

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 16: General and Miscellaneous

Schedule 26: Amendments

Equality Act 2006: paragraph 13

Effect

1011. This amendment to the Equality Act 2006 allows the Equality and Human Rights Commission to use its enforcement powers, such as the power to conduct investigations and the power to apply for an injunction, in relation to unlawful direct and indirect discrimination under the Act, including the making of arrangements which would result in direct discrimination, if applied to an individual. It can also use its powers in relation to discrimination arising from disability and discrimination in cases where the relationship between the parties has ended; when an employer asks job applicants prohibited enquiries about disability and health; and to enforce any diversity reporting requirements imposed on political parties using the power in section 106.
1012. It allows the Equality and Human Rights Commission to use its powers whether or not it knows or suspects that an individual has been affected by the discrimination. It makes clear that nothing in the Equality Act 2006 affects an individual's right to bring a claim under the Act.

Background

1013. This amendment partially replaces provisions in previous discrimination law relating to discriminatory practices and discriminatory advertisements. The substantive prohibition against discriminatory practices and advertisements is no longer required as it is covered elsewhere in the Act. This amendment does however extend enforcement by the Equality and Human Rights Commission to cover both direct and indirect discrimination because of any of the protected characteristics, as well as discrimination arising from disability. It also extends the use of the Commission's existing powers to situations where employers ask job applicants prohibited enquiries about disability and health, and to any diversity reporting requirements that may be imposed on political parties.

Examples

- A golf club operates an informal but well-known policy of not offering membership to people from ethnic minority communities, which discourages people from these communities from applying. The Equality and Human Rights Commission may investigate this unofficial discriminatory policy even though it is not aware of particular individuals directly affected by it.
- A Bed and Breakfast (B&B) advertises for customers but includes a statement that it does not welcome people from the Gypsy and Traveller communities. Even though the Equality and Human Rights Commission can take action, an individual who is discouraged from staying at the B&B can still bring a claim in his or her own right.