

Equality Act 2010

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CATEGORY:

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The Government Equalities Office has confirmed that the majority of the Equality Act will come into force on 1 October 2010. (Not all of the draft provisions of the Equality Act will be coming into force on that date: the Government is still consulting on how best to implement the new single public sector equality duty (which extends existing duties to cover all discrimination strands) and considering whether (and, if so, when) to introduce provisions including the socio-economic duty on public authorities and those addressing positive action).

In advance of this, the Equality and Human Rights Commission ('**EHRC**') published its first tranche of interpretative guidance, looking at employment, public functions, associations and voluntary/charity/community organisations (a link to the guidance is [here](#)). Specific guidance for voluntary and community sector organisations (including charities and religious or belief organisations) can be found [here](#).

However, this general guidance does little to clarify how the new Act's 'charitable exemption' (which requires the charity to show that any restriction on its beneficiary class is addressing a 'disadvantage' or a 'legitimate aim') will be interpreted in practice. An EHRC Code of Practice is awaited; in addition, the Charity Commission has promised its own guidance, but it is not clear whether this will be provided before or after the majority of the Act's provisions come into force on 1 October.

Pending that guidance, the High Court has reviewed the correct interpretation of the proportionality test in the previous sexual orientation discrimination legislation (the decision will also be relevant to the Equality Act). The charity Catholic Care had applied to amend its constitution in order to restrict its adoption services to heterosexual applicants. Interpreting the provision, the Court found the charity should be allowed to discriminate only if it could show 'particularly weighty and convincing' reasons why the proposed discrimination would be a proportionate means of achieving a legitimate aim (otherwise, it would breach the European Convention on Human Rights). The Commission's decision, applying the principles laid down by the Court, can be found [here](#).