



# **FIFE CENTRE FOR EQUALITIES**

**Addressing issues, Exercising Rights:  
Equality Act 2010 Workshop / Toolkit  
Development**

Thursday 15 November 2018

New Volunteer House,

16 East Fergus Place,

Kirkcaldy KY1 1XT



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# Outline

## Workshop Aims:

Inclusive Communication Workshop is a one-day course, aims to expand your thinking about inclusive communication as well as to help you to develop strategies in tackling communication barriers.

**Fife Centre for Equalities (FCE)** works with the protected characteristics under the Equality Act (age, disability, gender reassignment, marital or civil partnership status, pregnancy and maternity, religion, sex, sexual orientation).

FCE also works with additional groups facing disadvantage such as carers, homeless people, households facing economic inequality (*Fairer Fife*), migrants, people in care or looked-after, refugees and asylum seekers and people who are undocumented, forced, smuggled or victims of trafficking.

## Outcomes

- Better understanding of the Equality Act 2010;
- Increased awareness and ability to identify issues with an Equality element;
- Increased knowledge of different types of discrimination; and of disability discrimination

## To decide / co-design

- Guide and Toolkit for disabled people and advocates to record and prepare conversations on exercising their rights

# Programme

14:00	Welcome
14:00	Equality Act 2010: The Basics
14:50	Break
15:00	Toolkit Development
15:45	Evaluations, Q&A
16:00	End

## What is the Equality Act 2010?

The Equality Act 2010 joins up nine main pieces of legislation into one legal framework and a single Act of (UK) parliament to simplify legislation and advance discrimination law.

There are several concepts of equality in the document, including:

**Equality of Autonomy** – giving everyone the capacity to make decisions affecting their lives

**Equality of Process** – giving everyone the rights to be treated with dignity and respect

**Equality of Opportunity** – giving everyone equal chances to compete

**Equality of Outcome** – giving everyone approximately the same life outcomes

## Who is protected?

The Equality Act 2010 simplifies, strengthens and harmonises the current legislation to provide Britain with a new discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society. Everyone in the UK is protected by the Act.

The “protected characteristics” under the Act are (in alphabetical order) highlighted below:

### Age

Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds).

### Disability

A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

### Gender reassignment

The process of transitioning from one gender to another.

### Marriage and civil partnership

Same-sex marriage is legal in the United Kingdom, with the exception of Northern Ireland. Same-sex couples can also have their relationships legally recognised as 'civil partnerships'. Civil partners must not be treated less favourably than married couples (except where permitted by the Equality Act).

## Pregnancy and maternity

Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.

## Race

It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

## Religion and belief

Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

## Sex(Gender)

A man or a woman.

## Sexual orientation

Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.

## What behaviour is unlawful?

Under the Act people are not allowed to discriminate, harass or victimise another person because they have any of the protected characteristics. There is also protection against discrimination where someone is perceived to have one of the protected characteristics or where they are associated with someone who has a protected characteristic.

- **Discrimination** means treating one person worse than another because of a protected characteristic (known as direct discrimination) or putting in place a rule or policy or way of doing things that has a worse impact on someone with a protected characteristic than someone without one, when this cannot be objectively justified (known as indirect discrimination).
- **Discrimination arising from disability** – section 15 of the Equality Act 2010 makes it unlawful for an employer to treat an employee unfavourably because of something “arising in consequence of” his or her disability where the employer knows, or could reasonably be expected to know, that the employee has a disability.
- **Harassment** includes unwanted conduct related to a protected characteristic which has the purpose or effect of violating someone’s dignity or which creates a hostile, degrading, humiliating or offensive environment for someone with a protected characteristic.
- **Victimisation** is treating someone unfavourably because they have taken (or might be taking) action under the Equality Act or supporting somebody who is doing so.

## Who has responsibility under the Act?

All public organisations in the UK have an equality duty under the Equality act. This covers all levels of government and service delivery.

- Government departments
- Service providers
- Employers
- Education providers (Schools, FHE colleges and Universities)
- Providers of public functions
- Associations and membership bodies
- Transport providers

It is important to know that **any** organisation delivering a public service (e.g. private company or third sector organisation) is also bound by the Equality Act. Public Sector organisations have both a Generic Duty and a Specific Duty under the equality act (more details on this at:

- <https://www.equalityhumanrights.com/en/commission-scotland/public-sector-equality-duty-scotland>).

## Authorities to which this applies to in Fife

The organisations listed below all have a duty to create an equality plan that is made available publicly.

- Fife College
- Fife Council
- Fife Health and Social Care Partnership
- Fife Education Authority
- Fife Licensing Board

- NHS Fife
- University of St Andrews

### **[National and local]**

- Accountant in Bankruptcy
- Disclosure Scotland
- Education Scotland
- Police Scotland (Chief Constable of)
- Scottish Children's Reporter Administration
- Scottish Courts and Tribunals Service
- Scottish Criminal Cases Review Commission
- Scottish Prison Service
- Scottish Public Pensions Agency
- Scottish Enterprise
- Scottish Environment Protection Agency
- Scottish Fire and Rescue Service
- Scottish Fire and Rescue Service (Chief Officer of)
- Scottish Funding Council
- The Scottish Legal Aid Board
- Scottish Ministers
- Scottish Natural Heritage
- Scottish Police Authority
- Scottish Qualifications Authority
- Scottish Social Services Council
- Scottish Water
- Skills Development Scotland
- South-East of Scotland Transport Partnership (SESTRAN)
- Sportscotland (Scottish Sports Council)
- State Hospitals Board for Scotland
- Student Awards Agency for Scotland
- Transport Scotland
- VisitScotland

## How does this apply for Disability?

All public organisations in the UK have an equality duty under the Equality act. This covers all levels of government and service delivery.

## Equality Act 2010 and Disability Discrimination

Under the Equality Act 2010, a person must not be discriminated against because of:

- Having a disability
- Someone else thinking you have a disability (discrimination by perception)
- Being connected to someone with a disability (discrimination by association)

Under the act, no person should be harassed for being disabled, or victimised for complaining about disability discrimination they have experienced.

Also, **positive** discrimination, is not unlawful – this means treating a disabled person more favourably than a non-disabled person. This also applies between disability groups, e.g. it is legal to require that a worker for in deaf support organisation is a deaf British Sign Language user.

# What else does the Equality Act protect against?

## Health screening

Employers cannot ask job applicants about their health or disability until they have a job offer, except in specific circumstances where the information is might be a requirement of the job (e.g. physically intensive or high-risk work).

## Reasonable Adjustments Duty

This duty contains three requirements that apply in situations where a disabled person would otherwise be placed at a substantial disadvantage compared with people who are not disabled. There are three requirements:

- 1) Changing the way things are done (equality law talks about where the disabled job worker is put at a substantial disadvantage by a provision, criterion or practice of their employer).
- 2) Making changes to overcome barriers created by the physical features of a workplace.
- 3) Providing extra equipment (which equality law calls an auxiliary aid) or getting someone to do something to assist you (which equality law calls an auxiliary service).

For more information about the Equality Act 2010:

- <https://www.equalityhumanrights.com/en/equality-act/equality-act-2010>.

# Addressing Issues, Exercising Rights:1

## **Attempt to resolve the issue yourself (and evidence this)**

1. Address the issue positively, begin a conversation about your rights.
2. By telephone call or face-to-face conversation, discuss all the following:
  - a. Start the conversation by explaining you are in a situation where think your rights are not being respected and that you want to work to resolve this.
  - b. Describe what happened
  - c. Describe the specific rights you consider breached
  - d. Use the wording and categories of the Equality Act 2010 (discrimination , harassment, victimisation, adjustment, dignity etc)
  - e. Consider doing this first before applying the Human Rights 1998 act – it is quicker and simpler in principle (as of November 2011)
3. Describe the issue clearly and never use abusive / inflammatory language – this works against you and can invalidate the process. Make sure to make notes before, and include all the points below:
  - a. names and job titles of people involved
  - b. date and time of the incident
  - c. location of incident or issue
  - d. describe how the incident affected you
  - e. what you want the organisation to do now
  - f. ask when you expect a reply
  - g. record the date and time of complaint
  - h. (optional) write down and send points above in a letter
4. If there's no outcome, make a formal complaint.

- a. as above, but using the organisation's formal procedure
- b. Keep evidence
- c. Seek further advice / support from EHR organisations (e.g. FCE – submit a [Community Concern](#))

Addressing Issues, Exercising Rights:2  
**Attempt to resolve the issue without going to court (and gather more evidence)**

## **Take a solution-focussed approach to conflict resolution for Equality**

Solution-focussed equality-related conflict resolution requires a collaborative process of discovery and learning to create mutual solution-finding. This is difficult to make happen if both parties cannot be open and are able to understand something of the other's perspective.

In our experience, there are simple guidelines to help gain perspective that can make a big difference at all levels. Below are some suggestions that we think can be helpful in many cases:

## **A basic conflict resolution to progress Equality for all:**

1. Focus on learning – for you and others
2. Practice dialogue – avoid monologues
3. Suspend judgment while listening
4. Be authentic and honest
5. Use “I am” or “I feel” instead of “You are” or “You did” statements;
6. Explain cause and effect:
  - a. “When [this happens], then [I experience...]
7. Engage other people involved:
  - a. Talk to them, not to yourself or your problem
  - b. Always try to ask problem-solving questions
  - c. Paraphrase their concerns to check understanding
  - d. Acknowledge that you’ve listened to their story
  - e. Add your concerns
  - f. End with a problem-solving question (So, how can we ...).
  - g. Discuss implications, so you can warn others and yourself of issues and not threaten
8. Build relationship
  - a. Build connections
  - b. Admit mistakes
  - c. Allow face saving
9. Keep a record of attempting this (letter, email etc)

# Addressing Issues, Exercising Rights 3

## Contact your representative(s)

1. **Local Councillors** represent you on Fife Council that is responsible for **local services and policy**, including **planning, transport, roads** (except trunk roads and motorways), **public rights of way, education, social services** and **libraries**.
2. **MSPs** represents you in the Scottish Parliament, that is responsible for devolved matters including **education, health, agriculture, justice** and **prisons**.
3. **MPs** represent you in the House of Commons, that responsible for making **laws in the UK** and for overall scrutiny of **all aspects of government**.
4. **MEPs** represent you in the European Parliament and scrutinise proposed **European laws, budget** and oversight of its decision-making bodies.

### Who are they?

Use the Fife Council, Scottish Parliament, UK Parliament and European Parliament websites to find out your representatives based on your postcode. There are also all-in-one tools as:

- <https://www.theyworkforyou.com>

## Addressing Issues, Exercising Rights 4

### **Take advice on your case and its implications of going to court**

1. Be aware that costs may be involved. (contact for more more info: Legal Aid / Fife Law Centre)
2. Remember that only the 'victim' of a human rights breach can take legal action
3. A 'victim' means an individual, group of people, company or other organisation
4. Interest groups and charities usually cannot take legal action
5. Winning a court case can result in:
  - a. financial compensation or damages,
  - b. a declaration that your rights have been breached
  - c. an order overturning the decision you have complained about (i.e. a reduction)

### **You do not have to go it alone: access support!**

- PeopleFirst  
<http://peoplefirstscotland.org>
- Fife Advocacy Forum  
<https://fifeadvocacyforum.org.uk/>
- Scottish independent Advocacy Alliance  
<https://www.siaa.org.uk/>
- Scottish Centre for Conflict Resolution  
<https://scottishconflictresolution.org.uk>
- Scottish Mediation  
<https://www.scottishmediation.org.uk/>
- Chartered Institute of Arbitrators  
<http://www.ciarb.org/our-network/great-britain/scotland/>

## Key References:

- [EHRC Exercising your human rights](#)
- [ECHR Online – Categories of victims](#)

# About Fife Centre for Equalities

Fife Centre for Equalities (FCE), funded by Fife Council, started in 2014 with the **vision** to inspire and enable everyone we work with to take action that makes Fife a more equal, fairer place to live, work and study.

FCE's **mission** is to develop a harmonised approach to build a collective voice to champion equality, diversity, inclusion and social justice.

Our **values** are to work with honesty, integrity, respect and transparency, and strive to demonstrate a fully inclusive approach in everything we do. We want everyone we work with to share these values in the belief that they will help make Fife a fairer and more equal place.

## Contact:

# Fife Centre for Equalities

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Email: [info@centreforequalities.org.uk](mailto:info@centreforequalities.org.uk)

Web: [centreforequalities.org.uk](http://centreforequalities.org.uk)

## Opening Hours:

Monday-Friday, 09:00 – 17:00