



Equality Diversity and Inclusion Toolkit

Module 1.3 The Law

REMINDER

Theological reflections on Equality, Diversity and Inclusion

A Theological Reflections on Equality, Diversity and Inclusion document is provided separately. All participants should have a copy of this when they attend their first session. It does not need to be considered in detail every time, but participants should be introduced to it at least once, and made aware that this is the starting point for all our work on EDI issues in the Methodist Church.

Module 1.3

The Law

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This module is designed for those in the Church with leadership or management responsibilities, or who have responsibility for employees, office holders and volunteers.

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Loving God

We pray for the people with power who are called to be truth-tellers;
for the politicians, the media, the decision-makers, the opinion formers
who can reinforce stigma or bring new clarity,
who know that without truth there cannot be justice.

And we pray for ourselves, struggling or comfortable.

Help us as we try to tell your truths in a complicated world.

Open our eyes to the people around us, people who are made in your image,
that we might love them as we are loved.

Give us strength as we seek to do your will in your world,

And help us to pray: “your kingdom come, your will be done, on earth as it is in heaven”.

We ask these prayers in the name of your son, who leads us into truth.

Amen.

EXPLORE

1. Context

The starting point for the EDI Toolkit is not the equality legislation; it goes beyond legal compliance. It is situated in theology, in Methodist principles and practice and, above all, in the Gospels. However, there is a need for those in positions of leadership in the Church to understand equality and human rights laws.

Case studies and stories play a central role in the toolkit as they provide real experiences, positive and negative. For this module on the law, the case studies are drawn from a mixture of published case law and personal experiences.

By sharing these case studies, the Equality, Diversity and Inclusion Committee aims to encourage not only an understanding of the law, but also to offer reflections and challenge that enable the Church to truly recognise, affirm and celebrate its diversity.

Activity 1 (in the Appendix)

Which of the two yellow lines in the top illustration is longer?

Learning from the activity

Seeing is believing?

Can we really believe what we see?

The Ponzo illusion shows us that the human mind judges an object's size based on its background or the context in which it is shown. Even though we are presented with a flat, two-dimensional image our brains perceive the upper line as being farther away, so we see it as longer.

It is similar in society. Whilst discrimination can be the result of the conscious actions and attitudes of individuals and organisations, it is most often unconscious bias and actions that lead to discrimination. Societies have cultural norms and assumptions that act in a similar way to the Ponzo illusion. There is an 'unconscious bias' in the way people perceive others and behave towards them. Despite the equal value of people, taking into account their skills, knowledge and experience, people are not treated equally. This is because of the unconscious bias of a society or organisation, as well as the conscious bias (deliberate actions) of some individuals and organisations. This is one of the main reasons why equality legislation came about.

2 Equality law in England and Wales, and Scotland

Parliament's purpose in creating the single **Equality Act 2010** was not only to harmonise the law but to take a legal step towards creating a fair and just society. The Act seeks to recognise that people are different and need different approaches in order to allow them to flourish in the contemporary world. This underpinning principle is at the heart of the gospel imperative of justice, inclusion and loving our neighbour.

2.1 The legislative framework

The Equality Act 2010 replaced and incorporated more than 15 anti-discrimination laws with a single Act. The legislation covers:

- employment and work
- goods and services
- premises
- associations
- transport.

NB: There is also a section of the Act that places particular duties on public sector organisations. Those duties do not normally apply to individuals, non-public sector organisations (eg private businesses, charities or Churches). However, if non-public sector organisations provide services under contract to a public sector body, those duties may apply, and should be included in the contract.

The Equality Act 2010 states that discrimination occurs when a person treats another less favourably than they treat or would treat others because of a protected characteristic. These 'protected characteristics' will be explored further in the next section. Discrimination is generally unlawful. However, the Act does provide exceptions, and there are some exceptions arising from other legislation. The exceptions are explored in a later section.

Unlawful discrimination is defined as:

- **direct discrimination** – treating a person worse than someone else just because of a protected characteristic.
- **indirect discrimination** – doing something that has a worse impact on a protected group than on people who do not have that characteristic.
- **discrimination by association** – treating a person worse because they are associated with a person who has a protected characteristic.
- **discrimination by perception** – treating a person worse than someone else because they are assumed to have a particular protected characteristic (eg if a straight person does not get appointed to a job because they are assumed to be gay).
- **discrimination arising from disability** – a person with a disability who is treated unfavourably because of something connected to their disability where it cannot be shown to be objectively justified.
- **victimisation** – treating someone badly or victimising them because they have complained about discrimination or helped someone else complain.

- **harassment** – engaging in unwanted conduct related to a relevant protected characteristic. Such conduct has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

2.2 Protected characteristics

Activity 2 (in the Appendix)

Fill in the missing vowels to identify the nine ‘protected characteristics’.

Learning from the activity

(Note: the answers are at the start of the next page)

STOP AND CONSIDER!

Looking at the list of nine protected characteristics:

- how many of these cover you and all your multiple identities?
- which ones do you understand and are familiar with, and which ones are you unfamiliar with?

The Equality Act 2010, identifies the following nine ‘protected characteristics’:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation.

Although the law separates people into protected characteristics, in reality we all have multiple identities and each of us falls into more than one protected group.

When considering the protected characteristics it is essential to understand that they are not just about ‘minority or marginalised’ groups but instead about everyone. All people have an age, sex, sexual orientation, race etc. So the protected characteristic on sex is not just about women but men too. We need to ensure that we are not viewing the Equality Act through our own stereotypes of who is included and excluded. Also, the fact that we belong to a group protected under the Act does not mean that we are incapable of discriminating against another group, or other groups similarly protected.

Activity 3 (in the Appendix)

Multiple choice quiz

You are invited to answer these nine questions one at a time, in groups or as individuals.
The answers will be revealed after you have given your answer.

Learning from activity

The law protects people from discrimination across nine protected characteristics. However, there are subtle differences in how the law applies, and what exceptions to the law are permitted and what are not.

The resources provide further information on these for further reading.

The table below gives a brief summary of the protected characteristics. Further information is available on the protected characteristics and exemptions in the **EXTEND** section.

| Protected characteristic | What is covered? |
|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Age | <ol style="list-style-type: none"> 1. Everyone over the age of 16 has legal protection from discrimination on the basis of their actual or perceived age. |
| Disability | <ol style="list-style-type: none"> 1. The Equality Act gives protection to disabled people. There is no 'registration' system, so disability is self-declared. 2. However, the law does define disability as meaning: "a disability, impairment or limiting illness which has a significant impact on a person's ability to undertake day-to-day tasks, and has lasted or is likely to last more than 12 months." Disability includes physical, sensory and neurological impairments, learning disability, mental health issues and long term limiting illnesses. 3. People who provide care for disabled people are protected from discrimination when they are operating in their capacity as a care-giver. 4. People who are discriminated against because they are perceived to be disabled are also protected by the Act. 5. Reasonable adjustments should be made for disabled people. |
| Gender reassignment | <ol style="list-style-type: none"> 1. The Equality Act cements gender reassignment as a protected characteristic relating to those people who have undergone gender reassignment, or who are transitioning gender. The language used in the legislation is significantly outdated. The current terminology is 'gender identity' – ie people who identify as transgender who have transitioned to their social gender or who are in transition to their social gender. |
| Marriage and civil partnership | <ol style="list-style-type: none"> 1. Married same-sex couples and those in civil partnerships fundamentally have the same legal rights. |
| Pregnancy and maternity | <ol style="list-style-type: none"> 1. There is legal right to maternity, paternity and parental leave. 2. For maternity this includes a period of paid and part-paid leave and rights to periods of unpaid leave with the right to return to work of equal value and status as the job they left. There are limits in terms of employment period – ie a minimum qualifying period. 3. The mother's spouse/partner has an entitlement to paternity/parental leave, regardless of whether they are the father of the child, or the marital status of the mother. 4. A mother has a legal right to breastfeed her baby in public in the first six months of its life. |
| Race | <ol style="list-style-type: none"> 1. Race is defined as a person's skin colour, national or ethnic origin (actual or perceived). 2. Protection against racial discrimination covers all people, not solely people from minority ethnic backgrounds. |

| Protected characteristic | What is covered? |
|--------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Religion or belief | <ol style="list-style-type: none"> 1. Religion: <ol style="list-style-type: none"> a. The religion or belief includes any religion and any religious or philosophical belief. b. It also includes a lack of any such religion or belief. c. 'Religion' means any religion and includes a lack of religion. d. Denominations or sects within religions, such as Methodists within Christianity or Sunnis within Islam, are considered a religion for the purposes of the Act. 2. Belief: <ol style="list-style-type: none"> a. Belief is defined as any religious or philosophical belief and includes a lack of belief. b. 'Religious belief' goes beyond beliefs about and adherence to a religion or its central articles of faith, and may vary from person to person within the same religion. c. A belief which is not a religious belief may be a philosophical belief. Examples of philosophical beliefs include humanism and atheism. A belief need not include faith or worship of a God or Gods. |
| Sex | <ol style="list-style-type: none"> 1. Discrimination between males and females is illegal, unless there is a specific religious exemption. |
| Sexual orientation | <ol style="list-style-type: none"> 1. With very limited exceptions for religious organisations (not individuals), it is illegal to discriminate against a person on the grounds of their sexual orientation. 2. Protection from discrimination is not solely for lesbian, gay and bisexual people, but for all sexual orientations, including heterosexual. |

APPLY and REFLECT

Case studies

You might find it useful to refer to the table in Section 1 of the EXTEND section when considering these case studies.

There are five case studies to consider:

- Making reasonable adjustments for a disabled person
- Discrimination against an employee by a third party
- Exclusion from employment or office
- Indirect discrimination against an office holder
- Religious discrimination in employment.

In small groups, each group should consider at least two of the stories and all of the stories should be considered by at least one group. There will be opportunity to provide feedback to the whole group.

Each of these is a true story, although names and some details have been changed to maintain anonymity.

Making reasonable adjustments for a disabled person

Jan's story – from the disability section (Module 4) of the toolkit

A couple of families had sat in the same pews on either side of the church at the very front for many years. A woman with hearing impairment started coming to church with her brother who was one of the stewards in the church. She asked that she be given space to sit at the front as lip reading helped her in hearing and understanding what was being said. Both families objected on the grounds that to make space for her would mean one of them having to sit further back in church. One family suggested that she got herself 'stronger hearing aids'.

The minister pleaded with both families but they refused to move. The minister therefore moved the pews back on both sides of the church. By doing this he created room for the woman and a number of small children to sit on chairs at the front, on the right side, facing the podium. This earned him the disapproval of members of both families for 'breaking with tradition' and disrespecting the memory of their families who had sat in those same seats for generations.

Legal context

In this case the minister has made an adjustment to prevent a disabled person being discriminated against. Disabled people can experience discrimination if an organisation doesn't make a reasonable adjustment. This is known as a 'failure to make reasonable adjustments'.

There is a significant amount of case law relating to disability discrimination and reasonable adjustments. Many service providers and organisations have been sued successfully where they have failed to make their service available to a disabled person. For example, in the case of 'B vs RA Ltd (an airline)' the company was found guilty of breaching equality law by failing to reallocate seating to accommodate the needs of a disabled passenger. However, other case law also clarifies that what is reasonable depends on a number of factors. This includes how big the organisation is and the relative cost to that organisation of making the adjustment. However, adjustments can often be made at little or no cost (eg by reorganising space) and this would be taken into consideration by the courts too.

Questions

Experience

- Why did it matter that Jan should be able to sit at the front?

Learning

- What did the minister do right? But what else could the church have done to comply with the law, whilst avoiding conflict with other church members?

Action

- How can your church anticipate the needs of disabled people and manage and plan resources appropriately?

Discrimination against an employee by a third party

Moira's story – from the sexual orientation section (Module 7) of the toolkit

Moira is in her mid-30s. She is a lay employee working in three churches. She is openly in a civil partnership of eight years, which is accepted and supported by the congregations she works for. However, her ecumenical colleagues have been undermining and bullying both her and members of one of the Methodist churches. By effectively refusing to work with Moira or her church members, these colleagues make one of the church mission projects very difficult to manage. Moira is uncertain as to where she can turn for help.

Legal context

This is similar to a case (E vs TS Ltd) where 'E' was an employee who sued his employer for not taking action when he was the victim of homophobic bullying by a third party. An employment tribunal found that the employer had failed in its duty of care to the employee and was guilty of discrimination by allowing harassment by a third party to continue.

Questions

Experience

- Whilst the bullying and harassment are coming from some ecumenical partners, who or what within Methodism is failing Moira?

Learning

- What is the effect of leaving Moira unsupported?
- How has this affected Moira, church members, the wider mission of the church and the reputation of the church?

Action

- What can the church do to support Moira?
- What support and procedures are in place if you became aware of someone being bullied, harassed or victimised?

Exclusion from employment or office

Martyna's story – from the race section (Module 6) of the toolkit

Martyna, a lay member of a local Methodist church, feels called into leadership within the church. She has had a number of conversations with fellow church members about the possibility of taking up a leadership role. She is a senior manager in a government department, managing a significant budget and several teams of staff. A number of roles have become available in the last year, but in each case the first Martyna heard of them was when someone else was appointed. The vacancies were not announced during services and no notices or signs were put up. Individuals were appointed by the existing leadership team. There is a group of around 20 people who have all been members for a long time and are all friends. Leadership roles seem to pass between them with no 'outsiders' given the opportunity to join.

Legal context

This is similar to a case (A vs HA) where 'A' was member of a voluntary sector organisation (HA) who had previously expressed interest in being a board member. When a vacancy arose, the existing board members made no provision to advertise the position (despite being required by Charity Commission regulations to do so). They assumed that everyone knew how to make applications through the 'traditional' informal channels. Members from some minority ethnic communities, including A, were unaware of these informal communication channels. The court ruled that HA had acted illegally, on the basis of racial discrimination.

Questions

Experience

- Who holds the power in this church?

Learning

- Whose role is it to challenge the 'dominant group'?

Action

- Are there any 'dominant group' attitudes or assumptions in your church? If so, what could you do about them?
- How can a 'dominant group' get a better understanding of what people from a minority group experience?

Indirect discrimination against an office holder

Jim's story – from the age section (Module 2) of the toolkit

Jim works full-time and has two children. Having recently gone through a divorce, he is greatly thankful to his church and its members, and feels that he wants to give something back and help the church. The church recently established a mission committee to try to help it be more of a presence in the community and attract a broader demographic of people. Jim saw this as the perfect opportunity and was gratefully accepted into the group. When Jim received the notice of the first meeting he saw that it was scheduled during the working day and he would be unable to attend.

When he pointed this out to the chair of the group, he was told that almost everyone who volunteers to be on committees is retired and that they do not like to be out in the evenings. Jim then raised the problem with the minister. Although she was sympathetic, she told him that church meetings had always been held during the day and they couldn't afford to lose the support of the older members. Jim was forced to withdraw from the committee and now gives his time volunteering with a local charity.

Legal context

An 'office holder' is a person appointed to carry out a function within an organisation other than in the capacity of an employee. This includes: a trustee, board or committee member, company director, church secretary, judge, police officer or member of the clergy. Under the Equality Act it is unlawful to discriminate against an office holder on the basis of their age. Whilst the church has not directly discriminated against Jim, it has made it difficult for him to carry out his responsibilities, because the timing of meetings excludes most working-age people. This is indirect discrimination on the basis of age.

Questions

Experience

- What assumptions have been made in Jim's story and about whom?
- Has anything similar happened in your experience?

Learning

- How could a situation like this impact on the mission of the church?

Action

- What could have been done differently?
- Who is responsible for making those kinds of changes in your church?
- Who can help them?
- What would you do?

Religious discrimination in employment

Samir's story

A circuit is advertising for an office administrator to provide general administration and office support to the circuit leadership team. Samir is an experienced administrator who already works in a neighbouring circuit. He has worked in a multi-faith resource centre with Christians, Sikhs and Muslims for several years. Despite being suitably qualified and being able to demonstrate a respect for the Christian faith and the Church, Samir is not shortlisted by the selection panel. When he asks for feedback, he is told that as it is a Church position it is only open to Christians, so as a Muslim he was not considered suitable for the post.

Legal context

Posts that are for the purpose of a religion can be restricted to a person from that religion. So it is legal to restrict a post for a youth worker or pastoral support worker to a Christian, as that would be essential to how the church delivers its mission and ethos. However, as an office administrator is not employed for religious purposes, it would not normally be legal to restrict the post to Christians. If Samir challenged the circuit through a court or tribunal, the case law suggests that he would have a successful claim on the basis of religious discrimination.

Questions

Experience

- What assumptions have been made in Samir's story?

Learning

- How could a situation like this impact on the mission of the church?

Action

- What should be done differently? Consider what you would do if you were aware of a situation like this.

EXTEND

For further study or personal reflection. Keep for use with other modules.

Contents

1. Protected characteristics – summary and exceptions
2. Religious organisations – exemptions
3. Scenarios around marriage in Church
4. Justifications for the restriction of the manifestation of religion and belief in employment
5. Article 9 of the Human Rights Act 1998

1 Protected characteristics – summary and exceptions

| Protected characteristic | What is covered? | Exceptions, exemptions and limitations |
|--------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Age | <ol style="list-style-type: none">1. Everyone over the age of 16 has legal protection from discrimination on the basis of their actual or perceived age.2. Children and young people under the age of 16 do have rights and protection under other primary legislation (eg The Children Act 1989, including rights to education and safeguarding). | <ol style="list-style-type: none">A. The Equality Act does not override other primary legislation relating to goods and services. This means, for example, that it is legal (and indeed a requirement) not to sell alcohol to someone under 18 years and to set a minimum age to be permitted to drive.B. Neither does the Equality Act take precedence over the age at which the minimum wage applies.C. Case law has confirmed that it is legal for an organisation to set a retirement age. |

| Protected characteristic | What is covered? | Exceptions, exemptions and limitations |
|--------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Disability | <ol style="list-style-type: none"> 1. The Equality Act gives protection to disabled people. There is no 'registration' system, so disability is self-declared. 2. However, the law does define disability as meaning: <p>“a disability, impairment or limiting illness which has a significant impact on a person’s ability to undertake day-to-day tasks, and has lasted or is likely to last more than 12 months.”</p> <p>This includes physical, sensory and neurological impairments, learning disability, mental health issues and long-term limiting illnesses.</p> 3. People who provide care for disabled people are protected from discrimination when they are operating in their capacity as a care-giver. 4. People who are discriminated against because they are perceived to be disabled are also protected by the Act. 5. Reasonable adjustments should be made for disabled people: <ol style="list-style-type: none"> a. In terms of the provision of goods, facilities and services, the provider should anticipate the needs of disabled people and consider the resources they need to make adjustments. Further information and examples are explored in the disability module of this toolkit. b. In terms of employment, employers must take all reasonable steps to assess an employee’s need for adjustments. | <ol style="list-style-type: none"> A Non-disabled people are generally not protected from discrimination (but see 4 and 5 on the next page). B Carried forward from the former Disability Discrimination Act, there are some exceptions from the definition of Disability. This includes alcoholism, some personality disorders and the wearing of spectacles, if the person has reasonable vision with spectacles on. C Reasonable adjustments: what is reasonable will vary from organisation to organisation – ie the bigger the organisation, the more likely it is that it would have the budget and facilities to make adjustments. |

| Protected characteristic | What is covered? | Exceptions, exemptions and limitations |
|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Gender reassignment | <ol style="list-style-type: none"> 1 This protected characteristic relates to those people who have undergone gender reassignment, or who are transitioning gender. 2 Different terminology for 'gender identity' and 'gender reassignment' can be used, which can be confusing. Put simply, if a person identifies as being transgender, they must not face discrimination because of that. | <ol style="list-style-type: none"> A There are no exceptions or exemptions related to gender reassignment. B There may be matters resulting from a person transitioning gender, related to sex (gender) and/or sexual orientation, where there are some limited exceptions. |

| Protected characteristic | What is covered? | Exceptions, exemptions and limitations |
|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Marriage and civil partnership | <ol style="list-style-type: none"> 1 Married persons and those in civil partnerships have the same legal and civil rights. 2 The Equality Act 2010 predates legislation that introduced the marriage of same-sex couples. However, the marriage legislation makes it clear that couples in same-sex marriages have the same legal and civil rights as other married persons and those in civil partnerships. | <p>A There are no exceptions or exemptions, but a religious organisation does have some limited exemptions around civil partnership and same-sex marriage (relating to sexual orientation – see section 3 below, page 27). This does not affect a person’s legal or civil rights.</p> <p>B As a religious organisation, a Church can reasonably expect an office holder to abide by the Church’s code of discipline – which leads to nuances of interpretation. For example:</p> <ul style="list-style-type: none"> ● The Roman Catholic Church does not permit clergy to marry at all due to its theology and discipline. As the clergy are unmarried, the Church is not discriminating between marriage and civil partnership. ● The Methodist Conference in 2014, whilst not changing its definition and understanding of Christian marriage, recognised the legal and civil right of Methodists to enter legally formed same-sex marriage (as was already the case in respect of civil partnership and opposite-sex marriage). This is not discrimination on the basis of marriage and civil partnership in respect of legal and civil rights. ● The Church of England (CoE) allows clergy to enter opposite-sex marriage, and civil partnership, but it is prevented by law from solemnising same-sex marriage. The C of E has interpreted that as meaning that it can prevent clergy from entering same-sex marriage. This is a point of legal dispute and awaiting case law. <p>C A religious organisation’s own definition of marriage within its own theology and practice does not affect a person’s legal or civil rights.</p> |

| Protected characteristic | What is covered? | Exceptions, exemptions and limitations |
|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Pregnancy and maternity | <ol style="list-style-type: none"> 1 There is a legal right to maternity, paternity and parental leave. 2 For maternity this includes a period of paid and part-paid leave and rights to periods of unpaid leave with the right to return to work of equal value and status as the job they left. There are limits in terms of employment period (ie a minimum qualifying period). 3 The mother's spouse/partner has an entitlement to paternity/parental leave, regardless of whether they are the father of the child, or the marital status of the mother. 4 A mother has a legal right to breastfeed her baby in public in the first six months of its life. | <ol style="list-style-type: none"> A The rights are limited by a minimum qualifying period. B Paternity/parental rights are considerably less than maternity rights. C Advice to Methodist circuits/employing bodies is available through district offices. Connexional staff have access to advice via the Connexional Team Intranet. D Case law (CT vs ST, March 2014) suggests that surrogate mothers do <i>not</i> have a right to maternity leave, but there is other case law in progress which may change this. |
| Race | <ol style="list-style-type: none"> 1 Race is defined as a person's skin colour, national or ethnic origin (actual or perceived). 2 Protection against racial discrimination covers all people, not solely people from minority ethnic backgrounds. | <ol style="list-style-type: none"> A Generally, there are no exceptions or exemptions. B Some <i>very limited</i> provisions (incorporated from previous Race Equality Acts) exist for 'genuine occupational requirements', for example for actors in certain theatre, TV or film productions. |

| Protected characteristic | What is covered? | Exceptions, exemptions and limitations |
|--------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Religion or belief | <p>1 Religion:</p> <ul style="list-style-type: none"> a The religion or belief includes any religion and any religious or philosophical belief. b It also includes a lack of any such religion or belief. c 'Religion' means any religion and includes a lack of religion. d Denominations or sects within religions, such as Methodists within Christianity or Sunnis within Islam, are considered a religion for the purposes of the Act. <p>2 Belief:</p> <ul style="list-style-type: none"> a Belief is defined as any religious or philosophical belief and includes a lack of belief. b 'Religious belief' goes beyond beliefs about and adherence to a religion or its central articles of faith, and may vary from person to person within the same religion. c A belief which is not a religious belief may be a philosophical belief. Examples of philosophical beliefs include humanism and atheism. A belief need not include faith or worship of a God or Gods. | <p>A It is for the courts to determine what constitutes a religion. A religion need not be mainstream or well known to gain protection as a religion. However, it must have a clear structure and belief system.</p> <p>B Although a belief need not include faith or worship of a God or Gods, it must affect how a person lives their life or perceives the world.</p> <p>C For a philosophical belief to be protected under the Act:</p> <ul style="list-style-type: none"> ● it must be genuinely held ● it must be a belief and not an opinion or viewpoint based on the present state of information available ● it must be a belief as to a weighty and substantial aspect of human life and behaviour ● it must attain a certain level of cogency, seriousness, cohesion and importance ● it must be worthy of respect in a democratic society, not incompatible with human dignity and not in conflict with the fundamental rights of others. <p>D Political beliefs are specifically excluded from the protections.</p> <p>E The Equality Act does allow employers to limit some manifestations of religious freedom at work, in specific circumstances. See Section 4 below.</p> |

| Protected characteristic | What is covered? | Exceptions, exemptions and limitations |
|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Sex | <ol style="list-style-type: none"> 1 Discrimination between males and females is illegal, unless there is a specific religious exemption. 2 The wording refers to males and females, not just men and women. Children are also protected from sex discrimination under the Equality Act. | <ol style="list-style-type: none"> A Specific religious exemptions must be related to the theology of the religion, eg the Roman Catholic Church does not have female priests due to its theology, and that is permitted in law. NB The Methodist Church is of the view that there must not be discrimination on the grounds of sex. B The law around sex is not clear on matters such as intersex people or people who don't identify as exclusively male or female. However, such situations may be covered in combination with the protections around gender reassignment. C Single-sex institutions and services are permissible, provided that there is legitimate reason to do so and/or suitable alternative provision. For example, single-sex state schools are permissible, provided that there are sufficient state school places for all pupils. Services for survivors of abuse may be gender specific if there is a clear reason, eg personal safety. |
| Sexual orientation | <ol style="list-style-type: none"> 1 With very limited exceptions for religious organisations (not individuals), it is illegal to discriminate against a person on the grounds of their sexual orientation. 2 Protection from discrimination is not solely for lesbian, gay and bisexual people, but for all sexual orientations, including heterosexual. | <p>The exemptions related to religious organisations are limited. These are explored in Sections 2 and 3 below.</p> |

2. Religious organisations – exemptions

2.1 The Equality Act 2010 provides an exemption for religious or belief organisations from the duty not to discriminate. This exception permits restrictions in the provision of facilities, goods, services, membership and other activities. The exemption applies only in relation to sex (gender), sexual orientation, and religion and belief and only in certain circumstances.

In some situations, religion or belief organisations and people acting on their authority can restrict or refuse a person's/organisation's:

- membership of the organisation
- participation in its activities
- use of any goods, facilities or services that it provides
- use of its premises.

2.2 When does the exemption apply?

In relation to service users the exemption only applies where a restriction is necessary:

- to comply with the purpose of the religion or belief organisation, or
- to avoid causing offence to members of the religion or belief that the organisation represents.

For example, if either of these conditions is met, a religion or belief organisation can ask people to sign up to a statement of beliefs in order to become a member.

Or it could say that no activities related to other religions or beliefs should take place in the building it uses. This is provided it does not normally hire out its premises for payment, in which case it could not discriminate.

These exemptions can apply for religious and belief organisations, but there are no exemptions in the Equality Act for individuals. The law does not permit a person to use their religion or belief to discriminate against or withhold the civil and legal rights of another person.

The Equality Act 2010 also intersects with the Human Rights Act 1998 – freedom of belief, thought and expression. This is provided that, in the exercise of those beliefs, a person or organisation does not inhibit the freedoms of others.

2.3 Limitations

- a) A person's legal and civil rights cannot be affected by the application of an exemption. For example, even if a Church does not recognise same-sex marriage, it cannot differentiate between opposite-sex and same-sex married couples in the provision of employee benefits such as pension rights to an employee.
- b) Exemptions do not apply in the provision of goods, facilities and services. If you offer a service to the public, such as a café, it must be available to all. You cannot refuse to offer that service to someone on the basis of their sexual orientation.
- c) Exceptions must be related to the theology of the religious organisation, not the personal theological position of an individual. For example, the Methodist Church does not consider sexual orientation to be a barrier to candidating for ministry or for stationing. If a person who is responsible for candidating or stationing decisions chose to ignore the discipline of the Church because of their own personal theological position they would be breaking the law.

d) Members of religious organisations can be expected to be held accountable to the discipline of the Church, for example:

- the Roman Catholic Church does not permit clergy to marry at all, nor does it allow the ordination of women to the priesthood, due to its theology and discipline.
- the Methodist Conference in 2014, whilst not changing its definition and understanding of Christian marriage, recognised the legal and civil right of Methodists to enter legally formed same-sex marriage.
- the Church of England allows clergy to enter opposite-sex marriage, and civil partnership, but it is prevented by law from solemnising same-sex marriage. The Church of England has interpreted that as meaning that it can prevent clergy from entering same-sex marriage. This is a point of legal dispute and awaiting case law.

e) In terms of employees and office holders, the exception only applies to those employed/holding office for the purposes of the religion (ie its missional and pastoral purpose). For example:

- the Roman Catholic Church's theology limits priesthood to men, but it could not limit a teaching post in a school to men.
- no church may limit an administrative post to a Christian – although they could reasonably expect employees to support the values of the Church.

f) Although religious organisations can apply these legal exemptions, they are still recognised as discriminatory.

A tribunal in 2015 (JP vs The Church of England and an NHS Trust) ruled that the Church had not acted illegally in applying an exemption relating to withdrawing a licence from a priest. The priest in question had converted his civil partnership to marriage. The tribunal also stated that the action was discrimination.

g) The Methodist Church does apply the exceptions in relation to sex (gender) or sexual orientation – refer also to the section on marriage below.

3 Scenarios around marriage in Church

- a) Religious organisations are not required to authorise/solemnise marriages at all. Those that do are not required to authorise/solemnise the marriage of same-sex couples. However, there is a provision in law* to allow them to 'opt in' to the solemnisation of same-sex marriage.

* Marriage (Same Sex Couples) Act 2013 – England and Wales
The Marriage and Civil Partnership (Scotland) Act 2014 – Scotland

- b) Religious organisations may not discriminate against a person in terms of their legal or civil rights, on the grounds of their sexual orientation or religion/belief. However, they do not have to recognise any legally formed marriages authorised outside of the religion/denomination as meeting the religion's definition of marriage.
- c) A religion/denomination can expect employees, office holders and members to uphold the view of the Church in relation to marriage.
- d) A summary of all the various legal positions around the Connexion can be found at:

www.methodist.org.uk/media/1738097/Same%20Sex%20Marriage%20and%20Civil%20Partnership%20legislation.pdf

- e) Similarly religious organisations may restrict the solemnisation or authorisation of marriage to those of their own faith/religion. However, if a person working for the organisation is married in another faith tradition, or in a civil marriage, it would be illegal for the denomination to discriminate against their legal or civil rights.
- f) The Methodist Church has not chosen to opt into the authorisation of same-sex marriage in Church, and has a definition that Christian marriage is a lifelong union between one man and one woman. The definition of marriage is currently being reviewed as part of a wider review to produce a new Conference Statement on Marriage and Relationships. However, the Church does recognise the right of same-sex couples to have a legally formed marriage or enter a civil partnership, but not on Methodist premises. This is not illegal, as it upholds the principle of not discriminating against a person's legal or civil rights. Further information can be found at:

www.methodist.org.uk/talkingofmarriageandrelationships

4 Justifications for the restriction of the manifestation of religion and belief in employment

All employers need to ensure that they provide an environment that eliminates unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010. However, the law allows employers to restrict the manifestation of religion and belief in particular instances. This includes situations where:

- genuine health and safety concerns exist
- business reasons apply (such as the need for efficiency over working patterns and requirements of uniformity in matters of dress)
- the rights of others might be impacted disproportionately.

5 Article 9(1) of the Human Rights Act 1998

Under Article 9(1) the right to freedom of thought, conscience and religion (including the right to change one's religion and belief) is absolute. It may never be interfered with.

The right to manifest one's religion and belief, either alone or in community with others and in public or private "through worship, teaching practice and observance" is qualified. It may be interfered with in certain circumstances.

The three filtering devices that are used to exclude claims are:

- The definition filter – asks whether the religion or belief warrants protection. It must attain to a certain level of cogency, seriousness, cohesion and importance and be worthy of respect in a democratic society.
- the manifestation/motivation filter – requires that the claimant's actions manifest their religion or belief as opposed to being merely motivated by it. This includes a requirement that the claimant's actions are prescribed by the particular religion and belief.
- the specific situation filter – applies when someone has voluntarily submitted themselves to a system of norms, for example, by entering into a contract, enrolling at a university or submitting to military service. It establishes that there is no interference with Article 9 when an individual has put themselves in a situation which limits their ability to manifest their religion and where they can choose to leave that restrictive context.

Closing worship

The Benedictus
Luke 1:68-79

Prayer

Help us, O God, never to fill the finite space between the divine and the human with anything less than yourself.

Save us from all false absolutes and grant that we may find our consolation in you alone;
wherein our finite lives are blessed with the infinity of your love;
this we ask through Jesus Christ.

Amen.

(Simone Weil)

Tell out my soul
Singing the Faith 186

APPENDICES

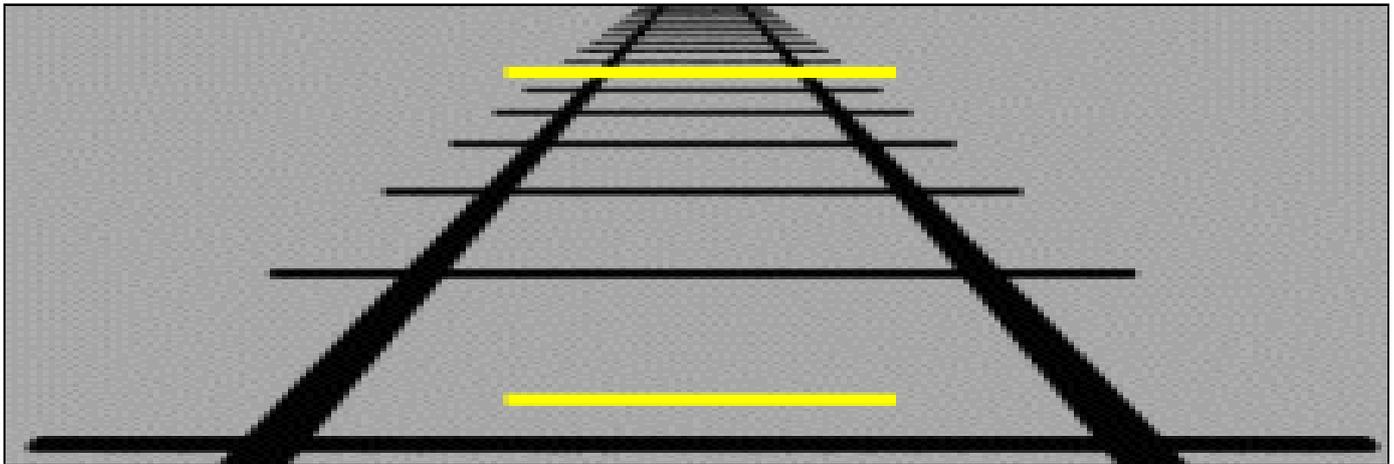
Activity 1 – Seeing is believing (also available as a PowerPoint presentation)

Activity 2 – Add the missing vowels

Activity 3 – Legislation quiz (also available as a PowerPoint presentation)

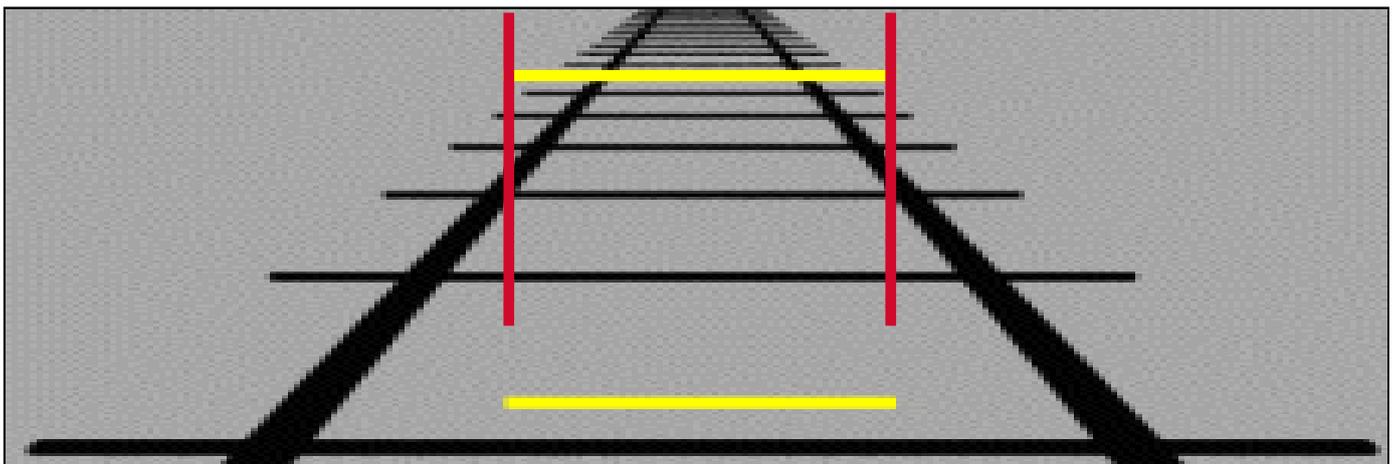
ACTIVITY 1 – Seeing is believing?

Which of the yellow lines is longer?



The Ponzo illusion

Seeing is believing



Can we really believe what we see?

The Ponzo illusion shows us that the human mind judges an object's size based on its background or the context in which it is shown. Even though we are presented with a flat, two-dimensional image our brains perceive the upper line as being farther away, so we see it as longer.

It is similar in society. Whilst discrimination can be the result of the conscious actions and attitudes of individuals and organisations, it is most often unconscious bias and actions that lead to discrimination. Societies have cultural norms and assumptions that act in a similar way to the Ponzo illusion. There is an 'unconscious bias' in the way people perceive others and behave towards them. Despite the equal value of people, taking into account their skills, knowledge and experience, people are not treated equally. This is because of the unconscious bias of a society or organisation, as well as the conscious bias (deliberate actions) of some individuals and organisations. This is one of the main reasons why equality legislation came about.

ACTIVITY 2

Add the missing vowels

G
D S B L T Y
G N D R R S S G N M N T
M R R G N D C V L P R T N R S H P
P R G N N C Y N D M T R N T Y
R C
R L G N N D B L F
S X
S X L R N T T N

Number of vowels in this game:

- 13 x A
- 16 x E
- 14 x I
- 3 x O
- 1 x U

ACTIVITY 3 – Legislation quiz

(Also available in PowerPoint slides)

EDI Toolkit - Legislation

ACTIVITY 3 – Quiz



Question 1

Who is protected from discrimination on the basis of their age?

A

People over 50

B

People aged
between 18 and
retirement

C

Everyone

D

People over 16

Question 2

Who is protected from disability discrimination?

A

All people
with physical
disabilities

B

All disabled
people

C

All disabled
people and their
carers

D

Everyone

Question 3

Are there any exceptions in law when it comes to people being protected from discrimination because of gender reassignment?

A

No: all people who identify as transgender are protected

B

Yes:
on religious grounds

C

Yes: in relation to single sex organisations

D

Yes: law only protects those who've completed transition (sex change)

Question 4

What does protection on the grounds of marriage and civil partnership mean?

A

Unmarried people must be treated equally to those who are married or in civil partnerships

B

Marriage and civil partnership provide the same legal and civil rights

C

Same as B – except for religious organisations

D

Same as B – except for the Church of England

Question 5

Which of these is NOT protected in law in relation to pregnancy and maternity?

A

The right of a spouse/
partner of the mother
to paid paternity/
parental leave

B

The right to
breastfeed an infant
in public, up to 6
months in age

C

The right of the
mother to return
to the same job

D

The right of the
mother to return to
a job of equal value
and status

Question 6

Who is protected from racial discrimination?

A

Only people from
Black, Asian and
minority ethnic
(BAME) communities

B

Everyone

C

People from BAME
communities and
non-British
White people

D

Everyone over
the age of 16

Question 7

Which of these statements is NOT true?

A

People of all religions
are protected
from religious
discrimination

B

Atheists and
humanists are
protected from
discrimination

C

Denominations
within a religion are
considered a
religion in law

D

Religious
organisations can
choose to employ only
people of their faith

Question 8

Who is protected from sex discrimination?

A

Everyone

B

Women

C

All over 16s

D

All females

Question 9

Who is protected from discrimination because of their sexual orientation?

A

All adults

B

Everyone

C

Only lesbian,
gay or bisexual
(LGB) people

D

Only LGB and
transgender people

Question 1

Who is protected from discrimination on the basis of their age?

- | | |
|----------------------------|---------------------------------------------------|
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| C Everyone | D ✓ People over 16 |

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Who is protected from disability discrimination?

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| C ✓ The right of the mother to return to the same job | D The right of the mother to return to a job of equal value and status |

Question 6

Who is protected from racial discrimination?

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|-------------------------------------------------------------------------------------------|--------------------------------------------|
| A Only people from Black, Asian and minority ethnic (BAME) communities | B ✓ Everyone |
| C People from BAME communities and non-British White people | D Everyone over the age of 16 |

Question 7

Which of these statements is NOT true?

- | | |
|---------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| A People of all religions are protected from religious discrimination | B Atheists and humanists are protected from discrimination |
| C Denominations within a religion are considered a religion in law | D ✓ Religious organisations can choose to employ only people of their faith |

Question 8

Who is protected from sex discrimination?

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| A ✓ Everyone | B Women |
| C All over 16s | D All females |

Question 9

Who is protected from discrimination because of their sexual orientation?

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|------------------------------------------------------------------|----------------------------------------------------|
| A All adults | B ✓ Everyone |
| C Only lesbian, gay or bisexual (LGB) people | D Only LGB and transgender people |