



APPENDIX ONE

The Equality Act 2010 and Discrimination

The Equality Act 2010 makes it unlawful to discriminate directly or indirectly against individuals or groups with certain “Protected Characteristics”. The “Protected Characteristics” are listed in section 4 of the Act:

- Age;
- Disability;
- Gender Reassignment;
- Marriage and Civil Partnership;
- Pregnancy and Maternity;
- Race;
- Religion or Belief;
- Sex;
- Sexual Orientation.

Direct Discrimination

Direct Discrimination is defined at section 13(1) of the Equality Act 2010: “A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.”

For example, if an action or decision is taken by a club which treats females less favourably than males, this would be considered direct discrimination on the grounds of sex, which is a protected characteristic.

Indirect Discrimination

Indirect Discrimination is defined at section 19(1) of the Equality Act 2010: “A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.”

Indirect discrimination occurs where less favourable treatment is not necessarily the main effect or objective of an action or decision.

Since the nature of indirect discrimination is that the discriminatory effect is an unexpected or unforeseen effect of a good faith decision, complaints of indirect discrimination should therefore be considered carefully and objectively, and not dismissed out of hand purely because the effect was not an expected or intentional one.

If, for example, a golf club introduces a rule that club competitions can only be played on Saturdays, this rule would prevent members with certain religious beliefs from taking part in the competition. Although it may not have been the intention of the golf club, the effect of the rule is the less favourable treatment of members on the grounds of religion or belief, which is a protected characteristic. This is indirect discrimination.



Actions and Intentions

An action or decision will still be considered discriminatory even if the less favourable treatment is unintentional. It may not always be obvious to the perpetrator that their actions are discriminatory. Indirect discrimination is often unintentional, but it is not a defence to an allegation of discrimination to say that the perpetrator did not mean to discriminate against a person or group. Discrimination can arise out of actions and decisions, but can also arise out of omissions and failure to take actions or decisions.

Reasonable Adjustments

Everybody to whom this Policy applies is under a duty to make reasonable adjustments to avoid discriminating against any individual or group with the Protected Characteristic of disability.

The duty is to make *reasonable* adjustments. It is not unreasonable for adjustments to cost time, money, or other resources, however those resources can be a factor in determining whether or not an adjustment is reasonable.

Positive Action

It can be lawful to make decisions that discriminate on the basis of a Protected Characteristic in very limited and exceptional circumstances, if the discrimination is a 'Positive Action' taken in order to address an underrepresented group or Protected Characteristic. Positive Actions must be reasonable, justifiable, and clearly linked to a legitimate aim.

Examples

In a golfing context, some examples of unlawful discrimination might include:

- Not allowing the use of golf buggies, as this increases the cost of maintaining the course;
- Restricting the number of tee times available to women during peak hours at a golf course;
- Not allowing competitions to be played on alternate days to accommodate for certain religious beliefs.