**Fact sheet 2b: The Discrimination and Equality Act 2010**

In a nutshell, we recommend that organisations follow the [Equality Act 2010](http://www.legislation.gov.uk/ukpga/2010/15/section/4) in all aspects of volunteer management and recruitment. The Act protects individuals with the following *protected characteristics* from discrimination:

| * Age | * Disability |
| --- | --- |
| * Gender reassignment | * Marriage and civil partnership |
| * Pregnancy and maternity | * Race |
| * Religion or belief | * Sex |
| * Sexual orientation |  |

The Equality Act 2010 as it applies to volunteers is not straightforward. In 2011, a [Court of Appeal decision](https://www.disabilityrightsuk.org/x-v-mid-sussex-citizens-advice-bureau) ruled that the Act did not protect volunteers in the same way as employees. From this however, it would be mistaken to conclude that volunteers are not legally protected from discrimination. The following two scenarios explain how the volunteers might be protected by the law:

* + 1. Individuals volunteering under conditions that fit the legal definition of an employment contract entitle them to protection under the Equality Act 2010, along with all of the other benefits and protections enjoyed by employees (see page 4-6 of this guide). This situation leaves organisations vulnerable to legal claims by volunteers, and we therefore recommend that this scenario is avoided.
    2. Volunteers whose terms of engagement do not meet the description of an employment contract may still be covered by law however. Two considerations exist here: firstly, the [‘charities exception’ rule in the Equality Act 2010](https://www.gov.uk/government/publications/equality-act-guidance-for-charities/equality-act-guidance-for-charities#other-exceptions-relevant-to-charities) allows a charity to discriminate by limiting the group of people to which it provides its services. In spite of this, according to the [Equality and Human Rights Commission](https://www.equalityhumanrights.com/en/advice-and-guidance/how-your-organisation-should-treat-volunteers), volunteers might be protected from discrimination if the volunteering opportunity is considered to be a service provided by the organisation to the individual. This has not been tested in law however. Because of these complexities, we recommend that you treat volunteers in line with the Equality Act 2010. If you believe that you are entitled to discriminate against certain individuals interested in volunteering with your organisation, we recommend seeking legal advice.

For more information

GOV.UK Government website ⬥ www.gov.uk

* [Equality Act Guidance for Charitie](https://www.gov.uk/government/publications/equality-act-guidance-for-charities/equality-act-guidance-for-charities#other-exceptions-relevant-to-charities)s
* [Volunteers’ Rights](https://www.gov.uk/volunteering/volunteers-rights)

NCVO Knowhow Nonprofit ⬥ www.knowhownonprofit.org

Knowledge and e-learning for charities, social enterprises and community groups. Learn from experts and peers, and share your experiences.

* [Does the Equality Act apply to volunteers?](https://knowhownonprofit.org/people/volunteers/recruiting/equality-and-diversity)

Equality and Human Rights Commission ⬥ www.equalityhumanrights.com

* [How your organisation should treat volunteers](https://www.equalityhumanrights.com/en/advice-and-guidance/how-your-organisation-should-treat-volunteers)

Advice line: 0808 800 0082

DISCLAIMER

Although every effort has been made to verify the accuracy of materials in CAVA's resource

library, users are advised to check independently on matters of specific interest.