

# Reviewing the Equality Act 2010: Public Consultation

Are you an individual or an organisation? \*

**Organisation**

What is the name of your organisation? \*

**National Secular Society**

Where are you located? \*

**25 Red Lion Square, London WC1R 4RL**

Are you familiar with the Equality Act 2010? \*

**Yes**

Does your work focus on any of the nine characteristics protected under the Equality Act 2010? \*

Please select all that apply.

Age

Disability

Race

☒ **Gender reassignment**

☒ **Marriage or civil partnership**

Pregnancy or maternity

☒ **Religion or belief**

☒ **Sex**

☒ **Sexual orientation**

None of the protected characteristics

If you work with populations protected under the Equality Act 2010, have you attempted to assist them in navigating the legislation? \*

**Yes**

If yes, please describe the experience and any challenges that arose.

We work on a daily basis to support members of the public who are being discriminated against by religious organisations.

In most cases, the people who approach us are discriminated against on the grounds of religion or belief. However, we occasionally also assist members of the public who are discriminated against on the basis of sex, sexual orientation or gender reassignment. Rarely, cases may involve other protected characteristics too.

The biggest challenge that arises is that specific exemptions in the Equality Act 2010 made to accommodate religious beliefs and religious preferences result in discrimination. This kind of discrimination is very difficult to challenge because the exemptions mean the discrimination isn't necessarily unlawful.

Has your organisation taken steps to implement the Equality Act 2010 internally? \*

**Yes**

If yes, please describe how the Equality Act 2010 has been implemented within your organisation.

We are fully in compliance with the Equality Act.

Should the Equality Act 2010 be reviewed? \*

**Yes**

If yes or maybe, please describe how you think the Equality Act 2010 can be improved.

We would like to see a review of the religious exemptions contained within the Equality Act 2010 (EA) with a view to reducing discrimination based on religion or belief.

Many exemptions in the EA cause unnecessary discrimination, fuel segregation, and reduce opportunities for people according to their protected characteristics: exactly what the Act was intended to prevent.

Many of these exemptions relate to schools. Schedules in the EA permit state-funded schools to treat pupils and staff unfavourably on the basis of religion or belief. Schools with a religious character (faith schools) are granted exceptions to the Act that makes it unlawful to discriminate against, harass or victimise a pupil or potential pupil. Specific exceptions also permit unjustifiable levels of religious discrimination in the employment practices in schools designated as having a religious character. Faith schools are also permitted to explicitly teach that same-sex relationships, sex outside of marriage, abortion and contraception are morally wrong, which can be discriminatory on the grounds of sexual orientation, sex, marriage/civil partnership, and gender reassignment.

Three particularly egregious areas we wish to highlight are: pupil admissions; the employment of teaching staff; and the provision of worship.

### **PUPIL ADMISSIONS**

An exception to the EA permits schools with a religious character to operate an admissions policy that selects children on religious grounds when the school is oversubscribed, though a school's policy is set differently, depending on its type. Voluntary aided schools and many academies designated as having a religious character are able to give priority for up to 100% of their places on faith-based admissions criteria.

Admissions arrangements that discriminate on grounds of religion or belief disadvantage local children whose parents are non-religious or of a different religion to the school's religious designation. Many parents find that because of their lack of religious belief, they are unable to send their children to their local state school, which is often the most appropriate school for their needs.

Religious selection in schools is discriminatory, entrenches religious segregation in wider society, and often leads to ethnic and socio-economic segregation too.

The EA should be amended to ensure that no publicly funded school is permitted to prioritise pupils in admissions on the basis of baptism, religious affiliation or the religious activities of a child's parent(s).

### **EMPLOYMENT**

EA exemptions permit many faith schools to apply a religious test in appointing, remunerating and promoting all teaching staff. In voluntary controlled faith schools a religious test can be applied to one fifth of positions – including the headteacher – which are classified as 'reserved'.

We believe the levels of discrimination permitted in faith schools against non-religious teachers and those not of the faith of the school goes beyond that which is permitted by European Directive 2000/78/EC, which establishes a general framework for equal treatment in employment and occupation.

The exemptions should be removed and the appointment of teachers by faith schools should be subject to the current occupational requirement exception set out in the EA, meaning a genuine occupational requirement would need to be demonstrated before a school could discriminate on religious grounds when hiring staff.

### **WORSHIP**

The law in England & Wales provides that children at all maintained schools “shall on each school day take part in an act of collective worship”. Even in schools with no religious designation, the worship must be “wholly or mainly of a Christian character”.

It is widely recognised that the collective worship requirement is an anachronism; the legacy of a society unrecognisable from the diverse and pluralistic UK of today where citizens hold a wide variety of religious beliefs, and increasingly, no religious beliefs whatsoever.

Schools should be under a duty to ensure that all aspects of the school day are inclusive. The EA exception that enables schools to impose worship should be repealed and the requirement to hold acts of worship abolished.

## **CASTE**

The current list of protected characteristics does not include caste. Caste-based discrimination is very real and very damaging to the lives of those deemed to be a 'low caste'. Research has found evidence of caste-based discrimination, harassment and bullying present in employment, education and in the provision of services. There exists no justification whatsoever for any form of caste-based discrimination.

The UK Government has failed to comply with a UN recommendation in 2012 to legislate to outlaw discrimination on the grounds of caste. It has declined to legislate despite receiving a reminder from the Committee on the Elimination of Racial Discrimination in 2016 and a direction from the UK Parliament to do so.

Instead, it purports to believe that protection should be provided through the evolution of case law, which may never happen and, even if it does, may not be adequate.

The UK should therefore comply with its treaty obligations in respect of caste discrimination by amending the Equality Act to outlaw discrimination on the grounds of caste.

More information about the issue of caste discrimination can be found on our website:

<https://www.secularism.org.uk/outlaw-caste-discrimination/>

Could you provide any real-life case studies we could employ in making the case to review the Act? If yes, please explain the nature of the case(s).

Subject to anonymisation of personal information.

We keep records of casework and since 2017 we have dealt with over 200 hundred different cases, including many relating to religious discrimination.

Occasionally individuals we help permit us to publish a case study of their issue online. Examples of some more recent case studies include:

<https://www.secularism.org.uk/opinion/2018/12/my-childrens-school-has-become-christian-by-default>

<https://www.secularism.org.uk/opinion/2018/06/a-christian-theatre-company-promoted-abstinence-in-my-daughters-school-it-was-worth-challenging-it>

We would also be willing to provide anonymised information about some of the other case studies we have worked on that relate to discrimination based on protected characteristics.

Would you be willing to provide evidence to MPs? This would involve attending an evidence session in Parliament.

**Yes**