

## The Equality Bill – your questions answered

The Equality Bill has been through its second reading in the House of Commons and the process is now scheduled for the Committee stage. The committee will consider each clause of the bill, and may make amendments to it. There are at least three more stages that the Bill must pass through before it becomes law, which is expected to take until spring 2010, with the date by which its requirements must be implemented anticipated to be in autumn 2010.

Last year EWGA and the EGU took the opportunity to contribute to the consultation process and are confident that the views of the game have been represented in detail, whilst at the same time attempting to identify the impact that a change in the law would have on the traditions of golf.

There is however a determination within government that the hitherto disparate strands of a plethora of discrimination laws shall now be harmonised within a single law to “support progress on equality”. If enacted, which seems likely, the Bill will consolidate existing discrimination legislation to give a single approach where appropriate.

It is not our intention to review the whole of the Bill, only to consider the impact of those elements that experience has led us to suggest are those which will possibly impact upon golf clubs and the game of golf.

Previous legislation has identified sections of the community which are at risk of suffering discrimination in some form, and which have received protection under the law, although some sections have received less favourable levels of protection than others. These parts of the community contain individuals who have what are referred to in the new Bill as “protected characteristics”. These are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, gender, religion or belief, sex, and sexual orientation.

We wish to provide clubs with our insight into the national situation and the reasoning behind the introduction of this new Bill. We have prepared our interpretation of the impact of the Bill, should it become law without any further amendments, on a selection of situations which have already been presented to us by clubs.

We must stress that the Bill is not yet law; these Q&As are offered in anticipation of the successful progress of the Bill and are designed to alert clubs as to the likely effect that this legislation will have.

We should emphasise that this paper is a brief summary of the law and how we consider it might affect golf. It should not replace legal advice tailored to your specific circumstances.

We have addressed a number of questions previously raised by golf clubs but do not consider this to be an exhaustive list. We would welcome further questions and comments. Please contact Kirstie Jennings, EWGA Compliance Officer: [kirstie@englishwomensgolf.org](mailto:kirstie@englishwomensgolf.org)

### **The National View**

**Q. What is the problem under consideration? Why is government intervention necessary?**

A. Some associations, which include private clubs with mixed male/female membership, still do not treat women equally. For example, they do not allow women to vote as full members; or they restrict women's access to the club's facilities. In the past the government has tried to tackle this through voluntary measures but they are still receiving representations from women who feel they have been discriminated against.

**Q. What are the policy objectives and the intended effects?**

A. To ensure that associations with 25 or more members will not be able to discriminate on the grounds of any of the protected characteristics, it will also be unlawful for such bodies to discriminate against associates and guests. However, it will remain lawful to admit only members (or guests) with a particular characteristic; for example all-men or all-women clubs.

**Q. What policy options have been considered and how was the outcome determined?**

A. Option 1 – Do nothing

Option 2 – Extend protection from discrimination on the grounds of sex, religion or belief, age, gender reassignment and pregnancy and maternity to ensure consistency across all grounds and also extend protection across all grounds to guests (Final Proposal).

Failure to ensure consistency across all areas of discrimination will leave grey areas of discrimination law. Their final proposal is therefore Option 2 as associations and their members will benefit.

**Q. When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?**

A. After implementation and on an ongoing basis, by the Equality and Human Rights Commission. The Government will also review after 5 years.

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## **Questions and Answers for Golf**

**Q. I am a member of a gentleman's club where women are not admitted to any form of membership. Would the Equality Bill change the law to mean that we would have to admit women to the club?**

A. No. Genuinely single sex clubs would not be affected by the Bill and could continue to provide their facilities and services to their own members.

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**Q. The majority of women within our club do not want equality of membership conditions as they are content with their current situation and do not wish to pay equal subscription fees. If they vote to accept the status quo, can we opt not to offer equality of membership conditions to men and women?**

A. Many golf clubs restrict numbers of women members, and reserve Saturdays for men's competitions. Women therefore pay a reduced rate for membership. Removing this practice will benefit the long-term health of the sport; however, a sudden removal of restrictions accompanied by a levelling of membership fee could see an exodus of women unwilling to pay the increased fee, thus damaging the viability of clubs. It would therefore be helpful to allow clubs some time to phase in new membership fees in line with equal access. The Department of Culture, Media and Sport has indicated that it is currently planned that the Equality Bill will be introduced without a transitional period. Representations have been made by the EGU and EWGA to DCMS that this would result in a negative effect in the short term on golf club membership and that consideration should be given to a "phasing in" of the requirements to allow golf clubs to adjust to the new law.

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**Q. The golf club I belong to restricts the times when women members can play. Is this lawful?**

A. Under the requirements of the Bill, this practice would no longer be lawful. Clubs will now be required ensure that facilities are provided on an equal basis. It may still be the case that there are more female members who are content to restrict their play at weekends, but there are many women who are deterred from choosing golf as a sport, or joining a golf club because they are not provided equal access to the facilities at the weekend. In the current climate, many golf clubs are finding it increasingly difficult to attract new members, particularly younger members, and a change to a more equitable approach may be beneficial in attracting women to golf who would previously be excluded by current restrictions in access.

We would recommend that to meet the requirements of the Bill, clubs should examine ways to become more flexible. They could respond to the needs of all of the membership and organise their start sheets on days that have hitherto been the domain of the male golfer to meet the new requirements of the Bill. At clubs where tee times have to be reserved in advance and have historically been dedicated to male play, clubs could initially introduce a time slot for women.

Depending on the resulting demand to fill this time it can be lengthened or shortened accordingly but any arrangement must be considered over a reasonable period of introduction. Ultimately it might result in a completely open start sheet to be filled in on a first come, first served basis. So long as the same opportunity exists for women to reserve a tee time in these circumstances the requirements will be met.

Weekend Medal Competitions and Club competitions may ostensibly present a problem. There are a number of solutions to overcome this predicament. It may be that one mutual Medal day is the considered option with tee times being allocated on a first come first served basis to both men and women to allow the separate Medal competitions to run concurrently. Alternatively there could be two designated Medal days;. Another option might be to have two Medal days, but with the tee reserved for competitors, men or women, who are only allowed to play on one of the days from so that the tee is then available outside of these times for non competitors of either sex.

Neither the EGU nor EWGA can enforce a solution on clubs. We would however advise clubs to look at the choices objectively and determine for themselves what is fair.

Contrary to the current situation we would recommend that there are NO specific ladies days or seniors' days. The only priorities should be for competition play.

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**Q. My club places an upper restriction on the number of places for women. Is this lawful?**

A. Not if the new Bill is introduced. If a section is ring fenced and there is the chance for more than 200 women to become members but an upper limit denies this happening it would be unlawful. Part 7: 96.1 However, there is a danger that if all membership spaces were open to all, then the number of female members would erode to an unsustainable level. To protect against this, it would be acceptable to allocate a minimum (as opposed to a maximum as is often the case currently) number of spaces to either gender.

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**Q. We are concerned that our club membership seems to be dominated by senior golfers. Will it be legal to restrict numbers of this age group in favour of trying to attract younger members?**

A. No. Age is now a protected characteristic – no upper limit can be applied to any membership category.

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**Q. If equality reigns across the board, do all fees have to be the same?**

A. No. Part 11: Chapter 2: Section 152: Note No 499 of the Bill states that *“the Bill does not prohibit the use of positive action measures to alleviate disadvantage experienced by people who*

*share a protected characteristic, reduce their under-representation in relation to particular activities, and meet their particular needs. It will, for example, allow measures to be targeted to particular groups.....”*

If juniors or seniors are perceived to be prevented from joining a club because of cost, our interpretation is that the Bill allows for clubs to offer discounted rates; Part 11: Chapter 2: Section 152 (1) “*This section applies if a person reasonably thinks that – (c) ‘participation in an activity by persons who share a protected characteristic is disproportionately low’ – “*

Section 152 (2) of the Act does not prohibit action which is a proportionate means of achieving the aim of

- (a) Enabling or encouraging persons who share the protected characteristic to overcome or minimise that disadvantage
- (b) Meeting those needs, or
- (c) Enabling or encouraging persons who share the protected characteristic to participate in that activity.

For example, a club will be allowed to offer a discounted fee for the duration of “say” a recruitment drive to help increase the numbers of a minority group. As members of a group of people who share a characteristic, it is likely that 30 – 40 year old men could be targeted under this condition.

Discounts can be offered against a base line membership fee on grounds of age. Therefore juniors and seniors can be offered special terms if the club decides to (so long as they are offered to men and women. However, it must be established that (a) participation by those in that age group is disproportionately low and (b) the discount will help people within that group to overcome the disadvantage their age has resulted in.

Membership categories can be introduced so long as they are across the board. E.g. 1,2,3,4,5,6, or 7 day membership.

BUT any or all age group of membership could also be offered ‘special’ terms if the club determines that there is an established need to do so.

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**Q. All of the committees at my club are made up entirely of male members. Is this lawful?**

A. It is not illegal, though maybe undesirable, to have a committee made up of one gender. The relevant factor is the means by which an individual is able to be elected onto committee, and how members can participate in the election process. If women are restricted from being elected onto committee, or if there are restrictions on women voting, then it is possible that the club’s arrangements are unlawful. If men are appointed to the committee by virtue of their position and their female equivalents are not afforded similar appointments, then this may be considered inequitable and unlawful.

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**Q. Does the introduction of this Bill mean that ALL competitions must be played off of the same tees and that men and women must compete against each other under the same conditions?**

A. Sports clubs will NOT be forced to allow women to compete alongside men. There is already an exception in law which allows men and women to be treated differently in “any sport, game or other activity of a competitive nature where the physical strength, stamina or physique of the average woman puts her at a disadvantage to the average man” (*Sex Discrimination Act 1975*). The Government has no plans to remove this provision.

