

Guidelines to teams using face paint as a disguise

The practice of 'blacking up' by morris dancers is traditional by way of disguise to prevent being recognised when asking for money. Many teams nowadays choose to use colours other than black, but the underlying tradition remains the same. However, in the modern age we should be aware of the impact of such disguise on our audiences.

The Law

The Equality Act 2010 sets out protected characteristics and categories of conduct which are prohibited when directed at, or related to, protected characteristics. These include harassment as defined in Section 26 of the Act:

[1] A person (A) harasses another (B) if –

(a) A engages in unwanted conduct related to a relevant protected characteristic, and

(b) the conduct had the purpose or effect of –

i. violating (B)'s dignity, or

ii. creating an intimidating, hostile, degrading, humiliating or offensive environment for (B).

[4] In deciding whether conduct has the effect referred to in subsection [1](b), each of the following must be taken into account –

(a) the perception of (B);

(b) the other circumstances of the case;

(c) whether it is reasonable for the conduct to have that effect

[5] The relevant protected characteristics are –

- age;
- disability;
- gender reassignment;
- race;
- religion or belief;
- sex;
- sexual orientation.

Please note that there is no need for a complainant to prove intent, nor to show that they were targeted. It is sufficient that the actions complained of took place and that the complainant can show they had the effects listed above.

Our Aim

To minimise the risk of having a claim made against a team, or individual, by a person, or organisation under the Equality Act 2010.

Reputationally, it is preferable that a claim be avoided rather than successfully defended. The Morris Federation would not wish member teams to be associated with the negative image and publicity that would inevitably follow, or to go through the inconvenience of facing a court case with the attendant risk of possibly large – and perhaps uninsurable – monetary damages.

The Risk

There is a 'spectrum of risk', defined at one end by sides using full black colour make up and at the other by sides using no disguise at all. It is logical to assume that the further sides move away from full black makeup, the further sides move away from the suggestion that what they are doing when adopting a disguise is related to race.

Considerations

As much as 'blacking up' is seen by many to be a traditional form of disguise, in the culturally diverse society in which we live, we should consider its appropriateness. While disguise may be an integral part of many teams' performances, there are alternatives to blacking up that can be just as effective.

We would ask teams that use black face paint to recognise the impact that their disguise may have on their audience, and to consider:

- using a different form of disguise;
- changing the colour of their face paint.

Impact

Having taken these guidelines into account, if a team subsequently continues to 'black up' they do so knowing:

- folk festivals may decide not to book them;
- they may not be invited to certain events; and
- they accept the risk of litigation.