

Royal Caledonian Curling Club

Appendix to Equity Policy: Defining Discrimination

Prejudice

Prejudice can be described as conscious or unconscious thoughts, irrational feelings, attitudes and opinions that are biased. They are based on judgements people make about others without having sufficient information to make such a judgement. We can have prejudiced views about many things in life as well as people. Prejudice can relate to pre-judged, pre-conceived thoughts, feeling or attitudes.

Prejudice is based on incorrect information, misinformation or a lack of information. Our prejudices are learnt and reinforced from a variety of sources such as family, friends, peers, school, history and the media.

Prejudices are usually negative. For some people it is about a fear of the unknown.

Stereotyping

Stereotyping is the process of labelling or making generalisations about a group of people based on a particular characteristic or a certain type of behaviour. The stereotype or label makes all other attributes and qualities invisible, and often leads people to assume that other people from that group will also display that same characteristic or behaviour.

Stereotyping is often negative and is used to justify discrimination.

Disadvantage

As a result of discrimination, some groups in society are deprived of some or all resources. This means that the individuals in that group can be regarded as being 'disadvantaged'.

Empowerment

This is an enabling process, providing information, skills, opportunities which result in people having more control over their lives.

Discrimination

Discrimination means treating an individual or group of people unfairly because of a particular characteristic, e.g. gender, disability, age, ethnic origin, skin colour, nationality, sexuality and/or religious belief. The treatment usually results in a negative, disempowering experience such as exclusion or blocked opportunities. Discrimination can also be described as putting prejudices into practice.

Discrimination can either be direct or indirect, and can be intentional or unintentional - it does not matter, the effects are the same.

Discrimination has been legally defined through a series of legislative acts, including the Race Relations Act, the Sex Discrimination Act, the Disability Discrimination Act and the Equality Act 2006.

In April 2010, the Equality Act 2010 received Royal Assent. The Equality Act 2010 is a new law which harmonises where possible, and in some cases extends, protection from discrimination. It applies throughout Great Britain and will replace the existing anti-discrimination legislation. Most provisions of the Equality Act 2010 will be implemented in October 2010, with others to follow in 2011 and 2012. The definitions of discrimination provided here will take effect in October 2010.

*Discrimination refers to unfavourable treatment on the basis of particular characteristics, which are known as the '**protected characteristics**'. Under the Equality Act 2010, the protected characteristics are defined as **age, disability, gender reassignment, pregnancy and maternity, race (which includes ethnic or national origin, colour or nationality), religion or belief, sex (gender) and sexual orientation**.*

Direct discrimination

Direct discrimination can be described as less favourable treatment on the grounds of particular characteristics such as sex or gender, gender reassignment, pregnancy or maternity, race, disability, age, religious or philosophical belief (or the lack of such belief), sexual orientation. Direct discrimination may also involve situations where reliance on a formally neutral criterion affects one group only, even if that was not the intention.

It is not possible to justify this type of discrimination other than on very narrow grounds in relation to age.

Indirect discrimination

Indirect discrimination when a provision, criterion or practice is applied to an individual or group that would put persons of a particular characteristic at a particular disadvantage compared with other persons. In British law, indirect discrimination can occur on grounds of age, disability, gender reassignment, race, nationality or ethnic background, religion or belief, sex/gender or sexual orientation. It does not apply to pregnancy or maternity, but provisions which place pregnant women or new mothers at a disadvantage would be considered to be indirect discrimination on grounds of sex.

Indirect discrimination typically arises when practices are apparently neutral, and often results from structural causes. This is because apparently neutral practices may unintentionally perpetuate the consequences of past discrimination.

There are some situations where indirect discrimination may be objectively justified (see Objective justification).

Discrimination based on perception or association

People are protected from discrimination if they are assumed to have a protected characteristic (even if the assumption is incorrect) or if they associate with someone who has it (if, for example, they are a carer for an older person, or they are the partner of a transgender person). This protection now extends to all characteristics.

Discrimination arising from disability

When a disabled person is treated unfavourably because of something connected with their disability and this unfavourable treatment cannot be justified, this is unlawful. This type of discrimination only relates to disability.

For example, if a shop owner refuses to allow a visually impaired person with a guide dog to enter the shop because there is a policy not to permit dogs in the shop, this would be considered to be discrimination arising from disability.

Objective justification

Treatment which is indirectly discriminatory or discrimination arising from disability may be justified if it can be shown that the provision, criterion or practice is a proportionate means to achieving a legitimate end. Purely budgetary considerations alone can never serve as objective justification, although financial considerations contribute to the determination of 'proportionate'.

Case law suggests that there is a broad range of potentially acceptable grounds (legitimate aims) of justification. However, the requirements for determining proportionality are quite strict. In order to be 'proportionate', the means chosen to achieve the aim must:

- be appropriate, in that it is suitable for achieving the aim;
- be necessary, in that another measure with a lesser effect or no disparate effect would not be effective.

A means which is merely convenient or preferred is not necessarily proportionate.

An objective justification must correspond to a real need and must be based on factors unrelated to the grounds of discrimination.

Harassment

Harassment is defined as unwanted conduct that has the purpose or effect of violating a person's dignity, or which creates an intimidating or hostile, degrading, humiliating or offensive environment for that person. Under the Equality Act 2010, harassment does not apply to sexual orientation or religion or belief, but actions which may be construed as harassment on these grounds would be likely to be considered indirect discrimination.

Victimisation

It is unlawful to treat a person less favourably because he or she has made allegations or brought proceedings under the anti-discrimination legislation, or because they have helped another person to do so. To do so would constitute victimisation.

Updated: July 2010