

Community Cohesion and Discrimination Law Project

Human Rights, Race, Gender, Disability, Religion & Belief, Sexual
Orientation, Age

***Working for equal access to justice and better legal and advice
services***

Participant workbook



Project partners: Age Concern Norwich, Age Concern Norfolk, Citizens Advice Bureau, Norfolk Community Law Service, Norwich and Norfolk Race Equality Council, Ipswich and Suffolk Council for Race Equality

Project Funders: Legal Services Commission, Go-East

**EqualTwo
Equalities, Diversity and Human Resources Solutions**

Foreword

The Community Cohesion and Discrimination Law (CCDL) Project is a two year pilot project lead by a partnership of voluntary advice and information service providers in Norfolk and Suffolk. It is funded by the Legal Services Commission under the Partnership Innovation Budget (PIB) which was set up to develop new ideas for delivering legal help and advice to reach people in the community who for various reasons have not been receiving advice. The Project is also funded by Go-East.

The Project Partners recognise the need for improved access to justice and better legal and advice services in Norfolk and Suffolk. In particular, in mainly rural areas where people can be isolated socially and geographically and therefore find it more difficult to access advice and services. In addition, there is a lack of awareness about the experiences, impact and results of discrimination, which could affect the quality and appropriateness of advice services.

Recent changes in equalities legislation may also result in an increased need for legal advice and information for people wishing to pursue discrimination cases. However, as processes of change in legislation take place, we have evidence that funding cuts are having an adverse impact of delivering justice and equality to communities. How is all this affecting individuals and communities in Norfolk and Suffolk?

In many cases there are multiple discrimination issues related to education, employment, health, housing, and welfare benefits. However, discrimination issues may not always be identified. There is a need for improved initial point of contact and early intervention that recognises the complex needs, which may affect individuals and communities. We can learn from the Rocky Bennett Case and many other cases related to discrimination.

There is a lack of legal expertise in all areas of discrimination and limited access to specialist discrimination lawyers, this is particularly acute in predominantly rural areas like Norfolk and Suffolk. This means that people may not get proper legal representation. There is a need for increasing the capacity of local voluntary and community organisations to effectively support, engage with, shape and influence an emerging Commission on Equalities and Human Rights. To achieve this it is necessary to build skills and capacity to tackle discrimination at all levels.

The CCDL project not only provides an opportunity for voluntary advice and community organisations to access free training, enabling organisations to be more responsive to complex and multiple needs of individuals and communities, but also provides a strong basis to build evidence through research, which will assess the local needs and gaps in discrimination advice provision and identify how we can work together to address this.

CCDL Project Steering Group

EqualTwo, based in Suffolk specialise in Equality, Diversity and Human Resource solutions. This workbook is a crucial element of the Community Cohesion and Discrimination Law project. It has been designed to be a resource and reference material for those attending the training sessions.

For the purposes of producing this workbook EqualTwo engaged with martin searle solicitors to focus on three key elements outlined as follows:

The sections in this Workbook on Making a Complaint/Bringing a Grievance, A Checklist and The Legal Framework have been prepared by martin searle solicitors as a reflection of the state of the law at 1 May 2005. The material has been designed as an integral part of the Community Cohesion and Discrimination Law Project solely for the benefit of the delegates attending the training. The material does not necessarily stand on its own and is not intended to be relied upon for giving specific advice.

To the extent permitted by law, martin searle will not be liable by reason of breach of contract, negligence or otherwise for any loss or consequential loss occasioned to any person omitting to act or refraining from acting in reliance upon the course material or presentation of the course or arising from or connected with any error or omission in the course material or presentation of the course.

No part of this material may be reproduced in any form or for any purpose without the prior permission of martin searle solicitors who can be contacted at law@ms-solicitors.co.uk

EqualTwo would like to thank the steering group partners for awarding them this exciting project. We are also grateful to the work of the NNREC for leading on this project and working with us to ensure the emerging project outcomes are met, and for 'organising' the training events, and to martin searle for their advice and contribution to the workbook.

Finally to you, the participants on the training sessions for your time, dedication and contributions!

Jane Basham & Shammi Jalota
EqualTwo

www.equaltwo.co.uk

Project aim

To improve the capacity of voluntary advice agencies in Norfolk and Suffolk to recognise and deliver assistance or referral to people suffering from all types of discrimination and to encourage those in target groups to seek assistance.

Project Objectives

To provide training on multiple equalities & discrimination law to the voluntary advice and community sector.

To develop a framework/template which assists public bodies to monitor the mainstreaming of Community Cohesion targets and outcomes in line with the Race Relations Amendment Act public duty.

Aim of Training

- < To raise awareness amongst advice agencies of the experiences of people who suffer discrimination.
- < To improve the awareness and skills of advice agencies to more effectively recognise, respond, assist and refer clients suffering from discrimination in Race, Gender, Disability, Age, Sexual Orientation, Religion and Belief.
- < To increase awareness and confidence of community activists in target groups to access advice and rights under discrimination law.

Target trainees

- < Frontline and general help staff from Voluntary Advice Agencies.
- < Advisors and Case workers from Voluntary Advice Agencies (paid and unpaid)
- < Community Enablers/Activists from target groups.
(Black & Minority Ethnic groups, Refugees and Asylum Seekers, Migrant workers, Gypsies & Travellers, Lesbian Gay Bisexual and Transgender groups, People with Disabilities, Women, Older people, Faith groups)

Contents	Page
Aim & Objectives	6
Programme	7
Personal objectives & concerns	8
Setting the scene	9
Understanding 'difference'	10
Prejudice & Discrimination	11
Values & Beliefs	14
Institutional Racism and Discrimination	16
Community Cohesion	17
Identifying and Challenging Discrimination	18
Making a Complaint/Bringing a Grievance	20
Quiz	25
A Checklist	28
The Legal Framework	
Human Rights	31
Sex	33
Equal Pay	34
Gender Reassignment	37
Race	38
Disability	41
Sexual Orientation	44
Religion or Belief	45
The way forward	47
Contacts	48
Appendices	
Questionnaires:	
Sex Discrimination Act 1975	
Race Relations Act 1976	
Disability Discrimination Act 1995	

Aim & Objectives of the Diversity Discrimination & the Law workshop

Overall aim

- ⟨ To improve the capacity of voluntary advice and community organisations to recognise and deliver assistance or referral to people suffering from all types of discrimination and to encourage those in target groups to seek assistance.

Workshop aims

- ⟨ The aim of this workshop is to provide participants with an introductory insight into key equality issues and the potential impact in their roles, drawing on personal experiences, beliefs and values. Participants will learn more about key legal drivers, multiple discrimination and the impact of discrimination and how it can effect people accessing advice and services. The training uses locally relevant and real case studies. Gender (including gender re-assignment), Race (including Gypsies & Travellers), Disability, Religion or Belief, Sexual Orientation and Age will be covered.

Workshop objectives

By the end of the session participants will be able to:

- ⟨ Understand the different concepts of prejudice and discrimination
- ⟨ Reflect on their own values and beliefs
- ⟨ Develop knowledge of the equality laws relating to gender, race, disability, religion/belief, sexual orientation, age and Human Rights
- ⟨ Identify and understand the problems encountered by diverse groups in relation to multiple discrimination issues both at work and in accessing services
- ⟨ Better identify possible discrimination cases (includes institutional discrimination) in housing, employment & provision of goods & services.
- ⟨ Apply practical skills to help them in their roles, including knowing where to go for relevant advice and support.
- ⟨ Understand the need for monitoring

Who is it for?

The priority target groups for the introductory programme are frontline staff/volunteers, advisors, caseworkers of voluntary advice and information agencies, community organisations, individuals and communities from minority rights organisations across Norfolk and Suffolk.

Evaluation and Feedback

An important part of the training is evaluation and feedback from participants to assist the development of future training and to measure impact on practice.

PROGRAMME

9.30 – 9.40	Welcome/housekeeping and Introduction to the programme	Opening
9.40 – 10.10	Introductions, Aim & Objectives & Learning Agreement	Group discussion
10.10 – 10.50	Our understanding of 'difference'	Syndicate session & feedback to group
10.50 – 11.05	Break	Group discussion
11.05 – 11.20	Prejudice, stereotypes and discrimination	
11.20 – 11.50	Identifying discrimination & advising clients	Interactive and group discussion
11.50 – 12.20	Making a complaint – Grievance	Presentation & case studies
12.20 – 1.00	Quiz!	Paired work and discussion
1.00 – 1.45	Lunch	
1.45 - 2.00	Values & Beliefs	Interactive
2.00 – 3.00	The Law in practice	Presentation & case studies
3.00 - 3.30	Can you help me?	Drama
3.30 – 3.45	Break	
3.45 - 4.15	The way forward & close	Interactive

This workbook has been produced to enable delegates to work through the various modules which will be covered throughout the two day programme. Please feel free to make notes on it which may assist your learning.

Introductions, Aim and Objectives

Before you start it is always a good idea to think about why you are here? Have you come here by choice, or where you told to come along by your supervisor, manager? Whatever the answer, it would be useful to take some time to think about:

Your personal objectives

The session aim and objectives include the following areas:

Prejudice – why it exists and the rural context

An overview of Discrimination and the law

Monitoring

Signposting

Identifying multiple discrimination issues

Increased confidence to help people suffering discrimination

Number the above of which of the above areas are most important to you in order of priority

Concerns

What are the main concerns surrounding the workshop for you?

There maybe things you are worried or anxious about which relate to this programme. If there are you need to start thinking about how you may be able to overcome them. List your areas of concern and state how you may manage them and how the trainer may help.

First Encounters

Purpose of the task

To enable participants to start exploring where thoughts of people at **risk** of discrimination come from, and the ways in which our explanations for “difference” can start to change over time

What you need to think about

Your group has been asked to consider:

(You will be allocated a group by the facilitator)

On the flip chart paper provided, using the following headings please think about when you first became aware and or interacted with this group:

- How old you were?
- The names you and others used to describe people from this group?
- What images surrounded people from this group?
- How you understood the differences?
- Whether or not the difference was explained?
- What is striking about this memory now?

You will be asked to present your findings to the rest of the delegates

Prejudice & Discrimination

What does the term “prejudice” mean?

What does the term “stereotype” mean?

What does the term discrimination mean?

What are the 4 types of discrimination as outlined in the law?

Gordon Allport's Nature of Prejudice (1954)

A negative attitude may express itself into action. We have described the ways in which prejudice can be displayed. A scale to compare certain degrees of negative action is outlined below:

- **Bad-mouthing or name calling:** This may be where people have prejudices and talk to others about them. On occasions, this may be with like minded friends.
- **Avoidance:** If the prejudice is more intense, it leads the individual to avoid members of the disliked group. Even at the cost of considerable inconvenience. The prejudiced person does not inflict harm upon the group he/she dislikes but withdraws entirely away from it, having nothing to do with it.
- **Discrimination:** Here, thoughts and feelings turn into action. The person excludes all members of the group in question from certain types of education and employment opportunities, and in many other ways.
- **Physical Attack:** under conditions of heightened emotion; prejudice may lead to acts of violence or semi-violence e.g. harassment, victimisation, abuse or even assault.
- **Extermination:** Massacres and genocide make this level of prejudice the ultimate degree of violent expression of prejudice. If you think of the way the Jews in Germany or people in Rwanda have been treated during history. Extermination however for the purpose of the 'nature of prejudice' does not necessarily mean death.

Discrimination occurs when action is taken based on a prejudice by an individual or a group who have or develop 'power' in some shape or form.

**Prejudice & Discrimination
The Paradigm**

Prejudiced/ Discriminator	Non Prejudiced/ Discriminator
Prejudiced/ Non discriminator	Non prejudiced/ Non discriminator

Look at the boxes above.

Read the story below and consider which boxes John and Nazila are in along the way.

John thinks women cannot drive and runs a taxi company.

John instructs Nazila, his secretary not to appoint any female drivers.

Nazila really enjoys her job, and is a bit wary of John. Although she thinks men and women can drive equally well she rejects all applications from females wanting to join the taxi company.

John sends Nazila on a training course, and she learns about the Sex Discrimination Act 1975.

Nazila tells John of the legal risk and potential costs to the business, and he reluctantly allows her to appoint female taxi drivers. He still claims women cannot drive.

Nazila appoints several female taxi drivers and through identifying a need for female drivers for lone women the business expands. Insurance premiums go down and John can see that women can drive and are good for business.

Your values and beliefs

Massey

The socialisation process:

0-7 years –value imprint

7-14 years-modelling

14-21 years -socialisation

Consider the following statements. Do you agree or disagree with them?

- I only help others when it is comfortable for me
- African Caribbean youths are aggressive
- Disabled people need more medical services than non-disabled people
- Women in their 50's should not have children
- Irish people have the best sense of humour
- People seeking asylum receive more public services than the indigenous British person
- I treat people as I wish to be treated
- When in Rome do as the Romans
- Gay people should not be allowed to adopt children

Our beliefs, our values and attitudes

Our behaviour is often linked and influenced by our key beliefs and values. Most of the time, it is our behaviour which people see, through what we do or what we say. This behaviour is usually visible. We do not always know what factors influence other people's behaviour because it is not visible. We may call this the iceberg effect.

People value different things. Some people value life, whilst others may value death. Some individuals would die for their country, whilst others feel no sense of nationalism.

What ever we value we instinctively want to protect. Our attitudes towards our values will invariably be linked. Through these processes it is our behaviour which will be seen.

When we have values, attitudes and behaviours which are associated with something of importance to our lives, then these tend to form our beliefs.

As part of our socialisation, we are taught to think in stereotypical terms. If we are constantly given a message we will eventually accept it as true and behave in a manner that supports that stereotype

Institutional Racism and Institutional Discrimination

Institutional Racism is defined as:

“The collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping that disadvantage minority ethnic people”

Lord McPherson Stephen Lawrence Report 1999

Institutional Racism can often be linked to:

Processes, Procedures, Policies and Practices

Some examples of Institutional Racism can include:

- Little or no training
- Staff not whistle blowing
- Lack of communication
- Lack of consultation events
- Inappropriate language being used
- Lack of investigation into complaints
- Recruitment, retention and progression of minority ethnic staff

Stephen Lawrence Report

Within the report the following statements appear:

‘Officers approached the murder of a black man less energetically than if the victim had been white and the murderer black’

Unwitting racism:

officers assumed there had been a fight at the scene of the murder
offended Mr & Mrs Lawrence by questioning those present in their house as to their identity
at least 5 officers refused to accept this was a racist murder. This must have skewed their approach to their work

David ‘Rocky’ Bennett Inquiry February 2004 (Died 31 October 1998 Norvic Clinic Thorpe St Andrew)

Within Sir John Blofields report the following appears:

‘There are no incidents of staff being deliberately racist but insufficient attention was paid to Mr Bennett’s cultural, social and religious needs

‘ There is a risk in places like Norwich that people never develop the awareness and skills to deal with black people because there are so few of them’ Dr Girish Shetty – Consultant Psychiatrist

Community Cohesion

The Home Office Community Cohesion Unit outlines community cohesion as:

- A common vision and sense of belonging for all communities
- Diversity of peoples different backgrounds and circumstances are appreciated and positively valued
- Those from different backgrounds have similar life opportunities
- Strong and positive relationships are being developed between people from different backgrounds in the workplace, schools and in neighbourhood

Community and voluntary group's strength potentially lies in the fact that they are sensitive to local issues and cultures. Although this knowledge and sensitivity can reinforce difference, through joint working and networking common issues may be drawn together and promoted. One potential barrier to this may be the way in which funding is allocated to each voluntary organisation; another may be the current self segregation of communities based on miseducation, fear and insecurity.

The 'Tackling the Invisible Problem': Rural Racism in Suffolk Research Project April 2002 examined the provision of services to victims of racial harassment in Suffolk. Within this report it is clear that 'rural Suffolk can be a difficult and lonely place to reside' and nearly all those interviewed believed that 'prejudice and intolerance were more common in rural areas' The report concluded that 'Suffolk's mainstream and voluntary services must take account of their (Black and minority ethnic communities) needs in both policy and practice if racism is to be effectively challenged'

The 'Norfolk at ease' Norwich and Norfolk Race Equality Council Report 2003 highlighted that 'there is an all too high toleration levels of racism in Norfolk' and the fear of complaining 'being labelled as troublemakers' This report also identifies that 'Meaningful change can only happen if all communities are provided with the opportunity and capacity to contribute to building cohesive communities'

Identifying the issues

Effective questioning is the best way to find out what the issues really are.

The 5 WH of questioning: What, Where, Why, When, Who. Plus HOW!

In pairs think about:

Why might it be difficult to identify discrimination through questioning?

What is effective questioning?

The types of questions you would ask an individual who comes to you for advice?

The types of questions you would want to ask the employer/business/service provider?

Look at the following cases. List your questions

Kahil, a fork lift truck driver, has worked for his company for 8 months. He put a request to work flexibly to help look after his 4 children, all of whom are under 6 years old. His request has been turned down, and he has come to see you for advice.

Peter and Sean are a gay couple. Sally is Peter's daughter from his previous marriage and she lives with them. Peter comes to see you and explains he has been having difficulty finding a registered childminder for her and he believes it is due to his sexuality.

Mr Low comes to see you as he has applied for several teaching jobs, for which he believes he is qualified, and he is not getting short listed. He explains that he is worried that he is not being successful because he has to declare periods of absence in previous jobs, linked to stress and mental health problems.

Shirley calls you and says she has just had an argument with her boss, and under extreme provocation she told him to 'fuck off' He told her swearing was Gross Misconduct and that she was sacked immediately, and not to come back. She explains that she has Gypsy heritage although she does not talk about it and that the provocation was extremely derogatory remarks about Gypsies and Travellers.

Making a complaint

Service delivery

Once the issues have been identified it is in everyone's interest to try and resolve problems within the workplace. With regard to claims of discrimination in the areas of education, the provision or sale of goods facilities and services and premises, this can be done through the complaints procedure.

In these cases, complaints must be made within 6 months of the act and they will be made in the County Court.

It is up to the person complaining to establish the facts which, in the absence of an adequate explanation from the person they are making the complaint of, leads to a conclusion that there has been discrimination. Once this has been done the burden of proof then shifts from the complainer to the organisation or person being complained of and it is for them to show that there is a non discriminatory reason for their actions.

Statutory Grievance Procedure

A new statutory Grievance Procedure was introduced on 1 October 2004. The new procedure is contained in the Employment Act 2002 and fleshed out by the Employment Act 2002 (Dispute Resolution) Regulations 2004. The new legislation stipulates how work place disputes should be resolved and the main objective is to reduce the number of Employment Tribunal claims by encouraging employees to use their employer's internal grievance procedure. It essentially bars employees from bringing most types of tribunal claims *unless* they have lodged a formal grievance with their employer or ex employer and then waited 28 days.

The new law sets out a three step framework as follows:

Step 1 – Statement of Grievance

The employee must set out their grievance in writing and send a statement or a copy of it to the employer. The factual nature of the grievance should be explained. The employee must then wait 28 days before making a claim even if a negative response is received.

Step 2 - Meeting

- (1) The employer must invite the employee to attend a meeting to discuss the grievance. The employee has the right to be accompanied by a work colleague or trade union/staff representative.
- (2) The meeting must not take place unless:

- (a) the employee has informed the employer what the basis of the grievance was when he made the statement; and
 - (b) the employer has had a reasonable opportunity to consider his response to that information
- (3) The employee must take all reasonable steps to attend the meeting.
- (4) After the meeting, the employer must inform the employee of his decision as to his response to the grievance and notify him of the right to appeal against the decision if he is not satisfied with it.

Step 3 - Appeal

- (1) If the employee does wish to appeal, he must inform the employer. The employee has the right to be accompanied.
- (2) If the employee informs the employer of his wish to appeal the employer must invite him to attend a further meeting.
- (3) The employee must take all reasonable steps to attend the meeting.
- (4) After the appeal meeting the employer must inform the employee of his/her final decision.

You must also be aware that there is a **modified procedure**:

- (a) the employment has ended;
- (b) the employer was unaware of the grievance or he was aware but the standard grievance procedure had not been commenced or completed before the last day of employment; and
- (c) the parties agree in writing, after the employer became aware of the grievance that the modified procedure should apply.

There are two steps under the modified procedure:-

Modified Procedure

Step 1 – Statement of Grievance

The employee must:-

- (a) set out in writing:
 - (i) the grievance; **and**
 - (ii) the basis for it; **and**
- (b) send the statement or a copy of it to the employer

Step 2 - Response

The employer must set out his response in writing and send the statement or a copy of it to the employee.

The statutory procedure does not apply or is deemed to be completed in certain circumstances including:-

- (a) where it is not practical
- (b) where using the procedure would lead to further harassment
- (c) where there is a significant threat to person or property; or
- (d) where a grievance is raised collectively

Time Limit Extension

The time limit for presenting a Tribunal claim is extended by a further 3 months where the statutory grievance procedure applies and a grievance is submitted within normal time limits.

Conditions on a Tribunal complaint being accepted

A Tribunal will not accept a complaint from an employee:

- (a) if they have not sent a Step 1 statement of grievance
- (b) if less than 28 days have passed since they sent a statement
- (c) if a Step 1 letter was not sent within 3 months of the alleged act of discrimination

If a Tribunal claim is not accepted

If the employee has failed to comply with Step 1 this will trigger a 3 month extension of time to allow the employee to submit the grievance within 28 days.

Effect on compensation

If the Statutory Grievance Procedure is not completed before Tribunal proceedings are commenced, the Tribunal must reduce or increase any award of compensation by 10% depending on who is mainly responsible for non completion and may increase/decrease awards up to 50%. For example if it is due to the employee's non compliance, their compensation will be reduced accordingly but if it is non compliance by an employer, the compensation could result in an increased award,

Employee debarred from bringing an employment claim in tribunals

If the employee fails to lodge a grievance under Stage 1 under the standard or modified procedure he is prevented from bringing most of the normal employment claims. It should be noted that the prohibitions on a tribunal considering claims when the grievance procedure has not been complied with are bars imposed by substantive law, rather than jurisdictional bars. (In simple terms this means that unless the non-compliance point is raised by the employer in the ET3 or it is apparent to the tribunal from the information supplied to it by the employee, it does not debar the employee from bringing a claim).

A full list is set out in Schedule 4 to the Employment Act 2002 and covers most of the normal claims before tribunals including:

- unfair dismissal
- sex discrimination
- race discrimination
- disability discrimination
- redundancy payments
- unlawful deduction of wages
- failure to pay the National Minimum Wage
- breach of the Working Time Regulations 1998

but **not**:

- breach of contract
- discrimination on grounds of part time work
- discrimination or fixed term work
- discrimination on grounds of sexual orientation or religion and belief

An employee cannot claim constructive dismissal unless he has first sent a grievance letter under the standard or modified procedure. This leads to ludicrous results e.g. an employee (within the meaning of "employee" in the 1996 Act) who is claiming race, sex or disability discrimination must use the statutory grievance procedure before bringing a tribunal claim. However a worker (such as a casual or freelance provided he/she falls within the wider definition of an employee or contract worker in the discrimination legislation) who is not legally an employee within the meaning of the 1996 Act need **not** do so.

The obligation to comply with Stage 1 of the statutory grievance procedure applies to ex employees as well as current employees. The ex employee must give more information if the modified procedure applies than if the standard procedure applies. Thus an ex employee may unwittingly find himself debarred from bringing a tribunal claim because he has assumed that he only needs to set out his grievance in writing but he has not set out the basis for it.

Case scenarios

Tariq advises you that he has just been spoken to by his manager who has advised him that he is not performing very well, and that if he does not improve he will start to performance manage him formally. Tariq is convinced that his manager is out to get him as he recently appeared as a witness for a work colleague in a harassment case.

Bernadette consults you because she is unhappy with her latest pay rise and believes that a man in her department is earning much more than her. She does not know for certain. She is considering resigning.

Ruben is being harassed by his boss who makes lewd remarks about his sexual practises because he believes that Ruben is gay. In fact, Ruben tells you that he is not gay. His boss has told him that if he does anything to complain then he will make his "life hell".

Discrimination Questionnaires

These are a useful aid in identifying the issues prior to issuing a claim. Please note that a statutory questionnaire does **NOT** count as a statement of grievance under the 2002 Act. Therefore an employee who wishes to bring a discrimination or equal pay claim must ensure that they lodge a formal grievance as well as serving the statutory questionnaire or they will probably lose the right to bring a tribunal claim. **BUT** if a claim is made under the Employment Equality Regulations 2003 which relate to religion and belief or sexual orientation then the right is not lost if no formal grievance statement is sent to the employer.

Quiz!

- (1) The Stephen Lawrence Inquiry Report was published in:
- a) 1998
 - b) 1999
 - c) 2000
- (2) According to the 2001 census, how many black and minority ethnic people live in Norfolk and Suffolk combined?
- a) 15,500
 - b) 25,500
 - c) 30,500
- (3) What proportion of pensioners are in low income households and substandard accommodation?
- a) 1 in 3
 - b) 1 in 5
 - c) 1 in 8
- (4) Are people who develop cancer protected by the Disability Discrimination Act 1995?
- a) Yes
 - b) No
- (5) Racial harassment issues are of little importance in areas with small minority ethnic populations?
- a) True
 - b) False
- (6) Which of the following groups worship as a congregation on a Friday?
- a) Hindus
 - b) Sikhs
 - c) Muslims
 - d) Christians
 - e) Rastafarians
- (7) An individual can take a claim to an Employment Tribunal for a discriminatory advertisement
- a) True
 - b) False

(8) According to the 2001 census, what % of people follow a Christian belief?
a) 54%
b) 64%
c) 74%

(9) The Employment Equality (Religion or Belief) Regulations 2003 require employers to give paid time off for religious observances
a) True
b) False

10) Which of the following are true of the Islamic religion?
a) Islam is a complete way of life not just a religion
b) Men and Women are seen as equals
c) Muslims pray 5 times a day
d) Women have independent ownership of land and property

(11) There is currently no legislation to protect people from age discrimination?
a) True
b) False

(12) Some minority ethnic communities avoid direct eye contact
a) True
b) False

(13) How many gypsy caravans are there in Norfolk & Suffolk according to the bi-annual caravan count July 2004?
a) 317
b) 617
c) 717
d) 817

(14) Which of these statements are true or false?
a) Same sex partners are not considered next of kin in law? f
b) Gay and lesbians are banned from serving in the armed forces? f
c) Gay men are the highest risk of HIV infection in the world? f

(15) In the UK today, what number of either asylum seeking or refugee doctors are unable to work because of Government restrictions?
a) 800
b) 1000
c) 2000

(16) What percentage of minority ethnic people live in the 88 most deprived local authority districts?
a) 50%
b) 60%
c) 70%

(17) 'Women have the right to work part time'

- a) True
- b) False

(18) The age of consent for gay sex is:

- a) 16
- b) 17
- c) 18

(19) Women were first able to vote in:

- a) 1918
- b) 1928
- c) 1948

(20) If you are from an ethnic minority group how much more likely are you to be unemployed in the UK than if you were white?

- a) 1.5 times
- b) Twice
- c) Three

(21) What percentage of families with children with disabilities live in or on the margin of poverty?

- a) 35%
- b) 45%
- c) 55%

Sources

Minority Ethnic Issues/Neighbourhood Renewal (Cabinet Office, 2000), Population Trends 105 (Office for National Statistics, Autumn 2001), Age Concern England 2002, Code of Practice on the Duty to Promote Race Equality (CRE Consultation, December 2001), Race Equality in Public Services (Home Office 2001), Ethnic Minority Booster Summary Report (Cabinet Office Nov 1999-Jan 2000), Private rented accommodation (Shelter 2001). "Faces of Britain" Cross-Cultural Guide, Section 95 Report (Home Office), National Statistics Online 2001, Office for the Deputy Prime Minister, Disability Rights Commission 2005, The Stationery Office 2000

Legal Checklist

Legal checklist for caseworkers, advisors and community activists in relation to:

Discrimination

1. What is the date of the last allegation (act or omission) of discrimination? Is it within the 3 month time limit? If not advise on keeping a diary of events and the principles of “a continuing act.”)
2. Does the complaint relate to **less** favourable (not unfavourable) treatment? If so list all allegations of direct discrimination including harassment.
3. Is there is a person in the company who we can use as a comparator? (must be the same or not materially different) If not, describe a hypothetical comparator.
4. Has the employer required this person to comply with conditions which, in practise, are more difficult for members of their particular race, sex, gender, religion or belief, and sexual orientation (Indirect Discrimination) - if so, what are these?
5. For disability cases only:-
 - (a) if the reason given for their being treated less favourably is on the grounds of the person’s disability would the employer treat a person not having that particular disability in the same way?
 - (b) if the reason given for their being treated less favourably relates to their disability, would the employer treat others to whom the reason does not apply in the same way? If no, could the employer show that this treatment is justified.
6. **Where there are allegations based on colour or nationality** What proportion of people within their racial group could comply with this condition or requirement? Is this “considerably smaller” than the proportion of those who have not of that group and who **can** comply? Can the requirement or condition be justified **and** has the person suffered a detriment?
7. **Where there are allegations based on sex, gender, sexual orientation religion and belief, race or national or ethnic origin** A person applies a provision or criterion or practice which when applied puts people of a certain race, national or ethnic origin at a particular disadvantage. The person must have suffered a disadvantage as a result. There is a defence if it can be shown to be a proportionate means of achieving a legitimate end.

8. Has the employee or worker been victimised because s/he has alleged discrimination or has assisted someone who is alleging discrimination?
9. Has the employee or worker been harassed so that their dignity is violated or an intimidatory hostile or degrading, humiliating or offensive working environment has been created by either the employer or fellow employees or workers? If harassment is on the basis of race, ethnic or national origins this gives a free standing right of complaint to the victim (no comparator necessary but it is still necessary to measure detriment.). It is still necessary to provide a comparator for sex discrimination until October 2005
10. Has a formal grievance been raised either under an equal opportunities complaints procedure or with regard to the company's formal grievance procedure? Please refer to guidelines on the new grievance procedure regulations introduced in October 2004. Calculate if there is now an extension to the 3 month time limit.
11. If the grievance procedure has taken place, has employee or worker appealed any decision? Again consider the time limits if an appeal is taking place.
12. Should a discrimination questionnaire have been served in order to clarify the discrimination issues? Is there enough time to do this before the limit for issuing claim in Tribunal expires? (The questionnaire must not be served more than 3 months after the discriminatory treatment in question or within 21 days of a claim being made in the Tribunal.)
13. Has the employee or worker complained that they were instructed to perform a discriminatory act or implement a discriminatory policy by the employer or a fellow employee/worker? (This would constitute a discrimination claim even if the employee or worker is not in the same group of people that is being discriminated against.)

Funding options

- (1) Has this client home contents insurance with legal expenses attached? If in doubt ask them to ring their insurers and if the answer is yes check that it does cover employment law case. Legal expenses insurance will usually commence from the point a complainant has to take steps to issue their claim in the Employment Tribunal, not through grievance / disciplinary procedure (so once all internal dispute channels have been exhausted.) The insurer will pay the solicitor's costs of conducting this case.

- (2) Is this person eligible for Legal Help? (Legal Aid or public funding does not exist for employment case). The Legal Services Commission provides a detailed means assessment which needs to be carried out in order to identify eligibility. Legal help does not cover representation at Tribunal.
- (3) Is this a strong case?. Will a solicitor take this on as a contingency fee case ? (no win no fee)
- (4) The Free Representation Unit (FRU) take on a number of cases each year depending on the facts of the case and the availability of representatives.
- (5) Do any solicitors undertake pro bono work where there are important issues at stake? e.g. test cases
 - Summarise your advice
 - Action to be taken by advisor
 - Action to be taken by employee/worker
 - Consider whether this case needs to be referred to a specialist advisor or solicitor e.g. legal expenses available, eligible for Legal Help, complex case, problems with statutory time limits etc.

If in doubt always seek advice and assistance from specialists identified in this workbook

The Legal Framework

Human Rights Act

Interpreting the relationship between the Human Rights Act (1998) and Domestic Discrimination Law

The European Convention on Human Rights (ECHR) can use the Human Rights Act 1998 (HRA) to add weight to discrimination claims brought under domestic law such as the Sex Discrimination Act 1975 (SDA) and the Equal Pay Act 1970 (EPA). Article 14 of the HRA provides for the prohibition of discrimination on the basis of "...race, religion, sex, political views or any other status...". The "any other status" wordage of the Article has been used to make discrimination claims that do not fall under the specifically mentioned categories of discrimination, such as on the basis of sexuality and marital status. Therefore, although the categories of discrimination listed in Article 14 are few, the "any other status" section can be used widely.

Article 14, however, is not a "freestanding" right. In other words, it can only be used when simultaneously relying upon another right under the Convention. For example, a Claimant seeking to rely on the HRA in a discrimination claim will have to identify a Convention right, such as Article 8 – the right to respect for private and family life - which could have arguably have been breached, in conjunction with Article 14. A practical example of this would be a mother using Article 8 to support a flexible working hours claim on the basis that her current working hours render it impossible for her to raise her children in a manner she feels is appropriate. Employment Tribunals (ETs) would have to take these issues into account, and indeed they did in the case of *Connors v British Bakeries (Reading ET, unreported)*. The Claimant will not have to show that this other right has been breached; simply that it is applicable to their claim.

The HRA can only be used in ETs when making claims that fall under the ET's jurisdiction, for example sex discrimination or unfair dismissal claims. If a claimant attempts to bring a "freestanding" claim, such as a claim under Article 7 that their human rights have been breached, they face the possibility of being ordered to pay the Respondents' costs on the basis that the claim was ill-made.

Article 14 states that for any discrimination to be legitimate it must be justified objectively. In other words people in the same circumstances should be treated in the same way, unless there is reasonable and objective justification for it. In cases where the Claimant asserts that discrimination is, for example, on the basis of sex or race, then a particularly strong argument as to why that discrimination was justified will have to be adduced.

This defence under the HRA will in practice mean that many Claimants find that it doesn't strengthen their claim under domestic law. For example, the SDA does not provide for a defence to direct discrimination. As the HRA does, it will often be counter-productive to invoke it when making an SDA claim. This principle can be applied to any of the Convention rights – none will add anything to domestic discrimination law where the individual has a good claim under domestic law. And because of this the courts are not sympathetic to Convention rights based arguments being raised unnecessarily.

Discrimination in the workplace

It is unlawful to discriminate on the grounds of sex, marital status, race, disability, gender, sexual orientation, religion or belief. In 2006 it will also be unlawful to discriminate on the basis of age. In addition there are regulations preventing the less favourable treatment of part-time workers and fixed term employees.

Discriminatory adverts are unlawful, but only the Equal Opportunities Commission, the Commission for Racial Equality or the Disability Rights Commission can take action against advertisers.

An example of a discriminatory advert with regard to sex discrimination is an advert showing a woman working at a computer. The job is for clerical work – a profession traditionally undertaken by women. An example of race discrimination might be requiring specific qualifications in English (GCSE) which are not job related and might discriminate against certain groups. In order to ascertain whether an advert is discriminatory you have to read the advert as a whole in terms of the type of job being advertised, the wording used, the job description and the message that the advertiser is attempting to portray through the addition of an illustration.

Sex Discrimination

The Sex Discrimination Act (SDA) 1975 prohibits sex discrimination against individuals and applies to men and women of any age, including children, and also prohibits discrimination against married people. It is not unlawful, however, to discriminate against someone because they are **not** married. The SDA also protects people who are not employees, e.g. people engaged under contracts for personal services and contract workers

The Act also prohibits discrimination against individuals in the areas of education, the provision of goods, facilities and services, and the disposal or management of property.

Types of Sex Discrimination

Direct Sex Discrimination at Work

Where, on the grounds of gender, a woman or a man is treated **less** favourably than a person of the opposite sex is or would be treated in comparable circumstances. There may be a specific individual who can be a comparator but if not a hypothetical comparator may be chosen. Types of direct discrimination also include sexual harassment and also treating a woman adversely because she is pregnant or on maternity leave.

Indirect Sex Discrimination at Work

Where a condition or practice is applied to both sexes, but adversely affects a considerably larger proportion of one sex than the other and it is not justifiable, irrespective of sex, to apply that condition or practice.

Victimisation

If an employer treats **any** person less favourably than others because that person threatens to bring proceedings, to give evidence or information, to take any action or make any allegations concerning reference to the SDA or the Equal Pay Act or has already done any of those things, the employer is guilty of discrimination by victimisation. Victimisation may be unintentional.

Harassment

Where there is conduct which could be regarded as having the effect of causing harassment to an individual. You must look at all the circumstances, including the perceptions of the alleged victim. A comparator in harassment cases will no longer be necessary after 1 October 2005.

Equal Pay Act

The relationship between the Equal Pay Act and Sex Discrimination Act

The Sex Discrimination Act 1975 (as amended) covers a wide range of non contractual benefits, in addition to covering practices and procedures relating to recruitment, training, promotion, dismissal. A claim relating to a contractual benefit may also be brought under the Sex Discrimination Act provided the benefit does not consist of the payment of money.

The Equal Pay Act 1970 (as amended) provides for an individual to be treated not less favourably than a person of the opposite sex who works for the same employer as regards pay and other terms of the contract of employment when they are employed on like work (i.e. the same work or work which is broadly similar); or on work which has been rated as equivalent under a job evaluation scheme; or on work which is of equal value. There is no overlap between an individual's rights under the Equal Pay Act and those under the Sex Discrimination Act.

All complaints of discrimination in the circumstances covered by the Equal Pay Act are dealt with under that Act. All complaints of discrimination about access to jobs and matters not included in a contract of employment and about contractual matters (other than those relating to the payment of money in situations not covered by the Equal Pay Act are dealt with under the Sex Discrimination Act.

Equal Pay Act 1970 and the 1983 Equal Pay Regulations

A woman or a man is entitled to **no less favourable** terms than a comparator of the opposite sex) **if**

Like work/ related as equivalent/work equal value, **and**

Employer fails to establish non- discriminatory material factor defence

Article 141/EC

Workers entitled to equal pay for equal work of equal value

Pay comprises any remuneration (contractual and non-contractual) arising from employment

Equal Pay Directive requires elimination of all discrimination on the grounds of sex

In 2003 an Equal Pay Questionnaire was introduced to assist employees in collecting evidence where they suspected that they were being paid unfairly in relation to someone of the opposite sex and there was no other reason than gender for this disparity.

Pregnancy or childbirth Section 2(2) Sex Discrimination Act

More favourable treatment may lawfully be forwarded to women in connection with pregnancy or childbirth.

Marriage Discrimination Sections 3(1)(a) and 3(1)(b) Sex Discrimination Act

Direct discrimination against a married person occurs when a married person is treated less favourably on the grounds of marital status than an unmarried person of the same sex would be in the same or not materially different circumstances.

Indirect discrimination against a married person is similar in concept to indirect sex discrimination and may arise when a condition or requirement is applied equally to married and unmarried persons of the same sex but which is in fact discriminatory in the effect on married persons.

For example, a requirement to be transferred to other parts of the country might bar more married than single people.

Genuine Occupational Qualifications – Sex Discrimination

A person's sex may be a genuine occupation or qualification for a job in which case discrimination in recruitment opportunities for promotion or transfer or, or training for such employment would not be unlawful. A Genuine Occupational Qualification cannot however apply to the treatment of employees once they are in post and not to discrimination on grounds of marriage nor to victimisation. The Genuine Occupational Qualification is not an automatic exception for general categories of jobs. In every case it will be necessary for an employer to show that the criteria detailed in the Sex Discrimination Act applies to the job or part of the job in question. A Genuine Occupational Qualification may be claimed only because of:

- (a) physiology (excluding physical strength and stamina) or authenticity (for example a model or an actor)
- (b) decency or privacy (for example some changing room attendants)
- (c) the degree of physical or social contact with a person living within the home; or
- (d) the knowledge of intimate details of such persons life which is likely because of the nature or circumstances of the job or of the home, to be allowed to, or available to, hold the job
- (e) the nature or location of the establishment which makes it impracticable for the job holder to live in premises other than those provided by the employer (e.g. if the job is in a ship or on a remote site) and the only available premises for persons doing that kind of job do not provide both sexes with separate accommodation and sanitary facilities which can be used to ensure privacy from the other. This exception will not apply if the employer can reasonably be expected to equip the premises with the necessary arrangements to ensure the above
- (f) the fact that the establishment, or part of it provides special care, supervision or attention to people of one sex only (e.g. this would be when there is a single sex home)
- (g) the fact that the job involves the provision of personal services, promoting welfare or education, that are most effectively provided by men or by women (e.g. youth workers who are doing special projects with young men/girls)
- (h) the laws regulating the employment of women and then the laws and customs of the country in which part of the job is to be carried out (e.g. a job involving driving in a country where women are forbidden to drive)

- (i) the fact that the job is one or two to be held by a married couple – it is not unlawful to discriminate against unmarried people!

Discrimination on Grounds of Gender Reassignment

The SDA (Gender Reassignment) Regulations 1999 amended the SDA 1975. This expressly prohibits discrimination on the grounds that a person intends to undergo, is undergoing or has undergone a gender reassignment. Discrimination occurs if this person is treated less favourably than they would be if the absence was due to sickness, injury or some other cause.

However, there is an alternative “catch all” provision which allows the Tribunal to look at how people absent for reasons other than sickness or injury are or would be treated. If the Tribunal thinks it is reasonable that the employee should be treated no less favourably than those absent for a non sickness reason, this may form the basis of a comparison where a finding of discrimination may be based.

In the case of a pre-operative transsexual, avoiding less favourable treatment does not necessarily require that the complainant be treated as if their gender has already been changed. What was required in any case will depend on the particular circumstances [*Croft v Royal Mail 2003*]. This is a case where a pre-operative male to female transsexual was not treated less favourably when not allowed to use the female toilets.

On 4 April 2004 the Gender Recognition Act (GRA) came into force. The Gender Recognition Act 2004 enables trans-people to apply for “gender recognition” and those born in the UK can obtain a new birth certificate. To qualify, a trans-person has to show that:-

- (a) they have been diagnosed as having gender dysphoria; or
- (b) they have had gender reassignment surgery; and
- (c) they have lived in their required gender role for a period of 2 years;
and
- (d) they intend to do so permanently for the remainder of their life

Gender Recognition will mean that trans-people must be treated as of their new sex for legal purposes, including in the workplace. It is now a new criminal offence (with a fine of up to £5,000 on conviction) for any individual who has obtained the information in an official capacity to disclose that a person has a Gender Recognition Certificate. This includes employers of prospective employer or a person employed by such an employer or prospective employer. It is a strict liability offence and there is no room for pleading reasonableness as a defence.

Discrimination on the Grounds of Race

The Race Relations Act (RRA)1976 as amended by the RRA(Amendment) Regulations 2003, prohibits discrimination, harassment and victimisation on the grounds of race, colour, nationality or ethnic or national origins both pre and post employment. Most of the provisions are comparable to the Sex Discrimination Act 1975 and cases heard under one act will be relevant to the other.

Race discrimination applies to jobs, training, housing, education and the provision of goods, facilities and services. In addition, **The Race Relations (Amendment) Act 2000** made it unlawful for a public authority to carry out any function or any other act which constitutes discrimination. This duty applies to more than 300 specified bodies including the police, Housing Corporation ,NHS, schools, colleges and universities. It requires them to eliminate unlawful discrimination and promote equality of opportunity and good relations to persons of different racial groups.

Definitions:

Racial Group defined by reference to colour, race nationality or ethnic or national origin e.g. Romany Gypsies are members of a racial group but habitual wanderers are not

National Origin means more than just legal nationality acquired at birth and can be “acquired by adherence “

Ethnic Origin means long shared history: distinct community: common national or cultural traditions: family social customs

Types of Race Discrimination

Direct Racial Discrimination

Where a person is treated **less** favourably on the grounds of their race, colour, nationality, ethnic or national origins. The test whether there has been less favourable treatment is comparative. There may be a specific individual but where there is no actual comparator then the complainant can rely on a hypothetical comparator.

Indirect Racial Discrimination

There are currently two definitions as amendments to the Act in 2003 did not replace the tests that existed under the 1976 Act in relation to colour and nationality (The 2003 Regulations deal with race, ethnic or national origins.)

(a) Where a person applies to another a requirement or condition which is such that the proportion of persons of one racial group who can comply is considerably smaller than the proportions of persons from other racial groups who can comply **and** the requirement or condition cannot be justified OR

(b) Where a person applies a provision, criteria or practice which will apply to everyone but people of a certain race, national or ethnic origin are at a particular disadvantage and the provision cannot be justified on the grounds that it was a proportionate means of achieving a legitimate aim.

Victimisation

Employees who are involved, or whom the discriminator suspects are involved in the making of complaints of race discrimination or who give evidence on behalf of a person making a complaint. Any less favourable treatment will be classed as discriminatory treatment.

Harassment

A person subjects another person to harassment **in any circumstances** on grounds of race, ethnic or national origins where he or she engages in unwanted conduct, which has the purpose **or** effect of violating that other person's dignity **or** creating an intimidating, hostile, degrading, humiliating or offensive environment for him or her. No comparator is required.

Genuine Occupational Requirement – Race Discrimination

Where race can be shown to be a genuine requirement or qualification for a particular job an employer may have a defence to certain forms of racial discrimination.

Examples are:-

- (a) jobs that involve participation in a dramatic performance and requires a person of that racial group for authenticity
- (b) a job involves working in a place where food or drink is provided to and consumed by the public and a person of that racial group is required for reasons of authenticity i.e. waiter for a Chinese restaurant
- (c) a holder of a job provides persons of that racial group provides personal services promoting their welfare and their services can most effectively be provided by a person of that racial group – e.g. youth worker for community race project

Disability Discrimination

The Disability Discrimination Act (DDA) 1995 introduced new laws aimed at ending the discrimination many disabled people face. The Act gave disabled people new rights of access to goods, facilities and services, buying and renting property as well as in employment.

Definition of a disability for the purposes of the DDA 1995 is if “(s)he has a **physical or mental impairment** which has a **substantial and long term** adverse effect on his(her) ability to carry out **normal day to day activities**.”

Who has rights under the Act?

A wide range of people with sensory, mental or physical disability. This includes people who use wheelchairs, blind and partially sighted people, deaf and hearing impaired people, people with arthritis, with long term illness , severe disfigurements and people with learning disabilities.

Since December 1996 it has been unlawful to treat disabled people **less** favourably than other people for a reason related to their disability.

Since October 1999 service providers and organisations have had to make **reasonable adjustments** for disabled people such as providing extra help or making changes to the way they provide their services.

Since October 2004 businesses and organisations have had to make **reasonable adjustments** to the physical features of their premises where possible.

Education Providers

New duties came into effect in September 2002 which require schools, colleges, universities and providers of adult education and youth services to ensure they do not discriminate against disabled people.

Types of Disability Discrimination

Direct Disability Discrimination

A person directly discriminates against a disabled person, if on the **ground** of the disabled person's disability their treatment of a disabled person is **less** favourable than the way in which a person not having that particular disability is (or would be) treated **and** the relevant circumstances, including the abilities of the person with whom the comparison is made are the same, or not materially different from, those of the disabled person. There is no justification for direct disability discrimination.

Indirect Disability Discrimination

The employer's treatment of a disabled person amounts to discrimination if it is for a reason **related** to their disability and the treatment is less favourable than the way in which the employer treats (or would treat) others to whom that reason does not (or would not) apply and the employer cannot show that the treatment is justified.

Harassment

The Act provides that a person subjects a disabled person to harassment, where for a reason which relates to a person's disability, he or she engages in unwanted conduct which has the purpose **or** effect of violating the disabled person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for him or her. Such conduct is regarded as harassment if in the view of all the circumstances and including the perception of the disabled person it should reasonably be considered as having that effect.

Victimisation

It is unlawful to victimise a person (whether disabled or not) because that person has brought proceedings under the Act, given evidence or information in connection with such proceedings, or made allegations that someone has not complied with the Act. The allegations must have been made in good faith.

Reasonable Adjustments

The duty to make reasonable adjustments arises where a **provision, criterion or practice** supplied by or on behalf of the employer or any physical feature of premises occupied by the employer, places the disabled person at a **substantial disadvantage** compared with people who are not disabled. An employer must take such steps as it is **reasonable** for it to have to take **in all the circumstances** to prevent that disadvantage. Where the duty arises an employer cannot justify a failure to make a reasonable adjustment.

New Legislation

The Disability Discrimination Act 2005 received Royal assent in April and will come into force later this year. This legislation includes new rights for disabled people using transport and better protection for mental health service users, people with HIV, multiple sclerosis and cancer. It also contains new rights for disabled people wanting to adapt rented property.

The DRC estimate that some 18,000 disabled people are living in unsuitable accommodation because of landlord's refusal to agree to adaptations which would ensure that people could live independent lives. In addition, the requirement that people with mental illnesses have a clinically well recognised illness will be removed.

Finally it will also mean that people with HIV, Multiple Sclerosis and Cancer will now have protection from the point of diagnosis.

Sexual Orientation and Discrimination

Employment Equality (Sexual Orientation) Regulations 2003 came into force on 1 December 2003 and cover all aspects of the employment relationship including recruitment, pay, working conditions, training, promotion, dismissal and references.

Genuine Occupational Requirement

Where an employee establishes that owing to the nature of the employment or its context there is a genuine occupational requirement for an employee to be of a particular sexual orientation and it is proportionate to apply that requirement this will be allowed if it is reasonable in all the circumstances. For example a gay man working in a gay bar.

Who does it protect?

The regulations protect people on the grounds of sexual orientation towards people of the same sex, people of the opposite sex, or people sexually orientated to both sexes. This means that gay men and women, bi sexual and heterosexual people will be protected from discrimination in the workplace and when undertaking vocational training. In addition people who are **perceived or assumed**, correctly or incorrectly to be of a particular sexual orientation and people who are discriminated against because of the sexual orientation of friends and family are also protected.

Types of Sexual Orientation Discrimination

Direct Sexual Orientation Discrimination

Where a person is treated **less** favourably than others because of their sexual orientation.

Indirect Sexual Orientation Discrimination

Where a provision, criterion or practice which disadvantages people of a particular sexual orientation and which is not justified in objective terms.

Harassment

Unwanted conduct which violates people's dignity or creates and intimidating, hostile, degrading, humiliating or offensive environment.

Victimisation

Treating people **less** favourably because of action they have taken under or in connection with this legislation either on behalf of themselves or in support of someone else.

Religion or Belief and Discrimination

Employment Equality (Religion and Belief) Regulations 2003 came into force in December 2003. They outlaw workplace discrimination on the grounds of religion and belief or similar philosophical belief.. Religion or belief is broadly determined by whether there is:

- (a) clear collective worship
- (b) a clear belief system; and
- (c) whether this belief affects a way of life or a view of the world

All aspects of the employment relationship are covered including recruitment , pay, working conditions, training, promotion, dismissal and references.

Genuine Occupational Requirement

There may be circumstances in which adherence to a particular religion or holding a particular belief may be a genuine requirement of the job. The nature of the employment itself will be looked at and also the employer's ethos based on a religion or belief. For example, a Muslim working as a Halal butcher.

Who does it protect?

The Regulations merely define religion and belief to mean "any religion, religious belief, or similar philosophical belief "Therefore it will be left to the courts and Tribunals to resolve this matter on a case by case basis. In addition people who are **perceived** or **assumed** , correctly or incorrectly to be of a particular religion and /or belief and people who are discriminated against because of the religion and /or belief of family and friends are also protected.

Types of Religion or Belief Discrimination

Direct Religion or Belief Discrimination:

Where a person is treated **less** favourably than others because of their religion or belief.

Indirect Religion and Belief Discrimination:

Where a provision, criterion or practice disadvantages people of a particular religion and/or belief and which is not justifiable in objective terms.

Harassment

Unwanted conduct which violates people's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment.

Victimisation

Treating people **less** favourably because of action they have taken under or in connection with this legislation either on behalf of themselves or in support of someone else.

Employment Act 2002

Flexible Working (Eligibility, Complaints & Remedies) Regulations 2002 Flexible Working (Procedural Requirements) Regulations 2002

These regulations allow employees who have 26 weeks continuous service, and who have parental responsibility for a child under 6, or 18 if disabled, the right to request a variation to their contract. This variation can cover hours of work, time of work and place of work.

Part time workers (Prevention of less favourable treatment) Regulations 2000

These prohibit less favourable treatment in respect of terms and conditions of employment to those working part time, including access to pension schemes, promotion and training.

Fixed-term employees (Prevention of less favourable treatment) Regulations 2002

These prohibit less favourable treatment in respect of pay and general working conditions for individuals on fixed term contracts of employment.

The way forward

In order for the session to be meaningful for you, it is important that you think about what you will take away from it. This gives you the opportunity to review the learning. You should now think about and identify future action for your own personal and professional development.

Think about the following:

- What was the most important aspect you learnt?
- How will you start to monitor users of your services and complaints?
- How will the session change your current work practice?
- How has your confidence improved?

Contacts, links and useful resources

Project partners

Norfolk Community Law Service

Norfolk Community Law Service is a legal charity based in Norwich, which exists to provide legal assistance to those in need in the local authority areas of the City of Norwich, Breckland, Broadland North, North Norfolk, South Norfolk, in the County of Norfolk UK.

At present its services include free legal advice & housing repossession support.

It is a limited liability company run by a Board of Directors and is a registered charity dedicated to increasing access to justice in the Norwich and Norfolk area.

NNREC – Norwich & Norfolk Race Equality Council

The NNREC is an independent charity covering the county of Norfolk. The NNREC provide free advice, assistance & information about racial discrimination and harassment, equal opportunities and the promotion of good race relations. The NNREC provide policy advice to partner organisations, work with Black & Minority Ethnic groups and young people on anti racist events and programmes.

Age Concern Norfolk

Age Concern Norfolk is an independent charitable organisation with over 50 years experience dedicated to promoting the well-being of all older people throughout the county of Norfolk and to help make later life a fulfilling and enjoyable experience.

We care about the lives of older people, providing services such as

- Information and advice
- Day care
- Respite care
- Support to local clubs and groups.

Age Concern Norwich

We offer advice and information on a wide range of matters of concern to older people and their carers – from pensions and benefits to residential care, sheltered housing and luncheon clubs. We provide services such as: Welfare Rights Visiting Services , Visiting and Shopping, Day care and Bathing.

Citizens Advice Bureau

The Aims of the Citizens Advice Bureau are to:

Ensure that individuals do not suffer through lack of knowledge of their rights and responsibilities or of the service available to them or through an inability to express their needs effectively; and equally;

Exercise a responsible influence on the development of social policies and services, both locally and nationally.

We aim to do this by:

INFORMING people about the law and how it affects them; about their rights, responsibilities and entitlements.

ADVISING people on the options available to them and on the potential consequences of different courses of action.

SUPPORTING people as they consider and decide what to do, listening to their concerns and helping them move forward.

ASSISTING people in pursuing their chosen course of action by negotiation, representation and by referral to other sources of help when needed.

INFLUENCING those responsible for policies and services by bringing to their notice the problems people experience and recommending changes.

Ipswich and Suffolk Council for Racial Equality

ISCRE is a Voluntary organisation working under the Race Relations Act, 1976 with two main aims:

1. To work towards the elimination of racial discrimination; and
2. To promote equality of opportunity and good relations between persons of different racial groups in the county of Suffolk.

ISCRE provides information, advice and support of a non-financial nature to individuals and organisations who have or are experiencing either racial discrimination/harassment or race related difficulties in circumstances where such information, advice and support are not readily available from other local agencies.

Ros Brown
Law Centre Development Officer
Boardman House
Redwell Street
Norwich
NR2 4SL
Tel: 1603 496623

Rex Humphrey
Chief Executive
Age Concern Norfolk
300 St.Faith's Road
Old Catton
Norwich
NR6 7BJ

Brenda Arthur
Chief Executive
Age Concern Norwich
Boardman House
Redwell Street
Norwich
NR2 4SL

Andrew Seagar
Citizens Advice
8 Wellington Mews
Wellington St
Cambridge
CB1 1HW

Janet John
Lowestoft CAB
The Advice Centre
36 Gordon Rd.
Lowestoft
NR32 1NL

Anne Matin
Director
NNREC, North Wing, County Hall
Martineau Lane
Norwich
NR1 2DH
01603 611644

Hamil Clarke
Chair
ISCRE
46a St. Matthews Street
Ipswich IP1 3EP
01473 408111

Additional contacts

Race

Commission for Racial Equality(CRE): www.cre.gov.uk
Ipswich & Suffolk Council for Race Equality: www.iscre.org.uk
Norwich & Norfolk Race Equality Council: www.nnrec.org.uk
Race for Racial Justice: www.r4j.org.uk
Black information link: www.blink.org.uk
MENTER, a regional network of Black and minority ethnic voluntary organisations and community groups: www.menter.org.uk
Rural Race Equality Project www.one.world.org.
Race Action Net www.raceactionnet.com
Rural Racism Report: www.suffolkcc.gov.uk/srhi/rural.html
Refugee Council: www.refugeecouncil.org.uk

Gender

Equal Opportunities Commission: www.eoc.org.uk
Work life balance: www.employersforwork-lifebalance.org.uk
Women & equality: womenandequality.gov.uk

Disability

Disability Rights Commission: www.drc-gb.org
Government information on Disability: www.disability.gov.uk
Disability Publication: www.disabilitynow.org.uk
Facial disfigurement: www.changingfaces.co.uk

Gypsy & Traveller

Gypsy & Traveller Health Report:
www.shef.ac/scharr/section/ir/library/publications.html
Gypsy and Travellers rights: www.travellerslaw.org.uk
Groundswell (Gypsy & Traveller): www.groundswell.net

Age

Age Concern: www.ageconcern.org.uk
Help the Aged: www.helptheaged.org.uk
Age Positive: www.agepositive.gov.uk

Lesbian, Gay and Transgender

Lesbian & Gay issues: www.suffolklesbianandgayhelpline.co.uk
Lesbian & Gay issues: www.stonewall.org.uk
Gender reassignment: www.pfc.org.uk/employ/dfeequid.html

Unions

TGWU www.tgwu.org.uk emcdermott@tgwu.org.uk

UNISON www.unison.org.uk

USDAW www.usdaw.org.uk

Human Rights

Liberty (Human Rights) www.liberty-humanrights.org.uk

21 Tabard Street, London SE1 4LA, Tel: 020 7403 3888

Other advice/support

Citizens Advice Bureau: www.citizensadvice.org.uk

Legal Services Commission: www.legalservices.gov.uk

Advisory Conciliation and Arbitration Service: www.acas.org.uk

Work Smart www.worksmart.org.uk

Documents, information & data

Statutory Instruments/Publications: www.hmso.gov.uk

Department for Trade & Industry: www.dti.gov.uk

Department for Work and Pensions: www.dwp.gov.uk

Incomes Data Service: www.incomesdata.co.uk

Chartered Institute for Personnel & Development: www.cipd.co.uk

Home Office: www.homeoffice.gov.uk

Other local contacts/Community Groups

Norfolk

Gurdwara Singh Guru Ramdes

Chanan Singh Suwali

Parkash Sangat Bhatarha

c/o 36 Mile End Road

Norwich NR4 7QY

North African Community Association

Dr Francis Dida

47 Winchester Tower

Vauxhall Street

Norwich NR2 2SE

ashwondi@hotmail.com

Norwich Muslim Association

Dr Reveed Y R Khwaja

91 Three Corner Drive

Old Catton

Norwich NR6 7HB

West Norfolk and Fenland Muslims

Sohale Rahman
48 School Road
Marshland St James
Wisbech
Cambs PE14 8EY
wnfm@btinternet.com

Norwich Hebrew Congregation

The Synagogue
3A Earlman Road
Norwich NR2 3RA

Islamic Resource Centre

Amal Douglas
7 Rigby's Court
Norwich NR2 1NT

Norfolk Chinese Community Association

Mr S.W.Li
1 Portland Street
Norwich NR23LE

Norfolk and Norwich Asian Society

Dinesh Trivedi
14 Hurd Road
Norwich NR4 7BE

Blackstone Foundation

Tariq Amin
7 Rigby's Court
Norwich NR2 1NT

West Norfolk & District Chinese Association

Mr Kwai Li
38 Reffley Lane
Kings Lynn PE30 3EQ

Reiyukai Centre

Hiromi Hasegawa
24 St Mary's Works
Duke Street
Norwich NR3 1QA

Norwich Black and Asian Women's Network

Tonia Myhill
c/o NEAD
1 World Centre
38 Exchange Street
Norwich NR21AX
nbawn@yahoo.co.uk

Kings Lynn Asian Community Society

Vimla Suchak
25 St Augustines Way
South Wooton
Kings Lynn PE30 3TE

Portuguese Community

Chris Collict
Evangelical Church
Gayton Road
Kings Lynn PE30 4AE
Tel:01553 762020

Thetford Portuguese Community
Tel: 01603 866945

Community Connections

Electra House
32 Southtown Road
NR31 ODU
Tel: 01493 656372

Bangladesh Islamic Forum

Nassar Ali
17 Cuckoofield Lane
Mulbarton NR14 8AY

Norfolk Philippine Support Group

Rose Girdlestone
11 Bramfield Close
Norwich NR2 4RJ

East Anglia Charitable Education Trust

Eric Ming
Yim Wah House
Ermine Street
Caxton
Cambridge CB3 8PE

The Irish Society

Roddy Gilmore
17 Low Road
Lower Hellesdon
Norwich NR6 5AE
rodgy@ntlworld.com

Families Lifestyle Awareness Group

58 Association Way
Dussingdale
NR7 OTQ
Tel:01603 300044

Norwich International Youth Project

Conrad La Pointe
0773 9835995

Indigo Dyslexia Services

Martin Parsonage
88 Hillmead
Norwich
NR3 3PF
indigodyslexia@aol.com

Norwich & District MIND

50 Sale Road
Norwich
NR7 9TP
Tel: 01603 432457

WAVE (Domestic Violence)

07813 576736
dv-wave@yahoo.com

INTRAN(translation services)

Unit 14
4 Heigham Street
Norwich NR2 4TE

COMPACT

01603 883828

Travelling Community

Education: 01553 771974
Health: 01553 760257

Citizen Advice Bureau

01553 763502

Victim Support Service

01553 661483

pauline.dye.vsnorfolk@virgin.net

Kings Lynn Asylum Seeker and Refugee Service

Louise Heinemann

klars@btconnect.com

Immigration Service

Unit 39

Eco Tech Centre

Swaffham

Norfolk

Norfolk Coalition Of Disabled People

Peter de Oude

Tel/Fax: 01379 651615

Mobile: 07876 571694

Email ncodp@paston.co.uk

Web: www.ncodp.org.uk

YMCA

John Drake 01603 630049 (Extension 126)

Voluntary Services

Heather Farley

heather@westnorfolkcvss.co.uk

01553 760568

Portugal Media Limited

C/o Archant Print Limited

Prospect House

Rouen Road

Norwich NR1 1RE

Suffolk

Bangladeshi Support Centre

Mr MahbubAlam

Room 38

19 Tower Street

Ipswich

IP3 9JL

Tel: 01394 210670

Ipswich Caribbean Association

Mr Sylvan Carr
15 Woodbridge Road
Ipswich IP4 2EA
Tel: 01473 230656

Indian Association

72 Belmont Road
Ipswich, IP2 9XT
01473 685608

Jewish Community

39 Brotherton Avenue
Trimley St Martin
Felixstowe, IP11 OYL
01394 277724

Suffolk Racial Harassment Initiative

Suffolk County Council
Endeavour House
01473 583000

Suffolk Chinese Community Association

Mr To For Chai
44 Wellesley Road
Ipswich IP4 1PL

Mr Freddie Chung
17 Woodbridge Road
Ipswich IP4 2EA

Suffolk Gay and Lesbian Helpline

34 St. Peters St
Ipswich
IP1 3BQ
Tel: 0808 8082322

The Fightback Trust

fightbacktrust@tiscali.co.uk
(HIV issues)

Disabled Advice Bureau

19 Tower Street
Ipswich, IP1 3BE

D.I.A.L

Lowestoft and Waveney
Waveney Centre for Independent Living
161 Rotterdam Rd
Lowestoft
NR32 2EZ

Suffolk Inter-faith Resource

Suffolk College
Rope Walk
Ipswich
IP4 1LT
Tel: 01379 678615
www.sifre.org.uk