

An explanation of positive action in the Equality Act 2010

Introduction: what is positive action?

- Describes steps you can take to provide services to treat people fairly¹
- Relates to protected characteristics defined in The Equality Act 2010
- Defines what differences exist – what is legal and what is illegal

What is Illegal practice

1. **Direct discrimination** is where a service provider provides less favourable treatment to a person with a particular protected characteristic compared to another person
2. **Indirect Discrimination** is where a service provider implements a provision, criteria or practice that creates disproportionate disadvantage to a person with a particular protected characteristic as compared to those who do not share that characteristic
3. **Positive discrimination** is where an action treats a person or group of people better just because of their protected characteristic

What is Legal practice

- **Positive Action** is a lawful action where a service provider either seeks to overcome or minimise disadvantage or meets the needs of a person with a protected characteristic

To consider and use positive action you need to evidence the following:

Would a person reasonably think? (could be any of the following)

- Potential users suffer a disadvantage when trying to participate because of their protected characteristic
- Potential users have differing needs to other users when trying to use / engage in services, goods or facilities
- Participation in your service / activity by a person with a protected characteristic is disproportionately low (compared with the demographics of your community and other users)

Positive Action would need to achieve at least one of the following

- Enabling or encouraging people (with a protected characteristic) to overcome or minimise their disadvantage
- Meeting a person's (with a protected characteristic) different needs
- Enabling or encouraging more participation by people with a protected characteristic

Successful Positive Action would:

- Ensure we have implemented services through proportionate means that achieve legitimate aims
- Demonstrate that the actions taken seek to address the reasons for the original disadvantage
- Be continually monitored – as the imbalance could be redressed thus positive action would no longer be required and would become potentially positive discrimination
- Be communicated to ensure customers know why there are differences in service provision

¹ Treating people fairly doesn't mean treating people in the same way. People may need to be treated differently to achieve an equal and fair outcome