

Public Sector Equality Duty

Equality Statement for Limitation Law in Child Sexual Abuse Cases Consultation

Introduction

This document records the analysis undertaken by Ministry of Justice to fulfil the requirements of the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010. This requires the department to pay due regard to the need to:

1. **eliminate unlawful discrimination** - direct discrimination, indirect discrimination, discrimination arising from disability, and harassment, victimisation and any other conduct prohibited by the Act
2. **advance equality of opportunity** between people who share a protected characteristic and people who do not share it
3. **foster good relations** between people who share a protected characteristic and those who do not share it

The protected characteristics which have been considered are:

- age
- disability
- sex
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sexual orientation
- marriage and civil partnership (but only in respect of the first aim of the Equality Duty).

Background

Limitation law sets time limits within which a party must bring a claim, or give notice of a claim, to the other party in a legal dispute. The present law on limitation in England and Wales is primarily contained in the Limitation Act 1980. This Act sets a range of time limits for various types of civil claims. Child sexual abuse claims are normally treated as personal injury claims and are usually subject to a three-year limitation period. This means that claims must be brought within three years of the abuse happening or the victim having knowledge of the abuse or alternatively, when the victim attains the age of 21 if they were under 18 when the abuse occurred.

In their final report the Independent Inquiry into Child Sexual Abuse recommended that the UK Government makes the necessary changes to legislation in order to ensure:

The removal of the three-year limitation period for personal injury claims brought by victims and survivors of child sexual abuse in respect of their abuse; and the express protection of the right to a fair trial, with the burden falling on defendants to show that a fair trial is not possible. These provisions would apply whether or not the current three-year period has already started to run or has expired, except where claims have been dismissed by a court or settled by agreement. They would, however, only apply to claims brought by victims and survivors, not claims brought on behalf of victims and survivors' estates.

The Government's response to the Inquiry confirmed agreement to publish a consultation paper exploring options on how the existing judicial guidance in child sexual abuse cases could be strengthened as well as setting out options for the reform of limitation law in child sexual abuse cases.

Policy options

The consultation covers eight policy options on limitation law in child sexual abuse cases on which we are now seeking views. We have considered the limited equalities evidence that is available on child sexual abuse. We will also consider any relevant new equalities evidence received in the consultation.

The consultation specifically asks 2 equalities questions.

Evidence and analysis

The Crime Survey for England and Wales (CSEW) estimated that 7.5% of adults aged 18 to 74 years experienced sexual abuse before the age of 16 years (3.1 million people); this includes both adult and child perpetrators¹.

However, measuring the scale and nature of child sexual abuse can be difficult because it is usually hidden from view. Victims often feel unable to report their experiences and adults are not always able to recognise that abuse is taking place. As a result, administrative data sources do not represent the full scale of the issue. There are no current surveys measuring children's experiences of sexual abuse because of the challenges in asking this age group about such a sensitive topic. We therefore do not know definitively how many children are currently experiencing, or have experienced, sexual abuse.

Information about adults who suffered child sexual abuse is also limited and incomplete for similar reasons to those outlined above.

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<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/childsexualabuseinenglandandwales/yearendingmarch2019#:~:text=1.,Main%20points,both%20adult%20and%20child%20perpetrators>.

Summary

This section summarises our initial equalities assessment of the proposed policy options based on the three aims of Public Sector Equality Duty:

Direct discrimination

The options outlined in this consultation are considered unlikely to be directly discriminatory as they are not likely to treat people less favourably on account of a protected characteristic.

Indirect discrimination

It is possible that individuals with certain protected characteristics may be disproportionately impacted by the consultation options.

In 2019 the majority (80%) of child victims of sexual offences were female². Women are more likely than men to have experienced abuse before the age of 16 years, with around one in four women and one in six men having experienced it³. As mentioned below, there is also some evidence that disabled children are more likely to be at risk of child sexual abuse than children with no disabilities.

However, ultimately there is very limited available data on child sexual abuse and this makes it difficult to come to a definitive view on the potential for indirect discrimination.

We consider that the policy options in this consultation are unlikely to result in someone with a protected characteristic suffering a particular disadvantage when compared to someone who does not share the protected characteristic.

Discrimination arising from disability and duty to make reasonable adjustments

A literature review by the Independent Inquiry into child sexual abuse considering abuse in residential schools stated that there is 'a consensus that disabled children are at a greater risk of sexual abuse than their non-disabled peers, and most estimates put this increased risk at around three times that of non-disabled children'⁴. While an international study, published in *The Lancet*

² ONS, January 2020, Child sexual abuse in England and Wales: year ending March 2019
<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/childsexualabuseinenglandandwales/yearendingmarch2019>

³ ONS, March 2020, Child abuse in England and Wales: March 2020
<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/childabuseinenglandandwales/march2020>

⁴ IICSA, March 2019, Child sexual abuse in residential schools - a literature review
<https://www.iicsa.org.uk/document/child-sexual-abuse-residential-schools-literature-review.html>

Child & Adolescent Health journal in 2022⁵ says that disabled children are twice as likely to face neglect and/or sexual, physical or mental abuse than children with no disabilities.

However, as noted above ultimately there is currently very limited available data about victims of child sexual abuse which makes it difficult to reach a definitive view about the impact on any protected characteristic.

We will continue to make reasonable adjustments for children or adults with disabilities who are involved in bringing Child Sexual Abuse claims and will consider any further reasonable adjustments which may be identified from the consultation.

Harassment and victimisation

We do not consider there to be a risk of harassment or victimisation because of these proposals.

Advancing equality of opportunity

The options in the consultation are all intended to assist victims in the process of making a claim in the civil courts. Although the data is limited, we consider that the proposals in this consultation may impact positively on the duty to advance equality of opportunity in relation to the protected characteristics of sex and disability. According to the limited available data, these groups may be more at risk of child sexual abuse and therefore be better able to have their needs met from any changes made.

Fostering good relations

We have considered how these proposals might impact on the need to foster good relations between people who share protected characteristics and those who do not. Overall we do not consider that the proposals will be particularly relevant to this limb of the PSED.

On the basis of the information currently available, we do not consider that the options in the consultation document are likely to result in unlawful discrimination. Overall, we consider that they are likely to advance equality of opportunity for some protected characteristics. However, we will consider any equalities issues highlighted by the consultation before a final decision is reached on how to proceed.

⁵ The Lancet Child & Adolescent Health, May 2022, [https://www.thelancet.com/journals/lanchi/article/PIIS2352-4642\(22\)00033-5/fulltext](https://www.thelancet.com/journals/lanchi/article/PIIS2352-4642(22)00033-5/fulltext)