1. **Introduction**

The Equality Act 2010 brings together, harmonises and, in some respects, extends the 9 main equalities laws and over 100 regulations which existed prior to its introduction. It's main clauses took effect from 1st October 2010. The relevant laws and regulations in force previously have been repealed.

2. **Protected characteristics**

There are nine protected characteristics:

1. Age
2. Disability
3. Gender reassignment
4. Marriage and civil partnership
5. Pregnancy and maternity
6. Race
7. Religion or belief
8. Sex
9. Sexual orientation.

3. **Protections provided**

The law protects people from:

* Direct discrimination
* Discrimination by association
* Discrimination by perception
* Indirect discrimination
* Harassment
* Victimisation
* Discrimination arising from disability.

It also provides for positive action to be taken and for carers to be protected.

**Direct Discrimination**

Direct discrimination arises when someone is treated less favourably than another person because of a protected characteristic they have or are thought (rightly or wrongly) to have or because they associate with someone who has a protected characteristic.

**Associative discrimination**

Associative discrimination is direct discrimination against someone because they associate with another person who possesses a protected characteristic. This provision will help to provide protection for carers, amongst others.

**Perceptive discrimination**

Perceptive discrimination is direct discrimination against individuals because others think that they possess a particular protected characteristic. This applies even if the person does not actually possess the characteristic.

**Indirect discrimination**

Indirect discrimination happens when there is a rule, policy or practice that applies to everyone but which particularly and/or disproportionately disadvantages people who share a particular protected characteristic.

Indirect discrimination can be justified if the bureau can show that it acted reasonably in managing the bureau ie that the action taken was a proportionate means of achieving a legitimate aim in a fair, balanced and reasonable way. The bureau must first, however, determine whether there is any other way to meet the objectives which would not have a discriminatory effect which is less likely to disadvantage people. If there is a discriminatory effect, the sole aim of reducing costs is likely to be unlawful. Similarly, a justification based solely on resources is unlikely to be sufficient.

Indirect discrimination covers all protected characteristics except pregnancy or maternity, where treatment is only discriminatory if the treatment of the employee is ‘unfavourable’.

**Harassment**

Harassment is unwanted behaviour related to a protected characteristic that has the purpose or effect of violating a person’s dignity or creating an intimidating, hostile, degrading or humiliating or offensive environment for them. Harassment applies to all protected characteristics except for pregnancy and maternity and marriage and civil partnership. However, because of the overlap with sex and sexual orientation, bureaux should assume the same protection will be given to people with these characteristics as for others.

People can complain about behaviour that they find offensive, even if it is not directed at them and the complainant need not possess the relevant protected characteristic themselves. People are protected from harassment because of perception and association.

**Victimisation**

Victimisation occurs when an employer or service provider treats someone badly because they have made a complaint or supported a complainant to make a complaint about discrimination or harassment or because the service provider or employer thinks they are doing or may do this. The protection against victimisation also applies to someone supporting someone else to make a discrimination claim. A person is not protected from victimisation if they maliciously made or supported an untrue complaint.

There is no need for the victim to show that they have been less favourably treated than someone who has not made or supported a complaint under the Act. They only need to show that they have been treated badly.

Post-employment victimisation is also unlawful, for example in the provision of employment references.

**Discrimination arising from a disability**

Discrimination arising from a disability arises when a disabled person is treated unfavourably because of something connected with their disability and the unfavourable treatment cannot be justified, ie cannot be shown to be intended to meet a legitimate objective in a fair, balanced and reasonable way. This discrimination can only occur when a service provider or employer can reasonably be expected to know that the person is disabled. Discrimination arising from a disability is discrimination because of the effect of a disability, rather than on grounds of the disability itself.

4. **Positive Action**

Some people with protected characteristics can be disadvantaged or under-represented in some areas and ‘proportionate steps’ can be taken by service providers and employers to address this which is called positive action. There is, however, no requirement to take positive action. There are no restrictions as regards treating disabled people more favourably than non-disabled people and it is permitted to take steps to meet the needs of people with a particular disability.

5. **Roxburgh & Berwickshire CAB as an employer**

**General**

The Act applies to the following activities of bureaux as employers:

* Recruitment
* Terms and conditions of employment
* Promotion
* Transfers
* Dismissals
* Training
* Retirement
* Discipline and grievance
* Access to any benefits, facilities or services.

In particular, the bureau needs to:

* Ensure that equality and diversity policies refer to all protected characteristics.
* Review policies on an on-going basis, particularly where they relate to recruitment and selection; training; pay; bullying and harassment; and redundancy.
* Train and inform all staff about equality, diversity and inclusion.
* Take reasonable steps to prevent harassment.

**Disability**

Roxburgh & Berwickshire Bureau are required to make reasonable adjustments i.e. to take such steps as are reasonable, to prevent any arrangements or physical features of its premises from placing a disabled job applicant or employee at a substantial disadvantage compared to individuals who are not disabled.

Reasonable adjustments may include the provision of equipment, adaptations to buildings, changes to work patterns, continuing payment of contractual sick pay, altering working hours, allocating some duties to another person, transferring the person to fill an existing vacancy, changing the place of work, allowing time off for treatment or rehabilitation, providing training, modifying procedures or providing supervision and support.

Reasonableness is measured on the basis of the extent to which the adaptation would help the individual weighed against the difficulties to the employer in taking this step.

In relation to recruitment, there is no obligation on an employer to discover whether a job applicant has a disability but, where an employer could reasonably be expected to know that the applicant is disabled, there is a duty to make reasonable adjustments during the selection process.

**Sex**

Equal pay is the most common issue of sex discrimination. In order to make an equal pay claim, a claimant would be making a case that they would have received better remuneration from their employer if they were of a different sex.

6. **Roxburgh & Berwickshire Bureau as providers of a service**

It is unlawful for those providing services e.g. bureaux, to discriminate in the provision of those services in any of the following ways:

* Refusing to provide or deliberately withholding services generally available to the public.
* Providing inferior services or the same services by inferior means.
* Providing services on disadvantageous or inferior terms.

Service providers unlawfully discriminate if they treat someone possessing a protected characteristic less favourably than others would be treated in similar circumstances and this cannot reasonably be justified.

**Disability**

Service providers such as bureaux are required to make changes (reasonable adjustments) where needed to improve their services for disabled customers or potential customers. The legal requirements cover making reasonable changes to the way that things are done (eg policy changes), the built environment and that cannot be made accessible through reasonable adjustments, it may be a reasonable adjustment to provide the service at a different venue, including a home visit.

Reasonable changes are required wherever a disabled client or potential client would otherwise be at a substantial disadvantage compared with a non-disabled client. What is reasonable depends on all of the circumstances, including the cost of the adjustment, the potential benefit that it may bring to other clients, the resources the bureau has and how practical the changes are.

The Act requires service providers to think ahead and take steps to address barriers that may impede disabled people. Bureaux should not wait until a disabled person experiences a difficulty.

7. **Sources of Assistance**

The Equalities and Human Rights Commission has published non-statutory guidance on the Act and statutory codes of practice – the Code of Practice on Employment and the Code of Practice on Equal Pay.

The Equality Advisory and Support Service is a national helpline which is able to advise individuals on issues relating to discrimination and human rights.

The telephone number is 0808 800 0082 (0084 for text phone).

More information is available on their website.