

GUIDANCE

What equality law means for you as an education provider – further and higher education

Contents

- Introduction..... 2
- Section 1: Introduction..... 6
 - 1.1 The further and higher education institutions provisions of the Act..... 6
 - 1.2 Who has legal obligations under the further and higher education provisions? 6
 - 1.3 Who is responsible for ensuring that a further or higher education institution does not breach the Equality Act 2010? 7
 - 1.4 Who is protected?..... 7
 - 1.5 What is unlawful discrimination?..... 8
 - 1.6 What else is unlawful under the Act?..... 8
 - 1.7 Positive action 9
 - 1.8 Public sector equality duty and the Human Rights Act 10
 - 1.9 Are there any exceptions to the further and higher education institution provisions? 10
 - 1.10 What happens if a student thinks a further or higher education institution has acted unlawfully? 11
- Section 2: Key concepts 12
 - 2.1 What is discrimination?..... 12
 - 2.2 Harassment 24
 - 2.3 Victimisation 26
 - 2.4 Obligations to former students..... 27
 - 2.5 When are you responsible for what other people do? 27
- Section 3: Admissions 29
 - 3.1 Introduction..... 29
 - 3.2 What does the Act say?..... 29

- 3.3 You must not discriminate in the arrangements you make for deciding who is offered admission to your institution..... 31
- 3.4 You must not place terms on a person’s admission to your institution which are discriminatory 33
- 3.5 You must not refuse to admit a person as a student for discriminatory reasons 35
- Section 4: Providing education and access to any benefit, service or facility and exclusions..... 37
 - 4.1 Introduction..... 37
 - 4.2 What does the Act say?..... 37
 - 4.3 What does this mean? 37
 - 4.4 How do I avoid discriminating? 40
- Section 5: Dispute resolution and enforcement 48
 - 5.1 Introduction..... 48
 - 5.2 Resolving disputes 48
 - 5.3 Conciliation/Mediation 49
 - 5.4 Obtaining information (‘the questions procedure’) 49
 - 5.5 Claims brought in the county courts and sheriff court..... 50
- Annex A: Responsible bodies for further and higher education institutions 52
- Annex B: Protected characteristics 53
- Annex C: Public sector equality duty 59
- Contacts 62

Introduction

This guide is one of a series written by the Equality and Human Rights Commission to explain what you should do to meet the requirements of equality law. These guides support the implementation of the Equality Act 2010. This Act combines established rights with new rights and makes equality law simpler, easier to understand and more effective.

This guide is one of the series of education guides. It focuses on your role as a provider of further and higher education. There is a separate guide for providers of education in schools and a user guide for students in Further and Higher Education.

We have also produced guides which:

- explain what equality law means for you if you are providing services, carrying out public functions or running an association;
- explain what equality law means for you if you are an employer;
- explain what equality law means for individuals who are using services, or working and who want to know their rights to equality.

Codes providing a more detailed explanation of equality law are available on the Commission's website:

<http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice/>

The Commission has also published non-statutory 'Technical Guidance on Further and Higher Education', which provides more detailed guidance than is found in this guide. This can be found at:

http://www.equalityhumanrights.com/uploaded_files/EqualityAct/technical_guidance_on_further_and_higher_education.pdf

The legal status of this guidance

This guidance applies to England, Scotland and Wales. Although this guidance is non-statutory, following it may help you meet your duties under the Equality Act 2010.

This guide is based on equality law in place at March 2014. Any future changes in the law will be reflected in further editions.

Other guides and alternative formats

We have also produced:

Four separate series of guides which:

- explain what equality law means for you if you are providing services, carrying out public functions or running an association;
- explain what equality law means for you if you are an employer;
- explain what equality law means for individual people who are using services, and who want to know their rights to equality; and
- explain what equality law means for individual people who are working and who want to know their rights to equality.

If you require this guide in an alternative format and/or language please contact us to discuss your needs. Contact details are available at the end of the publication.

Section 1: Introduction

1.1 The further and higher education institutions provisions of the Act

This guidance deals with the requirements of the Equality Act 2010 on you as a further and higher education institution not to discriminate against, harass or victimise:

- prospective students
- students at the institution
- in some limited circumstances former students (this is explained in more detail in [Section 2](#)).
- disabled people who are not students at the institution but who hold or have applied for qualifications conferred by the institution.

You may also have responsibilities under the Equality Act 2010 as employers, bodies that carry out public functions and as service providers. These obligations are not covered in this guidance and you can find out more in our series of guides at: <http://www.equalityhumanrights.com/advice-and-guidance/new-equality-act-guidance/>

1.2 Who has legal obligations under the further and higher education provisions?

- Universities and higher education institutions.
- Further education colleges and institutions.
- 16-19 Academies.
- Designated institutions (in Scotland).

Local authorities and education authorities have obligations in relation to further and higher education as well as having obligations as service providers and bodies carrying out public functions. These duties are not covered by this guidance.

Private training providers do not have obligations under the education provisions but do have obligations under the service provider provisions.

Obligations for service providers are explained in separate guidance.

<http://www.equalityhumanrights.com/advice-and-guidance/information-for-service-providers/>

1.3 Who is responsible for ensuring that a further or higher education institution does not breach the Equality Act 2010?

It is the ‘responsible body’ of a further or higher education institution that is liable for any breaches of the Equality Act. The table in [Annex A](#) sets out the responsible body for each type of further and higher education institution.

The ‘responsible body’ is liable for the actions of its employees and agents of the institution unless it can show that it took ‘all reasonable steps’ to prevent the discrimination, harassment or victimisation from taking place. In some circumstances an employee or agent (someone who works for you or on your behalf) of the institution may be personally liable for acts of discrimination, harassment or victimisation. This is explained in more detail in [Section 2](#).

1.4 Who is protected?

The Act protects students from discrimination and harassment based on ‘protected characteristics’.

The protected characteristics for the further and higher education institutions provisions are:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

Being married or in a civil partnership is NOT a protected characteristic for the further and higher education institutions provisions.

Protected characteristics are explained in more detail in [Annex B](#).

The categories of people covered by the further and higher education institution provisions are:

- Prospective students (in relation to admissions arrangements).
- Students at the institution (including those absent or temporarily excluded).
- Former students (in respect of conduct which arises out of and is closely associated with the former relationship between the student and institution).
- Disabled people who are not students at the institution but who hold or have applied for qualifications conferred by the institution.

1.5 What is unlawful discrimination?

Unlawful discrimination is defined in the Act as:

- Direct discrimination (including discrimination based on perception or association).
- Indirect discrimination.
- Discrimination arising from disability.
- Pregnancy and maternity discrimination.
- Failure to make reasonable adjustments (for disabled people).

Discrimination is explained in more detail in [Section 2](#).

1.6 What else is unlawful under the Act?

Harassment

The Equality Act 2010 also prohibits further and higher education institutions from harassing students covered by the education provisions. Harassment is defined as unwanted behaviour related to a protected characteristic, or which is of a sexual nature, that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment.

Victimisation

The Equality Act 2010 also prohibits further and higher education institutions from victimising students covered by the education provisions.

Victimisation is defined in the Act as:

Treating someone badly because they have done a 'protected act'
(or because the institution believes that a person has or
is going to do a protected act).

A 'protected act' is:

- Making a claim or complaint of discrimination (under the Equality Act).
- Helping someone else to make a claim by giving evidence or information.
- Making an allegation that the further or higher education institution or someone else has breached the Act.
- Doing anything else in connection with the Act.

Harassment and victimisation are explained in more detail in [Section 2](#).

1.7 Positive action

Students with protected characteristics may be disadvantaged for social or economic reasons connected with their protected characteristic/s or for reasons to do with past or present discrimination. The Act contains provisions which enable education providers to take action to tackle the particular disadvantage, different needs or disproportionately low participation of a particular student group, provided certain conditions are met.

These are known as the positive action provisions and allow (but do not require) education providers to take proportionate action to remedy the disadvantage faced by particular groups of students. Such action could include targeted provision or resources or putting in place additional or bespoke provision to benefit a particular disadvantaged student group.

Positive action is not the same as positive discrimination, which is unlawful. The exception to this is more favourable treatment of disabled students (or applicants) than non-disabled students because of or in connection with their disability, which is never unlawful.

Positive action is covered in more detail in [Section 3](#).

1.8 Public sector equality duty and the Human Rights Act

Most further and higher education institutions are public authorities and will be subject to the public sector equality duty. This means that they must have ‘due regard’ to the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who have particular protected characteristics and those who do not. This applies to all protected characteristics, except that in the case of marriage and civil partnership, a body subject to the duty only needs to comply with the first aim of the duty (elimination of the types of conduct which are prohibited under the Equality Act 2010).

In the case of organisations that are not public sector organisations, they are subject to the duty in respect of the public functions they carry out.

Most further and higher education institutions must also comply with specific equality duties. These require specific steps that are designed to enable them to better perform the public sector equality duty.

Complying with the equality duty will help you to meet your obligations under the further and higher education institutions provisions.

Further information on the public sector equality duty can be found in [Annex C](#) and in detailed guidance at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

1.9 Are there any exceptions to the further and higher education institution provisions?

There are exceptions:

- to enable single-sex institutions to admit only students of one sex.
- for a small number of designated institutions with a religious ethos to enable them to have admissions criteria which give preference to members of their own religion for courses which are not vocational.
- in relation to courses with a genuine occupational requirement.

These exceptions are explained in more detail in [Section 3.2](#).

1.10 What happens if a student thinks a further or higher education institution has acted unlawfully?

A student who believes that they have been discriminated against, harassed or victimised by a further or higher education institution can make a claim under the Equality Act.

In England and Wales, a claim can be made to a county court and in Scotland to the sheriff court. The procedure for making a claim and the remedies a court can order are explained in detail in Section 5.

Section 2: Key concepts

2.1 What is discrimination?

The Act consolidates existing law into a single legal framework and while many of the concepts of discrimination remain the same as in previous equality legislation, there are some areas that were not previously covered. This section describes the various types of discrimination and how they apply to the further and higher education provisions.

2.1.1 Direct discrimination

Direct discrimination occurs when you treat a student less favourably than you treat (or would treat) another student because of a protected characteristic.

For example: A further education college rejects an application from a man for a childcare course as they do not think it is appropriate for a man to be working with children. This would be unlawful direct sex discrimination.

Direct discrimination generally cannot be justified. There are some limited exceptions to this:

- An institution can justify direct age discrimination against a student if it is a proportionate means of achieving a legitimate aim. Any such aim (at least where the discrimination occurs broadly in the context of employment- or vocational-related education or training) must pursue a social policy objective, such as one related to employment policy, the labour market or vocational training.
- It must be of a public interest nature, distinguishable from purely individual reasons particular to an education provider, such as cost reduction or improving competitiveness.
- Legitimate aims may include facilitating access to education or employment by young people, enabling older people to remain in education or the workforce, sharing limited opportunities to work or train for particular types of work fairly between the generations, or promoting diversity and the interchange of ideas between younger and older students.

- If it is established that a particular aim is **capable** of being a legitimate aim, it still has to be shown that it is legitimate in the particular circumstances. For example, improving access to a particular course of professional training for young people ultimately to achieve a balanced and diverse profession is in principle a legitimate aim. However, if there is in fact no problem in recruiting the young to the particular course, then it may not be a legitimate aim for the education provider concerned.
- If it is established that a particular aim is capable of being a legitimate aim, it still has to be shown that the means used are proportionate, that is both appropriate to the aim and reasonably necessary to achieve it. See Section 2.1.5 below for an explanation of ‘a proportionate means of achieving a legitimate aim’.
- Where the Equality Act makes a specific exception, such as in relation to allowing single-sex institutions to admit only students of one gender.
- In relation to the protected characteristic of disability, it is not unlawful direct discrimination to treat a disabled student more favourably than a non-disabled student because of their disability.

For example: A college offers a bursary for disabled students only. This would not be unlawful direct discrimination.

- It is not direct discrimination against a male student to offer a female student special treatment in connection with her pregnancy or childbirth. However, any special treatment in connection with pregnancy or childbirth cannot extend to favouring pregnant students or those who have given birth beyond what is reasonably necessary, that is, proportionate, to compensate them for the disadvantages occasioned by their condition (at least where the discrimination occurs broadly in the context of employment- or vocational-related education or training).

For someone to show that they have been directly discriminated against, they must compare what has happened to them to the treatment a person without their protected characteristic is receiving or would receive.

For example: A gay student cannot claim that excluding them for fighting is direct discrimination on grounds of sexual orientation unless they can show that a heterosexual or bisexual student would not be excluded for fighting.

A student does not need to find an actual person to compare their treatment with but can rely on a hypothetical person if they can show there is evidence that such a person would be treated differently.

There is no need for someone claiming direct discrimination because of racial segregation or pregnancy or maternity to find a person to compare themselves with. This is because:

- racial segregation (that is deliberately separating people by race or colour or ethnic or national origin) will always be unlawful direct discrimination.
- to claim pregnancy or maternity discrimination a female student only needs to show that she has been treated unfavourably because of her pregnancy or maternity and does not have to compare her treatment to the treatment of someone who was not pregnant or a new mother.

2.1.2 Discrimination by association

Direct discrimination also occurs when you treat a student less favourably because of their association with another person who has a protected characteristic (other than pregnancy and maternity).

This might occur when you treat a student less favourably because their sibling, parent, carer or friend has a protected characteristic.

For example: Three Roma young people and a local friend of theirs turn up to an open day at a further education college and try to enrol for the theatre course. They are told there are no more places. A few hours later they find out that some other non-Roma friends of theirs went to the open day after them and were accepted on the theatre course. It would appear that the college has directly discriminated against the Roma young people because of their race by not admitting them on the course and has also directly discriminated against their local friend on the grounds of race because of his association with his Roma friends.

2.1.3 Discrimination by perception

Direct discrimination also occurs when you treat a student less favourably because you mistakenly think that they have a protected characteristic (other than pregnancy and maternity).

For 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.

2.1.4 Discrimination because of pregnancy and maternity

It is discrimination to treat a woman (including a female student of any age) less favourably because she is or has been pregnant, has given birth in the last 26 weeks or is breastfeeding a baby who is 26 weeks or younger.

It is direct sex discrimination to treat a woman (including a female student of any age) less favourably because she is breastfeeding a child who is more than 26 weeks old.

2.1.5 Indirect discrimination

Indirect discrimination occurs when you apply a provision, criteria or practice in the same way for all students or a particular student group, such as postgraduate students, but this has the effect of putting students sharing a protected characteristic within the general student group at a particular disadvantage. It does not matter that you did not intend to disadvantage the students with a particular protected characteristic in this way. What does matter is whether your action does or would disadvantage these students compared with students who do not share that characteristic.

Disadvantage can take many different forms, such as denial of an opportunity or choice, deterrence, rejection or exclusion.

Indirect discrimination applies to all the protected grounds other than pregnancy and maternity, although something that disadvantages students who are pregnant or new mothers may be indirect sex discrimination.

'Provision', 'criterion' or 'practice' are not defined in the Act but should be interpreted widely and include:

- arrangements (for example, for deciding who to admit)
- the way that education, or access to any benefit, service or facility is offered or provided
- one-off or discretionary decisions
- proposals or directions to do something in a particular way
- formal and informal policies
- rules
- practices
- criteria and requirements

They may be written out formally or they may just have developed as your institution has worked out the best way of achieving a particular aim.

Indirect discrimination will occur if the following four conditions are met:

- You apply (or would apply) the provision, criterion or practice equally to all relevant students, including a particular student with a protected characteristic and
- The provision, criterion or practice puts or would put students sharing a protected characteristic at a particular disadvantage compared to relevant students who do not share that characteristic, and
- The provision, criteria, practice or rule puts or would put the particular student at that disadvantage, and
- You cannot show that the provision, criteria or practice is justified as a ‘proportionate means of achieving a legitimate aim’.

The position is different where the protected characteristic is religion or belief. It is not necessary for indirect religion or belief discrimination that there be any group disadvantage by reference to a comparative exercise of the sort just described. This is because, in such a case, Article 9 of the European Convention, which confers a right to freedom of religion and belief and the right to manifest that religion or belief (subject to qualifications), applies. Article 9 does not require any group disadvantage to be proved before protection to manifest a belief is provided under it. Instead, the question will be whether the interference of a student’s right to manifest their religious beliefs under Article 9(2) is proportionate given the legitimate aims of the education provider. The fact, therefore, that only one student is disadvantaged by a ban on the wearing of an item of clothing does not mean that they will not have been subject to indirect discrimination if that item of clothing is an expression of a genuinely held religious or other belief.

What is a ‘proportionate means of achieving a legitimate aim’?

To be legitimate, the aim of the provision, criteria or practice must be legal and non-discriminatory and represent a real objective consideration. In the context of further and higher education, examples of legitimate aims might include:

- Maintaining academic and other standards.
- Ensuring the health and safety and welfare of students.

Even if the aim is legitimate, the means of achieving it must be proportionate. Proportionate means ‘appropriate and necessary’, but ‘necessary’ does not mean that the provision, criterion or practice is the only possible way of achieving the legitimate aim.

The more serious the disadvantage caused by the discriminatory provision, criterion or practice, the more convincing the justification must be.

In a case involving disability, if you have not complied with your duty to make reasonable adjustments, it will be difficult for you to show that the treatment was proportionate.

For example: A university with a ‘no-needles’ policy recognises the negative impact of the policy on diabetic students who need to inject insulin at regular intervals during the day. It decides to make a clear exception to the policy for people in this situation as an anticipatory reasonable adjustment. On this basis, the no-needles policy is likely to be justifiable as a proportionate means of achieving the legitimate aim of tackling drugs problems on campus.

2.1.6 Discrimination arising from disability

Discrimination arising from disability occurs when you treat a disabled student unfavourably because of something connected with their disability and cannot justify such treatment.

Discrimination arising from disability is different from direct discrimination.

Direct discrimination occurs because of the protected characteristic of disability. For discrimination arising from disability, the question is whether the disabled student has been treated unfavourably because of something connected with (arising in consequence of) their disability.

Discrimination arising from disability is also different from indirect discrimination.

There is no need to show that other people have been affected alongside the individual disabled student or for the disabled student to compare themselves with anyone else.

Discrimination arising from disability will occur if the following three conditions are met:

- you treat a disabled student unfavourably, that is putting them at a disadvantage, even if this was not your intention, and
- this treatment is because of something connected with the disabled student’s disability (which could be the result, effect or outcome of that disability) such as an inability to walk unaided or disability-related behaviour, and
- you cannot justify the treatment by showing that it is ‘a proportionate means of achieving a legitimate aim’. This is explained above.

If you have not complied with your duty to make reasonable adjustments it will be difficult for you to show that the treatment can be justified.

For example: A student who is known to have autism often speaks out of turn during tutorials as a result of his disability, which can create a disruptive atmosphere for the tutor and other students. Because of his behaviour, his tutor asks him not to attend tutorials, without considering whether any reasonable adjustments could be made. This is likely to be discrimination arising from disability unless the treatment can be justified.

Knowledge of disability

If you can show that you:

- did not know that the disabled student had the disability in question, and
- could not reasonably have been expected to know that the disabled student had the disability

then the unfavourable treatment does not amount to unlawful discrimination arising from disability. An organisation does not have to **know** that a student meets the legal definition of ‘a disabled person’, *just that he or she has an impairment which is likely to meet the definition*.

If your agent or employee knows of a student’s disability, you will not usually be able to claim that you do not know of the disability.

For example: A student tells his course leader that he is dyslexic. He then transfers onto another course at the same institution but does not mention his disability to any of the course staff. As one member of staff at the institution is aware of his disability, the institution will not be able to claim that it did not know that the student was disabled.

Relevance of reasonable adjustments

By acting quickly to identify and put in place reasonable adjustments for disabled students, you can often avoid discrimination arising from disability.

If you fail to make an appropriate reasonable adjustment, it is likely to be very difficult for you to argue that the unfavourable treatment is justified.

2.1.7 The duty to make reasonable adjustments

You should be familiar with the reasonable adjustments duty which was first introduced under the Disability Discrimination Act 1995. The reasonable adjustments duty under the Equality Act operates slightly differently but the object is the same: to avoid as far as possible by reasonable means the disadvantage which a disabled student experiences because of their disability.

The duty requires you to take positive steps to ensure that disabled students can fully participate in the education and other benefits, facilities and services provided for students.

What is the reasonable adjustments duty?

You are required to take reasonable steps to:

- Avoid substantial disadvantage where a provision, criterion or practice puts disabled students at a substantial disadvantage.
- Avoid substantial disadvantage, where a physical feature of the building or premises puts disabled persons at a substantial disadvantage; this includes removing the physical feature in question, altering it or providing a reasonable means of avoiding it.
- Provide an auxiliary aid where without one, disabled students would be put at a substantial disadvantage.

Where the reasonable adjustment you need concerns the provision of information, the steps it is reasonable to take include ensuring that the information is provided in an accessible format.

You owe this duty to existing students, applicants and, in limited circumstances, to disabled former students.

You cannot justify a failure to make a reasonable adjustment; where the duty arises, the issue is whether or not the adjustment is 'reasonable' and this is an objective question for the courts to determine ultimately.

The duty is an anticipatory and continuing one that you owe to disabled students generally, regardless of whether you know that a particular student is disabled or whether you currently have any disabled students. You should not wait until an individual disabled student approaches you before you consider how to meet the duty. Instead, you should plan ahead and anticipate the requirements of disabled students and the adjustments that might need to be made for them. You are not

expected to anticipate the needs of every prospective student, but you are required to think about and take reasonable and proportionate steps to overcome barriers that may impede people with different kinds of disabilities.

For example: It may be appropriate for a university to install a hearing loop in all its lecture theatres to anticipate deaf students' needs, but it may not be reasonable for it to have a British Sign Language (BSL) interpreter on its payroll prior to any deaf students being admitted to the university.

For example: A university recognises that making an adjustment to provide handouts in advance in electronic format is a common anticipatory need for disabled students, for example students who lip-read, students with dyslexia and students with visual impairments. The university makes this adjustment and agrees timescales to ensure all staff have teaching notes available in this way. This is an example of an anticipatory adjustment.

What is a substantial disadvantage?

The Act defines a 'substantial disadvantage' as one that is more than minor or trivial. The level of disadvantage created by a lack of reasonable adjustments is measured in comparison with what the position would be if the disabled student in question did not have a disability.

A further or higher education institution will need to take into account a number of factors when considering what a substantial disadvantage might be, such as:

- the time and effort that might need to be expended by a disabled student
- the inconvenience, indignity or discomfort a disabled student might suffer
- the loss of opportunity or the diminished progress a disabled student might make in comparison with his or her peers who are not disabled.

For example: A college has several sites and students are required to move between sites to attend different classes. Timetabling of classes requires students to change from one site to another in a short period of time. This is likely to place a student with mobility difficulties at a significant disadvantage compared to their peers who have no mobility difficulties as the student will find it hard to move between sites and will arrive late for classes as a result. Such a disadvantage is more than minor or trivial and would satisfy the definition of a substantial disadvantage.

The duty to change a provision, criterion or practice

These terms are not defined but in general, they relate to how the education and other benefits, facilities and services are provided and cover all of a further or higher education institution's arrangements, policies, procedures and activities.

Where a provision, criterion or practice places disabled students at a substantial disadvantage in accessing education and any benefit, facility or service, you must take such steps as it is reasonable to take in all the circumstances to remove the effect. This might mean waiving a criterion or abandoning a practice altogether, but often will involve just an extension of the flexibility and individual approach that most further and higher education institutions already show to their students.

For example: A college has a strict policy that states no drugs are allowed on the premises. A student with a heart condition carries medication related to her condition. The college allows her to bring her medication with her to college. This is likely to be a reasonable adjustment to the college drug policy.

A provision, criterion or practice does not include what is known as a 'competence standard' which is defined as an academic, medical or other standard applied by or on behalf of an education provider for the purpose of determining whether or not a student has a particular level of competence or ability. There is no duty to make reasonable adjustments in relation to the application of a competence standard. However, the duty does apply to the process of demonstrating that a person meets the competence standard.

For example: The mark required to pass an exam would be a competence standard, so would not be subject to the duty to make reasonable adjustments. However, it might be a reasonable adjustment to give a disabled person a longer time in which to complete an exam if their disability causes them to write slowly.

A student with a visual impairment is provided with his written exam in enlarged text. This would be an example of a reasonable adjustment to help him demonstrate that he can meet the competence standard.

The duty related to physical features

Physical features of a building or premises include:

- any feature arising from the design or construction of a building
- any feature on the premises, including any approach to, exit from, or access to a building

- any fixtures, fittings, furnishings, furniture, equipment or other moveable property in or on premises, and
- any other physical element or quality.

All these features are covered by the duty, whether the feature in question is temporary or permanent.

You are more likely to be able to comply with your duty to make adjustments in relation to physical features if you arrange for an access audit of your premises to be conducted and then act on it.

Sometimes, a further or higher education institution will occupy premises under a lease or other binding obligation (for example, a mortgage, charge or restrictive covenant) under which you cannot alter the premises without someone else's consent. In such cases, the Act provides that it is always reasonable for you to have to request that consent, but that it is never reasonable for you to have to make an alteration before having obtained that consent.

In other cases, the terms of the lease may prevent a further or higher education institution from making alterations to the premises. However, if the alteration is one which the institution is proposing to make in order to comply with its reasonable adjustments duty, the Act will override the terms of the lease so as to entitle you to make the alterations subject to the consent of its landlord, provided certain conditions are fulfilled.

A further or higher education institution may also need to obtain statutory consent before making reasonable adjustments involving alterations to premises, such as planning permission, building regulations approval or a building warrant in Scotland. The Act does not override the need to obtain such consents.

The duty to provide auxiliary aids

The further and higher education provisions require you to take such steps as are reasonable to provide auxiliary aids to avoid the substantial disadvantage experienced by disabled students. An auxiliary aid includes an auxiliary service and covers anything which provides additional support or assistance to a disabled student. This could range from the provision of a particular piece of equipment (which does not become the property of the student) to extra staff assistance. It includes making information available in an accessible format.

For example: A university ensures deaf students have access to BSL interpreters and palantypists. This is an example of an auxiliary service which addresses the substantial disadvantage faced by deaf students.

Disabled students on higher education courses may be able to obtain the Disabled Students Allowance which helps provide for the cost of additional study support or equipment a student requires as a result of the effect of their disability. If a piece of equipment is purchased using this allowance, it will remain the property of the individual disabled student after they have finished their course.

When is it reasonable for a further or higher education institution to have to make adjustments?

A useful starting point for you when determining what might be a reasonable adjustment is to consider how to ensure that disabled students can be involved in every aspect of student life. Often effective and practicable adjustments involve little or no cost or disruption.

You should not expect disabled students to suggest adjustments but where they do, you should consider whether they would help to overcome the disadvantage and whether they are reasonable. It is good practice for you to work with students in determining what reasonable adjustments can be made.

Factors to take into account

The following are some of the factors which might be taken into account when considering what is reasonable:

- whether taking any particular steps would be effective in overcoming the substantial disadvantage that disabled people face in accessing the education or other benefit, facility or service in question
- the extent to which it is practicable for the education provider to take such steps
- the type of education or other benefit, facility or service being provided
- the effect of the disability on the individual
- the financial and other costs of making the adjustment
- the availability of grants, loans and other assistance to disabled students
- the extent to which aids and services will otherwise be provided to disabled people or students
- the resources of the education provider and the availability of financial or other assistance
- health and safety requirements, and
- the relevant interests of other people, including other students

Cost of providing reasonable adjustments

Further and higher education institutions are prohibited from charging disabled students for the cost of making any reasonable adjustments.

2.2 Harassment

There are three types of harassment which are unlawful under the Equality Act:

- Harassment related to a relevant protected characteristic.
- Sexual harassment.
- Less favourable treatment of a student because they submit to or reject sexual harassment or harassment related to their sex.

Pregnancy and maternity is not protected directly under the harassment provisions, however, unwanted behaviour related to pregnancy and maternity (as described below) will amount to harassment related to sex.

Harassment related to a protected characteristic

Harassment occurs when you engage in unwanted behaviour which is related to a relevant protected characteristic and which has the purpose or effect of:

- violating a student's dignity or
- creating an intimidating, hostile, degrading, humiliating or offensive environment for the student.

The word 'unwanted' means 'unwelcome' or 'uninvited'. It is not necessary for the student to say that they object to the behaviour for it to be unwanted.

For example: A college tutor makes several racist and derogatory remarks about the local Gypsy and Traveller community stating that their site should be shut down. A pupil from a Traveller background is in the class and finds the tutor's behaviour degrading and offensive. This is likely to be harassment related to the protected characteristic of race.

Sexual harassment

Sexual harassment occurs when you engage in unwanted behaviour which is of a sexual nature and which has the purpose or effect of:

- violating a student's dignity or
- creating an intimidating, hostile, degrading, humiliating or offensive environment for the student.

'Of a sexual nature' can cover verbal, non-verbal or physical conduct including unwelcome sexual advances, inappropriate touching, forms of sexual assault, sexual jokes, displaying pornographic photographs or drawings, or sending emails with material of a sexual nature.

For example: A tutor walks up to a female student who has stayed behind to speak to him and puts his arms around her waist and kisses her and tells her she is 'very attractive'. The student is offended by his behaviour but doesn't push him away. The tutor's behaviour would be sexual harassment.

Alternatively, a tutor tries to put his arms around a student but she pushes him away and tells him he is behaving in an inappropriate manner. The tutor's behaviour would again amount to sexual harassment.

Less favourable treatment of a student because they submit to or reject sexual harassment or harassment related to sex

It is unlawful to treat a student less favourably because they either submit to, or reject, sexual harassment or harassment related to their sex.

For example: In relation to either of the examples above, if the tutor then refuses to allow the student to go on a field trip or fails her assignments when they were excellent, this would be less favourable treatment because the student had submitted to (first example), or rejected (second example), sexual harassment.

2.3 Victimisation

Victimisation is defined in the Act as:

Treating someone badly because they have done a 'protected act'
(or because you believe that a person has done or
is going to do a protected act).

A 'protected act' is:

- Making a claim or complaint of discrimination (under the Equality Act).
- Helping someone else to make a claim by giving evidence or information.
- Making an allegation that you or someone else has breached the Act.
- Doing anything else in connection with the Act.

If you do treat a student less favourably because they have taken such action then this is likely to be unlawful victimisation. There must be a link between what the student did and your treatment of them.

The less favourable treatment does not need to be linked to a protected characteristic.

For example: A finance officer refuses to process a student's living cost grant application because she has supported another student's race discrimination claim. This would amount to victimisation.

Who is not protected?

A student who, in bad faith, gives false information or evidence (that is, they knew that it was false) or makes an allegation that was false and given in bad faith would not be protected against victimisation.

For example: A student with a grudge against his tutor knowingly gives false evidence in another student's discrimination claim against the university. He is subsequently excluded from the course for supporting the claim. This treatment could not amount to victimisation because his evidence was untrue and given in bad faith.

It doesn't matter whether the original complaint/claim is upheld as long as it was not made in bad faith.

2.4 Obligations to former students

Even after a person has left your institution, you must not discriminate against them or harass them. This only applies if the discrimination or harassment arises out of and is closely connected to their previous relationship with you and would have been unlawful if they were still a student.

For example: If an ex-student asks for a reference from the college it would be unlawful for the reference to be unfairly negative because of a protected characteristic of the ex-student, or because they at one time brought or supported a discrimination complaint against the college.

This obligation to former students would include the duty to make reasonable adjustments for disabled former students if they continue to be at a substantial disadvantage in comparison to former students without a disability. This obligation only applies if the substantial disadvantage arises out of and is closely connected with them having been a student.

For example: A college sends an annual newsletter to former students and one former student who has a visual impairment requests that it is sent to him by email rather than in hard copy. The college refuses to provide him with an electronic copy. This is likely to be an unlawful failure to make a reasonable adjustment.

If someone believes that they are being discriminated against after they have stopped studying with you, they can take the same steps to have things put right as if they were still a student. These steps are explained in [Section 5](#).

2.5 When are you responsible for what other people do?

Liability for employees and agents

As an employer, you are legally responsible for acts of discrimination, harassment and victimisation carried out by your employees in the course of employment or by your agents. It does not matter whether or not you knew about or approved of those acts. However, if you can show that you took all reasonable steps to prevent your employees or agents from acting unlawfully, you will not be held legally responsible.

It is important that you take steps to make sure your employees and agents understand that they must not discriminate against students, or harass them or

victimise them, and that they understand your duties in relation to making reasonable adjustments for disabled students.

Your employees and agents are personally liable for their own acts of discrimination, harassment or victimisation, whether or not you are also liable, unless you have told them there is nothing wrong with their actions and they reasonably believe this to be true.

For example: A lecturer racially discriminates against a student. The college is able to show that it took all reasonable steps to prevent the discrimination and therefore was not liable. The student can still make a claim of discrimination against the lecturer.

Usually, you will not be responsible for discrimination, harassment or victimisation by someone other than your employee or agent, however, case law indicates that it is possible that you could be found to be legally responsible for failing to take action where you have some degree of control over a situation where there is a continuing course of offensive conduct, but you do not take action to prevent its recurrence even though you are aware of it happening.

Instructing and causing discrimination

As a further or higher education institution, you must not instruct, cause or induce someone who is in a legal relationship with you (such as an employee or agent), to discriminate against, harass or victimise another person, or to attempt to do so.

Both the person who receives the instruction and the intended victim will have a claim against whoever gave the instructions. This applies whether or not the instruction is carried out, provided the recipient or intended victim suffers loss or harm as a result.

Aiding contraventions

It is unlawful for you to help someone else carry out an act which you know is unlawful under the Equality Act.

Section 3: Admissions

3.1 Introduction

You must not discriminate against a person in relation to admission to your institution. It is your institution's responsible body that is liable for ensuring there is no such discrimination. This varies depending on the type of institution as set out in [Annex A](#).

3.2 What does the Act say?

You must not discriminate against or victimise a person because of a protected characteristic:

- in the arrangements you make for deciding who is offered admission as a student
- in relation to the terms on which you offer to admit the person as a student
- by not admitting the person as a student.

You must not harass a person who has applied for admission as a student.

There are some exceptions:

Single-sex institutions

As a single-sex institution, you are permitted to admit students of only one sex and this would not constitute sex discrimination. This also applies if you are a single-sex institution that admits students of the opposite sex on an exceptional basis or in comparatively small numbers and only to particular courses or classes. There are special transitional provisions if you are a single-sex institution that is turning coeducational.

For example: A women's college which admits only female students is not discriminating unlawfully against men. If the college admits a small number of men to make up the numbers on the Oriental languages course, it will still be regarded as a single-sex college and is not discriminating by refusing to admit men to other courses.

These exceptions only apply to admissions and do not apply to the provision of education, or access to any benefit, facility or service or to exclusions.

For example: A men's college, which admits daughters of college staff as students, does not allow them to use the college sports centre. This would be unlawful sex discrimination.

Occupational requirements

In certain circumstances, it is lawful for an employer to require a job applicant or worker to have a particular protected characteristic. (see Employment Guidance at: <http://www.equalityhumanrights.com/advice-and-guidance/guidance-for-employers/>)

You can refuse to admit someone with a particular protected characteristic to a course which trains people only for a job where such requirements can lawfully apply. This would only occur in very limited circumstances.

For example: A Catholic theological college can refuse to admit women to a course that is only designed to prepare candidates for the Catholic priesthood as women cannot become Catholic priests. However, a Church of England college could not confine training for the priesthood to men since women may also become Anglican priests.

Designated institutions with a religious ethos

An institution, which has been designated as one with a religious ethos, can admit students that share its religion or belief over those that do not, but only for the purpose of preserving its religious ethos and only in relation to admissions to courses which do not constitute vocational training. This exception only applies to a very small number of Catholic sixth form colleges in England and Wales which have been specially listed in regulations.

3.3 You must not discriminate in the arrangements you make for deciding who is offered admission to your institution

What does this mean?

This means that everything your institution does in relation to deciding who is admitted to the institution must be non-discriminatory. This covers everything from course design and setting admission requirements to the information you provide about the institution and the course and the application and admissions process.

How do I avoid discriminating in my admission arrangements?

Marketing the course and admissions information

How and where you market your institution and courses will have an impact on the type of students you attract. In any marketing material you use, you should avoid discriminatory messages and stereotypical images which might result in people with particular protected characteristics believing that their application would not be welcome.

For example: A further education college prospectus describes its creative writing course as only suitable for people with a detailed knowledge of English literature. This may result in unlawful indirect discrimination on the grounds of race.

Marketing material for a plumbing course only features photographs of white men. A female applicant is put off applying from the course as she doesn't think that women would be accepted on the course. This may be unlawful indirect sex discrimination and is an example of gender stereotyping.

All admissions information and application forms should be available in accessible formats to ensure that you comply with your reasonable adjustments duty to disabled people.

For example: A person with learning difficulties wishes to apply for a short course at a further education college. He orders the college prospectus but finds it very difficult to understand so contacts the college to see if they have an Easy Read version or if someone could talk him through the course options. He is told that the prospectus is only available in one format and that while he can talk to course tutors once he has decided which course he wants to apply for, there is no one who can talk to him

about the range of different courses available. This is likely to be an unlawful failure to make a reasonable adjustment.

Positive action

The extended positive action provisions of the Act allow (but do not require) you to advertise that you welcome applications from all groups and particularly target groups that you think are under-represented on a particular course. They also allow you, in certain circumstances, to run courses for people with specific protected characteristics.

You can use positive action measures to alleviate disadvantage experienced by people sharing a protected characteristic, reduce their under-representation in relation to particular activities or meet their particular needs.

You can always lawfully advertise courses as open to disabled people only as it is not unlawful to treat disabled people more favourably than non-disabled people because of or in connection with their disability.

Recruitment activities

Many institutions will run a variety of events to attract applicants, such as recruitments fairs, open days, mentoring schemes with local schools, campus tours, taster courses and summer schools. Such events should not exclude people with particular characteristics.

For example: A large university arranges all its open days on Saturdays. The practice of holding all open days on a Saturday instead of on a variety of different days places practising Jews at a disadvantage and therefore could lead to a successful complaint of unlawful indirect religion or belief discrimination.

However, a smaller institution running only a single event, might find after consideration that a Saturday was the only day which was suitable for the great majority of potential applicants, and was therefore objectively justified.

The application process

The application process is the means by which people access admission to your institution and therefore it is vital that the process itself does not discriminate against applicants.

If you use assessment methods such as interviews and written tests these should be applied to all applicants and not just those with particular protected characteristics.

For example: A college asks all disabled applicants to undergo a medical check before offering them a place on health-related courses. Non-disabled applicants are not required to undergo a medical check. This would be unlawful direct disability discrimination.

A university interviews all women who apply for a degree in engineering to try to ascertain if they are serious about a career in engineering. Men who apply for the engineering degree are not interviewed. This would be unlawful direct sex discrimination.

You need to make sure you make reasonable adjustments to the application process and any assessment within that process for disabled people.

For example: An applicant with multiple sclerosis is invited to an assessment day for a university course. She contacts the university and explains that her disability means that she gets tired very quickly and asks if she can have rest breaks between the different stages of the day or have her assessment spread over several days. The university replies that she must be assessed in exactly the same circumstances as all other applicants and makes no adjustments for her. This is likely to be an unlawful failure to make reasonable adjustments.

3.4 You must not place terms on a person's admission to your institution which are discriminatory

What does this mean?

Terms of admission should not discriminate against a person with a protected characteristic. Terms which indirectly discriminate, or in the case of a disabled applicant, result in discrimination arising from disability, will be unlawful unless you can show they are a proportionate means of achieving a legitimate aim.

The Equality Act provisions do not prevent you from charging higher tuition fees for certain types of international students if this is authorised by other legislation.

International students may also be subject to separate immigration requirements.

Detailed information can be found at the website of the UK Council for International Student Affairs (www.ukcisa.org.uk).

There is an exception in the Equality Act for discrimination authorised by other statutes and linked to place of residence. This allows England, Scotland and Wales each to charge different admission fees to students dependent on whether they are resident in that country.

How do I avoid discriminating in relation to admission terms?

You should ensure you do not offer admission to a person with a protected characteristic on terms which are less favourable than those which you offer or would offer to someone without the protected characteristic, unless this would be a proportionate means of achieving a legitimate aim (in the case of indirect discrimination, discrimination arising from a disability or direct discrimination on the ground of age).

For example: A college only offers scholarships for students who excel at rugby. This is likely to indirectly discriminate on grounds of sex and race as it is more likely that white male applicants will receive the scholarship than any other category of student.

Admission requirements

The Act does not prevent you from setting admission requirements, but you should ensure that the criteria you use, and the way you apply them, do not discriminate.

Criteria which exclude people with a particular protected characteristic will result in direct discrimination. Direct discrimination is always unlawful, except in limited circumstances in relation to age, where it can be justified if there is a genuine reason and imposing a particular age requirement is appropriate and necessary as a result.

For example: A university refuses admission to a 16-year-old applicant for a teaching course on the grounds that he would be unable to undertake the teaching practice elements of the course. This would be a proportionate means of achieving a legitimate aim and therefore lawful age discrimination.

Reviewing your admissions requirements regularly will help you to ensure that they do not make it more difficult for people with a particular protected characteristic to be admitted as this could lead to indirect discrimination. Using criteria which can be tested objectively will also help you to avoid discriminating.

Stating that you require an applicant to have a certain medical or health-related characteristic in order to be admitted to a course might result in disability

discrimination. An institution may need to make reasonable adjustments to enable disabled students to demonstrate their ability to meet the course requirements.

Some institutions choose to accept students with learning difficulties onto courses even though they may not be able to complete the whole course or achieve the qualification. This is good practice and increases participation.

For example: A student with Down's syndrome is accepted onto a BTEC Higher National performing arts course on the understanding that he will only be assessed for part of the qualification and will not receive the qualification.

Example provided by Alliance For Inclusive Education

Professional and vocational courses

Some of the courses that you run may be validated by external bodies such as trade organisations and qualifications bodies like the General Medical Council or the British Floristry Association. These organisations may set entry requirements for these courses and while you may not be able to control the entry requirements, you should ensure that they are not applied in a discriminatory way. It is good practice to work with such bodies to try to ensure that any entry requirements do not unlawfully discriminate against any applicants and to find ways to assess applicants against any entry requirements in a way that does not discriminate and allows for any necessary reasonable adjustments to be made for disabled applicants.

Qualifications bodies and trade organisations have obligations under the Equality Act when awarding qualifications. These obligations are explained in the F/HE Technical Guidance, available at:

http://www.equalityhumanrights.com/uploaded_files/EqualityAct/technical_guidance_on_further_and_higher_education.pdf

3.5 You must not refuse to admit a person as a student for discriminatory reasons

What does this mean?

It is unlawful for you to reject applicants on the grounds of a protected characteristic unless, in relation to direct age discrimination, you can show your actions were a proportionate means of achieving a legitimate aim. If a person is refused a place on a course because they cannot comply with a condition of admission, this could amount to indirect discrimination and in the case of a disabled applicant, discrimination

arising from disability, unless this is a proportionate means of achieving a legitimate aim. You must also consider your duty to make reasonable adjustments for disabled applicants before rejecting a disabled applicant.

How do I avoid discriminating in relation to admission decisions?

If your admissions requirements are non-discriminatory (see [Section 3.4](#) above) and you follow them, and you ensure that the people making admissions decisions are aware of the rules and the principles of fair admission and abide by them, then you are unlikely to refuse admission to a person for a discriminatory reason. Unless the decision-makers are well trained in these principles there is a danger that they may make prejudiced or unfair judgments which could result in acts of unlawful discrimination.

For example: The admission tutor for a car maintenance course interviews a transsexual woman and decides that she would not be suitable for the course as she would not fit in with the other students on the course. This would be unlawful direct gender reassignment discrimination.

Section 4: Providing education and access to any benefit, service or facility and exclusions

4.1 Introduction

You must not discriminate against a student at your institution in the provision of education, or access to any benefit, facility or service, by excluding them or by subjecting them to any other detriment.

4.2 What does the Act say?

You must not discriminate against a student:

- in the way you provide education for the student
- in the way you give the student access to a benefit, facility or service
- by not providing education for the student
- by not affording the student access to any benefit, facility or service
- by excluding the student
- by subjecting them to any other detriment

4.3 What does this mean?

Your legal obligations to your students cover all your services, facilities and benefits, both educational and non-educational, from teaching and learning to the physical environment, and any leisure and accommodation facilities.

In addition, you must not discriminate against a student by excluding them. Any behaviour or exclusion procedures, practices or decisions which discriminate may be unlawful.

Discriminating against students by subjecting them to any other detriment is also unlawful. ‘Detriment’ is not defined in the Act but implies a disadvantage of some kind and can be interpreted broadly.

Your students do not need to be studying full-time to be protected under the Act. All types of course are covered including undergraduate, postgraduate, part-time, distance learning, short, research, e-learning, informal and optional study skills courses.

Some key areas of activity for further and higher education institutions are covered in Section 4.4 below.

Studying at another institution or abroad

If your students study at another institution or overseas for a period of time, you are responsible for ensuring that you do not discriminate in any of the arrangements you make for them.

If the institution is in England, Scotland or Wales, it will have the same duties under the Act towards these students as you. Northern Ireland FE and HE institutions are covered by separate equality legislation. If the institution is overseas, your students may well also be covered by domestic or regional equality legislation covering that particular country. In some circumstances the other institution may be considered to be acting as your agent therefore making you liable for their actions. This is covered in more detail in Section 2.

If students from other institutions visit your institution, you will have obligations under the Equality Act not to discriminate against, harass or victimise them.

Work placements

Work placement providers based in Great Britain have duties as employers under the Act towards a student when the student is on a work placement with them. (see Employment Guidance at: <http://www.equalityhumanrights.com/advice-and-guidance/guidance-for-employers/>)

You must ensure that you do not discriminate in any of the arrangements that you make with work placement providers and that where relevant these providers are made aware of the needs of their placement students with protected characteristics. If you are told that discrimination has occurred, you will need to negotiate with the work placement provider to try and resolve the issue and may need to find an alternative placement to ensure the placement student is not discriminated against.

You should also ensure that a work placement provider is aware of the need to make reasonable adjustments for those disabled students who require them.

For example: A student with a visual impairment, who requires all written material to be in large font, is studying on a degree course with a work placement element. The university fails to advise the work placement provider of the student's reasonable adjustments needs and as a result the work placement provider fails to make the necessary reasonable adjustments.

What is not covered?

Content of the curriculum

These obligations do not apply to anything done in connection with the content of the curriculum. This means that you are not restricted in the range of issues, ideas and materials you use in your syllabus and will have the academic freedom to expose students to a range of thoughts and ideas, however controversial. Even if the content of the curriculum causes offence to students with certain protected characteristics, this will not make it unlawful unless it is delivered in a way which results in harassment or subjects students to discrimination or other detriment.

For example: A man signs up for a course on gender studies but complains that the syllabus is dominated by feminist works and consideration of women's history, and does not focus sufficiently on disadvantage and victimhood experienced by men. This would not be unlawful sex discrimination or harassment.

Student unions

Although these are often thought of as educational provision, they are in fact service providers under the Act and their legal obligations towards students are covered by the services provisions of the Act (see Guidance for Service Providers at: <http://www.equalityhumanrights.com/advice-and-guidance/guidance-for-service-providers/>)

However, you will need to ensure that you do not act in a discriminatory way in respect of your student body in your dealings with your student union and it is good practice to work closely with the union in ensuring that students enjoy a discrimination-free environment.

For example: A university's Equalities Officer gives a seminar to union officers on the university's provisions for supporting students with the range of protected characteristics as a way of increasing students' awareness about the provisions in place and to encourage a close working relationship with the union. This is good practice.

4.4 How do I avoid discriminating?

Regular reviews of your practices, policies and procedures will help to ensure they do not discriminate against students with a protected characteristic. Students' needs or the make-up of your student body may vary over time and you need to be sufficiently flexible in your policies to accommodate these.

The importance of training your staff effectively cannot be overestimated. All staff, whether they work in academic or support departments, need to be fully aware of the requirements under the Act and the implications of these on your education provision and delivery.

The public sector equality duty will help to ensure that all your activities are non-discriminatory – see [Annex C](#) for more information about this duty.

Education, benefits, facilities and services

Induction

You should ensure that your induction procedures do not unlawfully discriminate against any students.

For example: A university library holds a series of induction sessions for each course group on how to use the library services. A disabled student is unable to attend the session for her course group because of the scheduling of her personal care arrangements. She informs the relevant library staff of this, and asks if she could attend an alternative session, but she is told that she must attend the session for her course group. This is likely to be an unlawful failure to make a reasonable adjustment.

Flexibility in course provision

Course provision, which meets the needs of students with the range of protected characteristics, will help you to avoid discriminating against them.

Courses that are delivered flexibly are likely to reduce your chances of inadvertently discriminating, for example, against students with caring responsibilities. Flexibility may also be necessary for some disabled students, if they are required to attend medical appointments or need to take more frequent breaks from learning. Such flexibility may be a reasonable adjustment for some disabled students.

Curriculum delivery

Although the actual content of courses is not subject to the discrimination provisions, you must ensure that your courses are taught in a way that will not subject students to discrimination.

For example: A lecturer covering apartheid in South Africa repeatedly uses racist language when talking about black people. Many students find this offensive. This is likely to be unlawful harassment.

The way in which the curriculum is taught is crucial to challenging stereotypes and addressing inequality, for example through positive representations of under-represented groups.

Academic progression and transfer

Students often transfer between courses or progress onto a higher course level. You should not discriminate in the practical arrangements necessary to facilitate the progression or transfer and should ensure that these are a proportionate means of achieving a legitimate aim, to avoid claims of indirect discrimination or discrimination arising from a disability. In relation to disabled students, you may need to consider whether reasonable adjustments are necessary to the process by which competence is assessed and also what reasonable adjustments should be put in place to facilitate progression or transfer.

Field trips

You should seek to ensure that field trips you arrange do not discriminate against any of your students.

For example: On a trip involving an overnight stay in dormitory-style accommodation, a university refuses to take a student who is in the process of changing gender. This would be unlawful gender reassignment discrimination.

You may be required to make reasonable adjustments to enable students with a range of disabilities to access field trips.

Libraries, study facilities and learning equipment

Library staff need to consider appropriate provision to meet the needs of students with protected characteristics to avoid unintentional discrimination. Students with disabilities may require a range of reasonable adjustments such as low unit photocopiers, priority workstations, books in alternative formats, help with reaching

books on higher shelves and flexible loan periods. ICT staff will be well versed in ensuring the compatibility of students' assistive software with IT systems.

The physical environment

Whether your institution is campus or town based, multi or single site, its physical environment plays an important role in the student experience. It is good practice to manage your environment in such a way that it enhances rather than detracts from students' participation in college or university life. Particular areas to think about include:

- leisure, recreation, entertainment and sports facilities, including changing facilities
- toilet facilities
- car parking
- campus or college shops.

You may already have had an access audit to consider the needs of a wide range of disabled people and be following a rolling programme of estates works. The Centre for Accessible Environments has a range of guidance on access audits and inclusive design (www.cae.org.uk). You may also have made reasonable adjustments to physical features as part of your anticipatory reasonable adjustments duty.

You may not however have thought about the range of needs of students with other protected characteristics and should do so to avoid indirectly discriminating against them. The Equality Challenge Unit together with the Association of College and University Business Officers (CUBO) and the Association of University Directors of Estates (AUDE) have published guidance on *Managing Inclusive Building Design* (www.ecu.ac.uk) which includes a checklist. In the context of protected characteristics other than disability, this guidance mentions:

- The need for separate facilities for the service of food and for storage and preparation of food in catering outlets and residences for religious observances.
- The need for accommodation facilities appropriate for students' families and provision for children on campus.
- The diverse nature of today's students, including growing numbers of mature students and postgraduates who may have different requirements from recreational and social spaces.

Centrally provided services

Your institution will have a range of support services for students which may include the following:

- careers advice and training
- catering
- childcare
- counselling
- disability and/or equalities office
- finance
- scholarships and bursaries
- health
- international students services
- language learning
- spiritual facilities
- welfare services.

You should ensure that there is no discrimination in the provision of these services and give thought to the implications of the Act on service delivery and for training and supporting frontline staff.

Residential accommodation and accommodation-finding services

Accommodation raises issues for all students with protected characteristics. It is an area requiring particular attention to avoid potential discrimination. This includes the physical adjustments for some disabled students, to provision for students with families, the specific needs of students undergoing gender reassignment and single gender halls/flats for certain religious groups.

The Equality Challenge Unit (www.ecu.ac.uk) has produced guidance on this area both on its own (*Inclusive Campus: Accommodation and Social Space, Guidance*) and in association with the Association for Student Residential Accommodation (Asra) and College and University Business Officers (CUBO) (*Handbook for Student Accommodation Providers – Support and Guidance for Equality and Diversity*).

For example: A university ensures that there are sufficient rooms for female Muslim students on the upper floors of their residential accommodation blocks so that these students can walk around their rooms without their heads being covered. Where only ground-floor accommodation is available, the university provides window screening allowing light to enter but not people to see in.

(Adapted from a real-life example from ECU's *Inclusive Campus: Accommodation and Social Space, Guidance* 2008.)

A university builds a new hall of residence with en-suite rooms and wifi access, and allocates all of the rooms to male students. The other halls of residence to which female students are allocated have shared bathroom facilities and no wifi access. This would be unlawful sex discrimination.

Assessments and examinations

These come in a variety of forms including the following:

- Written examinations.
- Vivas, orals and presentations.
- Practicals and performances.
- Dissertations and coursework.
- Work-based assessment.

It is important for you to ensure that you do not discriminate against students with protected characteristics. Assuming a uniformity in students' cultural, linguistic, religious or lifestyle experiences could result in you, for example, indirectly discriminating against students from particular racial groups.

It is also important to try to avoid discriminating indirectly against students in the timing of examinations and assessments. For example, students may have difficulty attending examinations or assessments because of issues surrounding the side effects of medication, religious prayer times or festivals or caring responsibilities.

Disabled students and assessments

You may need to make reasonable adjustments for disabled students to the process by which competence is assessed, such as providing readers, interpreters, amanuenses, rest breaks, extra time, assistants, flexible deadlines or alternative assessment methods. The Disabled Students Allowance for students in higher education can cover the funding of a helper or an item of equipment for assessment or exams but it is your responsibility to cover the cost of flexible assessment or exam

arrangements and to provide materials in accessible formats. Discussion with the students themselves is vital to ensure the most appropriate adjustments are made, although students may not be aware of all the adjustments that could be put in place.

Such adjustments are not intended to compromise the qualification itself. You are entitled to differentiate between students when assessing or examining them. However, the method by which you judge performance must be a proportionate means of achieving a legitimate aim.

You are under a duty to make reasonable adjustments to your assessment methods, but not to the application of the particular academic, medical or other standard, you are applying to determine whether or not the students have a particular level of competence or ability. Such a standard is known as a competence standard (see [Section 2.1.4](#)).

For example: A physics student whose disability affects her manual dexterity is allowed to use an assistant to set up and carry out experiments under her direction. Allowing the help of the assistant is a reasonable adjustment for her institution to make. The physics qualification itself is not compromised as the student's academic ability is judged on the basis of her ability to understand and direct the experiment.

Qualifications

You should avoid discriminating when conferring qualifications on disabled people who are not students at your institution.

For example: A dyslexic student studies at a community college for a degree awarded by a University. She is entitled to ask the University for reasonable adjustments in terms of extra time for taking some tests, in the same way as if she was registered as a student at the University.

Graduation and certificate ceremonies

These should be planned carefully to avoid unintentional discrimination. Reasonable adjustments may be necessary for some disabled students to enable them to participate in ceremonies in the same way as their non-disabled peers.

Exclusions

When drawing up behaviour, suspension and exclusion policies, you should consider whether any proposed criteria might adversely impact on a student because of their protected characteristic and whether the application of them would be a proportionate means of achieving a legitimate aim. Those making decisions about discipline and

exclusions should be aware of your obligations under the Equality Act and take care not to make assumptions that may lead to unlawful discrimination.

For example: Two male students are caught fighting by a female member of staff. One of them is a black student and the other a white student. The female member of staff feels intimidated by the black student as she perceives him to be a threat to her and so she suspends him. The other student is reprimanded but not suspended from studying. This is likely to be unlawful race discrimination as both the students had been fighting but only the black student was suspended.

A student acquires a physical impairment during his further education course. The student is unable to attend some of his lessons, because the buildings are not accessible, and cannot hand in his assignments on time because he requires longer to complete them due to his disability. The college removes him from his course because of his poor attendance record and for not meeting work deadlines. This punishment is likely to be unlawful discrimination arising from disability as the reason for missing classes and handing in assignments late is connected to his disability.

You will need to consider whether reasonable adjustments should be made for disabled students.

For example: A student with autism shouts at his tutor and uses inappropriate language. The college would usually consider suspension as a sanction for such behaviour. However, the college takes into account that the tutor had missed a tutorial session and that this had distressed the student who finds it difficult both to cope with unexpected changes to routine and to express himself when he is upset. As a result, the college does not suspend the student but decides to deal with the student in a different way. This is likely to be a reasonable adjustment to make.

Subjecting a student to any other detriment

The duty not to unlawfully discriminate against, harass, or victimise students is not limited to the matters considered above and extends to all your dealings with students. It applies to any detriment. The denial of an opportunity or choice, or anything which a reasonable student would consider altered their position for the worse, could result in unintentional discrimination. The detriment need not be physical, economic or disciplinary for example, but the fact that the student has a sense of grievance alone would not be enough.

For example: A college receives an offer of a number of work placements from a local charity for students on a youth work course. The charity is affiliated with the local Catholic church and the college decides not to offer a placement to a gay student as they believe the charity may not be comfortable working with the student due to his sexual orientation. This denial of opportunity to undertake a work placement could be a detriment under the Act resulting in unlawful direct discrimination because of sexual orientation.

For example: A university regularly arranges for guest speakers to visit the university and deliver lectures to students. It invites a particular speaker who agrees to attend to deliver a lecture on gender and religion. However, he states that he is only prepared to attend if female students are seated separately from male students because of his religious beliefs which demand that women are segregated from men in public spaces. This means that female students must decide not to attend the lecture at all, and so miss the opportunity to hear the speaker and contribute to any debate that follows, or comply with an instruction to sit apart from the male students. This is likely to be unlawful discrimination. It will not matter that the seats selected for the female students have the same view of the speaker or that they are as comfortable and convenient as those allocated to the male students. The female students are denied the opportunity to sit wherever they choose, including with the male students, and this is likely to be a detriment and unlawful.

Note: Segregating along racial lines will always be unlawful unless it is subject to a specific exemption (for example, as a result of lawful positive action).

Gender segregation is permitted for a few specifically defined purposes. For example, there is an exemption permitting gender segregation in certain situations where it is necessary to preserve privacy and decency. However, unless a specific exemption applies, segregation connected to gender will be unlawful.

Section 5: Dispute resolution and enforcement

5.1 Introduction

This section explains what happens if someone makes a complaint against you and what legal action they can take. It also explains what action may be taken to put right any discrimination, harassment or victimisation that is found to have taken place.

5.2 Resolving disputes

It is usually in everyone's best interests to attempt to resolve disputes without the need for legal action. In many instances the person who believes you have discriminated against them will approach you before commencing legal proceedings. You are likely to have a complaints procedure which should be able to deal with complaints of discrimination, harassment and victimisation.

It is good practice to make students aware of your complaints procedure and to ensure that all students know what it is and how to set it in motion.

Defending a claim can be lengthy, expensive and draining, and it can have a damaging impact on your reputation. It is likely to be in everyone's interest to try to put things right before a claim is brought. However, you will want to decide whether the person making the complaint has cause for complaint or not.

Consider the information given in this guide. You will need to make a realistic assessment about whether what you or your staff and agents have done (or failed to do) amounts to discrimination, harassment or victimisation. You may need to conduct an investigation into the complaint to form this view. You may need to get legal advice on this.

You should make reasonable adjustments to any internal complaints procedures to prevent disabled people from being placed at a substantial disadvantage in comparison with people who are not disabled. Failure to do so will itself amount to unlawful discrimination.

Although, as stated above, it is good practice to try to resolve disputes internally wherever possible, there are occasions where this will not be practical or appropriate, or a student wants to pursue legal action rather than trying to resolve the dispute. There is no legal requirement to go through the complaints procedure first.

5.3 Conciliation/Mediation

If the matter cannot be resolved through your internal complaints procedure, then there are various mediation and conciliation services that might assist you in resolving the dispute.

Office of the Independent Adjudicator (OIA)

If you are a university or higher education institution in England or Wales, a student can make a complaint that you have discriminated against them to the OIA. They will usually have to have exhausted your internal complaints procedure. There are several issues that the OIA cannot hear complaints about, such as questions of academic judgment, but they can hear complaints of discrimination.

If a student makes a complaint to the OIA within six months of the alleged discrimination, then the time limit for bringing an action in court is extended by three months to nine months.

Further information can be obtained from the OIA's website at: www.oiahe.org.uk

Students at universities or higher education institutions in Scotland

Students can make a complaint to the Scottish Public Services Ombudsman if (usually) they have exhausted their institution's internal complaints procedure. However, making such a complaint does not affect the time limit for making a claim in the Sheriff Court.

5.4 Obtaining information ('the questions procedure')

If someone thinks they may have been discriminated against, harassed or victimised because of a protected characteristic, they can obtain information from you to help them decide if they have a valid claim or not.

Where the claim is about events that took place before 6 April 2014, there is a specified questions procedure with a set questionnaire form to support the process. The form does not need to be used, provided the same questions are asked.

If you do not respond to the questionnaire within eight weeks, then the court or tribunal can take that into account when making a judgment. The court or tribunal can also take into account answers which are evasive or unclear, except where other responses might prejudice a criminal matter.

The official form contains instructions and there is separate guidance on completing the Answer form, available from:

<http://www.homeoffice.gov.uk/publications/equalities/equality-act-publications/complaints-Equality-Act/>

The set questions procedure and the questionnaire were abolished on 6 April 2014 though they will continue to apply to complaints about events which took place before that date.

For claims about events which took place on or after 6 April 2014, it will remain good practice for those who think that they may have experienced unlawful discrimination, harassment or victimisation contrary to equality law to seek relevant information from you before issuing a formal claim and for you to respond as you feel able. This may prevent the complaint escalating to a formal claim.

The Government Equalities Office has issued a good practice guide on asking and responding to questions about discrimination in the provision of services and public functions including education services. This can be found at:

<https://www.gov.uk/government/publications/asking-and-responding-to-questions-of-discrimination-in-the-provision-of-goods-and-services-and-public-functions>

That guidance makes it clear that you should treat any questions seriously and promptly and not ignore them. The questions and answers can form part of the evidence in a case brought under the Equality Act 2010.

5.5 Claims brought in the county courts and sheriff court

You can find more information about procedures in the county court at:

www.hmcourts-service.gov.uk and about procedures in the sheriff court at:

www.scotcourts.gov.uk/sheriff/index.

Who can make a claim?

Anyone who believes that you have discriminated against, harassed or victimised them can make a claim to a county or sheriff court. In England and Wales, a person who is under 18 or who does not have mental capacity, will have to make a claim through a 'litigation friend' who is an adult appointed to conduct the claim on their behalf (often, but not always, their parent).

In Scotland, students are presumed to have capacity at age 12 and can bring a claim in their own right from that age. If a student lacks the mental capacity to bring their own claim, a parent (if the student is under 16) or a guardian can conduct a claim on their behalf.

Time limits

A claim must normally be started (and, in Scotland, served on the institution) within six months of the alleged act of discrimination. Where there has been a continuing process of discrimination taking place over a period of time, the six months begins at the date of the last discriminatory act. Courts have the discretion to consider a claim brought outside the six-month period if they consider that it is fair to do so.

The time for bringing a claim is extended to within nine months of the alleged conduct taking place where a complaint has been made to the OIA.

Remedies

A county or sheriff court can:

- Declare that you have unlawfully discriminated against, harassed or victimised the person making the claim, or declare that no unlawful discrimination, harassment or victimisation has taken place.
- Impose an injunction (in England and Wales) or interdict (in Scotland) requiring you to do something (such as admit the person as a student) or to prevent you from repeating any discriminatory act in the future.
- Order you to pay compensation including compensation for injury to feelings.
- Order you to pay interest on any compensation.
- Order either party to pay costs.

Annex A: Responsible bodies for further and higher education institutions

Type of institution	Responsible body
University	The governing body
Higher education institution	The governing body
Further education institution	The governing body
A 16-19 Academy	The proprietor
Further education college under the management of a board of management	The board of management
Further education college without a board of management	Any board of governors of the college or any person responsible for the management of the college, whether or not formally constituted as a governing body or board of governors

Annex B: Protected characteristics

The protected characteristics for the further and higher education institution provisions are:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

Being married or in a civil partnership is NOT a protected characteristic for the further and higher education institution provisions.

Age

The Act defines age by reference to a person's age group and when it refers to people who share the protected characteristic of age, it means they are in the same age group.

An age group can:

- mean people of the same age or a range of ages
- be wide such as 'people under 50'
- be narrow such as 'people in their mid-50s' or people born in a particular year
- be relative, such as 'older than me' or 'older than us'
- be linked to actual or assumed physical appearance which may bear little relation to chronological age such as 'the grey workforce'.

A person could therefore belong to various age groups: a 19 year old could, for example, belong to groups that include 'young adults', 'teenagers', 'under 50s', 'under 25s' or '19 year olds'.

Disability

A person is a disabled person (someone who has the protected characteristic of disability) if they have a physical and/or mental impairment which has what the law calls 'a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities'.

There is no need for a person to have a medically diagnosed cause for their impairment; what matters is the effect of the impairment not the cause.

In relation to physical impairment:

- Conditions that affect the body such as arthritis, hearing or sight impairment (unless this is correctable by glasses or contact lenses), diabetes, asthma, epilepsy, conditions such as HIV infection, cancer and multiple sclerosis, as well as loss of limbs or the use of limbs are covered.
- HIV infection, cancer and multiple sclerosis are covered from the point of diagnosis.
- Severe disfigurement (such as scarring) is covered even if it has no physical impact on the person with the disfigurement, provided the long-term requirement is met (see below).
- People who are registered as blind or partially sighted, or who are certified as being blind or partially sighted by a consultant ophthalmologist, are automatically treated as disabled under the Act.

Mental impairment includes conditions such as dyslexia and autism as well as learning disabilities such as Down's syndrome and mental health conditions such as depression and schizophrenia.

The other tests to apply to decide if someone has the protected characteristic of disability are:

- The length the effect of the condition has lasted or will continue: it must be long term. 'Long term' means that an impairment is likely to last for the rest of the person's life, or has lasted at least 12 months or where the total period for which it lasts is likely to be at least 12 months. If the person no longer has the condition but it is likely to recur or if the person no longer has the condition, they will be considered to be a disabled person.
- Whether the effect of the impairment is to make it more difficult and/or time-consuming for a person to carry out an activity compared to someone who does not have the impairment, and this causes more than minor or trivial

inconvenience. If the activities that are made more difficult are ‘normal day-to-day activities’ at work or at home.

- Whether the condition has this impact without taking into account the effect of any medication the person is taking or any aids or assistance or adaptations they have, like a wheelchair, walking stick, assistance dog or special software on their computer. The exception to this is the wearing of glasses or contact lenses where it is the effect while the person is wearing the glasses or contact lenses, which is taken into account.

For example: Someone who has ADHD might be considered to have a disability even if their medication controls their condition so well that they rarely experience any symptoms, if without the medication the ADHD would have long-term adverse effects.

Progressive conditions and those with fluctuating or recurring effects are included, such as depression, provided they meet the test of having a substantial and long-term adverse effect on a person’s ability to carry out normal day-to-day activities.

Gender reassignment

Gender reassignment is a personal process (rather than a medical process) which involves a person expressing their gender in a way that differs from or is inconsistent with the physical sex they were born with.

This personal process may include undergoing medical procedures or, as is more likely for young people, it may simply include choosing to dress in a different way as part of the personal process of change.

A person will be protected because of gender reassignment in any of the following situations:

- when they make their intention known to someone – it does not matter who this is, whether it is someone at college or university or at home or someone like a doctor
- once they have proposed to undergo gender reassignment they are protected, even if they take no further steps or they decide to stop later on
- as soon as there is evidence of an intention to undergo gender reassignment even though they have not reached an irrevocable decision to do so
- when they start or continue to dress, behave or live (full-time or part-time) according to the gender they identify with as a person

- when they undergo treatment related to gender reassignment, such as surgery or hormone therapy
- when they have received gender recognition under the Gender Recognition Act 2004.

It does not matter which of these applies to a person for them to be protected because of the characteristic of gender reassignment.

This guidance uses the term 'transsexual person' to refer to someone who has the protected characteristic of gender reassignment.

Pregnancy and maternity

The protected characteristic of pregnancy and maternity applies to a student who:

- is or has been pregnant
- has given birth and is treated unfavourably within a period of 26 weeks beginning with the day on which she gave birth
- is breastfeeding and is treated unfavourably within the period of 26 weeks beginning with the day on which she gave birth.

Outside the 26-week period the student may be protected by the sex discrimination provisions.

She is protected even when her baby is stillborn so long as she was pregnant for at least 24 weeks before she gave birth.

Race

Race means a person's:

- colour, and/or
- nationality (including citizenship), and/or
- ethnic or national origin

and a racial group is composed of people who have or share a colour, nationality or ethnic or national origins.

A person has the protected characteristic of race if they belong to a particular racial group, such as 'British people'.

Racial groups can comprise two or more racial groups such as 'British Asians'.

Religion or belief

The protected characteristic of religion or belief includes any religion and any religious or philosophical belief. It also includes a lack of any such religion or belief.

A religion need not be mainstream or well known to gain protection as a religion. It must, though, be identifiable and have a clear structure and belief system.

Denominations or sects within religions may be considered a religion. Cults and new religious movements may also be considered religions or beliefs.

Belief means any religious or philosophical belief and includes a lack of belief.

'Religious belief' goes beyond beliefs about and adherence to a religion or its central articles of faith and may vary from person to person within the same religion.

A belief which is not a religious belief may be a philosophical belief, such as humanism or atheism.

A belief need not include faith or worship of a god or gods, but must affect how a person lives their life or perceives the world.

For a belief to be protected by the Equality Act:

- It must be genuinely held.
- It must be a belief and not an opinion or viewpoint based on information available at the moment.
- It must be a belief as to a weighty and substantial aspect of human life and behaviour.
- It must attain a certain level of cogency, seriousness, cohesion and importance.
- It must be worthy of respect in a democratic society.
- It must be compatible with human dignity and not conflict with the fundamental rights of others.

Sex

A person's sex refers to the fact that they are male or female. In relation to a group of people, it refers to either men or women or to either boys or girls.

Sexual orientation

Sexual orientation means the attraction a person feels towards one sex or another (or both), which determines who they form intimate relationships with or are attracted to.

Some people are only attracted to those of the same sex (lesbian women and gay men).

Some people are attracted to people of both sexes (bisexual people).

Some people are only attracted to the opposite sex (heterosexual people).

Everyone is protected from being treated worse because of sexual orientation, whether they are bisexual, gay, lesbian or heterosexual.

Sexual orientation discrimination also covers discrimination connected with manifestations of that sexual orientation.

Annex C: Public sector equality duty

The majority of further and higher education institutions are subject to the public sector equality duty which is a unique piece of equality legislation. This duty gives public authorities legal responsibilities to demonstrate that they are taking action on equality in policymaking, in the delivery of services and in public sector employment.

The duty requires public authorities to take steps not just to eliminate unlawful discrimination and harassment, but also to actively advance equality and to foster good relations.

The purpose of the equality duty is not to be process driven and bureaucratic but rather to offer an outcome-based method of ensuring that institutions are best meeting the needs of all their students.

The duty provides a framework to help institutions tackle persistent and long-standing issues of disadvantage, such as gender stereotyping in subject choice, attainment gaps between white and black and minority ethnic students and low participation rates of disabled people. It also provides a strategic and systematic means of tackling major entrenched disadvantage across the sector.

The new public sector equality duty

The Equality Act 2010 harmonises the former duties relating to race, gender and disability into one new duty, which covers the protected characteristics of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The new duty comprises a general equality duty on all those public authorities listed in Schedule 19 of the Equality Act and on those organisations that exercise a public function. It also comprises specific duties which apply to a number of listed public bodies. The majority of further and higher education institutions in England, Wales and Scotland are subject to the general equality duty. Many of these institutions are also subject to specific duties, which are different between the three nations.

The general equality duty requires public authorities to have due regard to the need to:

- eliminate discrimination, harassment and victimisation
- advance equality of opportunity between different groups, and

- foster good relations between different groups.

The specific duties are different in England, Scotland and Wales. The specific duties in England (and non-devolved public bodies in Scotland and Wales) came into force on 10 September 2011. They require listed public authorities to:

- publish sufficient information to demonstrate their compliance with the general equality duty across their functions. Further and higher education institutions were required to do this by 31 January 2012.
- prepare and publish objectives by 6 April 2012 to demonstrate how they will meet one or more of the general equality duty aims.
- thereafter to publish further information demonstrating compliance at least annually and to publish further equality objectives at least once every four years.

Guidance for institutions and information on the legal requirements of the duties can be found on the Commission's website at:

<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

The Welsh specific duties came into force on 6 April 2011 and they cover:

- Publication of equality objectives
- Engagement with appropriate persons
- Relevant information
- Assessing and monitoring the impact of policies and practices
- Collecting employment information and addressing the cause of pay differences
- Training
- Pay differences and action plans
- Strategic Equality Plans
- Annual reports
- Additional specific duties which apply only to the Welsh Ministers
- Procurement
- Compliance by Welsh Ministers
- Disclosure of information
- Accessibility of information

Guidance about the how the public sector equality duty impacts on the Welsh public sector is available at:

<http://www.equalityhumanrights.com/wales/publications/guidance-on-the-equality-duty-for-the-welsh-public-sector/>

The Scottish specific duties came into force on 27 May 2012 and require listed public authorities to:

- Publish a report on progress in making the public sector equality duty integral to its functions by 30 April 2013 and thereafter every two years
- Prepare and publish 'equality outcomes' to enable better performance of the public sector duty. This had to be done no later than 30 April 2013 and thereafter every four years
- Assess and monitor the impact of policies and practices
- Gather information
- Publish gender pay gap information
- Publish statements on equal pay and specifying the levels of occupational segregation
- Comply with certain equality obligations in relation to public procurement

Guidance about the how the public sector equality duty impacts on the Scottish public sector is available at: <http://www.equalityhumanrights.com/scotland/public-sector-equality-duty-in-scotland/> and at:

<http://www.scotland.gov.uk/Topics/People/Equality/PublicEqualityDuties>

Contacts

This publication and related equality and human rights resources are available from the Commission's website: www.equalityhumanrights.com

For advice, information or guidance on equality, discrimination or human rights issues, please contact the Equality Advisory and Support Service, a free and independent service.

Website www.equalityadvisoryservice.com

Telephone 0808 800 0082

Textphone 0808 800 0084

Hours 09:00 to 20:00 (Monday to Friday)
10:00 to 14:00 (Saturday)

Post FREEPOST Equality Advisory Support Service FPN4431

Questions and comments regarding this publication may be addressed to: correspondence@equalityhumanrights.com. The Commission welcomes your feedback.

Alternative formats

This guide is available as a PDF file and as a Microsoft Word file from www.equalityhumanrights.com. For information on accessing a Commission publication in an alternative format, please contact: correspondence@equalityhumanrights.com.

© 2014 Equality and Human Rights Commission

ISBN 978-1-84206-630-0