



Ensuring you are complying with Equalities legislation

The Equalities and Human Rights Commission have published an excellent guide about what equality law means for you. We would recommend that you read the document in full here

https://www.equalityhumanrights.com/sites/default/files/what_equality_law_means_for_your_vol_or_community_sector_organisation.pdf

We have pulled out some of the key points for village venue organisers below:

The Equality Law applies to people with **protected characteristics**, that is you cannot discriminate against someone because of their

- age
- disability
- gender reassignment
- pregnancy and maternity (which includes breastfeeding)
- race
- religion or belief
- sex
- sexual orientation.

What is unlawful discrimination?

Unlawful discrimination, in other words, treating some people worse than others because of a protected characteristic can take a number of different forms:

• **You must not treat a person worse than someone else because of a protected characteristic** (this is called direct discrimination). However, when the treatment is because of the age of the person, it may be permissible if you can show that what you have done is objectively justified.

• **You must not do something to someone which has (or would have) a worse impact on them and other people who share a particular protected characteristic than on people who do not share that characteristic.** Unless you can show that what you have done is objectively justified, this will be what is called indirect discrimination.

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'Doing something' can include making a decision, or applying a rule or way of doing things.

For example: A charity which runs a drop-in centre decides to apply a 'no hats or other headgear' rule to users. If this rule is applied in exactly the same way to every user, Sikhs, Jews, Muslims and Rastafarians who may cover their heads as part of their religion will not be allowed to use the drop-in centre. Unless the charity can objectively justify using the rule, this will be indirect discrimination.

- **You must not treat a disabled person unfavourably because of something connected to their disability where you cannot show that what you are doing is objectively justified** (this is called discrimination arising from disability). This only applies if you know or could reasonably be expected to know that the person is a disabled person. The required knowledge is of the facts of the person's disability but you do not also need to realise that those particular facts are likely to meet the legal definition of disability.

For example: A community organisation runs a lunch club and has a 'no dogs' rule. If the organisation bars a disabled person who uses an assistance dog, not because of their disability but because they have a dog with them, this would be discrimination arising from disability unless the organisation can objectively justify what it has done.

- **You must not treat a person worse than someone else because they are associated with a person who has a protected characteristic.**

For example: The committee running a voluntary sector organisation refuses to allow a child to take part in their play activities because the child's parents are a gay couple. It is likely the child has been unlawfully discriminated against because of their association with their parents' sexual orientation.

- **You must not treat a person worse because you incorrectly think they have a protected characteristic (perception).**

For example: A member of staff mistakenly thinks a woman is a transsexual person. Because of this they tell her their voluntary organisation's activities are not open to her. It is likely the woman has been unlawfully discriminated against because of gender reassignment, even though she is not a transsexual person.

- **You must not treat a person badly or 'victimise' them because they have complained about discrimination or helped someone else**

complain or done anything to uphold their own or someone else's equality law rights.

For example: A service user supports another person's complaint that a charity has unlawfully discriminated against them. The service user is later told that they cannot apply for help from the charity. If this is because of their part in supporting the complaint, this is likely to be victimisation.

- **You must not harass a person.**

For example: A member of staff is verbally abusive to a service user in relation to a protected characteristic. Note: Even where the behaviour does not come within the equality law definition of harassment (for example, because it is related to religion or belief or sexual orientation), it is likely still to be unlawful direct discrimination because you are giving the service to the person on worse terms than you would give someone who did not have the same protected characteristic.

- **In addition, to make sure that disabled people are able to use your services as far as is reasonable to the same standard as non-disabled people, you must make reasonable adjustments.** You cannot wait until a disabled person wants to use your services, but must think in advance about what people with a range of impairments might reasonably need, such as people who have a visual impairment, a hearing impairment, a mobility impairment, or a learning disability.

For example: · A charity provides a telephone helpline service to its clients. It installs a textphone so that people with hearing impairments can communicate with it and receive advice. It also offers the alternative of instant messaging via the internet which also removes barriers to accessing the service for people who cannot, for a variety of reasons such as visual impairment or dyslexia, make notes during a phone call.

- A voluntary sector organisation provides services to support parents, including advice leaflets. It makes sure its leaflets are simply written, with pictures to illustrate what the leaflets say. This is likely to make them more accessible to people with a learning disability.

- A community association holds a public meeting to discuss what additional leisure facilities are needed for the public in the local community. It ensures that the meeting is held in a venue that is accessible to people with mobility impairments and it arranges for there

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to be a palantypist at the meeting to transcribe what is said onto a computer. The organisation has thought about who might use its services by attending the meeting and has made a range of adjustments which it has decided are reasonable for it to make.

Where you used to provide services to a person, it will still be unlawful to discriminate against them in the ways described above if what you do arises out of and is closely connected to the relationship that used to exist between you and that person.

What does this mean for your organisation?

Because of a protected characteristic, you and anyone working or volunteering for you:

- **Must not refuse to serve someone or refuse to take them on as a client.** For example:
 - You must not refuse to serve a woman who is breastfeeding a baby.
 - You must not say you will not take people with a particular religion or belief as a client.
- **Must not stop serving or working for someone if you still serve or work for other service users or clients who do not have the same protected characteristic in the same circumstances.**

For example:

You must not stop offering home visits to disabled people who you find out have a mental health condition if you go on offering them to other clients. That is likely to be unlawful disability discrimination.

- **Must not give someone a service of a worse quality or in a worse way than you would usually provide the service.**

For example: You must not make it harder for someone with a particular protected characteristic to access your services.

- **Must not put them at any other disadvantage.**

You can still tell your service users or clients what standards of behaviour you want from them - for example, behaving with respect towards your staff and to other service users or clients. Sometimes, how someone behaves may be linked to a protected characteristic. If you set standards of behaviour for your customers or clients which have a worse impact on people with a particular protected characteristic than on people who do not have that characteristic, you need to make sure that you can

objectively justify what you have done. Otherwise, it will be indirect discrimination. If you do set standards of behaviour, you must make reasonable adjustments to them for disabled people and avoid discrimination arising from disability.

For example:

A voluntary organisation runs a play group for young children. One child who attends has a learning disability and sometimes shouts loudly, even during rest times when children have been asked to be quiet. The play group accepts that the child does not always understand when it is appropriate to be loud or quiet. They do not treat the child as if they are being naughty. In behaving like this, the play group has made a reasonable adjustment to the standards of behaviour it applies. If the play group did decide that the child's behaviour was causing more significant difficulties for other children or for staff and that they have made all the adjustments it is reasonable for them to make, they would have to objectively justify stopping the child attending (in other words, withdrawing the service from the child). Otherwise, this is likely to be discrimination arising from disability and/or indirect discrimination because of the child's disability.

What is the legal status of your volunteers?

Some volunteers have a contract to personally do work for you. This is likely to be the case if they receive more than just their out-of-pocket expenses in exchange.

If this applies to your volunteers, then they may be protected as if they are employed by you, and you should read the Equality and Human Rights Commission guide to what equality law means for employers.

If this does not apply to your volunteers, then it is possible that, when you are providing a volunteering opportunity for someone, this counts as providing them with a service.

This means that the rest of this guide applies to your volunteers just as much as it does to your service users or clients. You should avoid unlawful discrimination in how you treat volunteers.

Your responsibility for what your volunteers do

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Whatever their legal status, it is likely that a volunteer delivering your service would be acting on your behalf if they unlawfully discriminated against a client or service user. If so, you could be held legally responsible for what they did.

This is true, even if you are not aware of the conduct and you did not approve it.

The suggestions there about how you can make sure you have done what is necessary to avoid responsibility apply to volunteers just as much as they do to any paid staff you have. For more information go to Chapter 3 https://www.equalityhumanrights.com/sites/default/files/what_equality_law_means_for_your_vol_or_community_sector_organisation.pdf

The duty to make reasonable adjustments to remove barriers for disabled people

Equality law recognises that bringing about equality for disabled people may mean changing the way in which services are delivered, providing extra equipment and/or the removal of physical barriers. This is the duty to make reasonable adjustments. The duty to make reasonable adjustments aims to make sure that a disabled person can use a service as close as it is reasonably possible to get to the standard usually offered to non-disabled people. When the duty arises, you are under a positive and proactive duty to take steps to remove or prevent these obstacles. If you are providing goods,

The duty is ‘anticipatory’. This means you cannot wait until a disabled person wants to use your services, but must think in advance (and on an ongoing basis) about what disabled people with a range of impairments might reasonably need, such as people who have a visual impairment, a hearing impairment, a mobility impairment or a learning disability.

Many of the adjustments you can make will not be particularly expensive, and you are not required to do more than it is reasonable for you to do.

What is reasonable for you to do depends, among other factors, on the size and nature of your organisation and the nature of the goods, facilities or services you provide.

If, however, a disabled person can show that there were barriers you should have identified and reasonable adjustments you could have made, they can bring a claim against you in court, and you may be ordered to pay them compensation as well as make the reasonable adjustments. **As well as being something you are required by equality law to do,**

making reasonable adjustments will help a wider range of people use your services.

The three requirements of the duty

The duty contains three requirements that apply in situations where a disabled person would otherwise be placed at a substantial disadvantage compared with people who are not disabled.

- **The first requirement involves changing the way things are done** (equality law talks about where the disabled service user is put at a substantial disadvantage by a provision, criterion or practice of the service provider).

- Does your organisation have rules or ways of doing things, whether written or unwritten that present barriers to disabled people? A practice may have the effect of excluding disabled people from enjoying access to your services. Or it may create a barrier or hurdle that might put disabled people at a substantial disadvantage to access your services. It might be reasonable for you to stop the practice completely, or to change it so that it no longer has that effect.

For example:

- A private club has a policy of refusing entry during the evening to male members who do not wear a shirt and tie. A disabled member who wishes to attend in the evening is unable to wear a tie because he has psoriasis (a severe skin complaint) of the face and neck. Unless the club is prepared to change its policy at least for this member, its effect is to exclude the disabled member from the club. This is likely to be an unlawful failure to make a reasonable adjustment.

- A shop receives feedback from a customer with facial scars from severe burns that the ways in which its staff interact with her have made her feel uncomfortable and failed to provide a helpful service. The retailer decides to introduce disability awareness training, with a particular emphasis on issues around disfigurement, to improve the customer service of its staff. This is likely to be a reasonable adjustment to make.

Ask yourself, for example:

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- Could you be more flexible about where or how you provide your services? Could you or your staff change a policy, criterion or practice where this is needed to remove a barrier?
- Do you insist on particular forms of communication, such as putting requests in writing? Or particular proof of identity such as a driving licence? In addition, where you provide information to customers or clients you must take steps to ensure that the information is provided in an accessible format.

· **The second requirement involves making changes to overcome barriers created by the physical features of your premises, if these are open to the public or a section of the public.**

Where a physical feature puts disabled people using a service at substantial disadvantage, you must take reasonable steps to:

- remove the feature
- alter it so that it no longer has that effect
- provide a reasonable means of avoiding the feature, or
- provide a reasonable alternative method of making the service available to disabled people.

It is better for you to look at removing or altering the physical feature or finding a way of avoiding it (such as replacing steps with a ramp or, if it is reasonable for you to do this, a lift) before you look at providing an alternative service. An alternative service may not give disabled people a similar level of service. Exactly what kind of changes are needed will depend on the kind of barriers your premises present. You need to look at the whole of the premises that are open to the public or a section of the public, and may have to make more than one change.

For example:

A pub improves the paths in its beer garden so that the outside space can be accessed by disabled customers with mobility impairment or visual impairment.

- A small shop paints its doorframe in a contrasting colour to assist customers with a visual impairment.
- A hairdressing salon moves product display stands from just inside its door to create a wider aisle which means that wheelchair users can use its services more easily.

Physical features include: steps, stairways, kerbs, exterior surfaces and paving, parking areas, building entrances and exits (including emergency escape routes), internal and external doors, gates, toilet and washing facilities, public facilities (such as telephones, counters or service desks), lighting and ventilation, lifts and escalators, floor coverings, signs, furniture, and temporary or movable items (such as equipment and display racks). Physical features also include the size of premises (for example, the size of a meeting room).

The third requirement involves providing extra aids and services such as providing extra equipment or providing a different, or additional, service (which equality law calls auxiliary aids or auxiliary services). You must take reasonable steps to provide auxiliary aids or services if this would enable (or make it easier for) disabled people to make use of any of your services.

For example:

- A shop keeps a portable induction loop on its counter so conversations with staff can be heard more easily by disabled people who use hearing aids.
- A club records its handbook onto audio CD for members with a visual impairment, and sends out its newsletters by email as an audio file if members ask for this.
- An accountant offers to make a home visit to a client with mobility impairment when usually clients would come to the accountant's premises.
- A leisure centre has a regular booking by a group of deaf people. The leisure centre makes sure that the members of staff who have had basic training in British Sign Language (BSL) are rostered to work on that day to make sure that the deaf customers get the same level of service that other people would expect.

The kind of equipment or service will depend very much on the individual disabled person and what your organisation does. However you may be able to think in advance about some things that will help particular groups of disabled people.

For example:

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- Asking a disabled person with a visual impairment if they would like assistance in finding goods in a shop or having information read to them.
- Taking the time to explain services to a disabled person with a learning disability.

If you do provide equipment, the equipment must work and be maintained. It is also important that staff know how to use the equipment

Are disabled people at a substantial disadvantage?

The question you need to ask yourself is whether:

- the way you do things
- any physical feature of your premises, or
- the absence of an auxiliary aid or service puts disabled people at a substantial disadvantage compared with people who are not disabled.

Anything that is more than minor or trivial is a substantial disadvantage.

If a substantial disadvantage does exist, then the duty to make reasonable adjustments arises. The aim of the adjustments you make is to remove the substantial disadvantage. But you only have to make adjustments that are reasonable for you to make.

Local disabled people's groups may be happy to help you work this out. Contact groups representing people with a range of impairments. Explain that you want to make reasonable adjustments, and ask if they can help.

Working out what needs to change If you look at the definition of disability, you will immediately realise that disabled people are a diverse group with different requirements. No single aspect of the way in which you deliver your services will create barriers for all disabled people, or, in most cases, for disabled people generally. A practice, or a feature of your premises, which is a barrier for people with a particular impairment may present no difficulties for others with a different impairment. Some barriers may affect some people with the same impairment differently.

For example: People with a visual impairment who use assistance dogs will be prevented from using services with a 'no dogs' policy, whereas visually impaired people who do not use assistance dogs will not be affected by this policy. The service provider must think about the needs of both groups.

Remember, the duty is a duty to disabled people in general. You must make reasonable adjustments even if you do not know that a particular

customer, client, service user or member is a disabled person or even if you believe that you currently have no disabled customers, clients, service users or members.

What is meant by 'reasonable'

You only have to do what is reasonable. When deciding whether an adjustment is reasonable you can consider:

- how effective the change will be in assisting disabled people in general or a particular customer, client, service user or member
- whether it can actually be done
- the cost, and
- your organisation's resources and size.

Your overall aim should be, as far as possible, to remove any disadvantage faced by disabled people. You can consider whether an adjustment is practicable. The easier an adjustment is, the more likely it is to be reasonable.

However, just because something is difficult doesn't mean it can't also be reasonable. You need to balance this against other factors.

If an adjustment costs little or nothing and is not disruptive, it would be reasonable unless some other factor (such as impracticality or lack of effectiveness) made it unreasonable.

Your size and resources are another factor. If an adjustment costs a significant amount, it is more likely to be reasonable for you to make it if you have substantial financial resources. Your organisation's resources must be looked at across your whole organisation, not just for the branch or section that provides the particular service.

This is an issue which you have to balance against the other factors. In changing policies, criteria or practices, you do not have to change the basic nature of the service you offer.

For example:

- An association which exists to taste wine does not have to hold soft drink tastings when a member's disability prevents them drinking alcohol.

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· Just because some of its treatments may be unsuitable for some disabled people, such as people undergoing chemotherapy for cancer, a beauty salon does not have to stop offering certain treatments altogether.

If, having taken all of the relevant issues into account, you decide that an adjustment is reasonable then you must make it happen.

The continuing duty on organisations

The duty to make reasonable adjustments is a continuing duty. You should keep the duty and the ways you are meeting the duty under regular review in light of your experience with disabled people wishing to access your services. **It is not something that needs simply to be considered once and once only, and then forgotten.** What was originally a reasonable step to take might no longer be sufficient, and the provision of further or different adjustments might then have to be considered.

For example:

A library has a small number of computers for the public to use. When the computers were originally installed, the library investigated the option of incorporating text-to-speech software for people with a visual impairment. It rejected the option because the software was very expensive and not particularly effective. It would not have been a reasonable step for the library to have to take at that stage. The library proposes to replace the computers. It makes enquiries and establishes that text-to-speech software is now efficient and within the library's budget. The library decides to install the software on the replacement computers. This is likely to be a reasonable step for the library to have to take at this time.

Who pays for reasonable adjustments?

If an adjustment is reasonable, you must pay for it. You are not allowed to ask a disabled person to pay for it, even if you have made it in response to their request and even if it has cost you extra to provide it.

For example: A guest house has installed an audio-visual fire alarm in one of its guest bedrooms in order to accommodate visitors with a sensory impairment. In order to recover the costs of this installation, the landlady charges disabled guests a higher daily charge for that room, although it is otherwise identical to other bedrooms. This increased charge is unlikely to be within the law.

Even if you charge other people for a service, such as delivering something to their home, if the reason you are providing the service to a disabled person is as a reasonable adjustment, you must not charge the disabled person for it. But if the disabled person is using the service in exactly the same way as other customers, clients, service users or members, then you can charge them the same as you charge other people.

For example: A wine merchant runs an online shopping service and charges all customers for home delivery. Its customers include disabled people with mobility impairments. Since this online service does not create a substantial disadvantage for disabled people with mobility impairments wishing to use it, home delivery, in these circumstances, will not be a reasonable adjustment that the wine merchant has to make. Therefore, the wine merchant can charge disabled customers in the same way as other customers for this service.

However, another wine merchant has a shop which is inaccessible to disabled people with mobility impairments. Home delivery in these circumstances might be a reasonable adjustment for the wine merchant to have to make for these customers. The wine merchant could not then charge such customers for home delivery, even though it charges other customers for home delivery.

What to do if someone says they've been discriminated against

If a customer, client, service user, member, associate member or guest believes that you (or, if you have anyone else working for you, your worker or agent/volunteer) have unlawfully discriminated against them, harassed or victimised them against equality law in relation to the goods, facilities or services, or public functions you provide, they may:

- Complain directly to you.
- Use someone else to help sort the situation out (alternative dispute resolution).
- Make a claim in court.

These are not alternatives, since the person complaining can still make a claim in court even if they first complained to you and/or used someone else to sort it out.

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General advice and information

The Equality and Human Rights Commission is the independent advocate for equality and human rights in Britain. It aims to reduce inequality, eliminate discrimination, strengthen good relations between people, and promote and protect human rights. Website:

www.equalityhumanrights.com