

Equality Summary

Scope of the Equality Act and the BKA policy:

The Equality Act 2010 ('EqA') came into force in 2010. It applies in England, Scotland and Wales, but not Northern Ireland. Parts of the EqA affect Associations such as the BKA.

The EqA defines an association as a group of 25 or more members which has rules to control who becomes a member, involving a selection process. The BKA falls within this definition, as it has a constitution and conditions for membership (being an active practitioner in a member dojo).

While dojo are normally not 'an association' in their own right under the EqA, they can be if they have 25+ members (this could apply to a group of dojo if it has a formal structure).

When BKA dojo or members are acting on behalf of the BKA (eg arranging events) the EqA applies.

The EqA applies to dojo membership admissions because being a member of a BKA affiliated dojo is a condition of BKA membership.

The BKA has had an Equality policy since 2010, which applies to all parts of the BKA and follows the basics of the EqA. The new policy is also intended to apply to all parts of the BKA. Dojo are therefore agreeing to follow the law, but this is a matter of policy rather than having legal force unless the EqA applies directly.

Duties under the EqA:

The basic duty is not to discriminate, ie treat someone (members, associate members , prospective members, and guests) less favourably than others, on the grounds of:

- Age
- Disability
- Gender reassignment
- Pregnancy/ maternity
- Race (colour, nationality, ethnic origin)
- Religion/ belief
- Sex
- Sexual orientation

- either directly (because of the characteristic) or indirectly (rule applies to all but affects a person with the characteristic disproportionately). In the case of indirect discrimination, it can be lawful if it is an objective and proportionate way of achieving a legitimate aim. This can also be a defence to discrimination in respect of some characteristics eg, age and disability.

The EqA does not cover discrimination on other grounds (eg behaviour). Nothing in the policy should interfere with the discretion of a dojo leader to refuse a person he feels is unsuitable due to ability to follow instructions, health and safety etc.

The EqA also contains a duty not to harass or victimise someone due to a protected characteristic :

- Harassment includes verbal abuse, sexual harassment, creating a humiliating, intimidating, hostile or degrading atmosphere, discriminating due to rejection of unwanted behaviour.
- Victimisation- treating someone less favourably because they have previously complained about Equality rights violations or done anything to uphold someone else's equality rights; making threats.

These matters are judged on the effect of the actions not the intention and anyone may complain not just the victim. It is unlawful to cause, instruct, induce or knowingly help someone harass or victimise someone in this way.

If something is required by another statute then it cannot be unlawful discrimination.

Disability discrimination and 'reasonable adjustments'

May occur where someone is treated less favourably as a consequence of a disability which is known about (or should be) by the Association; there may be a defence of 'objective justification'.

The Association will have a duty to make 'reasonable adjustments'; to take reasonable steps make sure that the disabled person is able, as far as is reasonably possible, to use its services or facilities to the same standard or on the same basis as that usually offered to a non-disabled person.

Generally there are 3 situations in which this applies-

- To provisions, criteria and practices of the Association
- Access to buildings; should be borne in mind when booking events- for example it may be a reasonable adjustment to book a ground floor hall or room. The providers of the venue are likely to be covered by the 2010 Act also.*
- Need to provide auxiliary aids to avoid a substantial disadvantage caused by disability.

-There are exceptions for Health and safety, and if the step in question would fundamentally alter the nature of the facility or service, or of the Association.

What counts as a reasonable step depends on all the circumstances of the situation, including resources, practicality and likely effectiveness. Costs cannot be passed on to the disabled person.

Pregnancy:

An association may restrict a member's access to facilities etc in the short term, if it is reasonable to believe that such access would create a risk to her health and safety, and that similar restrictions would apply to other persons whose health and safety might be at risk from other conditions.

Special rules for sports clubs:

Gender segregation: The EqA takes account of gender -affected sporting competitions, where strength, stamina or physique are major factors in the activity, and where one sex would be at a disadvantage; in these circumstances (only), an association may organise separate competitions for men and women. May apply to some kendo events.

Junior competitions; the starting point would be for these to be 'mixed' although it depends on the degree to which development of the child means that one gender may be at a disadvantage, as above.

Age:- segregation by age is lawful where it is needed to secure junior competition, ensure the safety of competitors, comply with (inter)national competition rules or increase participation in the sport.

Age limits are not permissible if based only on historic, habitual, or social reasons, or any other non-objective reason.

Race and Nationality:- nationality is included with race as a protected characteristic but sports teams may select on the basis of nationality if representing a country. NB. segregation by race is automatically discriminatory if deliberate.

Transgender persons : Includes people who have started transition from one gender to another. Under the EqA it is lawful to restrict the participation of a transgender person in single gender competitions only if this is strictly necessary to secure fair competition (or for close contact sports such as kendo, for health and safety reasons). There is a high standard of evidence needed in these circumstances.

Otherwise, transgender persons must be treated as belonging to the gender with which they identify.

'Positive Action':

If an association can show that it has a track record of low participation or disadvantage of a particular group in its activities, it may take positive action to target people with a protected characteristic to

overcome the disadvantage, or to encourage participation, if the steps taken are proportionate.

It is also legal to discriminate in favour of disabled persons in order to remove barriers that they would otherwise face to accessing services (e.g. concessions on membership)

Written information:

Marketing/advertising material must not discriminate against people with a protected characteristic (e.g. 'unsuitable for disabled people'). However there is no legal requirement to make it accessible in different formats, although this would be good practice.

Websites: The EHRC guidance states that this should be accessible if possible to all users including people with visual impairments or who use text to speech software; people with manual dexterity impairments (impeding use of a mouse), dyslexia or learning difficulties – this would count as a reasonable adjustment.

The key things to improve on are:

- All images should have an ALT tag populated with a proper meaningful description of the image
- Hyperlinks should not have the same text in the ALT tag as in the URL parameter as this causes screenreaders to stutter (BLIND)
- Coloured text on coloured backgrounds can be tested for contrast to help those with eyesight issues : <https://webaim.org/resources/contrastchecker/>
- Main page areas should carry an ID that screenreaders can latch onto (nav, header, main footer etc)

Remedies:

If someone feels they have been discriminated against , they should initially raise this with the relevant part of the organisation and seek reasons for any decision made, then if not happy they may

- use the BKA's complaints procedure- in respect of dojo ,events and all BKA bodies. Except in the case of dojo they can also:
- make a claim in court
- there is also a 3rd option (England /Wales) of 'alternative dispute resolution' through the Equality Advisory Support Service (EASS).

Further guidance can be found here for dojo:

<https://www.equalityhumanrights.com/en/publication-download/what-equality-law-means-your-association-club-or-society>

* for owned or leased premises please see pages 48-50

and here for members rights:

<https://www.equalityhumanrights.com/en/advice-and-guidance/core-guidance-clubs-societies-and-associations>