational training and the provision of goods, facilities and services. There is an exception for charitable organisations, but only in relation to employment and the provision of vocational training.

Special Educational Needs & Disability (NI) Order 2005

This law does not allow disability discrimination against disabled persons in relation to the provision of primary, secondary and tertiary level education.

Sex:

Sex Discrimination (NI) Order 1976 as amended

This law prohibits discrimination and harassment on the grounds of sex, pregnancy and maternity; gender reassignment and marital/civil partnership status. There is an exception for charities. for more information contact the Equality Commission.

Race:

Race Relations (NI) Order 1997 as amended

This law prohibits discrimination and harassment on the grounds of race, colour, ethnic or national origins, nationality and belonging to the Irish Traveller community. There is a charitable exception. For more information contact the Equality Commission.

Religious belief and political opinion:

Fair Employment & Treatment (NI) Order 1998 as amended

This law prohibits discrimination and harassment on the grounds of religious belief and political opinion. There is an exception. For charities, for more information contact the Equality Commission.

Sexual orientation:

Employment Equality (Sexual orientation) Regulations (NI) 2003

This law prohibits sexual orientation discrimination mainly in employment, but also in relation to some services, such as the provision of vocational training and further and higher education.

Equality Act (Sexual orientation) Regulations (NI) 2006

This law prohibits discrimination in the provision of goods and services on the basis of sexual orientation, where 'sexual orientation' refers to:

- (a) a sexual orientation towards persons of the same sex;
- (b) a sexual orientation towards persons of the opposite sex;
- (c) a sexual orientation towards persons of the same sex and of the opposite sex.

Exceptions for religious organisations

There are a number of exceptions for religious organisations contained within individual pieces of legislation. The guidance in this section should be read along with the relevant sections in the other equality guidance, parts 3 and 4.

Fair Employment & Treatment (NI) Order 1998 as amended (FETO)

FETO (part 4) deals with the provision of goods, facilities and services. FETO uses the term 'religious denomination' but does not define this term. FETO allows religious discrimination by religious denominations where the essential nature of the goods, facilities and services requires them to be provided to people who hold, or who do not hold, particular religious beliefs.

Example

The Ministers of a Church only offer a marriage ceremony within the Church building to people who share the religious belief of the Church. This would be lawful as the essential nature of this service requires it to be provided to people who hold these beliefs.

FETO has a general exception that allows Boards of Governors or the owners of schools to discriminate on the grounds of religious belief or political opinion when providing educational or non-educational goods, facilities and services to the public. FETO covers schools in terms of employment, however, it does not apply to the recruitment of schoolteachers.

Example

It is lawful for a school's admission criteria to include a requirement that students share the religious belief of the Mosque which runs the school.

Sex Discrimination (NI) Order 1976 as amended (SDO)

The SDO, which includes gender reassignment, allows discrimination by organised religions where its services are being provided in a place that is occupied by or for the purposes of that religion and where the sex restriction is necessary:

- to comply with the principles of that religion *or*
- to avoid offending the religious beliefs of a significant number of its followers.

Example

An Orthodox Jewish synagogue has a strict rule that men and women must sit in different areas during religious services. Segregation is normally considered to be a form of discrimination, but in this case it would be lawful if the rule is applied in order to conform with the principles of the Orthodox Jewish religion.

Equality Act (Sexual Orientation) Regulations (NI) 2006 (EA(SO)R)

EA(SO)R includes an exception for religious organisations whose main purpose is to practice, advance or teach a religion or belief or to enable people of a religion or belief to receive a benefit or to engage in an activity, within the framework of that religion or belief. This exception does not apply to organisations with a commercial purpose, those providing a service on behalf of a public authority or to educational bodies.

Example 1

A religious organisation has won a contract from the local council to deliver meals in the community. The charity cannot refuse to provide this service to a person of a different religion or homosexual orientation, if they qualify for the service.

Example 2

It is lawful for a Church to refuse to ordain people with a homosexual orientation if this contradicts a principle of their Church and conflicts with the convictions of many of its members.

Disability Discrimination Act 1995 as amended (DDA) and the Race Relations (NI) Order 1997 as amended (RRO)

Neither the DDA nor the RRO permit an exception for religious organisations.

Trading and the exception for religious organisations

The exception for religious organisations cannot be applied to organisations that are mainly commercial. Any organisation that has trading for profit as its primary purpose cannot be a charity. However, charities can establish companies or organisations to carry out non-charitable trading and donate any profits to the charity. Such companies cannot use the religious exception to discriminate against a person on the basis of their religious belief or sexual orientation.

Example 1

A religious charity owns and runs a bookshop. All profits from the shop are donated to the religious charity. The manager of the bookshop cannot use the religious exception to justify refusing to serve a customer who they know to be homosexual or of a different religious belief.

Religious organisations that hire out premises need to be careful about refusing to rent their premises to groups or individuals.

Example 2

A church refuses to allow a local yoga group to meet in the church hall as this would conflict with the strongly held beliefs of members of the Church. The charity could justify this restriction using the religious and belief exception, provided the use of the hall was not being offered on a commercial or rental basis.

Being clear about how the refusal can be justified at the outset can avoid problems at a later stage. This exception is complex in its application so taking legal advice may be necessary. A charity in this situation may wish to consider factors such as whether the hall is intended for exclusively charitable and religious use, whether the charity could be vulnerable to complaint, and if there is likely to be any risk to the reputation of the charity.

For further information

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Equality guidance for Charities

Part 2: Equality on grounds of disability, race or age.



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Contents

What does the law say about disability?	17
Can a charity restrict its benefits to people with a specific disability?	
Must a charity make reasonable adjustments for people who are disabled?	
Can a charity wait until a disabled person asks them to make a reasonable adjustment?	
What does the law say about race?	21
What does the law say about age?	22
For further information	23

What does the law say about disability?

The Disability Discrimination Act 1995 as amended (DDA) prohibits discrimination and harassment of disabled people. If you are not a disabled person you cannot rely on the DDA. The only exception to this is if you suffer discrimination for helping a disabled person to exercise their rights, for example, supporting a friend with disabilities.

This is a special form of discrimination known as 'victimisation.'

This means a charity can treat disabled people as a class more favourably than non-disabled people as a class. There is no need to rely on any exception to the law to treat disabled people more favourably.

Example

A charity decides to offer discounted admission to its youth club to young people with a disability. This is allowed because it is lawful to treat individuals with a disability more favourably than those without. The charity does not need to rely on any particular statutory exception to do this.

The DDA requires service providers to make reasonable adjustments for service users who are disabled.

Can a charity restrict its benefits to people with a specific disability?

Many charities are established to benefit people with a specific disability and, as such, may be acting outside of their purposes if they were to seek to provide those services to a person without that disability, even though that person might have another disability. If the charity were required to open up its services to any person without the specific disability it may be unable to continue to operate. The charity would need to ensure that it meets a condition provided in the DDA to justify any restriction to individuals with a particular disability.

Example

A charity is established to benefit people who are blind or visually impaired and it does this by providing them with computer software. This charity does not provide its services to people who are not blind, although they may be disabled because of another impairment or condition. If the charity were to try to provide services to people with other disabilities the costs would render them unable to continue to provide the service to blind or visually impaired people. The charity would not be able to fulfill the purpose for which they were established.

Must a charity make reasonable adjustments for people who are disabled?

The duty to make reasonable adjustments requires service providers to take positive action to ensure that people with disabilities can enjoy their services in the same way, or as close a way as possible, to that enjoyed by non-disabled people. This duty applies to an organisation's practices, policies, procedures and the physical features of its premises. Where a service provider makes it impossible or unreasonably difficult for a disabled person to use their service, they must take reasonable steps to change so the service becomes accessible. For example, a charity can provide the service in a different way or provide auxiliary aids. A charity cannot rely on any exceptions in equality legislation to avoid this duty.

Example 1

A charity is holding a fundraising event which is free for the public to attend. A disabled person has arthritis and has difficulty standing. If this person has to queue she would experience pain that other customers would not experience. The charity's volunteers allow this person to come to the front of the queue.

Example 2

A small charity receives a request from a partially sighted person for its information booklet to be provided in Braille. The charity decides, because

of its size and the costs involved, not to use this format. Instead, it puts the information on an audio tape and sends it to their client.

Example 3

A Mosque, in accordance with its religious beliefs, would not allow a dog, even a guide dog, within its premises. A Muslim person who is blind wishes to worship at the Mosque. The Imam arranges for members of the community to receive training in assisting a person who is blind. When the worshipper attends Mosque, the guide dog waits outside, and the person is guided by another member of the community.

The DDA does not state what factors should be considered when deciding whether or not an adjustment is reasonable. Some of the factors to consider are:

- the type of service being provided
- the size of the service provider and its resources
- how the person's disability affects them in a particular context
- how effective the adjustment would be in overcoming the barriers to the service
- how disruptive the step would be for the service provider.

There are some limited exceptions to the duty to make reasonable adjustments. For example, there is no obligation to provide adjustments that would fundamentally alter the nature of the service which is being provided. Additionally, a charity may be justified in not complying with the duty if there is good reason to believe that non-compliance is necessary to avoid endangering the health and safety of the disabled person or any other person. Charities relying on these exceptions may need to seek the advice of the Equality Commission or independent, legal advisers.

Can a charity wait until a disabled person asks them to make a reasonable adjustment?

According to the DDA, this duty is owed to all disabled people and should be anticipated. Therefore, service providers should review their policies and practices to ensure they can comply with the reasonable adjustment duty. In some circumstances it would be acceptable for a charity to wait until the adjustment has been requested before considering whether it is reasonable or not.

Example

A charity is hosting a conference that is open to the public. A person with a visual impairment contacts them to ask for the PowerPoint presentations to be put on a USB, so that she can use reader software to access the presentation. As the charity is a large charity with sufficient resources, it decides this is a reasonable adjustment to make. The charity does not provide this adjustment before every conference but only on request.

Trustees of membership associations or clubs must be aware that the provisions of the DDA apply to any membership association or club with 25 or more members. Membership association in this context has a particular meaning and, for example, does not refer to umbrella organisations to which other groups subscribe as members.

What does the law say about race?

The Race Relations (Northern Ireland) Order 1997 (RRO) prohibits discrimination and harassment on the grounds of:

- race
- colour
- ethnic or national origins
- nationality
- belonging to the Irish Traveller community.

The RRO does allow service providers, including charities, to address the special needs of people from a particular ethnic group in terms of their education, training or welfare. A charity may do this by restricting its benefits to individuals with shared race characteristics. However, as with the public benefit requirement, the charity will need to be able to demonstrate this restriction is required to meet the needs of a particular ethnic group. The charity should also be aware that these needs may change over time.

Example

A charity established to advance citizenship and community development plans a range of activities to achieve this purpose. It sees that newly arrived immigrant workers are struggling to speak English. The charity offers English classes at a low cost. These classes are not available to people who are not recent immigrants. This restriction is justified on the grounds that the language needs are specific to the group identified.

The law does not allow a restriction to specify skin colour, however, a restriction can specify ethnic background or country of origin.

Example

A charity could not be established with a purpose to assist homeless, black people. However, it could be established with a purpose to assist homeless people from the Nigerian community.

Charity trustees should also bear in mind that for some communities their religious beliefs overlap with their ethnic identity, for example Jews, Parsees and Sikhs.

Trustees of a membership association or club, to which admission is regulated by its constitution, must be aware that the provisions of the RRO apply to any membership association or club with 25 or more members. Membership association in this context has a particular meaning and, for example, does not refer to umbrella organisations to which other groups subscribe as members.

What does the law say about age?

A charity can be established to provide its benefits to a particular group of people who share an age characteristic. It is recommended that a charity restricting its benefits in this way sets out the restriction in its governing document.

Example 1

A charity is established to advance the relief of poverty among older people. As part of its range of activities, the charity provides a luncheon club which only people aged over 60 years may attend. This is permitted under the law as it currently stands.

Example 2

A charity is established to provide support to young people who are at risk of committing criminal offences. It runs a programme of activities and only young people aged between 14 years and 25 years are eligible for the programme. This is permitted under the law as it currently stands.

Current age discrimination law in Northern Ireland does not cover the provision of goods, facilities or services. The Employment Equality (Age) Regulations (Northern Ireland) 2006 only apply to employment, vocational training and further and higher education. Charities that are employers, as well as charities whose benefits include the provision of employment, vocational training or further and higher education, should seek advice from the Equality Commission.

For further information

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Equality guidance for Charities

Part 3: Equality on grounds of religious belief and political opinion



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Contents

What does the law say about political opinion and religious belief.	26
Exceptions for religious organisations.	28
Trading and the exception for religious organisations.	30
For further information	32

What does the law say about political opinion and religious belief?

The Fair Employment and Treatment (Northern Ireland) Order 1998 (FETO) as amended prohibits discrimination on grounds of religious belief and political opinion in the area of:

- goods, facilities and services
- further and higher education
- disposal or management of premises
- employment.

FETO makes it unlawful for goods, facilities or services, which are available to the public, to be provided at a lower standard or refused on the basis of religious belief or political opinion.

Under FETO, political opinion is not limited to Northern Ireland constitutional politics. It may include political opinions relating to the conduct or government of the state, or matters of policy, but not those which approve or accept the use of violence for political purposes in Northern Ireland.

Under the Charities Act (Northern Ireland) 2008, a political purpose cannot be charitable. There is no exception available to this rule therefore a charity cannot restrict its benefits to individuals with a particular political opinion.

Example

It would be unlawful for a housing charity to refuse to rent a property to individuals on the basis that they did not share the same political opinion as the trustees.

FETO does not define religious belief other than to note that it includes a supposed religious belief and the absence of a religious belief.

FETO has an exception for charities that restrict their benefits to people of a particular religious belief. This exception broadly covers:

1. providing services for people of a particular faith and excluding others
2. singling out individuals or groups for unfavourable treatment on account of their religious beliefs
3. refusing to treat individuals equally because of the religious affiliation of the provider of goods or services.

Exceptions 1 and 2 above are shown in this example:

Example

A church restricts access to activities in its youth club to young people who are practising Christians. The purpose of the club is to further Christian belief among young people therefore this restriction is lawful as the purpose of the charity is to advance Christianity.

Exceptions for religious organisations

There are a number of exceptions for religious organisations contained within individual pieces of legislation. The guidance in this section should be read in conjunction with the relevant sections in the other guidance booklets.

Fair Employment & Treatment (NI) Order 1998 as amended (FETO)

FETO (part 4) deals with the provision of goods, facilities and services. FETO uses the term 'religious denomination' but does not define this term. FETO allows religious discrimination by religious denominations where the essential nature of the goods, facilities and services requires them to be provided to people who hold, or who do not hold, particular religious beliefs.

Example

The Ministers of a Church only offer a marriage ceremony within the Church building to people who share the religious belief of the Church. This would be lawful as the essential nature of this service requires it to be provided to people who hold these beliefs.

FETO has a general exception that allows Boards of Governors or the owners of schools to discriminate on the grounds of religious belief or political opinion when providing educational or non-educational goods, facilities and services to the public. FETO regulates schools in terms of employment, however, it does not apply to the recruitment of schoolteachers.

Example

It is lawful for a school's admission criteria to include a requirement that students share the religious belief of the Mosque which runs the school.

Sex Discrimination (NI) Order 1976 as amended (SDO)

The SDO, which includes gender reassignment, allows discrimination by organised religions where its services are being provided in a place that is occupied by, or for the purposes of, that religion and where the sex restriction is necessary:

- to comply with the principles of that religion *or*
- to avoid offending the religious beliefs of a significant number of its followers.

Example

An Orthodox Jewish synagogue has a strict rule that men and women must sit in different areas during religious services. Segregation is normally considered to be a form of discrimination, but in this case it would be lawful if the rule is applied in order to conform with the principles of the Orthodox Jewish religion.

Equality Act (Sexual Orientation) Regulations (NI) 2006 (EA(SO)R)

EA(SO)R includes an exception for religious organisations whose main purpose is to practice, advance or teach a religion or belief or to enable people of a religion or belief to receive a benefit, or to engage in an activity, within the framework of that religion or belief. This exception does not apply to organisations with a commercial purpose, those providing a service on behalf of a public authority or to educational bodies.

Example 1

A religious organisation has won a contract from the local council to deliver meals in the community. The charity cannot refuse to provide this service to a person of a different religion or homosexual orientation, if they qualify for the service.

Example 2

It is lawful for a Church to refuse to ordain people with a homosexual orientation if this contradicts a principle of their Church and conflicts with the opinions of many of its members.

Disability Discrimination Act 1995 as amended (DDA) and the Race Relations (NI) Order 1997 as amended (RRO)

Neither the DDA nor the RRO permit an exception for religious organisations.

Trading and the exception for religious organisations

The exception for religious organisations cannot be applied to organisations that are mainly commercial. Any organisation that has trading for profit as its primary purpose cannot be a charity. However, charities can establish companies or organisations to carry out non-charitable trading and donate any profits to the charity. Such companies cannot use the religious exception to discriminate against a person on the basis of their religious belief or sexual orientation.

Example 1

A religious charity owns and runs a bookshop. All profits from the shop are donated to the religious charity. The manager of the bookshop cannot use the religious exception to justify refusing to serve a customer who they know to be homosexual or of a different religious belief.

Religious organisations that hire out premises need to be careful about refusing to rent their premises to groups or individuals.

Example 2

A church refuses to allow a local yoga group to meet in the church hall as this would conflict with the strongly held beliefs of members of the Church. The charity could justify this restriction using the religious and belief exception, provided the use of the hall was not being offered on a commercial or rental basis.

Being clear about how the refusal can be justified at the outset can avoid problems at a later stage. This exception is complex in its application so taking legal advice may be necessary. A charity in this situation may wish to consider factors such as whether the hall is intended for exclusively charitable and religious use, whether the charity could be vulnerable to complaint, and if there is likely to be any risk to the reputation of the charity.

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Equality guidance for Charities

Part 4: Equality on grounds of sex, gender or sexual orientation.



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Contents

What does the law say about sex and gender?	35
What does the law say about sexual orientation?	36

What does the law say about sex or gender?

The Sex Discrimination (NI) Order 1976 (SDO) prohibits discrimination and harassment on the grounds of:

- sex
- pregnancy and maternity
- gender reassignment
- marital/civil partnership status (in employment and vocational training only).

It is unlawful for a service provider to refuse to provide a service or offer a lower standard or worse service to someone because they are a man or a woman. It is also against the law to discriminate in this way against a transgendered person or against women because of their pregnancy or maternity.

There is an exception in the SDO for charities. It is not unlawful for a charity to be established to provide benefits to one sex only. A charity restricting its benefits in this way must set out the restriction in its governing document. This restriction of benefits must be a proportionate way of achieving a legitimate aim or to prevent or compensate for a disadvantage that is linked to sex.

Example 1

A charity is established for the advancement of health amongst men in Northern Ireland. Its governing document restricts its benefits to men. The charity organises men-only help groups to explore ways to alleviate depression. This restriction is justified as there is a higher level of suicide among men and the charity's research shows that men are more likely to attend a single sex group.

Trustees of membership associations or clubs, which are non-profit making, must be aware that the provisions of the SDO apply to their organisations. Unlike other pieces of legislation, the SDO does not have a minimum threshold number of members before the law applies. Membership association in this context has a particular meaning and, for

example, does not refer to umbrella organisations to which other groups subscribe as 'members.'

What does the law say about sexual orientation?

The Equality Act (Sexual Orientation) Regulations (NI) 2006 (EA(SO)R) makes it unlawful to discriminate on grounds of sexual orientation in the provision of:

- goods, facilities or services
- premises
- education
- public functions.

The goods, facilities and services must be available to the public or a section of the public and the discrimination includes refusal of a service or the provision of a lower standard of service. Discrimination of this kind is unlawful whether the service is paid for or free.

Example

A charity is holding a concert to raise funds for its activities. The concert is open to the general public. When a gay couple go to buy tickets they are refused entry. This would be unlawful if the refusal was on the grounds of discrimination related to sexual orientation.

EA(SO)R provides an exception from these regulations for charities. For this exception to apply the charity's governing document must contain a provision which restricts its benefits on the basis of sexual orientation.

Example

A charity is established to advance health and the saving of lives. It promotes the mental health of young people, who identify as gay, by running a support group. Only people who identify as gay may attend the group. It is lawful for the charity to restrict its benefits to this section of the public.

EA(SO)R regulations also provide an exception for organisations relating to religion or belief. Contact the [Equality Commission for Northern Ireland](#) for more details.

Trustees of membership associations or clubs must be aware that the provisions of the EA(SO)R apply to any membership association or club with 25 or more members. Membership association in this context has a particular meaning and, for example, does not refer to umbrella organisations to which other groups subscribe as members.

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