

## **The Equality Act 2010**

### **Six things you should know from 1 October**

#### **Line Managers' Briefing**

The Human Resources Department has put together this briefing to support anyone who has a line management or supervisory responsibility. For information on further training on Equality and Diversity related issues, go to [Professional Development](#) website or contact the department directly for more tailored support. Information on the University's policies on staff equality can be found On [Equality and Diversity Policies and Information section](#) on the HR site.

From 1 October the first part of the Equality Act 2010 comes into force. It has a number of effects, but primarily it harmonizes and modernizes the law relating to equality and discrimination. Many of these changes are quite technical and will not have a great impact on the way you need to manage your staff or deliver services to students.

However there are some changes that you should be aware of:

#### **1. Direct Discrimination**

##### **What has changed?**

Associative discrimination, which already applies to race, religion or belief and sexual orientation, is extended to cover age, disability, gender reassignment and sex. This is direct discrimination against someone because they associate with another person who possesses a protected characteristic.

Perceptive discrimination, which already applies to age, race, religion or belief and sexual orientation, is extended to cover disability, gender reassignment and sex. This is direct discrimination against an individual because others think they possess a particular protected characteristic and applies even if the person does not actually possess that characteristic.

##### **What do you need to do?**

Make staff aware of the changes. Consider any policies or processes that you control locally and how the new legislation might affect their operation (– don't forget all these issues apply to services to students as well as employees). In particular be aware that employees who have caring responsibilities for older or disabled people are now protected from less favourable treatment as a result of those responsibilities.

#### **2. Indirect discrimination**

##### **What has changed?**

Indirect discrimination, which already applies to age, race, religion or belief, sex, sexual orientation and marriage and civil partnership, is extended to cover disability and gender reassignment.

Indirect discrimination can occur when you have a condition, rule, policy or even a practice in your organization that applies to everyone but particularly disadvantages people who share a protected characteristic.

### **What do you need to do?**

Remember to think about the issues that trans-gendered and disabled people may face as part of their working lives and avoid introducing practices that will lead to indirect discrimination. Some common themes or areas to consider might be: how to ensure that requirements contained in person specifications for a vacant post are fair and non-discriminatory; how to be inclusive and ensure you understand each individual's needs within your team; ensuring that staff are appropriately trained to avoid all forms of illegal discrimination.

## **3. Harassment**

Employees will now be able to complain of behaviour that they find offensive even if it is not directed at them and they do not possess the relevant characteristic themselves. Therefore an atheist could complain about anti-Islamic comments made in the workplace that they found offensive or a non-disabled person could complain about demeaning jokes made at the expense of disabled people.

The Act extends the meaning of harassment to include a perceived characteristic and association with people who have a protected characteristic. For example harassment because of a spouse's race or religion or the false belief that someone is homosexual.

The Act extends employer liability for third party harassment to all protected characteristics and not just sex. This means that the University may be liable for harassment of its employees by people (third parties) who are not employees of the University, such as students and customers.

Under the Act harassment applies to all protected characteristics except for pregnancy and maternity and marriage and civil partnership.

### **What do you need to do?**

Make sure your staff know how to bring issues of 3<sup>rd</sup> party harassment to your attention and that you take prompt, reasonable steps to prevent re-occurrences.

Raise awareness of the scope of the new harassment provisions - remember this area will include jokes, emails and generally expressed comments as well as more direct incidents of harassment. Your role as a line manager is very important in communicating a "zero tolerance" of harassment and setting an example of inclusive and respectful behaviour.

## **4. Gender reassignment**

The Act changes the definition of gender reassignment, by removing the requirement for medical supervision. This has the effect of extending protection to transsexual people who do not undergo any medical procedures but do decide to live permanently as a member of the opposite sex.

### **What do you need to do?**

Take into account the new wider definition when issues of gender identity arise.

## **5. Pre-employment health-related checks**

The Equality Act limits the circumstances when employers can ask health-related questions before they have offered the individual a job. Up to this point, employers can only ask health-related questions in the following circumstances:

- to decide whether they need to make any reasonable adjustments for the person to the selection process;
- to decide whether an applicant can carry out a function that is essential ("intrinsic") to the job;
- to monitor diversity among people making applications for jobs;
- to take positive action to assist disabled people;
- to assure itself that a candidate has the disability where the job genuinely requires the jobholder to have a disability;

Once a person has passed the interview and has been offered a job employers are permitted to ask appropriate health-related questions.

### **What do you need to do?**

Ensure that you follow the University's recruitment procedures, particularly where you are responsible for making an initial (usually verbal) offer of employment to any candidate.

## **6. Pay secrecy**

The Act makes pay secrecy clauses unenforceable. This means that it is unlawful for employers to prevent or restrict employees from having a discussion to establish if differences in pay exist that are related to protected characteristics. It also makes terms of the contract of employment that require pay secrecy unenforceable because of these discussions.

### **What do you need to do?**

This change does not affect the provisions of the Data Protection Act and salary details will remain personal data and should only be disclosed to any third party in line with the principles of fair data processing. The University does not use secrecy clauses regarding individuals' ability to disclose their pay details and so this change should not have any implications for you.

### **HR Support**

The HR advisers and recruitment team can support and advise on how to apply and interpret this new legislation – so please contact them if you have any particular concerns or need help. We also have a comprehensive set of policies and procedures to help you manage and to meet the needs of individuals, including: Dignity within the University, maternity/adoption and parental support policies and the Recruitment workspace. We will be reviewing all the relevant HR policies over the coming weeks to ensure that they remain compliant with the legislation.