

Equality and diversity for academics

The legal framework: England, Wales

A black and white photograph of a woman with short dark hair and glasses, wearing a dark t-shirt and patterned trousers. She is standing in what appears to be a library or study area, looking down at a book she is holding in her hands. In the background, there are shelves filled with books.

A framework of domestic and European legislation relating to equality and human rights provides the context within which teaching and learning are delivered. This briefing outlines the legal situation for academics working in England and Wales.

Legislation that outlaws discrimination and promotes equality

The Equality Act 2010

In England, Scotland and Wales, the Equality Act protects individuals from unlawful discrimination on the basis of nine ‘protected characteristics’: age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion and belief, sex, sexual orientation. In Northern Ireland these characteristics are protected under individual anti-discrimination legislation.

The Act includes a public sector equality duty which requires public bodies, including higher education institutions (HEIs), to have due regard to the need to:

- = eliminate discrimination, harassment, victimisation and any other prohibited conduct.
- = advance equality of opportunity between persons who share a protected characteristic and those who do not
- = foster good relations between persons who share a protected characteristic and those who do not

To advance equality of opportunity, institutions will need to:

- = remove or minimise disadvantages suffered by people from protected groups
- = take steps to meet the needs of those people
- = encourage those people to participate in public life

To foster good relations institutions will need to:

- = tackle prejudice
- = promote understanding between people from different groups

Distinct specific duties for England, Scotland and Wales accompany the general duties.

The Human Rights Act 1998

The Human Rights Act 1998 incorporates the European Convention on Human Rights (ECHR) into national law. Institutions in England, Northern Ireland, Scotland and Wales must carry out their functions in accordance with the rights guaranteed by the ECHR.

Convention rights that are particularly relevant to the teaching and learning environment include:

- = freedom of thought, conscience and religion, including the freedom, either alone or in community with others, and in public or private, to practise their religion or belief in worship, teaching, practice and observance
 - = freedom of expression, including the freedom to hold opinions and to receive and impart information and ideas
 - = freedom of peaceful assembly and freedom of association with others
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Legislation that qualifies rights

The freedoms outlined above can be lawfully restricted if an individual's behaviour constitutes a criminal offence. In England and Wales the Public Order Act 1986, the Protection from Harassment Act 1997, the Crime and Disorder Act 1998, the Serious Organised Crime and Police Act 2005, the Racial and Religious Hatred Act 2006, the Terrorism Acts 2000 and 2006, and the Protection of Freedoms Act 2012 collectively limit behaviour that might provoke or cause fear of violence; cause harassment, alarm or distress; incite racial or religious hatred or result in acts of terrorism. Together they relate to behaviours including the use, display and dissemination of materials, the public performance of plays, the distribution, showing or playing of a recording of visual images or sounds.

Under the Terrorism Acts it is an offence for a person to fail, without reasonable excuse, to inform the police of any information that he or she knows or believes might assist in preventing another person carrying out various serious acts of terrorism.

Legislation that protects academic freedom

Under Section 43 of the Education Act 1986, HEIs in England and Wales must take reasonably practicable steps to ensure that staff, students and visiting speakers have freedom of speech within the law.

Under Section 202 of the Education Reform Act 1988, academic staff have freedom within the law to question and test received wisdom, and put forward new ideas and controversial or unpopular opinions without jeopardy of losing their jobs or any privileges they may have at an institution.

What does this mean for teaching and learning?

Academic staff have a responsibility to deliver teaching and learning within the legal framework outlined above. Specifically this might mean:

- = paying attention to the needs of students from diverse groups within your course design – including an equality analysis/impact assessment processes in your course development is a useful way of ensuring that you give due consideration to inclusivity and accessibility
- = making explicit to students the standards of conduct that you expect in the way that they interact and dealing promptly and appropriately with inappropriate behaviour
- = identifying opportunities within your teaching for students to work collaboratively in diverse groups
- = devising creative and respectful ways of using the diverse experiences of students to add value to the learning experience for everyone

For more detail and for information relevant to other parts of the UK visit www.ecu.ac.uk/law.

This is part of a series of factsheets for academics
www.ecu.ac.uk/publications/e-and-d-for-academics-factsheets

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