

Diversity in practice: Membership charities



Danielle Mawer

Associate

d.mawer@bateswells.co.uk

020 7551 7756



Laura Soley

Partner / Co-chair Diversity & Inclusion Forum

l.soley@bateswells.co.uk

020 7551 7768

“Be alert for membership criteria that may discriminate – such as higher fees related to gender”



Most people know that the Equality Act 2010's (EA) rules apply to employment and provision of goods and services, but may not be aware of its relevance to membership charities. When you want to make positive changes to promote greater diversity within your membership or trustee body, you need to know when the EA may apply.

Let us give you some background.

The Equality Act 2010 (EA) applies to 'associations'. This includes any organisation that has at least 25 members, where admission to membership is regulated by the rules of the organisation and involves a process of selection – for example, new members must be approved by the trustees. This applies to many membership charities.

It also applies where your charity has associate members who have certain membership rights as a result of being a member of another association. For example, charities that support the members of a particular profession by reference to membership of a separate professional body.

The EA prohibits charities with members from discriminating against their members and associate members on the basis of most of the protected characteristics listed

on page 7. This includes discrimination in membership criteria, in the terms of membership, access to member services and benefits, changing terms of membership or refusing membership. The EA also prohibits harassing and victimising members and associate members, including by refusing or removing membership. However, there is some scope for associations to restrict their membership to people who share a protected characteristic, in certain circumstances.

We recommend that charities keep their membership criteria and processes under review to make sure there is nothing discriminatory, such as charging higher membership fees by reference to gender. Be particularly alert for indirect discrimination, however unintended - for example, could there be something in your membership criteria that puts off people with certain protected characteristics from applying?

Membership charities also need to be mindful of the EA when trying to diversify your board. As Mindy and Jess explain in their article on page 6, while the EA doesn't usually apply to recruitment and appointment of a charity's trustees, the position can be different if trustees are drawn from the membership or members

elect the trustees. This is because - depending on your constitution - eligibility for members to stand as a candidate for election and members' power to elect trustees will usually be membership rights. This can limit your charity's ability to reserve a spot on the board for members from diverse ethnic backgrounds, for example.

It is possible, subject to your charity's constitution, to achieve a more diverse board using the positive action test under the EA: see our article on page 15. Practical steps you can take include encouraging members with a particular protected characteristic to put themselves forward for election in membership communications. Where your charity has trustee selection criteria, you need to make sure these don't contain barriers to diverse applicants putting themselves forward. You may also need to look at ways to diversify your membership base.

It can be hard to navigate the complexities in this area - if you would like to have a chat about these issues, please do get in touch.