

## Equality and diversity

**It is in the best interests of voluntary arts groups to be well-informed on appropriate legislation in the area of equality and diversity – not only to abide by the law, but to go beyond the legal requirements to actively attract and retain new members with a range of different of perspectives and experiences.**

**By promoting equality and diversity within your group you can ensure that all those involved feel valued and heard, and able to contribute to its overall success.**

### Definitions

People often take 'equality' and 'diversity' to mean the same thing, but they don't have the same meaning.

- **'Equality'** is about equal and fair treatment regardless of a person's background, social status or characteristics.
- **'Diversity'** literally means difference, and places positive value on both individual and group differences which benefit and enrich communities.

Unjust or prejudicial treatment of individuals or certain groups on the basis of their characteristics, which contravenes the ethos of equality and diversity, is called 'discrimination'.

### The Equality Act 2010

The Equality Act came into force on 1 October 2010. It brought together over 116 separate pieces of legislation into one single Act that provides a legal framework to protect the rights of individuals and advance equality of opportunity for all.

The Equality Act says that it is against the law to discriminate against someone based on 'protected characteristics':

- age;
- disability;
- gender;
- gender re-assignment;
- marriage or civil partnership;
- pregnancy or maternity;
- race (including colour, nationality, ethnic or national origin);
- religion or belief; and
- sexual orientation.

### How does the Equality Act affect our volunteers and/or paid staff?

It's extremely important that volunteers and paid staff members are aware of how they can and cannot behave, or treat others, while representing your organisation.

Regardless of whether they are volunteers or paid staff members, on the payroll or freelance, anyone representing your group would be deemed as acting on your behalf if they unlawfully discriminate against a participant or attendee, and you may be held legally responsible for what their actions.

However, you will not be held legally responsible if you can demonstrate that:

### National human rights institutions

The Equality and Human Rights Commission (EHRC) in England and Wales was established by the Equality Act 2006, and came into being in October 2007. It has responsibility for the promotion and enforcement of equality and non-discrimination laws, and took over the responsibilities of three former commissions – the Commission for Racial Equality, the Equal Opportunities Commission and the Disability Rights Commission.

The EHRC provides expert information, advice and support on discrimination and human rights issues and the applicable law, and is often the first port of call for individuals with concerns regarding discrimination. It also has the power to carry out investigations when it suspects unlawful discrimination and to intervene in court proceedings as it deems necessary.

In Scotland, the EHRC must work with the Scottish Human Rights Commission (SHRC) in regard to the promotion and protection of human rights.

For detailed information on the situation in Northern Ireland and the Republic of Ireland, on Page 4 of this Briefing.

- you took all reasonable steps to prevent volunteers and paid staff under your authority from acting unlawfully;
- the volunteer or paid staff member in question acted outside the scope of your authority.

Aside from adhering to the law, ensuring your volunteers are aware of the Equality Act will help to foster a positive, welcoming environment within your group and can help to prevent complaints – formal or otherwise – from adversely affecting your group's reputation.

Creating an equal opportunities policy for your group will help to provide clarity on the matter, provide a useful 'go-to' resource for volunteers and reassure group participants that yours is an organisation that takes diversity and inclusiveness seriously.

### Example (adapted from EHRC guidance)

The Equalities Act dictates that if the standards of behaviour you apply to group participants, volunteers, attendees etc. impact negatively on someone with a protected characteristic compared to someone without, you need to be able to objectively justify what you have done.

For example, a voluntary arts group runs a craft workshop for mothers with children. The children are expected to undertake craft activities in a calm and quiet manner, but one child has a learning disability and sometimes shouts loudly. The group accepts that the child doesn't understand when it is appropriate to be loud or quiet, and does not treat the child differently. The group has made a reasonable adjustment to the standards of behaviour it applies.

If, however, the group decided that the child's behaviour was causing significant difficulties for other members, and that they have made all the adjustments they believe to be reasonable, they would have to objectively justify their decision to stop the child attending. If they cannot, this is likely to be considered unlawful discrimination.

## Creating an equal opportunities policy

### How do we write an equal opportunities policy?

An equal opportunities policy is not required by law, but it is good practice for voluntary arts groups to have one. It is also a requirement of most funding bodies, as they wish to ensure the funding will be used to benefit the whole community.

An effective equal opportunities policy needn't be very long or complicated – it simply needs to state that your opportunities and activities are free from prejudice and equally open to all, and to give information on points of contact, should someone feel they've been discriminated against.

When developing your policy, it's important to involve your whole group and to collect their views. If you're hoping to involve a wider range of people in your group, such as members of minority communities or particular age groups, it's a good idea to get feedback from them, too.

A good equal opportunities policy should include the following sections:

- **Equal opportunities statement** – a simple statement demonstrating that your group recognises that some people are discriminated against due to their protected characteristics, and that your group opposes this and has procedures in place to ensure this doesn't happen. It should also include a commitment to regularly review the policy and how it is implemented.
- **Call to action** – include a paragraph that makes it clear that bullying and harassment of any kind is unacceptable within your organisation, and oblige all volunteers and group participants to respect and act in accordance with the policy.
- **Complaints procedure** – include information on what volunteers or participants should do if they feel they've been the subject of, or have witnessed, discrimination. In most instances, this will involve referring them to your organisation's

complaints procedure (see Briefing 155 – Handling complaints), and stipulating that you too will act in accordance with that procedure.

- **Contact information** – include the name and title of the individual within your group who has overall responsibility for your equal opportunities policy.

The National Council for Voluntary Organisations (NCVO) recommends something like the following:

*"This organisation aims to ensure that no volunteer or group participant receives less favourable treatment on the grounds of race, colour, gender orientation, nationality, religion or belief (or lack of belief), ethnic or national origin, age, gender, gender reassignment or marital status, sexual orientation or disability. Procedures are regularly reviewed to ensure that this policy falls in line with up-to-date legislation, and that individuals are treated equally, and on the basis of their relevant merits and abilities. This organisation is committed to a programme of action to make this policy effective and will bring it to the attention of all those involved with the group."*

### What should we do with our equal opportunities policy?

- Make sure your equal opportunities policy can be easily found by all individuals within your group. You might include it on your website, or put a copy on a notice board, for example.
- Make sure all new volunteers and group participants are made aware of the policy when they join.
- Ensure the equal opportunities policy is accessible to all. This may mean creating versions in large print, Braille or as an audio recording.
- Incorporate the policy into training sessions for all staff, volunteers and trustees.

### Do we need to make complicated or expensive adjustments to our premises?

Abiding by equality law may mean changing the way in which services are delivered, removing physical barriers or providing extra support in order to ensure disabled people can participate in the same way as non-disabled people. You have a duty to make adjustments to facilitate this, but the keyword is 'reasonable' – you are not required to do more than is reasonable for you to do.

Many of the adjustments you can make will not be particularly expensive. For example, programmes can be printed in large print, or recorded as MP3s, in order to help those who are visually impaired.

However, you can't wait until a disabled person wants to join your group before making changes – you must consider in advance (and on an ongoing basis) what disabled people might require, and how those with visual, hearing or mobility impairments or learning disabilities would cope using your services or volunteering with your group.

If a disabled person can demonstrate that they encountered barriers that you should have identified and that you could have made reasonable adjustments to avoid this, they can bring a claim against you in court, and you may be ordered to pay them compensation as well as make the reasonable adjustments.

In practice, it can sometimes be hard to predict what might constitute a barrier, and this is again where the word 'reasonable' comes in – you cannot be expected to make adjustments to remove a barrier you were unaware of – as long as you make efforts to do so as soon as you are made aware that it is preventing someone from taking part in your activities. Once you make an adjustment, don't forget to tell people about it! Not only is it part of your duty to do so, but it will encourage a wider range of people to use your group – many of which may still think they're unable to use your service.



### What if our organisation isn't open to everyone?

Some groups by their very nature may appear to discriminate against protected characteristics. For example, a women's craft group might exclude men, while a youth choir would exclude pensioners. In these instances, a group's equal opportunities policy must state that it recognises this and that its products and services are nonetheless available to as many people as possible.

According to the Equality Act 2010, there are a number of exceptions for particular groups.

- If you normally supply services only to people with a particular protected characteristic (such as gay men or those of a particular ethnic background), you are able to refuse to provide the service to someone who does not have that characteristic if you can reasonably prove it would be impractical for you to do so.
- You are allowed to provide services for men or women only provided you can objectively justify doing so and:
  - only men or only women require the service; or
  - if the service were provided for men and women jointly, it would not be as effective; or
  - the extent to which each sex requires the service makes it unreasonably practical to provide separate services for each sex; or
  - the services may be used by more than one person at the same time and a woman might object to the presence of a man (or vice versa); or
  - the services involve physical contact between a participant and someone else, and that participant may reasonably object if the person is of the opposite sex.
- You may refuse to provide a service to pregnant women, or set conditions on the service, because you reasonably believe that providing the service in the usual way would create a risk to the woman's health or safety.

Registered charities are allowed to restrict services to people with particular protected characteristics if an explanation is included in your governing documents, and either it is objectively justified or it is done to prevent or compensate for disadvantage linked to the protected characteristic. However, charities are not allowed to restrict their services on the basis of skin colour.

Religion or belief-based organisations are able to, in certain circumstances, discriminate in the way they operate because of some protected characteristics. In terms of a person's beliefs, a person may be discriminated against because they do not comply with the purpose of the belief organisation, or to avoid causing offence to members of the belief that organisation represents. An organisation could then ask people to sign up to a statement of beliefs in order to become a member.

In terms of a person's sexual orientation, a person may be discriminated against because they do not comply with the doctrine of the organisation, or to avoid conflict with the strongly-held convictions of a significant number of the members of the belief that the organisation represents.

### What should we do if someone says they've been discriminated against?

It is important that your equal opportunities policy contains information on your complaints procedure (see Briefing 155 – Handling complaints).

If a volunteer, guest or group participant believes that you, or someone working under your authority, has unlawfully discriminated against them, they may:

- complain directly to you;
- enlist the services of a third party to help rectify the situation (such as dispute resolution);
- make a claim in court.

You will need to make a realistic assessment of whether what you/your volunteers have or haven't done amounts to unlawful discrimination, and you may need to conduct an investigation into the complaint.

If you decide that the person who complained has been discriminated against, you must decide the best way to solve the issue, and it will be in everyone's best interests to put things right as soon as possible. This may be done simply by an apology and verbal commitment that the same thing will not happen again.

If you decide that no discrimination has taken place, you must tell the person that complained. You don't have to explain how you came to your conclusion, but it may help if you do – your explanation might persuade them that it's not worth pursuing their claim in court.



## What is the situation in Northern Ireland?

### Equality Commission (ECNI) and Human Rights Commission (NIHRC)

The Equality Act 2010 is not applicable in Northern Ireland, and its enactment has resulted in significant differences arising, meaning that marginalised and vulnerable individuals have less protection against discrimination in Northern Ireland than those in England, Wales and Scotland. Full details of discrepancies can be viewed on the [ECNI website](#).

Currently, equality law in Northern Ireland is provided by the following pieces of legislation:

- Equal Pay Act (Northern Ireland) 1970
- Sex Discrimination (Northern Ireland) Order 1976
- Disability Discrimination Act 1995
- Race Relations (Northern Ireland) Order 1997
- Fair Employment and Treatment (Northern Ireland) Order 1998
- Northern Ireland Act 1998
- Equality (Disability, etc) (Northern Ireland) Order 200
- Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003
- Special Educational Needs and Disability (Northern Ireland) Order 2005
- Disability Discrimination (Northern Ireland) Order 2006
- Employment Equality (Age) Regulations (Northern Ireland) 2006
- The Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006

The Equality Commission Northern Ireland recognises the need to streamline and modernise equality law, and has put forward a number of proposals for urgent legislative reform in this area.

## What is the situation in the Republic of Ireland?

### Irish Human Rights and Equality Commission

The main pieces of legislation in the Republic of Ireland are as follows:

- **Irish Human Rights and Equality Commission Act 2014** – provided for the dissolution of the Human Rights Commission and the Equality Authority and the transfer of their functions to the new body above.
- **Employment Equality Act 1998** – prohibits discrimination at

work on a number of grounds, however a section of the act allows a religious-run institution to claim an exemption where they can take reasonable action against an employee to uphold the ethos of their institution.

- **Equal Status Act 2000** – prohibits discrimination on many grounds in the provision of services and goods by commercial companies as well as by state institutions such as the civil service and state agencies. The Act empowered the Equality Authority to monitor and enforce the law regarding equality in both the provision of goods and services and employment.
- **Equality Act 2004** – operates in much the same way as the Equality Act 2010 does in England, Scotland and Wales. The Act allows for positive action to be taken in the workforce in order to promote greater equality on all nine grounds as outlined in the act, including sexual orientation.

## Further Resources

### Voluntary Arts Briefings

Voluntary Arts has a wide range of other Briefings covering useful topics including other regulations and legislation as well as areas such as marketing and funding. Some other relevant resources are listed below:

- *Briefing 155 – Handling complaints*
- *Briefing 149 – Making your performance accessible to people with hearing and sight loss*
- *Briefing 134 – Welcoming speakers of different languages*
- *Briefing 128 – Events checklist: disability and access*
- *Briefing 122 – Reaching out to new audiences*
- *Briefing 113 – Welcoming people with a learning disability to the voluntary arts*
- *Briefing 111 – How inclusive are you?*
- *Briefing 45 – How do I create an equal opportunities policy?*

### Other resources

- UK Government legislation: [Equality Act 2010](#)
- [Equality and Human Rights Commission](#)
- EHRC: [What equality law means for your voluntary and community sector organisation](#)
- [Scottish Human Rights Commission](#)
- [Equality Commission for Northern Ireland](#)
- [Irish Human Rights and Equality Commission](#)
- NCVO (National Council for Voluntary Organisations) - [KnowHowNonProfit guide to Equality and Diversity](#)

**Do you need this publication in an alternative format? Telephone 02920 395395 or email [info@voluntaryarts.org](mailto:info@voluntaryarts.org)**

### Organisation Information:

Voluntary Arts is the operating name of The Voluntary Arts Network (VAN) which is registered in Scotland as Company No. 139147 and Charity No. SC020345. Registered Office: The Creative Exchange, 29 Constitution Street, Edinburgh EH6 7BS.

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