

Equality Act 2010

The Equality Act 2010 is a piece of legislation in the UK that aims to protect individuals from discrimination and promote equal opportunities. It covers various characteristics, referred to as "protected characteristics," including age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

Regarding how the Equality Act may link to the hospitality industry:

1. **Service Provision:** The Act prohibits discrimination in the provision of goods, facilities, and services, which includes services provided by the hospitality sector. Businesses within this industry, such as hotels, restaurants, and entertainment venues, are expected to treat all customers fairly and without discrimination based on the protected characteristics outlined in the Act.
2. **Employee Rights:** The Act also addresses employment issues, ensuring that individuals are not discriminated against in the workplace based on the protected characteristics. This is relevant to the hospitality industry in terms of hiring, promotion, and general treatment of employees.
3. **Reasonable Adjustments:** The Act requires service providers to make reasonable adjustments for individuals with disabilities. In the hospitality sector, this may involve making adjustments to the physical environment, providing accessible facilities, or offering alternative ways for customers with disabilities to access services.
4. **Public Spaces:** Hospitality businesses are considered public spaces, and as such, they must adhere to the regulations outlined in the Equality Act to ensure that their services are accessible and non-discriminatory.

Equality Act 2010 (Amendment) Regulations 2023

After the UK's exit from the EU, the government took steps to preserve EU-derived laws in the UK's legal framework. The Retained EU Law (Revocation and Reform) Act 2023 facilitated this process. However, from the end of 2023, courts are no longer bound to interpret EU retained law in line with the underlying Directives, and the principle of supremacy of EU law no longer applies. To address potential legal uncertainty in employment, the government amended the Equality Act 2010, which came into effect from 1 January 2024 and aim to consolidate specific discrimination protections derived from EU caselaw, which would have otherwise ceased to exist. The amendments cover the following areas of law:

1. Direct discrimination related to pregnancy, maternity and breastfeeding

- Ensuring special treatment can be afforded to women in connection with pregnancy, childbirth or maternity;
- That less favourable treatment on grounds of breastfeeding constitutes direct discrimination on grounds of sex, and that this applies in the workplace as in other settings covered by the 2010 Act;
- Ensuring that women are protected from unfavourable treatment after they return from maternity leave where that treatment is in connection with the pregnancy or a pregnancy-related illness occurring before their return;

- Ensuring that women are protected against pregnancy and maternity discrimination in the workplace where they have an entitlement to maternity leave which is equivalent to compulsory, ordinary or additional maternity leave under the Maternity and Parental Leave etc. Regulations 1999 (MAPLE Regulations);

2. Indirect discrimination

- Ensuring that a claimant without a relevant protected characteristic, who suffers a disadvantage arising from a discriminatory provision, criterion or practice (“PCP”) together with persons with the protected characteristic may bring a claim of indirect discrimination;

3. Direct discrimination

- Ensuring that employers and other bodies covered by Part 5 of the 2010 Act may be liable for conduct equivalent to direct discrimination if a discriminatory statement is made regarding recruitment, even when there is not an active recruitment process underway;

4. Equal pay

- Ensuring that an employee is able to draw a comparison for the purposes of equal pay claims with another employee where their terms are attributable to a single body responsible for setting or continuing the pay inequality and which can restore equal treatment, or where their terms are governed by the same collective agreement; and

5. Disability discrimination

- Ensuring that the definition of disability specifically covers a person’s ability to participate in working life on an equal basis with other workers.

To note: with the introduction of these amendments to the Equality Act, legal specialists have claimed that increased equal pay claims and sex discrimination cases within the hospitality sector is more likely.