

Podbriefing Summary Note

Equality Act 2010 – Students

Overview

This Podbriefing video provides a summary of the key elements the Equality Act 2010 in relation to students that staff need to be aware of.

It supplements the University's Dignity and Academic Support Booklet and the Dignity within the University Policy. Links to both are at the end of the Podbriefing and at the end of this summary.

Content and Aims

Focus

This Podbriefing is provided by Richard Sykes, a practising lawyer and a public law and regulatory specialist. The focus of the briefing is the Equality Act 2010 and its protection of students, graduates and applicants from discrimination during their interactions with universities and other institutions.

The Equality Act 2010

40 years of legislation and case law are consolidated in the Equality Act 2010, and this briefing aims to focus on the main points of the Act in regards to the relationship between a university and its students. Particularly the protected characteristics, discriminatory acts, reasonable adjustments and exemptions outlined in the Act.

Practical Applications

The Act covers all aspects of a university's relationship with a student, from the selection process, right the way through to graduation. The scenario in this video follows one student, Steve, as he progresses through his course while suffering from a disability. The University's actions in the scenario help to highlight the practical application of the Equality Act, while Richard Sykes explains the different ways in which the Act affects the relationship between a university and a student.

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 protects students, applicants, graduates and others, from discrimination in relation to the University

Two concepts to keep in mind with discrimination in regards to students:

1. An individual must have one of eight protected characteristics
2. There must be a discriminatory act

The eight protected characteristics are:

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

Possible discriminatory acts are:

1. Direct discrimination
2. Indirect discrimination
3. Victimisation
4. Harassment

Direct discrimination is when a person is treated less favourably because of a protected characteristic. There needs to be a direct link between this characteristic and the less favourable treatment.

Indirect discrimination is where a provision, criterion or practice appears to be neutral when applied to everybody, but in fact has an adverse effect upon people with a particular protected characteristic.

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

whether it would be reasonable for them to feel harassed as a result of the particular conduct.

Victimisation is where an individual is treated unfavourably because they have performed a protected act. A protected act can include making a discrimination claim or supporting somebody that has.

The Equality Act applies to all aspects of the University/student relationship, including:

- The selection and application process
- Teaching and learning
- Extra-curricular and student's union activities
- Accommodation
- Clubs and societies
- Provision of support materials
- Awards and qualifications

Reasonable adjustments

Disability as a protected characteristic can require some additional consideration. For example, it is not unlawful to treat a disabled student more favourably than a student who is not disabled. This is because of the obligation to make reasonable adjustments.

The University has an obligation and a duty to make reasonable adjustments to enable a disabled student to overcome a substantial disadvantage that they may face due to their disability.

Although the University must have been made aware that the student had a disability.

To decide whether an adjustment is reasonable you can consider:

- Effectiveness of the proposed adjustment in overcoming the disadvantage
- Resources of the University
- Financial cost, but also:
 - Impact of adjustment on other students or users
 - Overall practicality of the adjustments

There is an exemption from reasonable adjustments that is especially relevant to the University. This is the competence standard exemption, which means certain medical or academic standards must be maintained. Therefore, the University will not have to lower its academic standards.

Further Information

Dignity within the University Policy

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

Disability and Academic Support Booklet

<http://www.nottingham.ac.uk/StudentServices/supportforyourstudies/disabilitysupport/index.aspx>