

Equality guidance for charities in Northern Ireland

Guidance on the intersection of charity and
equality law



The Charity Commission for Northern Ireland

The Charity Commission for Northern Ireland is the regulator of charities in Northern Ireland, a non-departmental public body sponsored by the Department for Communities.

Our vision

To deliver in partnership with other key stakeholders in the charitable sector “a dynamic and well governed charities sector in which the public has confidence, underpinned by the Commission’s effective delivery of its regulatory role.”

Further information about our aims and activities is available on our website www.charitycommissionni.org.uk

Equality

The Charity Commission for Northern Ireland is committed to equality and diversity in all that we do.

Accessibility

The Commission’s website has been designed to **W3C standards** of accessibility and includes a number of features to enhance accessibility for a wide range of individuals. These include colour contrast and resize options. Materials may be made available in alternative formats on request. If you have any accessibility requirements please contact us.

Online or in print

If you are viewing this document online, you will be able to navigate your way around by clicking on links either within the contents page or text.

We have produced a glossary that provides further information, definitions and descriptions of some key terms. The words in **bold green type** indicate words that are found in the glossary towards the end of this document. If you are reading the document online you can click on the word and it will link you to the definition in the glossary. The words in *blue italics* indicate other guidance or databases, and these are also listed on the **Useful supporting documents** page.

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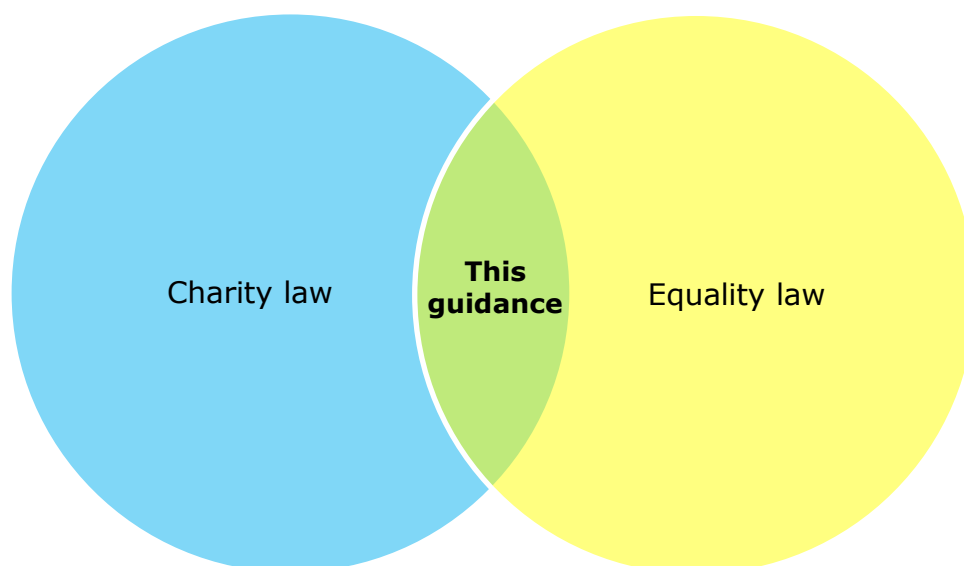
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Section 1: Overview

The purpose of this guidance is to promote awareness and understanding of how charities may be affected by equality obligations contained in Northern Ireland legislation. This guidance does not mark a change in the law. Rather, it should help understanding of complex legislation.

This guidance explains the intersection of charity law and equality law, and will help charity trustees to identify:

- what groups of people are protected by equality legislation
- what exceptions apply to charities
- what is and is not acceptable under charity and equality legislation.



Legislation in Northern Ireland has identified nine equality categories:

- gender, including gender reassignment
- disability
- race
- age
- sexual orientation
- marital status
- persons with and without dependants
- religious belief
- political opinion.

This guidance refers to these categories as **equality characteristics**.

Equality legislation requires service providers, including charities, not to discriminate on certain grounds when they provide services to the public. There are, however, some exceptions for charities which allow them to be established or operate for the benefit of certain groups of people, and not others. Charity trustees should be aware that the various pieces of legislation treat these equality characteristics in different ways.

The Charity Commission for Northern Ireland (the Commission) does not regulate or monitor organisations on their equality obligations as that is the role of the Equality Commission for Northern Ireland (the Equality Commission). We would like to acknowledge the assistance we received from the Equality Commission in producing this guidance. Charities with complex issues concerning equality should seek advice from the Equality Commission www.equalityni.org

Section 2: About this guidance

2.1 What does this guidance cover?

Charity trustees have a duty to ensure that their charity complies with the law. When setting up a new charity, registering a charity or running a charity, trustees must be aware of their obligations under all the legislation which may affect their charity. In Northern Ireland, equality obligations are contained in a large number of pieces of legislation. This guidance, which is not exhaustive, aims to assist trustees to identify the equality obligations that are most relevant to their charity.

The guidance brings together key aspects of equality legislation which may affect charities including in terms of how they meet the public benefit requirement and how they deliver their services. There is information about equality obligations, exceptions for charities and the rules that govern the use of exceptions.

2.2 What does this guidance not cover?

This guidance is not a full description of legal matters affecting your charity, nor is it a substitute for advice from a charity's solicitor, agent or other professional advisers.

The guidance does not deal with equality law where it does not intersect with charity law. For example, it does not consider equality issues as they relate to employment law. However, many charities are employers and charity trustees should be aware of their responsibilities as employers. The Equality Commission provides a range of guidance aimed at both large and *small employers*. Other sources of advice are available in the [Useful supporting documents](#) and [Useful contacts](#) sections at the end of this document.

Although all of this guidance applies to charities which are **designated public bodies** or Non-Departmental Public Bodies (NDPBs), such bodies also have some additional obligations under equality law, for example under **Section 75 of the Northern Ireland Act 1998**. This guidance does not deal with those additional obligations and relevant public bodies should seek advice from the Equality Commission. The Equality Commission's website is available at www.equalityni.org.

2.3 Who does this guidance apply to?

This guidance is aimed at **charity trustees**, who may also be known as trustees, committee members, directors of charitable companies, or governors as well as anyone acting on behalf of a charity for example a solicitor, accountant, agent or adviser.

This guidance may also be of use to charity beneficiaries, service users and members of the public.

2.4 What are legal requirements and best practice?

In this document where we use the word 'must' we are referring to a specific legal or regulatory requirement. We use the word 'should' for what we regard as good practice, but where there is no specific legal requirement and, in the context of examples given, use the term 'may' to indicate where a principle has not yet been legally tested. Charity trustees should follow best practice guidance unless there is a good reason not to.

2.5 Charity legislation

Charities in Northern Ireland are regulated by the Commission, in accordance with the **Charities Act (Northern Ireland) 2008**. Charities must also comply with other relevant legislation and regulators. For example, charitable companies must also comply with the Companies Act 2006 and register with Companies House. It is important to note that this guidance is on a complex area of law, not all of which has been tested in court. As such it may change or develop over time.

2.6 Equality Legislation

There are seven major pieces of legislation in Northern Ireland which contain provisions to do with equality. A list can be found in [Appendix 1](#) at the end of this document.

The guidance provides information on these equality duties, exceptions for charities and the rules that govern the use of exceptions.

Section 3: What is unlawful discrimination?

The purposes of a charity set out what the charity was established to achieve. Sometimes purposes are called objects, aims or goals. The activities of a charity are the ways in which the charity tries to fulfill its purposes, for example, by running a club or producing information. A charity's purposes may be worded so as to restrict benefits to certain people on the basis of shared **equality characteristics**. This is lawful discrimination provided certain conditions are met. When restricting benefits in this way, it is important that a charity's trustees consider the issue of unlawful discrimination in the context of its purposes and its activities.

3.1 What is unlawful discrimination?

The legislation identifies several forms of discrimination; direct or indirect discrimination, harassment and failure to comply with the reasonable adjustment duty.

The easiest form of discrimination to recognise is called direct discrimination, for example:

- refusing services to a beneficiary because of their gender or religion
- providing services to an Irish Traveller on less favourable terms than other beneficiaries
- refusing to provide a grant to an applicant because she is disabled or he is gay.

Direct discrimination can be unlawful even if it is not intentional.

In general terms, harassment is unwanted conduct related to a particular equality characteristic. This can include unwelcome physical, verbal or non-verbal conduct. An example of harassment may be making demeaning comments about the appearance of a beneficiary who is a Sikh man.

Discrimination can also arise from a failure to comply with a duty to make **reasonable adjustments** for disabled people, for example:

- a large charity carries out its activities in a building that is open to the public but which is not accessible for wheelchair users and the charity makes no effort to help those users gain access
- a large charity holds a conference that is open to the public but does not make any effort to meet the needs of disabled people who are attending, such as a sign language interpreter for deaf people in the audience.

The duty to make reasonable adjustments only applies in relation to people with a disability.

The concept of reasonable adjustments is dealt with in more detail in Section 4 of this guidance.

3.2 What is indirect discrimination?

Discrimination sometimes takes an indirect form and charities should take steps to avoid this.

Indirect discrimination can be defined as a practice, policy or rule which is applied to everyone, but which has the potential to put certain groups of people, with a shared equality characteristic, at a disadvantage compared to other groups. This will be unlawful if it cannot be shown to be a proportionate means of achieving a legitimate aim. Indirect discrimination can be unlawful even if it is not intentional.

Example

A charity which runs a drop-in centre decides to apply a 'no hats' rule for security reasons. Beneficiaries who wear head coverings for religious reasons, for example Sikhs, Jews, Muslims and Rastafarians, will not be able to use the drop-in centre. Unless the charity can demonstrate that this rule enables them to achieve a legitimate aim, this may be indirect discrimination.

When a charity places a restriction on who may benefit from its services, and the restriction is not related to an equality characteristic, trustees must still consider the potential impact of this restriction on individuals with a shared equality characteristic. An example of a restriction not related to an equality characteristic would be a restriction based on residence or geographic location.

If a charity can show that a restriction is a reasonable and proportionate way of achieving its purpose, even though there is potential disadvantage to some people who share an equality characteristic, then it is unlikely that indirect discrimination will have occurred.

Example

A charity, set up to relieve poverty, operates in a particular council area. People from the Unionist community are under-represented in this council area. It is unlikely that the charity can be accused of indirectly discriminating against people on the basis of political opinion if it can show that:

- there is a reasonable link between the purpose of relieving poverty and a restriction to people in this council area, and
- anyone in the council area who is eligible, including those with any political opinion and those with no political opinion, have access to the charity's services.

The remainder of this guidance deals mostly with direct discrimination and any exceptions that may allow charities to discriminate in this way.

Section 4: Avoiding unlawful discrimination on the basis of disability

4.1 What does the law say about disability?

The Disability Discrimination Act 1995 as amended (DDA) prohibits discrimination and harassment of disabled people. The rights conferred by the DDA are asymmetrical, that is, if you are not a disabled person you cannot rely on the DDA. The only exception to this is if you suffer discrimination for helping a disabled person to exercise their rights, for example, supporting a friend with disabilities. This is a special form of discrimination known as 'victimisation.' This means a charity can treat disabled people as a class more favourably than non-disabled people as a class. There is no need to rely on any exception to the law to treat disabled people more favourably.

Example

A charity decides to offer discounted admission to its youth club to young people with a disability. This is allowed because it is lawful to treat individuals with a disability more favourably than those without. The charity does not need to rely on any particular statutory exception to do this.

The DDA also imposes a duty on service providers to make **reasonable adjustments** for service users who are disabled. There is more detail in section 4.3 below.

4.2 Can a charity restrict its benefits to people with a specific disability?

Many charities are established to benefit people with a specific disability and, as such, may be acting outside of their purposes if they were to seek to provide those services to a person without that disability, even though that person might have another disability. If the charity were required to open up its services to any person without the specific disability it may be unable to continue to operate. The charity would need to ensure that it meets a condition provided in the DDA Section 20 (4) to justify any restriction to individuals with a particular disability. While this has not

been tested in court this is likely to be lawful under the DDA, Section 20 (4).

Example

A charity is established to benefit people who are blind or visually impaired and it does this by providing them with computer software. This charity does not provide its services to people who are not blind, although they may be disabled as a result of another impairment or condition. If the charity were to try to provide services to everyone, regardless of whether the individual is blind or has a visual impairment, the costs would render them unable to continue to provide the service to blind or visually impaired people, and unable to fulfill the purpose for which they were established.

4.3 Must a charity make reasonable adjustments for people who are disabled?

The duty to make reasonable adjustments requires service providers to take positive action to ensure that people with disabilities can enjoy their services in the same way or as close a way as possible to that enjoyed by non-disabled people. This duty applies to an organisation's practices, policies, procedures and the physical features of its premises. Where a service provider has a practice, policy, procedure or premises that make it impossible or unreasonably difficult for a disabled person to use their service, they must take reasonable steps to change that practice, policy, procedure or feature so that the service becomes accessible. A charity can provide the service in a different way or provide auxiliary aids. A charity cannot rely on any exceptions in equality legislation to avoid this duty.

Example 1

A charity is holding a fundraising event which is free for the public to attend. A disabled person has arthritis and has difficulty standing. If this person has to queue she would experience pain that other customers would not experience. The charity's volunteers allow this person to come to the front of the queue and enter the venue.

Example 2

A small charity receives a request from a partially sighted person for its information booklet to be provided in Braille. The charity decides, because of its size and the costs involved, not to use this format. Instead it puts the information on to an audio tape and sends it to their client.

Example 3

A Mosque, in accordance with its religious beliefs, would not allow a dog, even a guide dog, within its premises. A Muslim person who is blind wishes to worship at the Mosque. The Imam arranges for members of the community to receive training in assisting a person who is blind. When the worshipper attends Mosque the guide dog waits outside and the person is guided by another member of the community.

The DDA does not state what factors should be taken into account when deciding whether or not an adjustment is reasonable. Some of the factors to consider are:

- the type of service being provided
- the size of the service provider and its resources
- how the person's disability affects them in a particular context
- how effective the adjustment would be in overcoming the barriers to the service
- how disruptive the step would be for the service provider.

There are some limited exceptions to the duty to make reasonable adjustments. For example, there is no obligation to provide adjustments that would fundamentally alter the nature of the service which is being provided. Additionally, a charity may be justified in not complying with the duty if there is good reason to believe that non-compliance is necessary to avoid endangering the health and safety of the disabled

person or any other person. Charities relying on these exceptions may need to seek the advice of the Equality Commission or from their independent legal advisers.

4.4 Can a charity wait until a disabled person asks them to make a reasonable adjustment?

According to the DDA this duty is owed to all disabled people and should be anticipated. Therefore, service providers should review their policies and practices to ensure they can comply with the reasonable adjustment duty. In some circumstances it would be acceptable for a charity to wait until the adjustment has been requested before considering whether it is reasonable or not.

Example

A charity is hosting a conference that is open to the public. A person with a visual impairment contacts them to ask for the power point presentations to be put on a disc, so that she can use reader software to access the presentation. As the charity is a large charity with sufficient resources, it decides this is a reasonable adjustment for it to make. The charity does not provide this adjustment before every conference but only on request.

Trustees of **membership associations** or clubs must be aware that the provisions of the DDA apply to any membership association or club with 25 or more members. Membership association in this context has a particular meaning and, for example, does not refer to umbrella organisations to which other groups subscribe as 'members'.

Section 5: Avoiding unlawful discrimination on the basis of age

Current age discrimination law in Northern Ireland does not cover the provision of goods, facilities or services. The Employment Equality (Age) Regulations (Northern Ireland) 2006 only apply to employment, vocational training and further and higher education. Charities that are employers, as well as charities whose benefits include the provision of employment, vocational training or further and higher education should seek advice from the Equality Commission.

A charity can legitimately be established to provide its benefits to a particular group of people who share an age characteristic. It is recommended that a charity restricting its benefits in this way sets out the restriction in its **governing document**.

Example 1

A charity is established to advance the relief of poverty among older people. As part of its range of activities the charity provides a luncheon club which only people aged over 60 years may attend. This is permitted under the law as it currently stands.

Example 2

A charity is established to provide support to young people who are at risk of committing criminal offences. It runs a programme of activities and only young people aged between 14 years and 25 years are eligible for the programme. This is permitted under the law as it currently stands.

Legislation requires charity trustees to be 18 years old or over, except when the charity trustee is a director of a charitable company, when the lower age limit of 16 years old applies.

Section 6: Avoiding unlawful discrimination on the basis of race

The Race Relations (Northern Ireland) Order 1997 (RRO) prohibits discrimination and harassment on the grounds of:

- race
- colour
- ethnic or national origins
- nationality
- belonging to the Irish Traveller community.

The RRO does allow service providers, including charities, to address the special needs of people from a particular ethnic group in terms of their education, training or welfare. A charity may do this by restricting its benefits to individuals with shared race characteristics. However, as with the public benefit requirement, the charity will need to be able to demonstrate that this restriction is required to meet the needs of a particular ethnic group. The charity should also be aware that these needs may change over time.

Example

A charity established to advance citizenship and community development plans a range of activities to achieve this purpose. It identifies the need to improve English levels among recently arrived migrant workers for whom English is not a first language. The charity establishes English classes and offers them at a low cost. These classes are not available to people who are not recent immigrants. This restriction is justified on the grounds that the language needs are specific to the group identified.

The law does not allow a restriction to specify skin colour, however a restriction can specify ethnic background or country of origin.

Example

A charity could not be established with a purpose to assist homeless black people. However it could be established with a purpose to assist homeless people from the Nigerian community.

Charity trustees should also bear in mind that for some communities their religious beliefs overlap with their ethnic identity, for example Jews, Parsees and Sikhs.

Trustees of a **membership association** or club, to which admission is regulated by its constitution, must be aware that the provisions of the RRO apply to any membership association or club with 25 or more members. Membership association in this context has a particular meaning and, for example, does not refer to umbrella organisations to which other groups subscribe as 'members'.

Section 7: Avoiding unlawful discrimination on the basis of sex or gender reassignment

The Sex Discrimination (NI) Order 1976 (SDO) as amended prohibits discrimination and harassment on the grounds of:

- sex
- pregnancy and maternity
- gender reassignment
- marital/civil partnership status (in employment and vocational training only).

It is unlawful for a service provider to refuse to provide a service or offer a lower standard or worse service to someone because they are a man or a woman. It is also against the law to discriminate in this way against a transgendered person or against women on the basis of their pregnancy or maternity.

There is an exception in the SDO for charities. It is not unlawful for a charity to be established to provide benefits to one sex only. A charity restricting its benefits in this way must set out the restriction in its governing document. The restriction of benefits in this way must be a proportionate way of achieving a legitimate aim or to prevent or compensate for a disadvantage that is linked to sex.

Example 1

A charity is established for the advancement of health amongst men in Northern Ireland. Its governing document restricts its benefits to men. The charity organises men only help groups to explore ways to alleviate depression. This restriction is justified as there is a higher level of suicide among men and the charity's research shows that men are more likely to attend a single sex group.

Example 2

A charity is established for the advancement of health or saving of lives. To advance this purpose the charity has established a counseling service which is run for and provided by women. A transgender woman is refused counseling as the women providing the service are uncomfortable. This is unlawful discrimination on the basis of sex.

Trustees of **membership associations** or clubs, which are non-profit making, must be aware that the provisions of the SDO apply to their organisations. Unlike other pieces of legislation, the SDO does not have a minimum threshold number of members before the law applies. Membership association in this context has a particular meaning and, for example, does not refer to umbrella organisations to which other groups subscribe as 'members'.

Section 8: Avoiding unlawful discrimination on the basis of sexual orientation

The Equality Act (Sexual Orientation) Regulations (NI) 2006 (EA(SO)R) make it unlawful to discriminate on grounds of sexual orientation in the provision of:

- goods, facilities or services
- premises
- education and
- public functions.

The goods, facilities and services must be available to the public or a section of the public and the discrimination includes refusal of a service or the provision of a lower standard of service. Discrimination of this kind is unlawful whether the service is paid for or free.

Example 1

A charity is holding a concert to raise funds for its activities. The concert is open to the general public. When a gay couple go to buy tickets they are refused entry. This would be unlawful if the refusal was on the grounds of discrimination related to sexual orientation.

EA(SO)R provides an exception from these regulations for charities. For this exception to apply the charity's governing document must contain a provision which restricts its benefits on the basis of sexual orientation.

Example 2

A charity is established to advance health and the saving of lives. It promotes the mental health of young people, who identify as gay, by running a support group. Only people who identify as gay may attend the group. It is lawful for the charity to restrict its benefits to this section of the public.

EA(SO)R regulations also provide an exception for organisations relating to religion or belief. Section 10 of this guidance has information about this exception.

Trustees of **membership associations** or clubs must be aware that the provisions of the EA(SO)R apply to any membership association or club with 25 or more members. Membership association in this context has a particular meaning and, for example, does not refer to umbrella organisations to which other groups subscribe as 'members'.

Section 9: Avoiding unlawful discrimination on the basis of religious belief and political opinion

The Fair Employment and Treatment (Northern Ireland) Order 1998 (FETO) as amended prohibits discrimination on grounds of religious belief and political opinion in the area of:

- goods, facilities and services
- further and higher education
- disposal or management of premises
- employment.

FETO makes it unlawful for goods, facilities or services, which are available to the public, to be provided at a lower standard or refused on the basis of religious belief or political opinion.

Under FETO political opinion is not limited to Northern Ireland constitutional politics and may include political opinions relating to the conduct or government of the state, or matters of policy, but not those which approve or accept the use of violence for political purposes in Northern Ireland.

Under the Charities Act a political purpose cannot be charitable. There is no exception available to this rule therefore a charity cannot restrict its benefits to individuals with a particular political opinion.

Example

It would be unlawful for a housing charity to refuse to rent a property to individuals on the basis that they did not share the same political opinion as the trustees.

FETO does not define religious belief other than to note that it includes a supposed religious belief and the absence of a religious belief.

FETO has an exception for charities that restrict their benefits to people of a particular religious belief. This exception broadly covers:

- providing services for people of a particular faith and excluding others
- singling out individuals or groups for unfavourable treatment on account of their religious beliefs
- refusing to treat individuals equally because of the religious affiliation of the provider of goods or services.

The example below deals with the current legislation prohibiting discrimination falling within the first two categories. Section 10 of this guidance deals with the last category in more detail.

Example

A church restricts access to activities in its youth club to young people who are practising Christians. The purpose of the club is to further Christian belief among young people therefore this restriction is lawful as the purpose of the charity is to advance Christianity.

Section 10: Exceptions for religious organisations

There are a number of exceptions for religious organisations contained within individual pieces of legislation. The guidance in this section should be read in conjunction with the relevant sections in the rest of the guidance.

Fair Employment & Treatment (NI) Order 1998 as amended (FETO)

FETO (part 4) deals with the provision of goods, facilities and services. FETO uses the term 'religious denomination' but does not define this term. FETO allows religious discrimination by religious denominations where the essential nature of the goods, facilities and services requires them to be provided to people who hold, or who do not hold, particular religious beliefs.

Example

The ministers of a church only offer a marriage ceremony within the church building to people who share the religious belief of the church. This would be lawful as the essential nature of this service requires it to be provided to people who hold these beliefs.

FETO has a general exception that allows Boards of Governors or the owners of schools to discriminate on the grounds of religious belief or political opinion when providing educational or non-educational goods, facilities and services to the public. FETO regulates schools in terms of employment however it does not apply to the recruitment of school teachers.

Example

It is lawful for a school's admission criteria to include a requirement that students share the religious belief of the Mosque which runs the school.

Sex Discrimination (NI) Order 1976 as amended (SDO)

The SDO, which includes gender reassignment, allows discrimination by organised religions where its services are being provided in a place that is occupied by or for the purposes of that religion and where the sex restriction is necessary:

- to comply with the doctrines of that religion *or*
- to avoid offending the religious beliefs of a significant number of its followers.

Example

An Orthodox Jewish synagogue has a strict rule that men and women must sit in different areas during religious services. Segregation is normally considered to be a form of discrimination, but in this case it would be lawful if the rule is applied in order to conform with the doctrines of the Orthodox Jewish religion.

Equality Act (Sexual Orientation) Regulations (NI) 2006 (EA(SO)R)

EA(SO)R includes an exception for religious organisations whose main purpose is to practice, advance or teach a religion or belief or to enable people of a religion or belief to receive a benefit or to engage in an activity, within the framework of that religion or belief. This exception does not apply to organisations with a commercial purpose, those providing a service on behalf of a public authority or to educational bodies.

Example 1

A religious organisation has won a contract from the local council to deliver meals in the community. The charity cannot refuse to provide this service to a person of a different religion or homosexual orientation, if they qualify for the service.

Example 2

It is lawful for a Church to refuse to ordain people with a homosexual orientation if this contradicts a doctrine of their church and conflicts with the convictions of many of its members.

Disability Discrimination Act 1995 as amended (DDA) and the Race Relations (NI) Order 1997 as amended (RRO)

Neither the DDA nor the RRO permit an exception for religious organisations.

10.1 Trading and the Exception for Religious organisations

The exception for religious organisations cannot be applied to organisations that are mainly commercial. Any organisation that has trading for profit as its primary purpose cannot be a charity. However, charities can establish companies or organisations to carry out non-charitable trading and donate any profits to the charity. Such companies cannot use the religious exception to discriminate against a person on the basis of their religious belief or sexual orientation.

Example 1

A religious charity owns and runs a bookshop. All profits from the shop are donated to the religious charity. The manager of the bookshop cannot use the religious exception to justify refusing to serve a customer who they know to be homosexual or of a different religious belief.

Religious organisations that hire out premises need to be careful about refusing to rent their premises to groups or individuals.

Example 2

A church refuses to allow a local yoga group to meet in the church hall as this would conflict with the strongly held beliefs of members of the church. The charity could justify this restriction using the religious and belief exception provided the use of the hall was not being offered on a commercial or rental basis.

Being clear about how the refusal can be justified at the outset can avoid problems at a later stage. This exception is complex in its application so taking legal advice may be necessary. A charity in this situation may wish to consider factors such as whether the hall is intended for exclusively charitable and religious use, whether the charity could be vulnerable to complaint, and if there is likely to be any risk to the reputation of the charity.

Section 11: Conclusion

All charities are service providers and many of them are also employers. While charities are regulated by the Commission under the provisions of the Charities Act, trustees must also ensure that their charities comply with the obligations of other legislation.

Equality legislation in Northern Ireland is found in seven different pieces of legislation. This guidance is designed to act as an introduction and signpost for charity trustees as they consider how equality law impacts on their charity. It is not an exhaustive guide nor is it a definitive legal guide. Legislation also changes from time to time and the information in this guidance reflects the law as it currently stands.

The Commission strongly advises charity trustees who have questions about how equality legislation impacts their charity to seek advice from the Equality Commission for Northern Ireland and from their own legal advisers.

Appendix 1 Equality legislation

Below is a list of Northern Ireland legislation which contains equality provisions and a charity exemption. These may be changed or updated. The law is complex and may need to be interpreted.

Age:

Employment Equality (Age) Regulations (Northern Ireland) 2006

At present age discrimination law does not regulate the provision of goods, facilities and services but does apply to employment, vocational training and the provision of further and higher education.

Disability:

Disability Discrimination Act 1995 as amended

This law prohibits discrimination and harassment against disabled persons in relation to employment, vocational training and the provision of goods, facilities and services. Section 18C of the Act provides an exception for charitable organisations, but only in relation to employment and the provision of vocational training.

Special Educational Needs & Disability (NI) Order 2005

This law prohibits disability discrimination against disabled persons in relation to the provision of primary, secondary and tertiary level education.

Sex:

Sex Discrimination (NI) Order 1976 as amended

This law prohibits discrimination and harassment on the grounds of sex, pregnancy and maternity; gender reassignment and marital/civil partnership status. Article 44 of the Order provides for the charitable exception.

Race:

Race Relations (NI) Order 1997 as amended

This law prohibits discrimination and harassment on the grounds of race, colour, ethnic or national origins, nationality, belonging to the Irish Traveller community. Article 34 of the Order provides the charitable exception.

Religious belief and political opinion:

Fair Employment & Treatment (NI) Order 1998 as amended

This law prohibits discrimination and harassment on the grounds of religious belief and political opinion. Article 77 of the Order provides for the charitable exception.

Sexual orientation:

Employment Equality (Sexual orientation) Regulations (NI) 2003

This law prohibits sexual orientation discrimination mainly in employment, but also in relation to some services, such as the provision of vocational training and further and higher education.

Equality Act (Sexual orientation) Regulations (NI) 2006

This law prohibits discrimination in the provision of goods and services on the basis of sexual orientation, where 'sexual orientation' refers to:

- (a) a sexual orientation towards persons of the same sex;
- (b) a sexual orientation towards persons of the opposite sex;
- (c) a sexual orientation towards persons of the same sex and of the opposite sex.

Glossary

Term	Definition
<p>Charitable purpose</p>	<p>This is defined by section 2 of the Charities Act (Northern Ireland) 2008 (as amended) as one that:</p> <ul style="list-style-type: none"> • falls under one or more of the list of 12 descriptions of purposes set out in section 2(2) of the Charities Act and • is for the public benefit. <p>To be a charity, an organisation must have purposes which are exclusively charitable in law.</p>
<p>Charities Act (Northern Ireland) 2008</p>	<p>The Charities Act (Northern Ireland) 2008 is the main piece of legislation establishing the Charity Commission for Northern Ireland and setting out its functions and powers.</p> <p>References to 'the Charities Act' are to the Charities Act (Northern Ireland), as amended. The full content of the Charities Act can be found at www.legislation.gov.uk</p> <p>Not all of the sections of the Charities Act are in force yet. Details of the sections that are in force are available on the Commission's website www.charitycommissionni.org.uk</p>
<p>Charity trustees</p>	<p>These are the people having general control and management of the administration of a charity. In the charity's governing document they may be called trustees, managing trustees, committee members, governors or directors or they may be referred to by some other title.</p> <p>Some people are disqualified by law from acting as charity trustees. These disqualifications are set out in the Charities Act and broadly include but are not limited to anyone who:</p> <ul style="list-style-type: none"> • has been convicted of an offence involving deception or dishonesty, unless the conviction is a spent conviction under the Rehabilitation of Offenders (NI) Order 1978 • is an undischarged bankrupt or has made an

	<p>arrangement with creditors</p> <ul style="list-style-type: none"> • has previously been removed as a trustee by the Commission or by the Courts • is subject to disqualification under company legislation.
Designated public authority	Listed at section 75(3) of the Northern Ireland Act 1998, this is an organisation to which s75 of the Northern Ireland Act 1998 applies.
Equality characteristics	Unless certain circumstances apply, the legislation makes it unlawful to discriminate against a person on the basis of a particular characteristic: gender, disability, race, age sexual orientation, marital status, persons with and without dependants, religious belief and political opinion. In the guidance we refer to these as equality characteristics.
Governing document	A charity's governing document is any document which sets out the charity's purposes and, usually, how it is to be administered. It may be a trust deed, constitution, memorandum and articles of association, conveyance, Will, Royal Charter, Scheme of the Commission or other formal document.
Membership association	<p>An organisation that allows people to subscribe, and often requires them to pay a membership fee or subscription.</p> <p>Membership associations usually have a particular purpose, which involves connecting people together around a particular profession, industry, activity, interest, mission or geographical location. The association often involves promoting and enhancing a particular purpose. They vary in size and can be non-profit making or commercial and may be unincorporated or incorporated.</p>
Reasonable adjustment	The Disability Discrimination Act (1995) as amended does not provide a succinct definition of the phrase 'reasonable adjustment.' It is clear that it refers to the removal or reduction of barriers that prevent disabled people from enjoying the same access to services that non-disabled people enjoy. These barriers may arise from attitudes, procedures or from physical features. Whether a charity has complied with its duty to make reasonable

	<p>adjustments will depend on the individual circumstances and the only requirement is to make changes that are considered reasonable in all the circumstances. Therefore what is considered reasonable for a large organisation may be different to what is considered reasonable for a small organisation.</p>
<p>Section 75 of the Northern Ireland Act 1998</p>	<p>Section 75 and Schedule 9 to the Northern Ireland Act 1998 requires designated public authorities in carrying out their various functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity –</p> <ul style="list-style-type: none"> • between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; • between men and women generally; • between persons with a disability and persons without; and • between persons with dependants and persons without. <p>In addition, without prejudice to this obligation, designated public authorities are also required to have regard to the desirability of promoting good relations between persons of different religious belief, political opinion, and racial group.</p>
<p>W3C standards of accessibility</p>	<p>W3C accessibility standards consist of a set of guidelines for making content accessible especially to those web users who have a disability. This standard is recognised internationally.</p>

Useful contacts

There are many resources that charity trustees can use to help them carry out their duties. This is not a definitive list of all the sources of information available. We would encourage trustees to make use of the wide range of organisations that can help.

Department for
Communities

Telephone: 028 9082 9000

Website: www.communities-ni.gov.uk

Department of Health

Telephone: 028 9052 0500

Website: www.health-ni.gov.uk

Developing Governance
Group

Website: www.diycommitteeguide.org

Equality Commission for
Northern Ireland

Telephone: 028 90 500 600

Website: www.equalityni.org

Human Rights
Commission for
Northern Ireland

Telephone: 028 9024 7844

Website: www.nihrc.org

Northern Ireland Council
for Voluntary Action
(NICVA)

Telephone: 028 9087 7777

Website: www.nicva.org

Volunteer Now

Telephone: 028 9023 2020

Website: www.volunteernow.co.uk

Useful supporting documents

Running your charity guidance

Registering as a charity in Northern Ireland: guidance

The public benefit requirement: statutory guidance

Supporting documents on the 12 charitable purposes

Purposes and Public benefit toolkit

Starting a new charity

Diversity in volunteering

For charities which are also employers

Discrimination law is complex and subject to regular change. The Equality Commission for Northern Ireland has a wide range of advice and guidance available at: <https://www.equalityni.org/smallbusiness>.

If you are dissatisfied with our service

The Commission is committed to delivering a quality service at all times. However, we know that sometimes things can go wrong. If you are dissatisfied with the service you have received, we would like to hear from you, and have a procedure that you can use. You will find further information on these processes in our guidance, *Making a complaint about our services*, which is on our website www.charitycommissionni.org.uk

Freedom of information and data protection

Data Protection

The Charity Commission for Northern Ireland is responsible for registering, regulating and reporting on the charity sector in Northern Ireland. As the charity regulator, we are lawfully required to collect and process personal data in order to achieve our statutory objectives, functions and general duties.

Any personal data you give us will be held securely and in accordance with data protection rules and principles. Your personal details will be treated as private and confidential, and will only be retained for as long as is necessary in line with our [retention policy](#). The information will be safeguarded and will not be disclosed to anyone not connected to the Commission unless:

- you have agreed to its release,
- the Commission is legally bound to disclose the information
- the Commission regards disclosure as necessary in order to properly carry out its statutory functions

The Commission may also disclose information or personal data to other relevant public authorities where it is lawful to do so and where, for the purposes of national security, law enforcement, or other issues of overriding public interest, such disclosure is necessary.

We will ensure that any disclosure made for this purpose is lawful, fair, considers your right to privacy and is made only to serve the Commission's statutory objectives as a regulator.

When you provide the Commission with information used to carry out its functions, you are obliged to comply with section 25 of the *Charities Act (Northern Ireland) 2008* which means that it is an offence to provide information which is false or misleading. In respect of your personal data we expect any data which you give us to be truthful, accurate and up-to-date.

For further information, you may wish to read the Commission's [Privacy notice](#) which details what to expect when the Commission collects and

processes personal information, including your rights in relation to that processing if we hold your information.

Freedom of Information

The Freedom of Information Act 2000 gives members of the public the right to know about and request information that we hold. This includes information received from third parties. If information is requested under the Freedom of Information Act we will release it, unless there are relevant exemptions. We may choose to consult with you first. If you think that information you are providing may be exempt from release if requested, please let us know.

**Further information on our activities is available from:
Charity Commission for
Northern Ireland
257 Lough Road
Lurgan
Craigavon
BT66 6NQ**

www.charitycommissionni.org.uk

Email: admin@charitycommissionni.org.uk

Tel: 028 3832 0220

Fax: 028 3834 5943

TextPhone: 028 3834 7639

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