

# **Podbriefing Summary Note**

## **Equality Act 2010 – Staff**

### **Overview**

This Podbriefing video provides a summary of the key elements of the Equality Act 2010 in relation to University staff.

It supplements the Dignity within the University Policy to which there is a link at the end of the Podbriefing and at the end of this summary.

### **Content and Aims**

#### **Focus**

The Podbriefing is provided by Nick Abbot, a practising lawyer who specialises in employment law. The focus of the briefing is the Equality Act 2010 and its protection of staff from discrimination, victimisation and harassment.

#### **The Equality Act 2010**

The Equality Act 2010 covers all aspects of the employment relationship. It applies to anyone employed by the University, but also those involved in the recruitment process, those who spend time working abroad and also agency workers. In this Podbriefing, a scenario illustrates the application of the Equality Act and the University's dignity policy in relation to the harassment of a member of staff with a protected characteristic is also considered.

#### **Employer/Employee Responsibility**

Additionally, Nick Abbot also explains the other types of discrimination and harassment in relation to the nine protected characteristics and the responsibilities that an employer has in regards to its employees. He also explains that while an employer can be liable for the discriminatory actions of its employees through the concept of vicarious liability, the employees themselves can also be held individually responsible under the Act.

Finally, while the scenario depicted in the Podbriefing is fictional, the principles explored are based on the facts of real cases.

## Key Points

The Equality Act 2010 consolidates 40 years' worth of equality legislation.

This Act covers all aspects of the employment relationship, including the recruitment process.

Agency workers and those working abroad are also covered, as long as there is a "substantial connection" between the UK and the employment relationship.

Direct discrimination, indirect discrimination, victimisation and harassment are all prohibited under the Act in relation to nine protected characteristics.

**Direct discrimination** is when somebody is treated less favourably because of a protected characteristic.

**Indirect discrimination** is when a provision, criterion or practice appears to have a neutral affect when applied to everyone, but actually adversely affects one particular group.

**Victimisation** is where somebody has done a protected act but has then been discriminated against because of this. An example of a protected act would be if they had initially made allegations of discrimination.

**Harassment** is unwanted conduct directed at an individual because of a protected characteristic or conduct of a sexual nature. This conduct must have the purpose or effect of violating that individual's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. The test for harassment looks at how the targeted individual feels, but also at whether it would be reasonable for them to feel harassed as a result of the particular conduct.

There are nine protected characteristics under the Act which include:

1. Sex
2. Gender reassignment
3. Race (including skin colour, nationality, ethnic and national origins)
4. Sexual orientation
5. Religion and belief (including the lack thereof)
6. Age

7. Disability
8. Maternity and pregnancy
9. Civil partnership and marriage

The University can be liable for the discriminatory acts of its own employees, if it did not take reasonably practicable steps to prevent the discrimination. This is known as vicarious liability.

However the staff members themselves can also face individual claims of discrimination.

Additional rules apply to employees with a disability which can be defined as a mental or physical impairment that has a substantial and long term adverse effect on the employee's ability to carry out day to day activities.

The University also has a duty to make reasonable adjustments for those with a disability. The duty does not exist however if the University is not made aware of the disability.

## **Further Information**

University of Nottingham's Equal Opportunities Policy

<http://www.nottingham.ac.uk/hr/guidesandsupport/equalityanddiversitypolicies/index.aspx>

Dignity within the University Policy

<http://www.nottingham.ac.uk/hr/guidesandsupport/complaintsgrievanceanddignity/dignity/dignity-at-nottingham.aspx>