

A short guide to the proposals

Why is equality important?

Discrimination usually amounts to exclusion in some form. We believe, quite simply, that it is wrong for people to be singled out for different treatment, merely because of personal characteristics.

We want to ensure that everyone is encouraged to realise their potential.

Discrimination is bad for individuals. But it has a negative impact on productivity and profits, too. It denies employers access to valuable knowledge, experience and skills. It causes stress-related illnesses, poor quality work and long-term absences. And formal complaints tie up the time of staff, their managers and trade union representatives. No-one benefits from this cycle of events – particularly if it ends in employees leaving to find a new job or career.

Practical action on equality and diversity can help to avoid these costs. It also brings wider benefits for business. Good recruitment practices often lead to a more diverse workforce. Diversity, in turn, can help access new markets. It can also help improve a company's image as an employer.

We believe that equality and diversity is good for individuals and good for business alike.

The Race and Employment Directives

The Employment and Race Directives were agreed at the end of last year. We took an active part in their negotiation and welcome them.

The Directives require EU member states to introduce legislation to outlaw unfair discrimination on the grounds of race, sexual orientation, religion or belief, disability and age in the fields of employment and training. The Race Directive also applies to areas such as education and goods and services.

Part 1 of this document summarises the main features of the two Directives. We intend to implement them by:

- amending the Race Relations Act (RRA) and Disability Discrimination Act (DDA). Most of the changes will be technical in nature. Although the DDA's exemption for small firms will have to be removed, we had already proposed to do this;
- introducing new legislation to prohibit discrimination in work and training on grounds of sexual orientation, religion and age.

Our aims

We aim to develop effective legislation which will have a real impact in removing unfair discrimination - but without stifling business by imposing unnecessary burdens.

We also want to ensure coherence in new and amending legislation by using the same concepts and wording where practicable. That will remove some of the complexities facing individuals and businesses when allegations of multiple discrimination arise (for example, on grounds of race and religion).

Key points on which we want to hear your views

The most significant aspects of our proposals are summarised below. Further information about the impact of these proposals and options is available in **Part 2** of this document.

Direct Discrimination

We intend to use the definition of direct discrimination already set out in the RRA when preparing new legislation to outlaw discrimination on grounds of sexual orientation, religion and age. The different approach in the DDA will continue, subject to minor adjustment.

Indirect Discrimination

We propose to use the definition of indirect discrimination set out in the Directives when preparing new legislation on sexual orientation, religion and age. Some amendments will also be needed to the RRA definition. We could either make a few technical changes to the existing provision, or replace it completely with the Directives' definition. We are interested in your views on both options. The DDA will continue to require employers to make "reasonable adjustments" in almost all cases where indirect discrimination arises.

Harassment

There are two options when preparing implementing legislation on disability, sexual orientation, religion and age. In order to provide consistency, we could adopt a definition based on the decisions about harassment which have already been made by the Courts under the RRA. Alternatively, we could use the stricter test set out in the Directive, and accept that the definition for race would be different. We are interested to hear your views on both options.

Promoting equal treatment

We think there are good arguments to move, in the longer term, towards a single Equality Commission. Such a commission could offer support to individuals and business covering discrimination on all aspects of equality.

For the short term, we would like to hear your views on how we can best offer both individuals and business advice, support and guidance on the new grounds of sexual orientation, religion and age.

Occupational requirements

We will introduce a general provision in the RRA and in new legislation on sexual orientation, religion and age allowing employers to justify a difference in treatment (recruiting a young or older person, for example) where there is a “genuine and determining occupational requirement”. We would, however, expect employers to make limited use of this flexibility. (There will be special provisions for religious organisations to enable them to preserve their particular ethos.)

Strand specific issues

There are a number of issues which relate to one particular ‘strand’ of equality legislation: race, sexual orientation, religion, disability and age. These are set out in **Part 3**.

Your answers to some of these questions will help us frame clear and workable legislation. We want to know what you think, for example, about defining “religion” and “sexual orientation”. On age, the Employment Directive allows us to justify some differences in treatment. We want to know when you think this might be appropriate. One important issue, for example, is whether employers should still be able to fix a compulsory retirement age at, say, 65.

Other questions refer to issues which we will need to cover in written guidance for employers and individuals. Responses will help us prepare this in a way which meets your needs.

Costs and benefits

We have researched the costs and benefits of implementing the Employment and Race Directives. We calculate that the average implementation cost of our proposals will be £157 per employer. Benefits for employers could amount to between £102 and £567 million, depending on assumptions.

Annex A gives more detailed information about this analysis, and about costs and benefits for individuals, though not all the benefits can easily be expressed in financial terms.

Guidance for employers and individuals

The purpose of legislation is to set minimum standards. But we want to look at other ways of encouraging many more businesses to adopt the standards of the best. It would help if you could let us know about policies which you believe work particularly well and bring benefits for both individuals and business.

If you have any questions about current equality legislation, **Annex C** of this document gives a list of agencies which can offer advice. Business managers can get practical, joined-up advice from a single source by calling Equality Direct on 0845 600 3444.

How to respond

Consultation closes at the end of March 2002. Please let us have your views before then. There is a response form attached to this document. You can also respond via internet through the DTI website. Further information about how you can have your say is given in **Annex B** to this document.

Next steps and timetable

For race, sexual orientation and religion. Your responses will help us prepare draft regulations on race, sexual orientation and religion. We will consult again on these later in 2002 before putting legislation to Parliament.

For disability. We are ending the exemption of small employers from the DDA in October 2004 and also propose to make the other changes to the DDA required by the Employment Directive at the same time. These will include ending other occupational and employment exemptions and omissions from the DDA mentioned in *Towards Inclusion*.

For age. We will need to make full use of the time available – until 2006 – to prepare and introduce new legislation on age discrimination. Your responses will help us develop more detailed proposals for consultation next year.