

## **Working your way through the Equality Bill 2010**

by Tim Kingsbury

For Equality and Diversity practitioners in general, and for Investigators in particular, the Bill introduced a number of welcome changes. In place of (almost) all of the separate pieces of anti-discrimination legislation that have built up over the decades, there is now a single Act that has a harmonised approach to all the different provisions.

What joy! Common concepts and definitions! Well, very largely anyway. As the ECHR said, "An important purpose of [the Bill] is to create a single approach to discrimination against people with different protected characteristics, where this is appropriate. However there are some important differences in the way that discrimination is defined, particularly for disability". So the Bill aims to harmonise and simplify the existing equality laws, and it simplifies and standardises definitions, tests and exceptions; but some specific differences in approach remain for particular 'protected characteristics'.

The Consultation on the Draft Employment Statutory Code is a useful resource because it sets out the guidance that courts and tribunals will use to interpret the law. The Draft Code states its main purpose is "to provide a detailed explanation of the Act and to apply legal concepts in the Act to everyday work-related situations". Helpfully it includes numerous examples that set out the effect of the legislation in practical ways.

While Chapter 2 of the Draft Code explains each of the protected characteristics, of particular importance to investigators is Chapter 3. This provides the definitions and explains 'prohibited conduct' i.e. direct and indirect discrimination, harassment and victimisation. Of particular note is the new concept of combined discrimination, where less favourable treatment is because of (the new phrase that replaces 'on grounds of') a combination of two protected characteristics, such as a person who is a gay Christian or a black woman.

For ease of reference, the explanations of direct discrimination start at page 38 of the Draft Code, indirect discrimination starts at page 75, Harassment at page 107, and Victimisation at page 116. It is packed with helpful examples. Take time to become familiar with it.



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