

## Briefing on ...

### Advice for Branches and Activists

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#### Introduction:

The Equality Bill was finally passed at the beginning of April and is set to become law from this October. Royal Assent for the Bill was given prior to the dissolution of Parliament for the general election.

The legislation will [replace nine laws](#) and more than 100 other measures with one single Act to make it easier for employers and staff to understand their legal rights and obligations.

#### What will it do:

The Bill will bring disability, sex, race and other areas of potential discrimination under one piece of legislation. Most notably, the bill includes a single equality duty for public bodies, including grounds such as sexual orientation and religious belief as well as race, disability and gender.

Proposals also include changes to disability discrimination law and provision to make regulations requiring employers with at least 250 employees to publish information relating to the differences in pay between men and women (expected to come into effect in 2013)

#### The main changes:

##### 1. Gender pay gap audits

The Act will make it possible for the government to require all employers with more than 250 staff to report their gender pay gap from 2013, if sufficient progress on reporting has not already been made voluntarily. The Equality and Human Rights Commission will develop a set of metrics for gender pay reports in consultation with business, unions and

others over the summer, and the Commission will then monitor the progress of reporting within the private sector annually. Public bodies with more than 150 employees will also be required to report on gender pay as well as other equality data including the number of black, Asian and minority ethnic workers, by April 2011.

##### 2. Ban on pre-employment health questionnaires

For the first time, employers will be prevented from asking candidates questions about their health that are unrelated to the job role. It will mean those with mental health issues, a medical condition or a disability will not be forced

to disclose their condition prior to the offer of employment, unless it hinders their ability to do the job. Campaign groups have argued employers regularly discriminate against people with medical conditions, putting people off applying for a job.

### 3. **Ban on discrimination by association**

The Act will extend the law on direct discrimination to include discrimination by association and perception to disability, sex, gender reassignment and age in both the employment field and beyond - for example, to the provision of goods and

services. In essence, this will incorporate the European Court of Justice's July 2008 ruling in the *Coleman v Attridge Law* case into the proposed Bill. Sharon Coleman, a legal secretary with the law firm, lodged a claim after alleging she was subject to harassment and discrimination after asking for time off to care for her disabled son.

### 4. **Positive action in recruitment and promotion**

The Act will enable employers to favour under-represented groups during

recruitment processes - provided the candidates are of equal suitability - to increase the diversity of their workforces.

### 5. **Single equality duty (from April 2011)**

The Equality Act consolidates existing equality law into a single piece of

legislation. The single duty will continue to cover race, gender and disability, but will be extended to cover age, sexual orientation,

### 6. **New rules on what is considered to be a protected belief**

A draft code of practice accompanying the Act explains that vegans, atheists and Scientologists could be given the same

protection against discrimination as religious groups, under the legislation.

### 7. **Diversity in procurement**

Private sector firms bidding for government contracts will now have to publish details of their diversity policies, the government has confirmed. The Act will not seek to impose statutory duties on the private sector to

promote diversity, but will use public sector procurement to hold firms to account. We will need to see how far the new coalition government takes this.

### 8. **Ban lifted on workers discussing pay**

Employers will no longer be able to rely on keeping their pay structures secret. The Act

will ban secrecy clauses in employment contracts, so that women can challenge unfair pay.

### 9. **Enhancing tribunal powers**

Tribunal panels will be given powers under the Equality Bill to order organisations found guilty of discrimination against a single employee to make sweeping changes to their hiring and pay practices.

Currently, tribunals can only offer recommendations to the individual who brings the case, and they often end up leaving the company.

### 10. **Caste discrimination could be outlawed**

The Act paves the way for discrimination centred on caste - or social standing in the

Hindu and Sikh communities - to be made illegal if it is found to be a problem.

#### **Implications for UNISON members:**

There are a number of improvements to the existing legislation that will benefit UNISON members, particularly in equal pay, on disability and the new powers for employment tribunals. New codes of practice are currently being produced and UNISON, at national (UK) level, is actively involved in these discussions.

Meantime, branches should continue to refer to the existing duties and the accompanying Codes of Practice and ensuring that any significant changes to members terms and conditions are subject to Equality Impact Assessments.

Branches need to be aware that there will be aspects of the new legislation that will not have received the support of the Conservatives - the main partners in the new Coalition Government. That potentially means that there could be delays to aspects of the Act coming into force.

Further developments will be advised to branches in the coming months.