

Commission amendments

Amendment	Lead organisation	Activity
Clause 1 - Support socioeconomic duty		Commons committee stage - opposed Conservative amendment to remove duty

Amendment	Lead organisation	Activity
<p>Clauses 4 and 7 - widening definition of who is protected from transgender discrimination. Definition should protect all those who face discrimination based on their gender identity, such as those who do not live full time in their preferred gender, those who do not intend to undergo gender reassignment because of age/medical condition and intersex people.</p>	<p>Press for Change</p>	<p>Commons committee stage -briefed in support</p>
<p>Clauses 6, 13, 18, 24 - amendments so that if a person is perceived to have a disability, the perceived disability does not have to meet the legal definition of 'disabled'.</p>	<p>Disability Charities Consortium</p>	<p>Commons committee stage - briefed in support</p>

Amendment	Lead organisation	Activity
<p>Clause 6 - remove 'long term' from definition of disability. This would ensure that those with short-term conditions, particularly mental health conditions such as depression, who find that they are the subject of discrimination have the protection of the bill.</p>	<p>EHRC</p>	<p>Proposed amendment to Lib dems</p>
<p>Clause 13 - Direct discrimination. Wording should be 'on grounds of' not 'because of' as we were concerned that the use of the word 'because' as included in the Bill, may raise the threshold for proving discrimination claims. Sought confirmation that this wording is not regressive.</p>	<p>Conservative amendment</p>	<p>Commons committee stage - Supported Conservative amendment to gain clarification.</p>

Amendment	Lead organisation	Activity
<p>Clause 14 - Discrimination arising from disability:</p> <p>Clarify that this clause offers the same level of protection that existed prior to the Malcolm decision. Main issues:</p> <p><i>Detriment</i></p> <p>to ensure that protection is afforded to the disabled person where there is a disability-related detriment, <i>irrespective of whether others might also experience the same detriment.</i></p> <p><i>Consequences of disability</i></p> <p>clause 14 must be interpreted widely to include the effects and consequences of disability as well as the mere fact of disability.</p> <p><i>Knowledge of disability</i></p> <p>aims to clarify that those with responsibilities under the Bill must take a pro-active approach to ensure that they are aware of whether an individual has a disability, and to prevent 'deliberate ignorance' being employed to justify discrimination.</p>	<p>EHRC</p>	<p>Commons committee stage - proposed amendment to Lib dems</p>

Amendment	Lead organisation	Activity
<p>Clause 16 and 17 - remove 'reasonableness' test from definition of pregnancy and maternity discrimination. Also, to change wording from 'less favourably' to 'unfavourably'. Concerned that as the Bill stands, it weakens the legal protection of pregnant women and women on maternity leave, and would be a regression from what currently exists.</p>	<p>EHRC</p>	<p>Commons committee stage - proposed amendments to Lib dems. Vera Baird then added her name to them and they were accepted as part of Bill</p>

Amendment	Lead organisation	Activity
<p>Clause 19 - through reasonable adjustments, service should, wherever possible, be provided to a disabled person in the same way as for a non-disabled person. Duty holders must implement the optimum reasonable adjustment available, in order to ensure an inclusive and longer term solution - not simply that which allows a duty holder to avoid temporarily disadvantaging the disabled person.</p>	<p>EHRC</p>	<p>Commons committee stage - Proposed amends to Lib dems</p>
<p>Clause 19 - ensure that anticipatory nature of the reasonable adjustment duty will be retained.</p>	<p>Disability Charities Consortium</p>	<p>Commons committee stage - briefed in support</p>

Amendment	Lead organisation	Activity
<p>Clause 22 - remove the additional and regressive 'like for like' comparator test from the duty to make reasonable adjustments. This is in order to avoid a higher trigger for the duty being imported than we have at present.</p>	<p>EHRC</p>	<p>Commons committee stage - proposed amendment to Lib dems</p>
<p>Clause 24 - ensure no regression in protection relating to harassment. We are considering the harassment provisions and exclusions in depth and would like to work with government to resolve any concerns and may return to issue at a later stage in Parliament's scrutiny of the Bill.</p>	<p>SNP amendment</p>	<p>Commons committee stage - opposed SNP amendment which we regard as regressive. Explained that we are examining this issue internally and may pursue amendments at later stage</p>
<p>Clause 26 - extend protection from discrimination, harassment and victimisation by service providers to under 18s</p>	<p>Young Equals</p>	<p>Commons committee stage - briefed in support</p>

Amendment	Lead organisation	Activity
Schedule 3 - immigration (disability): All exceptions must be subject to a requirement of being a proportionate means of achieving a legitimate aim	EHRC	Commons committee stage - proposed amend to Lib dem
Schedule 3 - armed forces: All exceptions must be subject to a requirement of being a proportionate means of achieving a legitimate aim	EHRC	Commons committee stage - proposed amend to Lib dem
Clause 30 - premises	Lib dem and cons amends to include age and marriage and civil partnership	EHRC is examining evidence of discrimination in premises on the excluded grounds and may pursue an amendment at later stage
Schedule 5 - The effect of paragraph 1 (3) is to allow discrimination on all protected grounds other than race. Therefore delete.	EHRC	Commons committee stage - Proposed amends but were not tabled

Amendment	Lead organisation	Activity
Schedule 5 - Schedule 5 paragraph 1(4) line 8 After '(b) sexual orientation' add 'and the refusal to give permission is a proportionate means of achieving a legitimate aim.'	EHRC	Commons committee stage - proposed amend but were not tabled
Schedule 13 - ensure that the anticipatory nature of the duty to make reasonable adjustments is retained in education, as presently in the Disability Discrimination Act by providing that the duty applies to 'disabled persons' not only to an individual disabled person.	EHRC	Commons committee stage - proposed amend to Lib dem

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<p>Clause 13 - would like to see association and perception on face of bill. This would make it clearer that discrimination against someone because they are perceived to have a protected characteristic, or because they are associated with someone who has that characteristic, is prohibited. It would also ensure consistency with EU requirement and current legislation.</p>	<p>Press for Change</p>	<p>Commons committee stage - briefed in support</p>
<p>Clause 36 - pre-employment inquiries.</p>	<p>Rethink</p>	<p>Commons committee stage - briefed in support of new clause which sought to prohibit pre-employment health inquiries subject to a clearly defined and limited exception</p>

Amendment	Lead organisation	Activity
Clause 64 - equal pay. Concern that the wording is regressive and confusing, making it more difficult to prove discrimination	EDF	Commons committee stage - briefed stating concern with this clause
Equal pay - clause 66. Hypothetical comparators should be allowed in equal pay cases - both direct and indirect.	n/a	Commons committee stage - briefed in support of extending hypothetical comparators in indirect discrimination cases
Clause 73 - support gender pay reporting.	Conservative amendment	Commons committee stage - Opposed amendment to remove power to allow Minister to require private sector employers with more than 250 employees to report on pay of women in their organisation
Schedule 9 - abolish national default retirement age	Age Concern	Commons committee stage - briefed in support

Amendment	Lead organisation	Activity
Schedule 9 - Genuine occupational requirement: religious organisations are permitted to discriminate on the grounds of sexual orientation		EHRC considering these provisions and may submit amendments at later stage
Clause 79 - extend protection to pregnancy and maternity in schools on basis that provision in the Bill is a regression on what currently exists	John Mason amendment	Commons committee stage - briefed in support
Clause 78 - Wider definition of 'in employment' to ensure that as many workers as possible are protected by the Bill, particularly those workers in non-traditional working arrangements, including agency and contract workers, who are not employed.		EHRC considering scope of clause and may pursue Lords

Amendment	Lead organisation	Activity
Schedule 13 - ensure the anticipatory nature of reasonable adjustment duty is retained in education	EHRC	Commons committee stage - Proposed amend to Lib dems
Purpose clause	EHRC, Race on the Agenda	Commons committee stage - Proposed amend to Conservatives
Clause 91 - General qualifications bodies. Bill states that the reasonable adjustment duty applies to everything a GQB does, unless the “appropriate regulator” makes a decision that there is no duty to adjust a specific provision, criteria or practice (PCP). The disadvantage is that this relies entirely on the regulatory bodies.	RNID	Commons committee stage - brief in support
Clause 80 - harassment of pupils		Going to Board . May pursue at later stage

Amendment	Lead organisation	Activity
Schedule 13 - Auxiliary aids - want to lift the exemption of schools from duty to provide auxiliary aids and services but limit what counts as an auxiliary aids or service in this context as <i>'only those things which other public authorities are required to do'</i>	DCC	Commons committee stage - briefed in support
Clause 126 - ET powers to make recommendations should be extended to equal pay cases	?	Commons committee stage - included this in our briefing
Schedule 18 - exemption from PSED of schools and children's homes	Young Equals	Commons committee stage - stated our concern. Exploring legislative solution
Clause 143 - PSED 'good relations'	EHRC	Commons committee stage - proposed amend to Labour
Clause 143 - PSED 'more favourably'	EHRC	Commons committee stage - proposed amend to Cons

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Clause 143 - PSED. List of public authorities	Race on the Agenda	Commons committee stage - briefed stating govt should revisit
Clause 143 - inspectorates.	Race on the Agenda	Internal discussions re: best approach. May submit amendment at later stage
Clause 143 - support extension to R and B		Briefed in support
Clause 146 - PSED. Power to Scotland and Wales ministers to amend list	EHRC	Commons committee stage - briefed for power to be transferred
Equality Guarantee	EHRC	Commons committee stage - lib dems tabled their own. Briefed in support of EG
Equality Guarantee - plan B to deal with exceptions	EHRC	Internal discussion re: approach and may pursue at a later stage

Amendment	Lead organisation	Activity
Purpose Clause	EHRC, Race on the Agenda	Commons committee stage - proposed amend to Conservatives
Clause 186 - Charities: this allows charities to discriminate in provision of benefits if it 'a proportionate means of achieving a legitimate aim <u>OR</u> is for the purpose of preventing or compensating for a disadvantage linked to the protected characteristic'.		EHRC considering whether clause 186 is sufficiently tightly defined/compliant with Human Rights law. May submit amendment at later stage.
Clause 190 - Age exceptions	Age Concern / EHRC	Commons committee stage - proposed amend to ensure that any exceptions introduced under this provision must be a proportionate means of achieving at legitimate aim.

Amendment	Lead organisation	Activity
Clause 203 - commencement date	EHRC	Commons committee stage - brief in support to get assurances from Minister
Schedule 25 - Unlawful adverts on internet: should service providers be made liable?		EHRC considering EU law in this regard and may submit amendment at a later stage

EHRC is also considering the following issues/clauses:

- meaning of establishment
- harassment of contract workers by third parties
- survivor benefits for civil partners
- discriminatory adverts
- insurance provisions
- Exceptions generally
- Protection for volunteers
- Relationship between apprenticeships and positive action
- Clause 52 and coverage of agency workers