

The Equality Act 2010 and Students

Podbriefing Audio Transcript

00:01

My name is Steve and I have just started my first year here at Nottingham and honestly Fresher's week was a blast. I'm getting down to the business of studying now, working out where my lectures and tutorials are and getting to know the campus. You'll have noticed the walking stick, I haven't really needed it before, but I'm beginning to find walking a bit more difficult now because of my illness. It's a degenerative condition.

00:28

So first thing's first has everybody got a copy of the worksheet we are using today...For goodness sakes just sort yourselves out please we do have a lot to get through. Yes?

00:36

Hiya. Sorry I'm late.

00:39

You must be Steve. That's good of you to join us. If you could sit down quickly please... I'm Doctor Grief. Now where were we?

00:50

[Inaudible second speaker] You see the problem on that first day was I simply couldn't get from my 10 o'clock lecture to my 11 o'clock tutorial. My legs just couldn't do it! The course handbook said that the tutorial groups had been allocated in order for the balance of students in each session to be right. We were indeed a well balanced little group. I just couldn't get across the campus quickly enough to get there for the start

of the tutorial. So, in the second week I raised the problem with Doctor Grief.

01:19

I'm sorry I've been late to your tutorials. I just haven't had enough time to get from the lecture room to the tutorial room quick enough. Is there any way that the group could meet slightly later to give me more time?

01:42

I'm sorry to hear that but it would be really difficult to make any changes now. It would cause a lot of *disruption* and it wouldn't be fair on the others. I mean we have students that who for *various* reasons say they don't want classes on a Friday or they want to leave early and we can't accommodate everyone, so I am afraid we just can't make exceptions.

02:05

[Inaudible second speaker] That just didn't seem right to me. All I wanted was the same opportunities as other students and it didn't seem fair that my condition prevented that.

02:15

The Equality Act consolidates about forty years of legislation and cases dealing with discrimination law.

In the broadest terms, discrimination occurs when an unlawful act is done to someone on the basis of a protected characteristic. In the University student relationship there are eight protected characteristics. They are: age; disability; gender reassignment; pregnancy and maternity; race; religion and belief; sex; and sexual orientation. In terms of the discriminatory act there's direct discrimination, indirect discrimination,

victimisation, and harassment. And there are some further discriminatory acts in connection with disability discrimination only.

03:05

Disability is defined as a physical or mental impairment that has a long term and substantial adverse effect upon a person's ability to do normal day to day activities.

03:19

I genuinely can't just make exceptions I'm sorry.

03:21

I *do* understand but if the start time can't be changed then I will have to miss some of the tutorial *just because* I have a disability and I can't get here quick enough and that can't be right.

03:29

Look Steve, *don't* do this. Is it really in your interests to make a name for yourself this early on? You could try complaining but you won't have a leg to stand on... Ahh, sorry, I..., no pun intended.

03:51

Direct discrimination occurs when a person is treated less favourably *because* of a protected characteristic. There needs to be a direct link if you like between the protected characteristic and the less favourable treatment. Indirect discrimination occurs when there is a provision, criterion or practice which appears to be neutral and is applied equally to everybody but, which has a disproportionately adverse effect upon people who share a particular protected characteristic.

04:17

Indirect discrimination can be justified if it can be shown that it is a proportionate means of achieving a legitimate aim... and in doing that, in particular in the University student context that will involve balancing the motivation for having the particular criterion against the impact that it has upon the individual student.

04:37

Harassment's got a particularly technical definition under the Equality Act. In plain English it's, behaviour and conduct directed towards an individual because of their protected characteristic, which has the effect of making that person feel uncomfortable, feel intimidated, harassed or otherwise bullied. The test is ... looks not only at the behaviour in way that the person receiving it feels it, but also as to whether or not it's reasonable to think that person *could* feel harassed as a result.

05:07

Victimisation is also fairly technical. It occurs when, because someone has done what is called a 'protected act' they are then subject to a detriment. A 'protected act' is bringing a complaint of discrimination or a claim, *or* supporting someone who brings a claim of discrimination.

05:25

I decided to go and see the head of school to tell her about the issue and about what Doctor Grief had said.

05:30

Thank you for telling me about this... I hope that you can understand that our policy of not allowing changes to tutorial groups, is intended to be fair between all the students but, I can see that because of your mobility condition that you are at a particular disadvantage.

05:46

So, does this mean that the group can meet 50 minutes later?

05:49

Yep, I'll make that arrangement... And I can only apologise on behalf of Doctor Grief for his insensitive comments. Are you happy to stay with him as your tutor?

06:00

Oh yeah, yeah. I'm sure there wasn't any bad intentions behind what was said.

06:05

Now, I don't know about what your condition is and you don't need to tell me about it. I've made some enquires and I can see that you didn't tick the box on your UCAS form to indicate that you have a disability. So we weren't aware of your disability at the time of admission. Now, from what you have told me about your conversation with Doctor Grief, he was made aware of it and he should have consulted our University procedures... and referred you to the School Disability Liaison Officer. Now, I can make that referral for you, *if you'd like*, and the officer will contact you?

06:40

Okay, great thank you.

06:43

Okay, I'll just make a note of it and find out their availability.

06:52

The Act covers all parts of the relationship with the student, so it covers: during the selection process that the student is either chosen for interview. The criteria that applied in choosing which applicants to invite to interview, and following interview whether to make them an offer. It then covers the delivery of the Education itself so lectures, tutorials, the provision of teaching and learning materials, all elements of the teaching and learning experience. It covers extra curricula activities such as the Students' Union, such as the halls of accommodation... and indeed clubs and societies and those sorts of things. It also in connection with disability discrimination in particular, it covers the provision of support materials to the student and also the granting of awards and qualifications.

07:47

Let's talk about Steve who as you know is coming to the end of his final year.

07:52

Yes, Hilary... Steve's got a lot worse in these last three years. He's using a wheelchair now he's pretty slow with his work... I can't see how he is going to be able to sit his final exams with the others. I mean it seems to take him forever to get his ideas down on paper... He just can't cut it like the others, he's bound to fail!

08:19

It's not unlawful to treat a disabled student more favourably than one treats a student who is not disabled and that's the result of the obligation to make reasonable adjustments. The University is under an obligation, a duty, to make reasonable adjustments that will enable disabled students overcome substantial disadvantage that they suffer, as a result of the disability that they have. This might mean providing large text on hand-outs or enabling a student to record a lecture. The factors that are taken into account when considering whether or not an adjustment is reasonable or not, include: the effectiveness of the proposed step in overcoming the disadvantage, the financial and other resources of the institution, the cost

of making the adjustment, not just in terms of the financial cost but also non-financial issues, the impact that the adjustment might have on other students and other users of the facility or service, and, the practicality of the step itself.

09:24

Sam, sometimes I wonder if *you've ever listened* to any of the guidance and training we've had on supporting students... Your right... Steve is taking longer to complete tasks, but we've been working with the Disability Support team to accommodate him. He's got a laptop with specialist software so that he can use the keyboard, and a support worker, and we are looking at what support we can put in place so that he can take his final exams.

09:51

You're surely not suggesting you set him easier questions are you?

09:54

No, of course not!

10:00

There are exemptions from the duty to make reasonable adjustments and the most significant one for University is the competence standard exemption. Competence standards are medical or academic standards that are set that a person has to reach in order to *demonstrate* the level of competence. So that means that the University doesn't have to lower its academic standards in order to comply with the duty to make reasonable adjustments. The main way to avoid liability in connection with disability discrimination is to work with the individual disabled students to figure out what adjustments the individual needs, and are going to suit his or her disability.

10:37

Is it alright if we go through the adjustments now Steve?

10:40

Yeah, yeah, fine.

10:41

Okay, so, I've discussed with Steve that requests for adjustment during examinations will have to be supported by current medical evidence. Such as, a written report from a medical practitioner. This means we will need evidence that is up to date.

10:53

And we've discussed the various papers you'll be taking this year. With the written exams you will get extra time and you can use an adapted computer like the one that you own.

11:03

I'm afraid you can't use your *own* computer during an exam Steve, so you'll have to use one of ours, but, we can load the software you use on to it.

11:10

Okay

11:11

And then there's the practical paper as well, now that's an integral part of our qualification here in Nottingham and it's a requirement of the course. *All* our graduates *have to pass* the practical, so you're going to have to complete that as well Steve.

11:26

Well, Steve and I have been through the techniques that are set out in the syllabus that might be assessed in the exam. We've worked out the physical things that Steve can do and what support he needs for each technique. This table sets out the assistance he will need from a support worker.

11:44

Okay, well, well looking at the actions that you get someone else to do for you for each of these practical activities, they won't affect the skill or the knowledge that we are testing, so these adjustments are okay too.

12:00

Great! Thank you. I do have one question...what's on the exam?