Equalities Compliance Awareness:

Learning & Teaching

1. Background to Equality Laws
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Guidance is inclusive of the:


April 2013: ‘ECU E&D Factsheets for Academics’

2011-2013: ‘HEA Embedding E&D in the Curriculum’
1. Background to Equality laws

The **Equality Act (2010)** is the main piece of equalities law that provides protection from discrimination and harassment. Provisions of the Act replaced previous equality laws such as the Race Relations Act and the Disability Discrimination Act (DDA).

The Act ensures fairness in higher education for the following equality groupings known as ‘protected characteristics’:

- Age
- Disability
- Gender Reassignment
- Marriage and Civil Partnership
- Pregnancy and Maternity
- Race (inc. caste, ethnicity, nationality)
- Religion or Belief
- Sex (inc. Gender)
- Sexual Orientation

Refer to webpage: [www.st-andrews.ac.uk/hr/edi/equalityact](http://www.st-andrews.ac.uk/hr/edi/equalityact)

Furthermore, as an institution recipient of public funds, the **Public Sector Equality Duty (2011)** also applies to the University.

This additional legislation places a legal duty on the University to demonstrate “due regard” to the following ‘General Duties’ relating to the Equality Act (online guidance available on [www.st-andrews.ac.uk/hr/edi/equalityduty](http://www.st-andrews.ac.uk/hr/edi/equalityduty)):

- **eliminate discrimination**, harassment and victimisation and other conduct prohibited by the Act
2. Funding linked

In addition to legal drivers, there are also funding drivers to ensure that curriculum delivery and services provided to students are non-discriminatory within the University.

Through the ‘Scottish Funding Council (SFC) Outcome Agreement’ with the University, there is a formal requirement to provide annual evidence of compliance through:

- The achieving of key diversity awards (www.st-andrews.ac.uk/hr/edi/services/awards)
- Updated equality law compliant policies
- Publishing of student equality data monitoring
- Engagement with the diverse student body
- Utilising E&D guidance developed by the HEA and the ECU

⇒ foster good relations between people from different groups - this involves tackling prejudice and promoting understanding between people from different groups

⇒ advance equality of opportunity between people from different groups - this involves considering the need to:

- remove or minimise disadvantages suffered by people due to their ‘protected characteristics’
- meet the needs of people with ‘protected characteristics’
- encourage people with ‘protected characteristics’ to participate in public life or in other activities where their participation is low

The University must carry out their functions in accordance with the rights guaranteed by the ECHR.

Convention rights that are particularly relevant to the teaching and learning environment include:

- freedom of thought, conscience and religion, including the freedom, either alone or in community with others, and in public or private, to practise their religion or belief in worship, teaching, practice and observance
- freedom of expression, including the freedom to hold opinions and to receive and impart information and ideas
- freedom of peaceful assembly and freedom of association with others

The freedoms outlined above can be lawfully restricted if an individual’s behaviour constitutes a criminal offence.

In Scotland the Public Order Act 1986, the Criminal Law (Consolidation) (Scotland) Act 1995, the Protection from Harassment Act 1997, the Criminal Justice (Scotland) Act 2003, the Racial and Religious Hatred Act 2006, the Terrorism Acts 2000 and 2006, and the Offences (Aggravation by Prejudice) (Scotland) Act 2009 collectively limit behaviour that might provoke or cause fear of violence, cause harassment, alarm or distress, incite racial or religious hatred or result in acts of terrorism.
### Delivering Equality & Embracing Diversity

Note that such behaviours include the use, display and dissemination of materials, the public performance of plays, and the distribution, showing or playing of a recording of visual images or sounds.

### 3. Impact of the law in Learning & Teaching

Academic staff have a responsibility to deliver teaching and learning within the legal framework as outlined earlier.

Specifically this might mean:

- Paying attention to the needs of students from diverse groups within your course design – including an equality analysis/impact assessment processes in your course development is a useful way of ensuring that you give due consideration to inclusivity and accessibility.

- Making explicit to students the standards of conduct that you expect in the way that they interact and dealing promptly and appropriately with inappropriate behaviour.

- Identifying opportunities within your teaching for students to work collaboratively in diverse groups.

- Devising creative and respectful ways of using the diverse experiences of students to add value to the learning experience for everyone.
4. Academic Freedom and Good Relations

The University has a special role in promoting and encouraging vigorous debate, free speech and freedom of enquiry within the law. Protection of academic freedom recognises that academic staff have the right to explore unpopular or controversial subjects and opinions in their teaching even though students may find them challenging or unpalatable.

Academic staff must, however, ensure that their teaching delivery does not discriminate against or cause harassment of any student on the grounds of their ‘protected characteristic’.

Scenario:

In a lecture on political propaganda a lecturer uses images produced by the Third Reich to illustrate the discussion. Subsequently in tutorial groups students are asked to list all the stereotypes of Jewish people that they can think of and discuss how visible they are in the media.

Afterwards a Jewish student complains about both the use of the images and the tutorial discussion which she says made her, as the only Jewish person in the group, feel isolated and vulnerable. The use of Nazi propaganda to illustrate the lecture, although uncomfortable for some students, is appropriate.

The lecturer might choose in future to introduce the subject by recognising that the content might be problematic and by discussing her reasons for using it.
By focusing the tutorial discussion only on stereotypes of Jewish people the lecturer has created a situation where one student has a different (and negative) experience from the others based on her ethnicity and religion.

⇒ **Widening the discussion** to look at stereotypes of other groups, perhaps including some that everyone can connect with (students for example) would make it less likely that any one student would feel harassed.

**Inclusive tips:**

⇒ **Encourage working across difference** as students can be reluctant to work with people who are different from themselves, particularly across perceived language or cultural barriers. Use group work to encourage students out of their comfort zones.

Consider allocating groups rather than allowing self-selection, including the collection of diverse viewpoints in group activity, asking students to reflect on how they work with difference in their personal learning journals, or making reflections on the impact diversity has on the group process part of the assessment requirements.

⇒ **Identify opportunities within your course to reflect diversity** – this could be in the external speakers you invite, the field trips you organise, the study materials you use or the assignments you set.
5. Ensuring Inclusive Practice

Why does this matter?

• The University has a responsibility to deliver quality teaching and learning to all their students.

• The student population reflects the increasing diversity of UK society and the success of HEIs in attracting international students.

• The diversity of students frames the learning experience. Inclusive practice maximises the value of this resource and enriches the experience for all.

• Students who acquire the skills to work productively with people from different backgrounds are likely to be attractive to potential employers.

• A proactive approach to inclusion is likely to reduce the time academics would otherwise spend working on a one-to-one basis with students who are experiencing problems with learning.

• Students have a legal right to teaching that does not discriminate against them on grounds of their ‘protected characteristic’.

• Note that disabled students have a legal right to reasonable adjustments to ensure that their needs to access education are met.
Inclusive Checklist...

a) Reflecting on your teaching practice:
   You can increase the effectiveness of your teaching practice by reflecting on diversity, being aware of how your own background and identity are expressed in course design and teaching style, and understanding your reactions to particular individuals and communities to recognise your affinities and prejudices and consider how they affect students’ experiences of your course.

b) Encouraging interaction:
   As students may be inclined to work with others from a similar background – which may be particularly true for students whose first language is not English – consider allocating teams for group work rather than allowing self-selection, asking groups to reflect on the process of shared projects as well as the task, and encouraging students to reflect on diversity issues in personal learning journals.

c) Course content:
   By explaining cultural references and using accessible language, illustrating points with examples that reflect the diversity of your students, recognising how the dynamics of relations between different groups have impacted on your subject field, and acknowledging which voices/issues are not represented you are more likely to engage and motivate all students.
Inclusive Checklist continued...

d) Flexible teaching and assessment methods:
By using a variety of teaching and assessment methods (essays, examinations, website and blog development, seminars, presentations, etc) each student will have the opportunity to enhance their strengths and challenge their less-developed learning skills.

The response of your students to each activity will enable you to identify whether some methods work better for particular groups of students and to pinpoint any barriers to learning that might need to be addressed.

e) Meeting disabled students’ access requirements:
It is important that you understand what reasonable adjustments your disabled students need in order to facilitate their learning, and adapt your teaching methods appropriately. This might affect the rooms used, activities, lecture delivery, the format of materials, coursework and assessment methods.

f) Accommodating other needs:
Students may request alternative arrangements for reasons other than disability – for example a student may ask to be allowed to breastfeed in a lecture – and you will need to decide what can be reasonably accommodated given the nature of the request and the impact on the activity and on other students.
6. Subject Specific Inclusive Curriculum Design

Brief five page Higher Education Academy (HEA) pdf downloads are available on webpage: www.st-andrews.ac.uk/hr/edi/inclusivecurriculum/practice/design

The guidance is specific for the following subjects:

• Art, Media & Design
• Bioscience
• Built Environment
• Business, Management & Finance
• CompSci
• Drama & Music
• Economics
• English
• Geosciences
• Languages
• Law
• Maths & Stats
• Medicine
• Philosophical & Religious Studies
• Psychology
• Social policy
7. Types of discrimination

(i) Direct discrimination =  
When a person treats another less favourably than they treat or would treat others because of a ‘protected characteristic’.

*Example:*  
After a heated argument in a course involving Muslim and non-Muslim students shouting and threatening each other during a discussion about radicalisation and terrorism, the School moves some of the Muslim students into another study group.

It does not take a similar approach to non-Muslim students involved in the incident. It is likely that religion is one of the causes of the treatment of this group of students and as result this treatment could be unlawful religious discrimination.

(ii) Discrimination by Association =  
School treats a student less favourably because of the student’s association with a person who has a ‘protected characteristic’.

*Example:*  
During Freshers’ Week, 2 students decide to sign up for a course in Religious Studies. One is chair of the LGBT Society and is gay. The other student is a friend and not gay. They are both told that the Religious Studies course has no more places available so they cannot join up. Some time later, one of them sees a group of four men sign up to the course. In this case not only the gay student but also the friend could complain of discrimination. For the friend the discrimination would be on the basis of his association with his friend who is gay.
(iii) **Discrimination by Perception =**
A School treats a student less favourably because the education provider mistakenly thinks that the student has a ‘protected characteristic’.

*Example:*
A course coordinator at a university does not offer a placement at a Catholic primary school to a student on a teaching course because they think he is gay and are worried that the school will be ‘uncomfortable’ with a gay student.

Despite the fact that the student is not gay, this would still be direct discrimination because of sexual orientation.

(iv) **Discrimination arising from a Disability =**
- A School treats the disabled student unfavourably;
- Such treatment is because of something arising in consequence of the disabled student’s disability; and
- The School cannot show that this treatment is a proportionate means of achieving a legitimate aim unless the education provider does not know, and could not reasonably be expected to know, that the student has the disability.

*Example:*
A diabetic student is allowed time to inject insulin when needed during tutorials. However, he isn’t allowed to do this during the course of an examination, which he then fails because his low blood sugar level makes him unwell.

The fact that a reasonable adjustment has been made in relation to tutorials is of no relevance to a claim for discrimination in respect of the examination.
(v) Indirect discrimination =
A School applies an apparently neutral provision, criterion or practice which puts or would put students sharing a protected characteristic at a particular disadvantage.

For indirect discrimination to take place, all four requirements must be met:

• the education provider applies (or would apply) the provision, criterion or practice equally to everyone within the relevant group, including a particular student, and
• the provision, criterion or practice puts, or would put, students who share the student’s protected characteristic at a particular disadvantage when compared with students who do not have that characteristic, and
• the provision, criterion or practice puts, or would put, the student at that disadvantage, and
• the education provider cannot show that the provision, criterion or practice is justified as a proportionate means of achieving a legitimate aim.

It is not enough that the provision, criterion or practice puts (or would put), at a particular disadvantage a group of students who share a protected characteristic. It must also have that effect (or be capable of having it) on the individual student concerned. So it is not enough for a student merely to establish that they are a member of the relevant group.

They must also show that they have personally suffered (or could suffer) the particular disadvantage as an individual.
(vi) Harassment =
When a person engages in unwanted conduct which is related to a relevant characteristic and has the purpose or the effect of creating an intimidating, hostile, degrading, humiliating or offensive environment.

Unwanted conduct covers a wide range of behaviour, including:
• spoken or written words or abuse imagery, graffiti;
• physical gestures, facial expressions, mimicry, jokes, pranks;
• acts affecting a person’s surroundings or other physical behaviour.

In deciding whether unwanted conduct has a negative effect, consideration is given on how the conduct was regarded in terms of violating their dignity or creating an intimidating environment.

Example:
If a politics lecturer presented views held by members of far right groups in a seminar in order to explain a position that some people hold, then it is likely that this would not be harassment even if some of the students were offended or found the topic uncomfortable.

Non Harassment example:
During a film studies tutorial, the tutor speaks at great length to an Asian student about the Bollywood film festival she plans to attend this weekend. They have never discussed this genre of films before and it is not something the student has any knowledge about or particular interest in.

While the student may find this a bit patronising and stereotypical, it is unlikely to amount to harassment.
(vii) Victimisation =
The Act prohibits victimisation. It is victimisation for an education provider to subject a student to a detriment because the student has done a ‘protected act’ or because the education provider believes that the student has done or may do a protected act in the future.

Example:
In his first year, a final year student with a hearing impairment was not provided with routine access to a palantypist for lectures. He made several complaints to the university and was eventually provided with palantypist support. The student applies for a postgraduate course at the university and at interview is questioned about the complaint and whether he expects he will need any other ‘special help’. The student is unsuccessful in gaining a place on the course.

This may be victimisation if he was able to show a link between him not gaining a place on the course and the questions about his complaint asked during the interview.