

# Everyday Equality: challenging discrimination in welfare benefits

## Is it discrimination?

Equality Act 2010 says what is unlawful discrimination.

Unlawful discrimination is unfair treatment based on a protected characteristic

The protected characteristics are:

- Age
- Disability
- Marriage / civil partnership
- Pregnancy / maternity
- Race
- Religion or belief
- Sex
- Sexual orientation
- Transgender

### What happened?

- treated differently and worse
- an apparently neutral policy has a different impact + disadvantage
- harassed or subjected to an intimidating environment
- treated unfavourably after complaint about discrimination
- something creates a barrier or disadvantage for a disabled person
- a disabled person is treated unfavourably

direct discrimination

indirect discrimination

harassment

victimisation

a failure to make reasonable adjustments

discrimination because of something arising in consequence of disability

DWP and other public authorities must not discriminate when they provide services or carry out public functions

## Practical problem solving using equality rights

Unlawful discrimination is unfair treatment based on a protected characteristic

The Equality Act 2010 can help you achieve practical solutions for your clients, such as:

- an apology for poor treatment
- compensation for injury to feelings and distress
- a reasonable adjustment to a policy or process for disabled clients (changes to a Claimant Commitment, or more support)
- a change in policies and procedures
- better treatment

“Where, after all, do universal human rights begin? In small places, close to home - so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighbourhood he lives in; the school or college he attends; the factory, farm, or office where he works. Such are the places where every man, woman, and child seek equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world.”

Eleanor Roosevelt

The Equality Act is a very powerful tool to improve the lives of thousands of people. It can be used with public law and human rights.

### Using equality rights in welfare benefits advice

Unlawful discrimination is unfair treatment based on a protected characteristic

The Equality Act might help when your client:

- has been sanctioned because they couldn't meet the requirements of their claimant commitment
- is having problems with maintaining their UC online account
- needs a scrutiny decision to be made
- is requesting a home visit for an assessment
- has had multiple sanctions
- has complex needs
- is in a vulnerable situation.

The DWP are a public authority and service provider. They have a duty not to discriminate and they must comply with the Equality Act 2010.

The DWP have a positive anticipatory duty to make reasonable adjustments for disabled people generally. They must take steps to avoid causing disadvantage for disabled people.

## Help with using equality rights in welfare benefits

### **EHRC Advisers Support Helpline**

- provides advice on discrimination & human rights issues for advisers & solicitors: staffed by lawyers
- it is not for individual members of the public.

<https://www.equalityhumanrights.com/en/equality-and-human-rights-helpline-advisers>

**England:** 0161 829 8190 **Wales:** 029 2044 7790

Open Monday to Friday, during core office hours.

### **EHRC Legal Support Project**

- advice & funding for individual social security discrimination claims
- applications from solicitors & specialist advice centres only
- must show a potential breach of part 3 Equality Act 2010.

**Email:** [housingandsocialsecurity@equalityhumanrights.com](mailto:housingandsocialsecurity@equalityhumanrights.com)

<https://www.equalityhumanrights.com/en/legal-casework/legal-support-project/legal-support-project-housing-and-social-security>

### **Civil Legal Advice Helpline**

- provides legal advice on discrimination issues to people who are eligible for legal aid
- eligibility check: <https://www.gov.uk/check-legal-aid>
- access to the service is via the CLA Gateway.

<https://www.gov.uk/civil-legal-advice>

**Telephone:** 0345 345 4 345 **Minicom:** 0345 609 6677

Monday to Friday: 9am to 8pm, Sat: 9am to 12:30pm

### **Equality and Advisory Support Service (EASS)**

- advises and assists individuals on equality and human rights issues, across England, Scotland and Wales
- can support people who want informal dispute resolution
- does not provide legal advice.

<http://www.equalityadvisoryservice.com>

**Freephone:** 0808 800 0082 **Text phone:** 0808 800 0084

Monday to Friday: 9am to 7pm, Sat: 10am to 2pm