

Rt Hon Caroline Nokes MP
Chair, Women and Equalities
Committee
House of Commons

Monday 17 May 2021

Dear Chair,

Subject: Changing the perfect picture: an inquiry into body image

I am writing in response to a recommendation in the Committee's recent inquiry report 'Changing the perfect picture: an inquiry into body image'.

The Committee has recommended that the Equality and Human Rights Commission 'should produce guidance for individuals seeking to use the existing Equality Act legislation to challenge appearance-based discrimination within three months'.

We have [published a range of guidance](#) on the Equality Act 2010 for employers, workers, service providers, service users and education providers.

We have not produced guidance dealing solely with the issue of appearance-based discrimination as 'appearance' is not one of the protected characteristics within the Equality Act 2010. However, we appreciate that discrimination on the basis of someone's appearance could be linked to a protected characteristic and therefore fall within the provisions of the Equality Act 2010. We have

T: 020 7832 7800

E: correspondence@equalityhumanrights.com

equalityhumanrights.com

addressed this issue in some detail in our existing guidance. For example:

- Our [codes of practice](#) on employment and services, public functions and associations both explain that people with severe disfigurements are covered by the disability provisions of the Equality Act 2010. That they do not need to demonstrate that the impairment has a substantial adverse effect on their ability to carry out normal day-to-day activities, but they do need to meet the long-term requirement. The following example of discrimination is also provided: *“The leader of a boys’ club on a camping trip jokingly refers to one boy with severe facial burns as ‘scarface’ and the other boys laugh. The disabled boy finds this insulting and humiliating and asks to go home early. Because the comments are offensive and upset the boy, this is likely to be unlawful harassment related to disability.”*
- Our [code of practice on employment](#) explains that the protected characteristic of age is defined in the Equality Act by reference to a person’s age group. Age groups can be linked to actual or assumed physical appearance, which may have little relationship with chronological age – for example, ‘the grey workforce’.
- Our codes of practice explain that sexual orientation discrimination includes discrimination connected with manifestations of that sexual orientation. These may include someone’s appearance, the places they visit or the people they associate with.
- Our codes of practice explain the definition of race and that this includes colour.

T: 020 7832 7800

E: correspondence@equalityhumanrights.com

equalityhumanrights.com

- Our codes of practice explain that direct discrimination occurs where someone is treated less favourably because they are perceived to have a protected characteristic, even if they do not in fact have it. The services code gives the following example of such discrimination: *“A woman with a medical condition that makes her appear ‘masculine’ is wrongly perceived to be undergoing gender reassignment and refused entry to a women-only sauna session at her local leisure centre. This is likely to be less favourable treatment because of gender reassignment.”*
- We have produced [website guidance](#) on sexist dress codes in employment.
- Our [guidance for schools](#) provides an example of potential discrimination arising from a policy requiring pupils to have a particular haircut where this precludes a style commonly adopted by a particular ethnic group, such as ‘cornrow’ hair-braids commonly worn by boys of Afro-Caribbean origin.

The Commission has also used its legal and enforcement powers to tackle issues of appearance based discrimination. For example:

- We took [early enforcement action](#) in relation to Matching Models recruitment agency who advertised jobs for 'attractive women', as well as specifying bra size.
- We funded [legal action](#) against a school which told a Rastafarian boy to cut his dreadlocks.
- We funded [legal action](#) against a school which repeatedly sent home a girl

T: 020 7832 7800

E: correspondence@equalityhumanrights.com

equalityhumanrights.com

because her afro hair did not comply with its uniform policy.

We prioritise guidance based on the strategic priorities set out in our [2019-22 Strategic Plan](#) and according to our available resources. While we recognise the important issues raised in the Committee's inquiry report, we consider that our existing guidance covers the issues raised by the Committee on appearance-based discrimination as they relate to the provisions of the Equality Act 2010.

I hope you find this useful. I am available to discuss this further should that be helpful.

Yours sincerely,



Melanie Field
Executive Director – Strategy, Policy and Wales