

# Understanding Equality for Managers

Powys Teaching Health Board  
Management Training



Service Lead  
for Welsh Language and Equality

# Introduction: What is Equality?

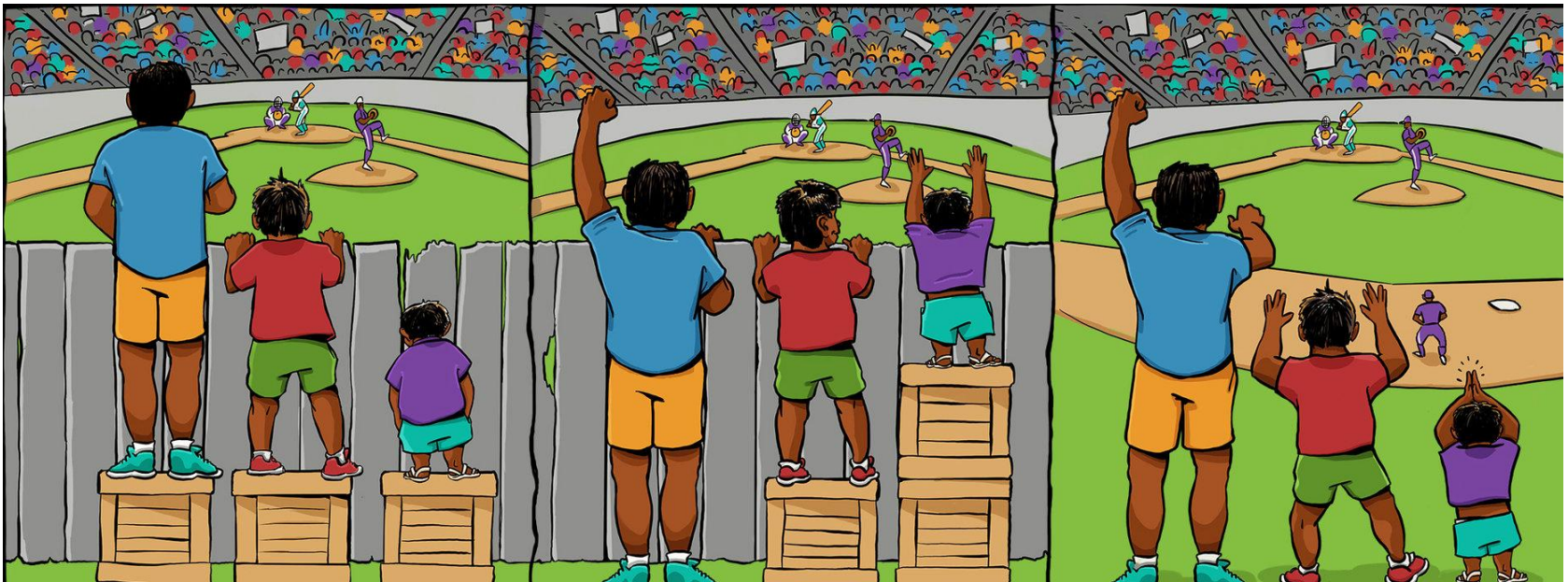
## Equality Means...

Treating everyone the same.

Everyone getting the same outcome.



# What is Equality?



# This Session

Part 1: The Equality Act (2010)

Part 2: Discrimination - Direct & Indirect

Part 3: Disability and Reasonable Adjustments

Part 4: Harassment

Part 5: Diversity & Inclusion and Anti-Racism

# Part 1:

# The Equality Act (2010) Basics

# Part 1: The Equality Act (2010)

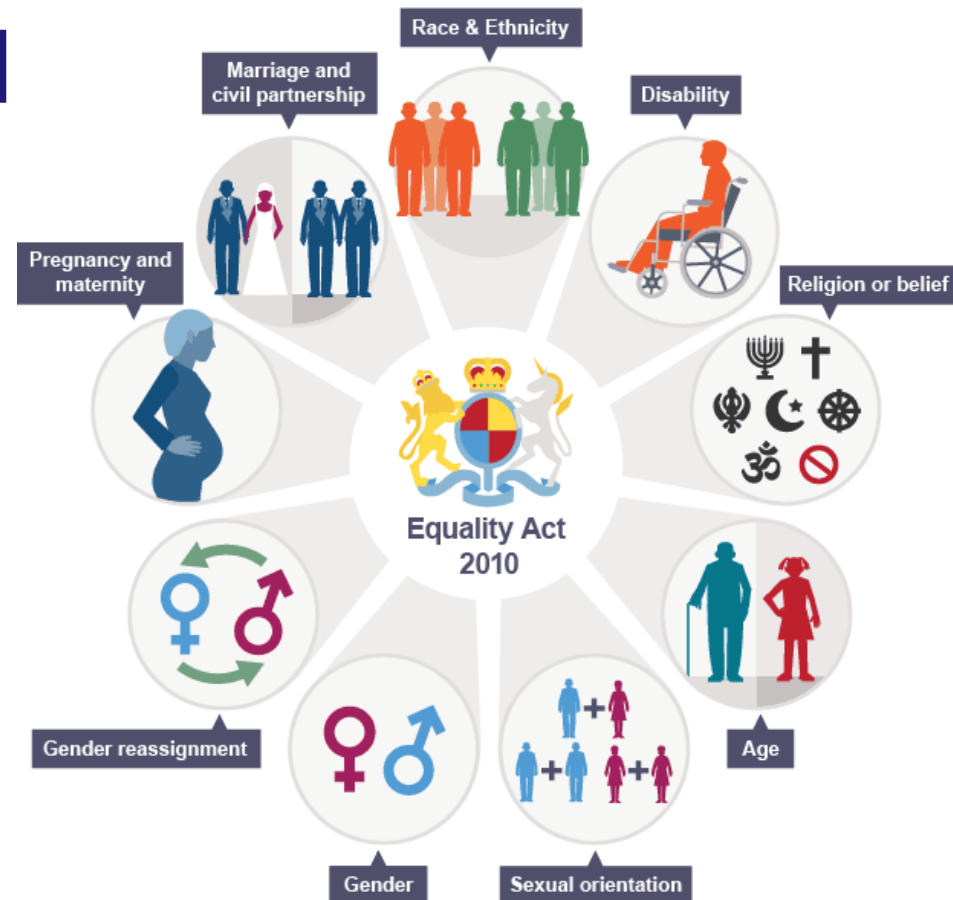
The Equality Act replaced numerous existing pieces of legislation in the area e.g. Sex Discrimination Act, Race Relations Act etc.

- Standardised protection across different groups.
- Improved protection offered to some, and granted protections to others for the first time.
- Provides specific legal definitions for concepts like *discrimination* and *harassment*.
- Introduces concept of *Protected Characteristics*.

# What kinds of people are protected against discrimination by law?

# Terms: Protected Characteristics

- These are the groups protected against discrimination by law. Each has a specific definition within the act.
- There is no protection for 'not' having a particular characteristic e.g. Not Being Disabled;
- However some categories apply to everyone in practice e.g. Age, Sexual Orientation, Race, Religion.





([Web Link](#) in case embedded video does not work)

# What's not protected?

Only the nine specific protected characteristics are protected by the Equality Act. Other characteristics are not protected e.g.

- Physical characteristics such as body size or height, where not related to race or disability.
- Regional or other identities (e.g the Valleys / 'Merthyr lad').
- Speaking (or not speaking) a particular language.
- Intelligence or cognitive ability (where not related to disability).
- Some medical conditions explicitly exempt (e.g. Alcoholism).

...but that doesn't necessarily mean it's legal to differentiate on these grounds in all contexts.

# Part 2:

## Discrimination – Direct & Indirect

# Direct Discrimination

Direct Discrimination is when an individual is treated worse because of their protected characteristic. Examples include:

- A manager decides not to interview women who have applied for a porter role involving moving heavy equipment.
- A staff member who is Transitioning is moved away from their patient-facing role, against their will, because their manager is concerned they will confuse elderly patients.

# Indirect Discrimination

Indirect Discrimination is when a rule or practice is applied to everyone but adversely affects some people because of their protected characteristic(s). Examples include:

- A uniform policy that prohibits all headwear, which would discriminate against some Jews, Sikhs and Muslims.
- Setting a specific minimum term of experience in a Person Specification e.g. 10 years' experience (this would not be possible for those under a particular age to achieve).

# Remember...

In order to be classed as discrimination, there needs to be a causal link (or, if there is a dispute, is there a reasonable likelihood) – i.e. the person was treated adversely *because* they are in that particular group.

It can't just be coincidental!

- Bear in mind that the fact something isn't discrimination doesn't mean it's not wrong, unfair or even illegal.
- Something done with the best of intentions can result in discrimination.



# Group Activity: Is it discrimination? (1/3)

Is someone in breach of the Equality Act 2010 in the following scenarios, and if so, why?

- SCENARIO 1) Steve, a porter, is fed up of being asked to shift heavy boxes all the time. His female colleagues aren't made to do this.
- *Answer: Not necessarily, but likely to be discriminatory if there is no good reason that the female colleagues aren't being asked to do the work.*

## Group Activity: Is it discrimination? (2/3)

Is someone in breach of the Equality Act 2010 in the following scenarios, and if so, why?

- SCENARIO 2) Amy is on maternity leave. Her boss phones her up especially to make her aware of a promotion opportunity. She is successful at interview and begins her new role on her first day back from maternity leave.
- *Yes! This is Maternity discrimination because if she wasn't on maternity leave her new role would start immediately.*

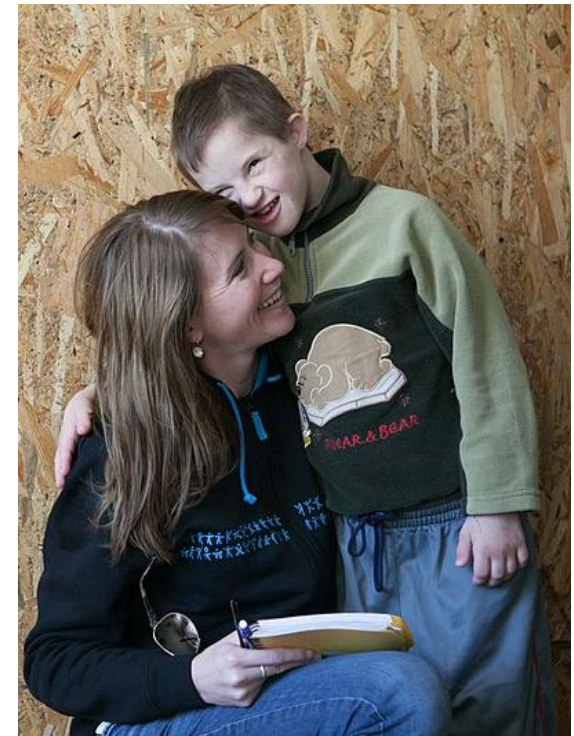
## Group Activity: Is it discrimination? (3/3)

Is someone in breach of the Equality Act 2010 in the following scenarios, and if so, why?

- 3) Daniel is a Seventh-Day Adventist and his religion prohibits him from working on Saturday. His manager has said she can't accommodate this as it's not fair on his colleagues – everyone needs to work the same patterns.
- *Yes – Probably indirect discrimination. Can Daniel's needs be accommodated e.g. by him working Sundays for others in return?*

# Discrimination by Association

- The act also prohibits discrimination on the basis that someone has an *association* with a protected individual, even if they don't belong to that group themselves.
- So, you must not discriminate against someone because their spouse belongs to a particular group.
- Nor can you discriminate against someone because they are the parent of a disabled child, for example.



# Discrimination by Perception

- The act also prohibits discrimination on the basis of *perception*. This means someone cannot treat you less favourably because they *believe or assume* you belong to a group, even if you do not in fact belong to that group.
- For example, if you dress or present in a particular way;
- Or if they assume you belong to a particular ethnic group because the colour of your skin.
- In short, you don't need to *actually belong* to a group to be protected from discriminatory *behaviour* against that group.



# Discrimination is rarely Deliberate



- Cases of employment discrimination are rarely clear cut and if they reach tribunal can often depend on previous precedent and judges' interpretation of conflicting accounts.
- **People very rarely knowingly set out to discriminate.** Most discrimination happens because people don't realise what they're doing is wrong.
- They may think they are acting in the organisation's best interests, or even that they are helping or protecting the person they are discriminating against.

# There are some exceptions...

Discrimination is permitted in some specific circumstances where it is relevant and can be objectively justified (e.g. only women to work with female rape victims; restricting the activity of pregnant or disabled people on the grounds of safety in some contexts), and in some other areas not relevant to healthcare (e.g. religious appointments or some acting roles).

- This doesn't mean, however, that 'the best intentions' permit discrimination; e.g. not employing a black person to work on a Dementia Ward because you're worried they will suffer racist abuse from the patients.
- **If in doubt, ask the Equality Team! It's what we're for!**

# Part 3:

## Disability and Reasonable Adjustment

# Disability and Reasonable Adjustments

- Disabled people are protected from discrimination and harassment like the other protected characteristics.
- Additionally, employers like the health board are required to take additional steps to make it possible for disabled people to work.



# Reasonable Adjustments

Reasonable Adjustments are changes to a *disabled* individual's role, responsibilities, work pattern or environment made in order to enable them to mitigate or overcome difficulties arising from their disability.

- They need to be specific to the individual and address an aspect of their disability.
- They should be designed and agreed in consultation with the individual, not imposed by the manager.
- They do not need to completely mitigate the disability.
- Financial support is available via Access to Work.
- A failure to provide reasonable adjustments could be considered Discrimination.

# Reasonable Adjustments: Examples

- Waiving the requirement to be able to travel by car if the employee is blind.
- Assigning work that someone cannot do because of their disability (e.g. heavy lifting) to someone else.
- Allowing flexible/home working/reduced hours, if it will help.
- Providing the individual with additional equipment or software to assist with their disability.
- Modifying the interview/application process for a disabled candidate.
- Changes to working environment e.g. lighting, clutter to accommodate a neurodiverse condition.

# Reasonable ...

- An adjustment would need to be shown to be 'reasonable'
- This is a complex and subjective definition, but could consider for example:
- Will the adjustments cost the organisation more than the role justifies?
- Will the adjusted role be significantly less productive for the organisation?

# Failure to Provide Reasonable Adjustments

A failure to provide reasonable adjustments is considered a form of discrimination under the Equality Act.

- It would be up to an employment tribunal whether a specific adjustment was 'Reasonable', based on issues like cost, the size of the organisation, the impact on others etc.
- A proactive approach ensures the organisation is protected from costly litigation.
- The aim should always be to facilitate employees as much as possible.

# Activity: How could the role be adjusted? 1/3

Sheila, an administrator, has a condition called Fibromyalgia which, among other things, causes her to tire quickly and means she walks with a cane, as well difficulty concentrating when there are many things going on.

- Can her desk be located closer to the entrance / toilets to reduce the need to walk?
- Can she be given preferential access to a meeting room nearby if she needs it, to reduce the need to walk?
- And/or can she be somewhere quieter that help her concentrate?
- Can she be excused from tasks that she finds harder e.g. taking minutes in meetings?

# Activity: How could the role be adjusted? 2/3

John, a physiotherapist, is completely blind and uses an assistance dog.

- Can his workload be reduced to reflect the extra time he needs to record and process his caseload?
- Can he be provided with a screen-reader, text-to-speech and other assistive software?
- Can he be allocated administrative support with emails and his calendar?
- Can one of the consultation rooms be fitted with e.g. rails that will help him move about?
- Can team meetings that he misses be recorded?
- Can guidance or procedural documents he needs to access be made in audio and/or braille versions?

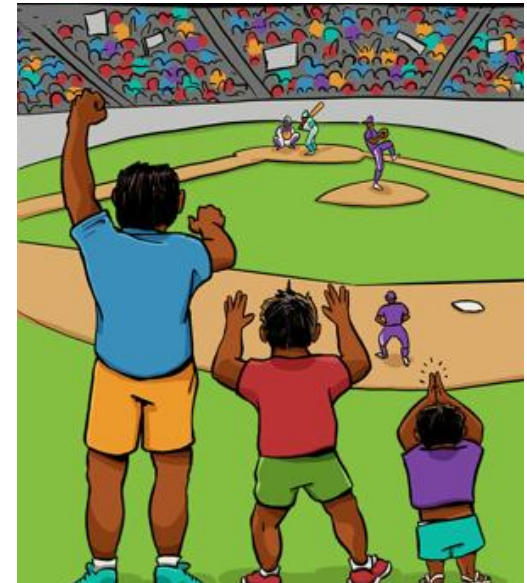
# Activity: How could the role be adjusted? 3/3

Debbie has an office-based role and experiences ASD, ADHD and social anxiety.

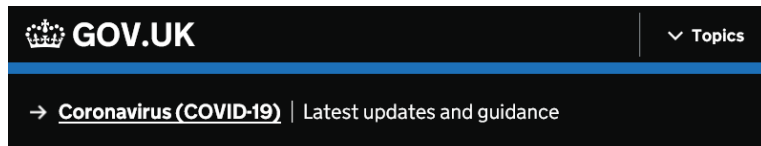
- Are there tasks with which she might struggle more than others e.g. proof-reading or delivering a presentation?
- Can she work from home more, or be provided a smaller office, or quieter hours etc.?
- Would it help for her colleagues to receive training / awareness raising on how Debbie's neurodivergence impacts her at work?
- Could her colleagues modify their communication styles to ensure Debbie understands them as intended?
- Is she particularly productive at certain tasks e.g. creative ones that will help her contribute more?

# It's not "special treatment"

- You should also consider what the person's *strengths* are and if there is work that they could do *more* of. This will help mitigate feelings of unfairness in the wider workforce.
- Can the rules be changed / waived *for everyone*?
- Have a think about whether you really need a particular rule or practice, and what the costs and benefits are.



# Access to Work



[Home](#) > [Benefits](#) > [Benefits and financial support if you're disabled or have a health condition](#)

## Access to Work: get support if you have a disability or health condition

### Contents

- [What Access to Work is](#)
- [Eligibility](#)
- [Apply for an Access to Work grant](#)

<https://www.gov.uk/access-to-work>

Access to Work is a UK government scheme which provides free assessments for disabled individuals, assessing that individual's needs and responsibilities and suggesting interventions such as technologies and training.

- The recommended interventions will be (at least partially) funded from the scheme.
- It is an easy way to ensure you are meeting disabled employees' needs, although it is important to consider duties / work patterns as well as interventions.

# Part 4:

# Harassment

# What is Harassment?

Harassment is defined by the Equality act as:

- unwanted behaviour which is related to a protected characteristic
- which has the purpose or effect of violating a person's dignity;
- And/or creating an intimidating, hostile, degrading, humiliating or offensive environment.



# Group Activity: Is it harassment? (1/3)

Is someone in breach of the Equality Act 2010 in the following scenarios, and if so, why?

- 1) Sean is 5'0". His colleagues continually make jokes about his height and refer to him using nicknames like 'shorty' and 'tiny', which he finds demeaning.
- *No. Whilst this is clearly inappropriate and bullying behaviour and obviously not acceptable, it is not related to any protected characteristic so the Equality Act doesn't come into play (unless Sean's height is to do with a disability)*

## Group Activity: Is it harassment? (2/3)

Is someone in breach of the Equality Act 2010 in the following scenarios, and if so, why?

- 2) Claire is cisgender (not trans) as is everyone else in the office. Claire doesn't know any trans people herself but feels uncomfortable about comments that one of her colleagues regularly makes about trans people.
- *Probably, yes. The lack of direct connection between Claire and any trans individual is not relevant.*

## Group Activity: Is it harassment? (3/3)

Is someone in breach of the Equality Act 2010 in the following scenarios, and if so, why?

- 3) A non-pornographic calendar featuring female lingerie models is on display on the wall of Steven's home. It be clearly seen when he is on a Teams call.
- *Yes. It may be on his own wall but if it is visible to colleagues at work it is contributing to their workplace environment. Any sexual content could be interpreted as demeaning or degrading in this context.*

# Harassment vs Bullying

On the surface it can seem that harassment is just a kind of bullying behaviour. While the two can certainly overlap, there are two additional considerations:

- For behaviour to class as harassment, it needs to be related to a protected characteristic, not something else.
- Harassment doesn't have to be directed at any particular individual and could be a 'passive' behaviour such as displaying an image or sharing a message.

# Sexual Harassment

This is a kind of harassment defined as unwanted behaviour of a sexual nature which produces a 'hostile, degrading [environment] etc.'.



- The key term is 'unwanted' – the perpetrator may think they are paying someone a compliment, or trying to initiate a relationship: if it isn't welcome it's not acceptable. For example:
  - Repeatedly asking someone out despite rejection.
  - Casual remarks about someone's appearance (with a sexual or romantic overtone).
  - Treating a person less favourably because they reject or submit to such advances could in itself constitute Sexual Harassment.

# Things which are not a defence...

- “It’s just banter / a joke / a bit of fun / a laugh / we didn’t really mean it.”
- “I’m old fashioned / this is political correctness gone mad / I don’t see what the problem is.”

**The Equality Act is the law and it’s not personal interpretations that matter, but that of the courts.**

As an employer, PTHB expects a certain standard of behaviour of its staff and this includes expecting them to treat colleagues and service users with dignity and respect at all times. This is not just because of the reputational risk to the organisation, but because *it is the right thing to do*.

# Part 5:

## Diversity & Inclusion and Anti-Racism

# Historic strategies to achieve Equality in the UK

- **Integration:** Encouraging minorities to 'blend in' with the majority culture (adopt their clothing, religion, language/accent, values etc.).

*Didn't work, because acting like the majority did not mean minorities are treated in the same way.*



# Historic strategies to achieve Equality in the UK

- **Multi-culturalism:** The idea that if both sides integrated with each other, this would make a fairer society.

*Didn't work: the majority simply adopted those (superficial) elements of minority cultures they liked (e.g. food); this didn't work because eating a curry doesn't make you not be racist.*



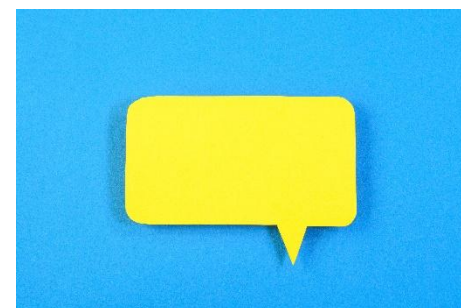
# What is Diversity and Inclusion?

- **Diversity** is the idea that we should recognise and value difference, rather than try and eliminate it. It's the idea that having different points of view, and different kinds of people on board is *inherently* better than not doing.
- **Inclusion** is the idea that we should create workplaces and environments where everyone feels included and a part of the team, even – and especially – when they are different.



# Inclusive Language

- **The way we talk is important;** but don't let the fear of getting something wrong mean you avoid speaking to someone.
- If you get something wrong, acknowledge, and apologise – don't pretend it didn't happen.
- Use people's names (if you need to learn to pronounce them, don't be afraid to ask!).
- Use the name and pronouns people have asked to be used.
- Try to avoid acronyms and 'corporate-speak'. It's easy to use big words: explaining something simply requires intelligence.
- If you don't completely understand something because of corporate-speak, **challenge the speaker!** If the speaker has failed to explain something it's their fault, not yours (Lack of challenge is why corporate-speak happens).



# Neurodiversity

- **Neurodiversity** describes the idea that people experience and interact with the world around them in many different ways; there is no one "right" way of thinking, learning, and behaving.
- Offer small adjustments to an employee's workspace to accommodate any sensory needs, such as
  - Sound sensitivity: Offer a quiet break space, communicate expected loud noises (like fire drills), offer noise-cancelling headphones.
  - Tactile: Allow modifications to the usual work uniform.
  - Movements: Allow the use of fidget toys, allow extra movement breaks, offer flexible seating.
- Use a clear communication style:
  - Avoid sarcasm, euphemisms, and implied messages.
  - Provide concise verbal and written instructions for tasks, and break tasks down into small steps.
- Inform people about workplace/social etiquette, contribution in meeting set etc. and don't assume someone is deliberately breaking the rules or being rude.
- Try to give advance notice if plans are changing, and provide a reason for the change.
- Don't make assumptions — ask a person's individual preferences, needs, and goals.
- Be kind, be patient.

# Microaggressions

**'Microaggression'** refers to minor, unconscious acts or words below the threshold for harassment but which add up to make a person feel uncomfortable and excluded. They are often superficially complimentary, but reveal or imply negative assumptions about the person's group.



# Microaggression: Examples

| Microaggression                                         | Translation...                                                                                                 |
|---------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|
| 'Your English is really good!'                          | I expect people of your colour to have poor language skills.                                                   |
| 'You don't <i>sound</i> Indian.'                        | I assume everyone of your race has the same accent.                                                            |
| 'Anyone can succeed if they work hard enough.'          | Your experience of discrimination is invalid or not real / you are lazy.                                       |
| 'I treat everyone the same, whoever they are.'          | I believe I am incapable of discrimination; I don't recognise others' experience of discrimination.            |
| Not sitting next to someone / giving them a wide berth. | I think you represent a risk to me.                                                                            |
| 'Where are you <i>really</i> from?'                     | Your own sense of identity is not valid.                                                                       |
| 'Say something in Welsh!'                               | I find your language amusing or strange / I believe you are only pretending to be able to speak your language. |
| 'She's very aggressive, for a woman!'                   | I believe women are/should be meek / Her assertiveness undermines her femininity.                              |
| '                                                       |                                                                                                                |

# What is Anti-Racism?



- The Welsh Government's aspiration to be an **Anti-Racist Wales** is based on the idea that in order to achieve true equality we need to go beyond simply 'not discriminating' and actively dismantle systems that produce negative outcomes.

*Anti-racism is about changing the systems, policies and processes which for so long have embedded a negative view of ethnic minority people...*

*Often it is the systems for progression, and for selecting who will be mentored, coached or sponsored, that fail people. In service provision, it is often the 'colour-blind' approach that works against ethnic minority people. For us, anti-racism involves actively identifying and getting rid of policies, systems, structures and processes that produce radically different outcomes for ethnic minority groups. It requires us to acknowledge that even if we do not see ourselves as 'racist' we can, by turning our eye away, be complicit in allowing racism to continue.*

# Equality Impact Assessment

- If you are responsible for writing policies or project management, you may need to carry out an Equality Impact Assessment.
- Equality Impact Assessment is the process by which policies, strategies or projects are assessed for any effect they might have on protected groups (among others, including the impact on Welsh).
- It is a statutory duty to carry out an Equality Impact Assessment!
- We can offer training in this area; visit our [EIA Sharepoint Page](#) or contact us for more details: [powys.equalityandwelsh@wales.nhs.uk](mailto:powys.equalityandwelsh@wales.nhs.uk).

# Appendices

(Additional information for  
reference purposes)

# Appendix 1: Useful things to Know

- Powys Teaching Healthboard participates in a [Breastfeeding Welcome Scheme](#).
- We are an [Age Friendly Employer](#).
- We have a [neurodiversity network](#), and [LGBTQIA+ staff network](#) and an [ethnic minority staff network](#).



We're an  
**Age-friendly  
Employer**

# Appendix 2: Definitions of Protected Characteristics

## Age

- This applies broadly and can be a reference to a specific age or age range ('Candidates must be under 65'), or be more generic/relative 'They make fun of me because I am older than they are.'
- Specific experience requirements in Person Specifications are likely to be age discrimination as they exclude people under a particular age; e.g. "ten years experience of senior management" - by definition this is certain to exclude anyone under 28 and almost certain to exclude anyone under 40.

# Appendix 2: Definitions of Protected Characteristics

## Disability (1/2)

- The most complex definition. You are considered disabled under the act if you have a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on your ability to do normal daily activities. This is obviously somewhat subjective.
- Note the inclusion of mental health issues, such as depression, and neurodiverse conditions like dyslexia, autistic spectrum disorders etc.
- A condition could still be classed as a disability if it does not impact the person as long as it is managed; e.g. Diabetes, HIV/AIDs.

# Appendix 2: Definitions of Protected Characteristics

## Disability (2/2)

- **NOTE: A formal clinical diagnosis is not necessary**, however would obviously strengthen a disability case at a tribunal.
- Some specific conditions are 'deemed disabilities', protected under the act regardless of any practical impact on the individual's life e.g. cancer, HIV/AIDs, physical deformity.
- Similarly, other conditions are specifically excluded even though they would meet the formal definition – alcohol and drug dependence are the most likely to be encountered.

# Appendix 2: Definitions of Protected Characteristics

## Sex

- Men or Women. There is no recognition for other gender identities under this protected characteristic, however see Gender Reassignment below.

## Gender Reassignment

- This covers anyone who has undergone, is undergoing, or is proposing to undergo a change of gender identity. In practice this has been successfully used to protect a range of Trans\* identities, including non-binary identities (people who identify as something other than male or female), though in theory its' application is more restrictive.

# Appendix 2: Definitions of Protected Characteristics

## Sexual Orientation

- Explicitly, the Equality Act only recognises 'heterosexual', 'homosexual' and 'bisexual' as orientations. In practice however it is likely that harassment of a person who identifies with another sexual orientation would be proscribed by the act (remember about 'discrimination by perception').

## Religion and Belief

- This covers 'any sincerely held religious or philosophical belief, or lack of belief'. In theory this could be anything, but at a tribunal a claimant would need to demonstrate that the belief was sincere.
- Recently, harassment of individuals who are vegetarian/vegan has successfully been challenged under this part of the legislation.

# Appendix 2: Definitions of Protected Characteristics

## Race, Ethnicity or National Origin

- This can refer to a person's skin colour, current nationality, or ethnic origin (or that of their parents/ancestors). Nations within the UK are considered separate for this purpose and so are stateless groups from outside the UK (such as for example Palestinians, Kurds or Native Americans).
- Traveller groups such as Roma and Irish Travellers are also protected, but regional identities such as "north Wales" are not.
- Remember about discrimination by perception.



# Appendix 2: Definitions of Protected Characteristics

## **Pregnancy and Maternity**

- Applies only to someone who is pregnant or on maternity leave.

## **Marriage and Civil Partnership**

- Covers those who are married or in a Civil Partnership. This is largely a 'legacy' characteristic to preserve protections in legislation replaced by the Equality Act that prevented employers from e.g. dismissing female employees that married. Most parts of the Equality Duty do not apply to this characteristic.