



# Goods, facilities, services and premises

a short guide to discrimination law

**Equality Commission**

FOR NORTHERN IRELAND

## About this guide

This short guide provides some information about discrimination law that applies to the provision of goods, facilities or services and the disposal and management of premises in Northern Ireland. It does not attempt to describe every detail, and should not be taken as an authoritative statement of the law. Discrimination law is complex and is subject to regular change. Individuals and service providers should therefore seek detailed advice about particular circumstances rather than rely on the content of this brief guide. Further information is available in more detailed publications, on our website or via our Enquiry line. Details of some relevant publications and how to contact us are given at the back of this booklet.

## The Equality Commission for Northern Ireland

The Equality Commission for Northern Ireland is an independent public body established under the Northern Ireland Act 1998. The Commission is responsible for promoting awareness of and enforcing anti-discrimination law on the following grounds: sex<sup>1</sup>, sexual orientation, religious belief and political opinion, race, disability and age<sup>2</sup>. The Commission's general duties under anti-discrimination law include:

- working towards the elimination of discrimination;
- promoting equality of opportunity and encouraging good practice;
- promoting affirmative/positive action;
- promoting good relations between people of different racial groups; and
- keeping the relevant legislation under review.

The Commission is also responsible for overseeing the statutory duties on public authorities to promote equality of opportunity and good relations under Section 75 of the Northern Ireland Act and the disability duties under the DDA. It also monitors, jointly with the Northern Ireland Human Rights Commission, the implementation of the UN Convention on the Rights of Persons with Disabilities.

<sup>1</sup>Sex discrimination law includes gender reassignment, pregnancy and maternity, and marital status or civil partner status (in relation to employment and training).

<sup>2</sup>Please note, however, that age discrimination law in N Ireland does not cover the provision of goods, facilities and services.

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## The law - discrimination in the provision of goods, facilities and services

In Northern Ireland, protection from discrimination in accessing goods, facilities, services and in the disposal and management of premises is provided in the following legislation<sup>3</sup>:

- Sex Discrimination (NI) Order 1976 (as amended) - SDO
- Disability Discrimination Act 1995 (as amended) - DDA
- Special Educational Needs and Disability (NI) Order 2005 (as amended) - SENDO
- Race Relations (NI) Order 1997 (as amended) - RRO. Irish Travellers are explicitly covered in the Order which recognises them as a specific racial group.
- Fair Employment and Treatment (NI) Order 1998 (as amended) - FETO
- Equality Act (Sexual Orientation) Regulations (NI) 2006 (as amended) - Sexual Orientation Regulations.

It is therefore generally unlawful for service providers to discriminate on five key grounds – sex (including gender reassignment and pregnancy/maternity), disability, race, religious belief or political opinion, and sexual orientation<sup>4</sup>. However, there are anomalies in the legislation and some exceptions apply across the various statutes.

<sup>3</sup>At the time of publication, discrimination on grounds of age in the provision of goods, facilities and services is not unlawful. Age discrimination law covers employment and vocational training only. However the Equality Commission recommends that it is good practice not to discriminate on grounds of age.

<sup>4</sup>The 2006 Sexual Orientation Regulations allow civil partners to bring a claim against providers of goods, facilities and services if discrimination is on grounds of sexual orientation.

## What is discrimination?

In general, discrimination in the provision of goods, facilities and services involves less favourable treatment of a service user or prospective service user because of their sex (including gender reassignment and pregnancy/maternity), disability, race, religious belief or political opinion, or sexual orientation. Discrimination can take various forms.

### Direct discrimination

This arises where a person (or an organisation) treats or would treat someone less favourably than others on one of the five grounds in the same or similar circumstances. Direct discrimination is unlawful whether it is intentional or not.

#### Example

A black man from Nigeria responds to an advertisement for a flat to let but is turned down as soon as he arrives at the door. The next applicant, a white man, is accepted. This is likely to be direct discrimination on grounds of colour/national origin.

### Indirect discrimination<sup>5</sup>

There are currently three definitions of indirect discrimination. For more information on these definitions, contact the Equality Commission's Enquiry line on 028 90 890 890.

The first definition of indirect discrimination occurs where:

A provision, criterion or practice is applied or would apply equally in a situation which puts certain people at a disadvantage and which cannot be shown to be a proportionate means of achieving a legitimate aim;

<sup>5</sup>There is no concept of indirect discrimination under the Disability Discrimination Act. For further information contact the Equality Commission on 028 90 890 890 or visit our website on [www.equalityni.org](http://www.equalityni.org)

The second definition occurs where:

A requirement or condition is applied or would apply equally in a situation:

- where a considerably smaller proportion of certain people can comply with it;
- which is not justifiable; and
- which is to the detriment of the individual because they cannot comply with it.

Indirect race discrimination - Regulations introduced in 2010 amended the definition of indirect race discrimination so that it covers not only individuals who are put at an actual disadvantage by a provision, criterion or practice but also individuals who would be put at such a disadvantage. This will therefore cover individuals who are deterred from trying to access a service because of a provision, criterion or practice.

Like direct discrimination, indirect discrimination can be unlawful even if it is not intentional. For any comparisons to take place under indirect discrimination, the circumstances in the case should be the same or not materially different.

### Example

A bank writes its mortgage and loan agreements in the English language only. While this policy is applied equally to everyone it disadvantages people from non English speaking countries. A failure to translate documents or to provide an interpreter could be indirect race discrimination if it means that certain groups are unable to access the service, unless it can be justified.

### Example

A single parent applies to her local education board for a bursary to attend to study for a professional qualification on a part time basis. She is refused the bursary as the board only considers applications in respect of full-time study. She is unable to study full-time due to her family commitments, a position that more women than men are likely to find themselves in. A failure to fund part-time study could be indirect discrimination unless it can be justified.

## Disability-related discrimination

Disability-related discrimination occurs when, for a reason related to a person's disability, the disabled person is treated less favourably than other people to whom the reason does not or would not apply, and this treatment cannot be justified.

## Reasonable adjustments for disabled people

Under the Disability Discrimination Act 1995 (DDA), service providers (including transport providers) have a duty to make reasonable adjustments to enable disabled people to access their services. Failure to make a reasonable adjustment when one would have been appropriate may be held to be discrimination. Reasonable adjustments may mean changing practices, policies or procedures if they make it impossible or unreasonably difficult for disabled people to access a service.

Where a physical feature makes it impossible or unreasonably difficult for a disabled person to access services, service providers have a duty to take reasonable steps to:

- remove, alter or avoid the feature
- provide an alternative method of accessing the service.

The duties placed on service providers towards disabled people are anticipatory. This means that service providers need to consider the requirements of disabled people in general and not the individual requirements of each disabled customer that may come to use their service. Disabled people's needs should be considered in advance, rather than waiting until a disabled person wants to use the service on offer.

### **Example of reasonable adjustment**

A leisure centre installs a text phone in its reception to ensure that deaf and hearing impaired customers are able to contact the centre regarding opening times, exercise classes or other facilities. The leisure centre advertises the text phone on its brochures and website.

## **Example of discrimination**

A furniture store had a policy of not allowing prams and baby buggies as they believed they may cause damage. Parents of a disabled child were refused access when they arrived with an adapted buggy. No adjustment to the 'no prams/buggies' policy was made for the disabled child. A court found that this was disability discrimination.

## **Harassment**

Harassment<sup>6</sup> in the provision of goods, facilities and services is defined explicitly in some of the anti-discrimination statutes. A broad definition is where a person engages in conduct which, on a protected ground, has the effect of violating another person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person. Where harassment by service providers is not specifically mentioned in the legislation, it is possible for a person who feels harassed (and has been subjected to a detriment) to make a case that the harassing behaviour is less favourable treatment and therefore discriminatory.

## **Example of harassment**

A student takes driving lessons with a driving school. She has become uncomfortable with her instructor because he has been making offensive remarks of a sexual nature about her and about other women passers-by, as well as making comments about her personal appearance. This is likely to amount to sexual harassment under the Sex Discrimination (NI) Order 1976.

## **Victimisation**

This occurs when someone is treated less favourably because they have already made a complaint under the relevant legislation (for example, undertook proceedings or threatened to bring proceedings), have helped someone else to do so (for example, provided evidence in proceedings or acted as a witness), or alleged that a service provider or others have committed an unlawful act under the law. Protection from victimisation is intended to ensure that people are not deterred from complaining about discrimination out of fear of further adverse treatment.

<sup>6</sup>Following a judicial review the harassment provisions of the Equality Act (Sexual Orientation) Regulations (NI) 2006 no longer apply. Contact the Equality Commission on 028 90 890 890 for further details.



### Example of victimisation

A tenant who was subjected to sectarian harassment complains about the discrimination and is relocated to another house in a different area. Following the relocation, he has trouble getting his landlord to deal with repair requests in a satisfactory manner. He believes this is because he made a complaint of discrimination. If this is the case, it is likely to amount to victimisation.

## What is less favourable treatment?

It is unlawful for service providers to treat individuals less favourably than other people on one of the five grounds when using their services. There must be a connection between the less favourable treatment and the person's sex (including gender reassignment and pregnancy/maternity), sexual orientation, religious belief or political opinion, race or disability.

Bad treatment is not necessarily the same as less favourable treatment although, where a service provider acts unfairly or inflexibly, or where there is no comparator, a court might draw inferences that discrimination occurred.

### Example

A woman who has undergone gender reassignment indicates to a landlord that she wishes to rent a one-bedroom flat in a residential block of flats. The landlord refuses to allow her to rent the property, indicating that other tenants would feel uncomfortable in her presence. This is likely to be unlawful discrimination under the Sex Discrimination Order (NI) 1976.

## Example

Paul, who has a facial disfigurement, went to a nightclub with two of his friends. They were admitted to the club but later on Paul was approached by a doorman who told him he had to leave on the manager's orders because he did not "meet the criteria". Paul took a complaint on grounds of disability and the nightclub owners eventually admitted that they had discriminated against him.

The legislation makes it unlawful for a provider of goods, facilities and services to the public or a section of the public, to discriminate against individuals on one of the five grounds by:

- refusing or deliberately omitting to provide any service which it offers to or provides to members of the public, or a section of the public; or
- providing service of a lower (inferior) standard or quality; or
- providing service in a worse manner; or
- providing service on less favourable terms.

Discrimination of this kind is unlawful whether or not the service is paid-for or provided free of charge. Service providers will be covered regardless of size, and whether they are in the public, private or voluntary sector<sup>7</sup>.

- **Refusal of service**

A service provider cannot refuse to provide (or deliberately not provide) a service to a customer on one of the five grounds which it offers to other people. The service provider cannot refuse to provide services even if it thinks that serving that customer will upset or raise objections from other customers.

<sup>7</sup>Some public sector organisations and functions are exempt from the legislation. For further details contact the Equality Commission on 028 90 890 890 or visit our website at [www.equalityni.org](http://www.equalityni.org)

### Example

A woman is refused entry to a public bar because it is considered by staff to be a "male only" bar. This is an unlawful refusal of a service on grounds of sex.

### Example

An Irish Traveller is refused permission to try on a dress in a clothes shop. The shop owner makes excuses that it is not her size and suggests that it would be too expensive. The real reason for the refusal of service is a prejudiced view that the Traveller customer will damage the garment. Such a refusal will be unlawful race discrimination as Irish Travellers are specifically protected as a racial group under the Race Relations (NI) Order 1997.

- **Standard (quality) or manner of service**

A service provider must not offer an individual (or group of individuals, or an organisation) on one of the five grounds a lower standard (quality) or inferior service or serve them in a worse manner. A lower standard of service may include being off hand, hostile, less courteous or rude towards them.

### Example

A Chinese couple are ignored in a take-away restaurant even though they are next in the queue and white customers are served. When they are able to place their order eventually, the assistant's manner is hostile and rude. When their order is ready, it is ignored but other customers have their orders collected promptly. This type of behaviour is likely to be discriminatory.

## Example

A local council is licensed to hold both weddings and civil partnership ceremonies at its council offices. The Registrar who normally conducts these ceremonies is uncomfortable with the idea of civil partnerships so suggests that a ceremony booked by a lesbian couple is held in a smaller, back room. The council is treating the couple less favourably on grounds of their sexual orientation and this is likely to be discriminatory.

- **Terms of service**

A service provider should not provide a service to an individual, on one of the five grounds, on terms which are worse than the terms offered to other people. Worse terms could include charging more for services, imposing extra conditions for using the service or imposing obstacles to access.

## Example

A taxi company charges wheelchair users more for using their adapted taxis than they charge other people who do not use wheelchairs. This is an example of where the terms of service are worse than the terms offered to other people and is likely to be discriminatory.

## Where and to whom does the law apply?

### Goods, facilities and services

The law applies to all providers of goods, facilities and services to the public in Northern Ireland, regardless of size and whether in the private, public or voluntary sectors<sup>8</sup>. It does not matter whether the services are provided free, for example access to a public park, or in return for payment, for example an item in a shop.

<sup>8</sup>See later section on exceptions.

All those involved in providing services have responsibilities under the law, including senior management and front line staff whether full or part-time, permanent or temporary.

It does not matter whether the service in question is being provided by a sole trader, firm, company or other organisation, or whether the person involved in providing the services is self employed, an employee, contractor or agent.

## **Vicarious liability**

Vicarious liability means that the service provider is legally responsible for the actions of its employees carried out in the course of their employment, whether it knew about them or not. An employee who discriminates against a customer (or prospective customer) on one of the five grounds will usually be regarded as acting in the course of their employment, even if the service provider has issued express instructions not to discriminate.

However, it is a defence in law that the service provider took 'such steps as were reasonably practicable' to prevent discriminatory actions. Reasonable steps would include having an equality policy which covers the provision of goods, facilities or services which is communicated to staff and implemented effectively. Service providers should also ensure that they provide comprehensive equality training to staff and should have effective procedures for dealing with complaints from customers/service users.

As a service provider, the focus of attention should be on meeting the needs of each customer regardless of sex (including gender reassignment and pregnancy/maternity), sexual orientation, religious belief or political opinion, race or disability.

The Equality Commission can provide further advice and guidance on developing policies and can provide relevant publications and training on request. For further information contact our Enquiry line - 028 90 890 890.

## Example

A cashier refuses to serve an Irish Traveller at the checkout. The Traveller takes a case of discrimination against the cashier's employer because the employer is vicariously liable for the actions of its employees whether it knows and approves of them or not. The company's management does not support the cashier's action but has no equal opportunities policy and has not provided training to its employees. The company may not be able to defend itself in court.

## What are goods, facilities and services?

Although not defined in the legislation, the term 'goods, facilities and services', denotes a wide range of activities carried out by organisations. Here are some examples to illustrate how broadly the term 'service provider' is interpreted:

- advice agencies
- charities and voluntary organizations
- churches or other places of worship
- courts
- emergency services
- employment agencies
- housing associations, estate agents and private landlords
- financial services providers such as investment companies, banks and building societies or accountants
- hospitals, clinics and health services
- hotels, B&Bs, guest houses and hostels
- housing associations
- law firms
- libraries and museums
- mail, telephone or online retailers
- parks and other public spaces
- petrol stations
- post offices
- property developers and management agencies
- public utilities (such as gas, electricity and water suppliers)
- pubs and restaurants
- railway stations, bus stations and airports

- rented business premises
- services provided by local councils, government departments and agencies
- shops and market stalls
- some types of clubs
- sports and leisure facilities
- telecommunications and broadcasting services
- theatres and cinemas.

The following are examples of facilities and services covered by the various pieces of legislation:

- access to and use of a public place that the public is permitted to enter;
- accommodation in a hotel, boarding house or similar establishment;
- financial services, banking, insurance, grants, loans, credit or finance;
- facilities for education<sup>9</sup>
- facilities for entertainment, recreation, or refreshment;
- facilities for transport or travel;
- services of a profession or trade;
- services of a local or public authority.

### Example

Two couples are refused service in a public house because they are from the Irish Traveller community. This is likely to be discrimination under the Race Relations (NI) Order 1997.

### Example

Two blind friends were turned away from a restaurant because they had a guide dog with them. They had phoned ahead to say that they would be bringing a guide dog, but when they arrived they were told they would have to tie the dog up outside, have a take-out meal or eat in a private room. This is likely to be a breach of the Disability Discrimination Act.

<sup>9</sup>Facilities for education generally are not covered by FETO but further and higher education and training are covered. Facilities for education are not covered in the general goods, facilities and services provisions of the Disability Discrimination Act but facilities provided to members of the public are covered (eg, use of a school's premises for a meeting). The provision of education services is covered separately under the Special Educational Needs & Disability Order (SENDO). For more information, contact the Equality Commission on 028 90 890 890.

## Example

Jon, a black man, arrived at Belfast City Airport for a weekend break on an internal UK flight. He was stopped by immigration officers who asked him to produce identification documents. Despite showing a considerable number of documents and having his employer verify his details, he was taken to prison and strip searched. He was released two days later without being charged.

Jon made a complaint claiming that only Black African passengers were stopped and checked and that no White persons were subjected to the same or similar treatment as him.

## Disposal or management of premises

It is unlawful to discriminate against individuals on one of the five grounds in the disposal or management of premises in circumstances where services are being provided to the public.

The law covers both public and private sector housing or accommodation service providers, such as the Northern Ireland Housing Executive, housing associations, owners of hostels, private landlords, estate agents, property developers, managing agents and owner occupiers.

The term 'premises' includes residential accommodation such as flats, houses, bungalows, mobile homes and caravan sites, and commercial premises. It also includes land of any description.

### Disposal of premises

It is unlawful for a person (a person includes a legal entity such as a company) with power to dispose of any premises to discriminate against a person on one of the five grounds:

- in the terms on which they offer to dispose of those premises;
- by refusing an application for those premises; or
- in the treatment of those on a list requiring housing, such as overlooking or giving priority to people on one of the five grounds.



The disposal of premises includes selling or letting them.

### Example

A man who wishes to sell a house instructs the estate agent not to sell to the highest bidder, but to a person who is the same religion as himself. Should the estate agent decide to action this instruction, it would leave him/her open to a complaint of religious discrimination. The house owner may also be liable for directing another to do an unlawful act.

## Management of premises

It is unlawful for a person managing any premises to discriminate on one of the five grounds against a person occupying those premises, such as tenants, other occupier or someone who is associated with them:

- in the way that they afford them access to any benefit or facilities;
- by refusing, or deliberately omitting, to afford them access to any benefits or facilities<sup>10</sup>; or
- by evicting or subjecting them to any other detriment.

This covers all aspects of a manager's duties towards a tenant, or other occupier, or someone associated with them. A person includes a legal entity such as a company.

### Example

A housing association's allocation policy gives priority for lettings to the sons and daughters of existing tenants. If the racial profile of tenants does not reflect the racial profile of people in need of housing in the association's catchment area, the policy could disadvantage prospective tenants from underrepresented racial groups. This could amount to unlawful indirect race discrimination, unless it can be justified.

<sup>10</sup>The wording in the DDA is slightly different: "by refusing or deliberately omitting to permit the disabled person to make use of any benefits or facilities".

### Example

A property management company manages and controls a residential block of flats on behalf of the landlord-owner. The block has a basement swimming pool for use by tenants and their guests. A lesbian tenant is told that she can only use the swimming pool at restricted times, because other tenants feel uncomfortable in her presence. This is likely to be unlawful under the Sexual Orientation Regulations.

### Example

An estate agency issues documentation to its staff indicating which properties, for letting or sale, are considered to be 'unsuitable' for occupation by members of minority ethnic groups. This practice or policy discriminates against ethnic minorities.

## Licence or consent

It is also unlawful for a person whose licence or consent is required for the disposal of any premises comprised in a tenancy to discriminate against a person on one of the five grounds by withholding the licence or consent.

### Example

A tenant of a house occupies the premises under a tenancy agreement with a right to sub-let the house with prior consent of the landlord-owner. The tenant is being posted to work abroad for a year and wishes to sub-let the house to a couple who are a different religion to himself and the landlord. The owner of the house refuses consent to the sub-letting. This is likely to be unlawful under the Fair Employment and Treatment Order.

## Reasonable adjustments for disabled people

Landlords and managers have a duty to make reasonable adjustments in relation to premises (both commercial and residential) that they let to disabled tenants or prospective tenants who are disabled. The reasonable adjustments that landlords and managers may need to make include:

- altering their policies, practices or procedures
- providing auxiliary aids or services; or
- changing the terms of a letting (but only in respect of premises that have already been let).

### Example of good practice

A landlord has a tenant who is visually impaired. He ensures that all written correspondence sent to her is in large print.

### Example of good practice

A landlord waives a term of the letting which prohibits the keeping of pets, in order to allow a blind tenant to keep an assistance dog on the premises.

A landlord or manager will not have to take any steps that would involve the removal or alteration of a physical feature. For further details of what constitutes a physical feature, contact the Equality Commission Enquiry line on 028 90 890 890.

## Exceptions for the disposal or management of premises

The law contains certain exceptions to the provisions relating to the disposal or management of premises.

### Owner-occupiers

The law does not apply to an owner-occupier if:

- that person owns an estate or interest in the premises; and
- wholly occupies the premises.

However, if the owner-occupier uses the services of an estate agent or publishes, or arranges to be published, an advertisement or notice, the exception does not apply.

#### Example

A person giving or selling a house privately to someone they know, and not using the services of an estate agent or advertising the sale publicly, would not be covered by the legislation (excluding race/ethnic or national origin).

### Small dwellings

The law does not apply to certain small dwellings<sup>11</sup>. The exception applies to residential accommodation only and is in place to preserve an individual's right to privacy in their own home.

A number of conditions must be satisfied before a small dwelling is exempted:

The person with the power to dispose of the premises (or whose licence or consent is required for the disposal) referred to as the 'relevant occupier' (this includes a near relative) must:

- reside on the premises;
- intend to continue to reside on the premises; and
- be sharing accommodation on the premises with other people who are not members of the relevant occupier's household (such as bathroom or kitchen);

<sup>11</sup>This exception does not apply to race/ethnic or national origin, but does apply to colour and nationality.

- the shared accommodation must not be storage accommodation or a means of access;
- the premises must be 'small premises'. To find out when premises are 'small premises' contact the Equality Commission on 028 90 890 890 or visit our website at [www.equalityni.org](http://www.equalityni.org).

## Exceptions

The law allows that people can be treated differently in certain circumstances and there are exceptions to the general principle of non-discrimination set out in the various pieces of legislation<sup>12</sup>. Below is a sample of exceptions to the law - it is not an exhaustive list. Some exceptions apply to only one equality ground; others apply to more than one. Service providers should always seek advice before relying on an exception.

- facilities or services where embarrassment is likely to be caused at the presence of a woman or a man, eg, changing rooms at a swimming pool;
- facilities or services where physical contact between the user and any other person is likely, and that other person might reasonably object if the user was a person of the opposite sex;
- in relation to communal residential accommodation (such as dormitories or other shared residential accommodation). However, when restricting communal accommodation on the ground of gender reassignment, the degree to which such discrimination is a proportionate means of achieving a legitimate aim is taken into account;
- where the essential nature of the goods, facilities or services require them to be provided only to persons holding or not holding a particular religious belief;
- where the essential nature of the goods, facilities or services require them to be provided only to persons holding or not holding a particular political opinion as in the case of a political party;<sup>13</sup>
- an association where the main object is to enable the benefits of membership to be enjoyed by persons of a particular racial group defined otherwise than by reference to colour;
- benefits conferred by charities on members of a specific group
- small private clubs with fewer than 25 members unless they provide services to the public<sup>14</sup>;

<sup>12</sup>Exceptions for disposal and management of premises are dealt with in more detail in the previous section.

<sup>13</sup>It must be a political party registered under the Registration of Political Parties Act 1998.

<sup>14</sup>Exception only applies to some grounds.

- persons who make arrangements to take into their home (for reward or not) persons who they treat as members of their family, such as children, elderly persons, or persons requiring a special degree of care and attention;
- a hospital or other establishment for persons requiring special supervision, attention or care;
- organised religion where the facilities or services are restricted to men only or women only so as to comply with the doctrines of that religion or avoid offending the religious susceptibilities of a significant number of followers;
- 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<sup>15</sup>;
- acts relating to participation as a competitor in certain sporting events which are confined to competitors of one sex<sup>16</sup>;
- acts which relate to the provision or disposal of accommodation or premises of small dwellings<sup>17</sup>;
- acts done to protect women in compliance with the requirement of an existing statutory provision, for example in relation to pregnancy or maternity;
- acts done to safeguard national security, or to protect public safety or public order;
- acts done under statutory authority.

Service providers and individuals can get more guidance on exceptions from the Commission.

## Other relevant legislation

### Section 75 of the Northern Ireland Act

As well as complying with anti-discrimination law, service providers who are public authorities are subject to Section 75 of the Northern Ireland Act 1998. This means that, in carrying out their work, public authorities must have due regard to the need to promote equality of opportunity for a range of groups, most of which are also covered by anti-discrimination law:

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;

<sup>15</sup>Exception applies to sexual orientation only.

<sup>16</sup>Exception applies to sex and gender reassignment only.

<sup>17</sup>Exception does not apply to gender reassignment and sexual orientation.

- between men and women generally;
- between persons with a disability and persons without; and
- between persons with dependants and persons without.

They must also have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group. They must produce equality schemes, equality impact assess their policies and consult with those affected by their policies, including service users. In practical terms, public authorities have a statutory duty not just to avoid discrimination but to actively promote equality and good relations for the identified categories or groups. For more information on the Section 75 statutory equality duties, please visit our website [www.equalityni.org](http://www.equalityni.org) or contact our Enquiry line - 028 90 890 890.

## **DDA Disability duties**

As part of a series of changes to the Disability Discrimination Act (1995), the 'disability duties' on public authorities came into effect on 1 January 2007. These duties require public authorities, when exercising their functions, to have due regard to the need:

- to promote positive attitudes towards disabled people, and
- to encourage participation by disabled people in public life.

The disability duties are positive mainstreaming duties which require proactive implementation of a range of measures which change a public authority's way of working, in order to better promote positive attitudes towards disabled people and their participation in public life.

The disability duties require public authorities to submit to the Equality Commission disability action plans showing how they propose to fulfill the duties in relation to their functions. Public authorities are also required to produce annual progress reports and five yearly reviews of their disability action plans and submit these reports to the Equality Commission.

## Legislation applying to the education sector

### Schools

As service providers and education providers, Northern Ireland schools, including grant aided and independent schools, are covered by the Sex Discrimination Order, the Sexual Orientation Regulations, Special Educational Needs and Disability (NI) Order and the Race Relations Order. This means that schools cannot discriminate against pupils/students or prospective pupils/students on grounds of sex, sexual orientation, disability or race. In some cases, former pupils/students may also be protected from discrimination.

There is explicit protection from harassment in some of the legislation. For other grounds, individuals may be able to claim that harassing behaviour or treatment amounts to unlawful discrimination.

The Fair Employment & Treatment Order does not apply to education provided by schools.

### Further and higher education

Further and higher education establishments including colleges and universities are covered by the five pieces of legislation. It is also unlawful to discriminate on grounds of age in further and higher education.

Harassment in further and higher education establishments is explicitly unlawful under the legislation relating to the five key areas (sex, disability, race, religious belief/political opinion, and sexual orientation) and under the Age Regulations.

## Making a complaint

Complaints relating to discrimination in respect of the provision of goods, facilities and services or the disposal or management of property should be made to the County Court within **6 months** of the date the discrimination took place.

Complaints about disability discrimination in grant aided and independent schools should be made to the Special Educational Needs and Disability Tribunal (SENDIST) within **6 months** of the date of the alleged act of discrimination.



Complaints about disability discrimination in further and higher education should be made to the County Court within **6 months** of the date of the alleged act of discrimination.

## Advice and assistance

### Help for individuals

The Equality Commission can provide **free and confidential** advice and assistance to people who believe that they have been discriminated against by service providers on any of the five grounds - see contact details at the end of this booklet.

Assistance by the Equality Commission may range from simply giving information or advice to arranging for legal representation in some cases. The Equality Commission does **not** decide whether discrimination has occurred; this is for a court to decide.

### Help for service providers

The Equality Commission can provide general information and advice to service providers and others on recommended good practice under the relevant legislation - see contact details at the end of this booklet. The following relevant publications are available on our website at [www.equalityni.org](http://www.equalityni.org) (some are also available in hard copy - please contact our Enquiry line - 028 90 890 890).

## Useful publications

- Guidelines for providers of goods, facilities and services on developing a model equality policy for service provision (2010)
- Disability Discrimination Act Code of Practice: Rights of Access - goods, facilities, services and premises (2003)
- Disability Discrimination Law in Northern Ireland - short guide (updated 2010)
- Eliminating Sexual Orientation Discrimination in Northern Ireland: A Guide on the Provision of Goods, Facilities, Services, and Premises (2008)

- Eliminating Sexual Orientation Discrimination in Northern Ireland - short guides for providers of housing, education, hospitality, financial services and health & social care (2009)
- Sexual Orientation Discrimination Law in Northern Ireland – A Short Guide (2011)
- Sex Equality Legislation - Update on the provision of goods, facilities, services and premises (2008)
- Sex Discrimination Law in Northern Ireland - A short guide (updated 2010)
- What service providers need to know about racial discrimination law in relation to Irish Travellers
- Racial Discrimination Law in Northern Ireland - short guide (updated 2010)
- Religious Belief and Political Opinion Discrimination Law in Northern Ireland - short guide (updated 2010)
- Avoiding disability discrimination - good practice guides for transport providers (2009)
- Avoiding disability discrimination in transport - a short guide to your rights (2009)
- Equality law - a guide for the tourism sector (2010)
- Racial equality in health & social care - good practice guide - see website
- Racial equality in education - good practice guide - see website.

All our publications and further information for individuals, service providers and employers are available on our website at [www.equalityni.org](http://www.equalityni.org). Publications and other information can be made available in alternative formats and languages on request.

At time of publication, other codes of practice that relate to service providers are in preparation – contact us for more information.



## Contacting the Equality Commission

If you need information or advice on any aspect of anti-discrimination and equality law, or would like to request copies of available publications, please contact us:

Enquiry line: 028 90 890 890  
Reception: 029 90 500 600  
Text phone: 028 90 500 589  
Fax: 028 90 248 687  
Email: xxxxxxxxxxxx@xxxxxxxxxx.xxg  
Website: [www.equalityni.org](http://www.equalityni.org)

Information can be made available in other languages and formats on request.

The Commission's information and advisory services are free and confidential. We can also provide a range of training to service providers, employers, community and voluntary groups and the education sector.

Equality Commission for Northern Ireland  
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Belfast  
BT2 7DP



**Equality Commission**

FOR NORTHERN IRELAND