

**Development – Diversity, equal opportunities and human rights**

# What is equality and diversity?

Although sometimes used interchangeably, the terms 'equality' and 'diversity' are not the same.

**Equality** is about 'creating a fairer society, where everyone can participate and has the opportunity to fulfil their potential' (DoH, 2004). By eliminating prejudice and discrimination, the NHS can deliver services that are personal, fair and diverse and a society that is healthier and happier. For the NHS, this means making it more accountable to the patients it serves and tackling discrimination in the work place. (DoH 2011).

For example, occupational segregation. Women make up almost 75% of the NHS workforce but are concentrated in the lower-paid occupational areas: nursing, allied health professionals (AHPs), administrative workers and ancillary workers (DH, 2005). People from black and minority ethnic groups comprise 39.1% of hospital medical staff yet they comprise only 22.1% of all hospital medical consultants (DH, 2005).

In relation to patient care, research published in the British Medical Journal (2008) has shown that people aged 50 and over, but especially the old and frail, are not receiving basic standards of healthcare. Experts found shortfalls in the quality of care offered by the NHS and private providers to patients with conditions such as osteoarthritis, incontinence and osteoporosis.

An equalities approach understands that who we are, based on social categories such as gender, race, disability, age, social class, sexuality and religion – will impact on our life experiences.

**Diversity** literally means difference. When it is used as a contrast or addition to equality, it is about recognising individual as well as group differences, treating people as individuals, and placing positive value on diversity in the community and in the workforce.

Historically, employers and services have ignored certain differences such as background, personality and work style. However, individual and group diversity needs to be considered in order to ensure that everybody's needs and requirements are understood and responded to within employment practice and service design and delivery.

One way in which organisations have responded to the issue of diversity in recent years has been the development of flexibility in working practices and services. For example, an employer may allow an employee to work a flexible working pattern to accommodate child care arrangements, or a GP surgery may offer surgeries at the weekends to accommodate those who work full time during the week.

These approaches recognise that in order to provide accessible services and to ensure we promote inclusive working environments organisations may need to respond differently to both individuals and to groups.

A holistic approach means making a commitment to equality through the recognition of diversity.

## Why is equality and diversity important?

Equality and diversity is becoming more important in all aspects of our lives and work for a number of reasons:

- We live in an increasingly diverse society and need to be able to respond appropriately and sensitively to this diversity. Learners in the healthcare setting will reflect this diversity around gender, race and ethnicity, disability, religion, sexuality, class and age.
- Your organisation believes that successful implementation of equality and diversity in all aspects of work ensures that colleagues, staff and students are valued, motivated and treated fairly.
- We have an equality and human rights legal framework covering employment practices and service delivery and we need to ensure we work within this and avoid discrimination.

### Exploring the topic further:

Useful equality and diversity resources

Age concern: Health and Wellbeing:

<http://www.ageuk.org.uk/health-wellbeing/conditions-illnesses/>

Equality and Human Rights Commission, Age Concern: Life course influences and well-being in later life: a review. Institute of Gerontology, King's College London and Department for Work and Pensions (2009)

Disability and healthcare: <http://www.disability.gov/health>

Department of Health: Secretary of State Report on Disability Equality: Health and Care Services (2008)

Office of National Statistics: gender and health in the UK:

<http://www.statistics.gov.uk/cci/nugget.asp?id=1657>

Gender and health inequalities in the UK: A series of papers:

<http://www.lancs.ac.uk/fass/apsocsci/hvp/researchareas/gender%20inequalities.htm>

Tackling health inequalities for minority ethnic groups: challenges and opportunities. Gurch Randhawa, Better Health Briefing 6 published by the Race Equality Foundation (2007)

Articles and information on race and public health:

<http://www.raceforhealth.org/news/archive>

'Racial' and Ethnic Inequalities in Health: a critical review of the evidence – Summary. University of Warwick. (Mark R D Johnson, with Deborah Biggerstaff, Diane Clay, Gary Collins, Anil Gumber, Mary

Hamilton, Kip Jones, and Ala Szczepura) 2006

Harassment and sexual orientation in the health sector. Ruth Hunt and Katherine Cowan. Stonewall publications

General Medical Council, Sexual Orientation discrimination guidelines–  
[www.gmc-uk.org/guidance/library/valuing\\_diversity/sexual\\_orientation.asp](http://www.gmc-uk.org/guidance/library/valuing_diversity/sexual_orientation.asp)

Department of Health Single Equality Scheme 2007 –2010

Some examples of how the NHS has mainstreamed equality and diversity into its work are:

Improving Working Lives An organisational change programme that aims to make the NHS an ‘employer of choice’ – particularly for women who make up the majority of staff.

Positively Diverse A strategic approach to managing and improving equality of opportunity for staff, and benefiting from the diversity of culture, skills and experience they bring to the workplace.

The Vital Connection equalities framework Aims to put values of equality, fair treatment and social inclusion firmly at the centre of NHS workforce policy and practice.

A gateway to information on the DH’s equalities work on race, sexual orientation, gender identity, and disability.

‘You can make a difference: improving hospital services for disabled people’; Disability Rights Commission/ NHS, 2004

Age and the workplace – putting the employment equality guidelines 2006 into practice’; ACAS

Maternity Care for Lesbian Mothers, Position Paper 22, Royal College of Midwives, 2000 (reviewed 2005)

Department of Trade and Industry – discrimination in employment pages

Cases for change – anti discriminatory practices, National Institute for Mental Health in England, 2007

Understanding the DDA – a guide for colleges, universities and adult community learning providers

# Discrimination

Understanding how discrimination can impact on individuals' lives is essential to prevent potential discrimination within teaching and learning situations and ensure that you are confident in dealing with discrimination issues if and when they arise.

Discrimination is less favourable treatment based on someone's protected characteristic. A protected characteristic is an individual strand of diversity as covered under the Equality Act. The Equality Act covers 9 protected characteristics.

Our protected characteristics comprise our:

Age	Disability	Gender
Gender re-assignment	Marriage and civil partnership	Pregnancy and maternity
Race or ethnicity	Sexual orientation	Religion or belief

While we can face discrimination because of any of these aspects, it is important that we also identify the links between our protected characteristics or social identities and our individuality and our social situation. Discrimination and exclusion can be multi-layered and occur because of: an aspect of individuality, e.g. some aspect of personal appearance, size, personal likes, etc.; our social situation, e.g. being an ex-offender, being homelessness, being a lone parent, misuse of drugs or alcohol, citizen status or health. It also occurs because of our protected characteristic i.e. being refused a job because of our sexual orientation or limited access to health care because we are disabled.

## *Thinking points*

- Are you aware of any incidents when you have observed discrimination taking place in the clinical teaching setting?
- Who was involved?
- How did discrimination work?
- What action, if any, did you take?

# Valuing diversity

It is important that you consider how an individual's social identity may impact on their experience of the programme/teaching session of clinical activity in which the learner is engaged.

The ways in which discrimination works include stereotyping, making assumptions, patronising, humiliating and disrespecting people, taking some people less seriously.

To ensure that we value diversity and consider the individual's identity appropriately in clinical teaching, the following principles may be useful:

- recognise that we need to treat all learners as individuals and respond to them, and their social identity, in an individual manner
- understand that treating people fairly does not mean treating people in the same way &ndash; we need to recognise difference and respond appropriately
- respect all learners regardless of their protected characteristic or social situation
- try to increase our knowledge and understanding of aspects of social identity that may be different from our own
- avoid stereotyping or making assumptions about learners based on their social identity
- recognise that some course content may impact on some learners in a negative or difficult way because of an aspect of their social identity
- recognise that the course structure, e.g. timing of lectures, unsociable hours, weekend working, and so on, may impact on some learners more than others
- recognise that your own social identity may impact on learners in different ways
- avoid using inappropriate and disrespectful language relating to social identity or social situations

## *Thinking points*

- How could your own social identity or social situation impact on learners?
- How do you take your social identity into account in your work?
- How do you learn about learners' backgrounds and experiences?
- Would all your learners find you equally approachable?
- What do you think the reasons for this might be?

# Institutional discrimination

Institutional discrimination is concerned with discrimination that has been incorporated into the structures, processes and procedures of organisations, either because of prejudice or because of failure to take into account the particular needs of different social identities.

Three features distinguish institutional discrimination from other random individual forms of bad treatment.

1. Triggered by social identity: the discrimination impacts on groups (or individuals because they are members of that group).
2. Systematic &ndash; it is built into to laws, rules and regulations. For example, selection criteria for jobs or courses, laws such as the Minimum Wage, pension regularities, etc. It is reflected in organisational cultures. i.e. &lsquo;the way we do things round here&rsquo;;, including the use of authority and discretion, e.g. how training opportunities are allocated, how flexibility in learning practices is authorised. It is reflected in ways of describing &lsquo;normality&rsquo;;, e.g. long working hours, culture/expectations.
3. Institutional discrimination results in patterns: incidents of discrimination may appear isolated or random but where institutional discrimination occurs they are part of a wider pattern of events which often may be hidden. Patterns of discrimination can often be surfaced by effective organisational information relating to social identity. For example:
  - &bull; which groups of people get promoted in an organisation?
  - &bull; which groups of people get accepted onto a training course?
  - &bull; which groups of people leave an organisation after six months of employment?

Questions such as this may point to some people experiencing the organisation in a different/more negative way than others.

## *Thinking point*

- How could discrimination be built into your own organisation?  
Consider issues such as:

&ndash; timing of lectures or meetings  
&ndash; allocation of work or development/training opportunities  
&ndash; recruitment practices.

# Case studies

The following case studies have been designed to help you to embed your understanding of equality, diversity and discrimination. You may wish to jot down your response to these in 'my area'. Suggestions of possible approaches are provided.

## Case study one

A second-year student has recently married and converted to Judaism. Her husband follows the Jewish faith and converting was something she felt was really important to her new relationship. The student has mentioned that Fridays are now very difficult for her as she should really leave lectures early in order to begin to observe the Sabbath. The student has previously demonstrated no performance concerns. She has written a formal letter to you requesting permission to leave lectures early on Friday afternoons. She has stated that she will ensure she will take responsibility to catch up with any missed work.

- How should you respond?
- What issues do you consider in your response?

Please click [here](#) to see our suggested answer.

## Case study two

You have observed that a Muslim trainee never has any eye contact with female colleagues or patients when he is talking to them. You are concerned that this will impact on his relationships. He does have direct eye contact with male colleagues.

- How should you deal with this issue?
- What issues should you consider in your response?

Please click [here](#) to see our suggested answer.

## Case study three

A trainee has approached you with a request not to have to deal with a particular patient because they feel she is treating them in a racist manner.

- Can they refuse to deal with a patient on these grounds?

Please click [here](#) to see our suggested answer.

## Case study four

In a supervised session a student expresses a concern to you. They have recently disclosed their sexuality to a fellow student who they have

always got on well with. Their colleague was surprised and stated that they have a strong moral objection to lesbians and gay men. They recognised the need to treat others with respect regardless of their sexuality, so while they felt it was not acceptable to be a lesbian they nevertheless wanted to maintain a positive relationship with their colleague. They requested that the lesbian student should help in this by not referring greatly to their sexuality again.

- Is this response acceptable?

Please click [here](#) to see our suggested answer.

## **Case study five**

A trainee was diagnosed with depression about a year ago. She did not tell you until three months ago, when she confided in you about what she was experiencing and the treatment she was getting from her doctor and therapist. A month ago the learner was signed off on sick leave. She returned to work last week but is overwhelmed. She is determined, though, to carry on with her training.

- What support can you provide to her?

Please click [here](#) to see our suggested answer.

# The legal context

## An overview of the Equality Act 2010

As a clinical teacher you will want to ensure that you understand the legal framework regarding equality, and that you can relate this framework to your everyday role. The UK framework has two elements to it: the anti-discriminatory framework (which gives individuals a route to raise complaints of discrimination around employment and service delivery) and the public duties (which place a proactive duty on organisations to address institutional discrimination).

## These principles are embedded within the Equality Act 2010.

Under the Equality Act 2010 people are protected from discrimination on the basis of 'protected characteristics'. In relation to both employment and services and functions the relevant 'protected characteristics' are:

<p><b><i>Disability:</i></b></p> <p>A person has a disability if he or she has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.</p>
<p><b><i>Gender Reassignment:</i></b></p> <p>A person who is proposing to, or is currently undergoing, or who has undergone a process to change their gender.</p>
<p><b><i>Pregnancy and Maternity:</i></b></p> <p>Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth and this includes treating a woman unfavourably because she is breastfeeding.</p>
<p><b><i>Race:</i></b></p> <p>Refers to a group of people defined by their race, colour and nationality, ethnic or national origins.</p>

***Religion or Belief:***

Religion includes any religion. It also includes a lack of religion (for instance service users and employees are protected if they do not follow a certain religion). Belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live.

***Sex:***

A man or a woman, i.e. being male or female.

***Sexual Orientation:***

Defined as a person's sexual attraction towards their own sex (gay or lesbian), the opposite sex (heterosexual) or to both sexes (bisexual).

In relation to employment only, the 'protected characteristics' also cover:

***Age:***

The Equality Act protects people of all ages. However, if different treatment because of age can be justified and is a proportionate means of meeting a legitimate aim, this will not be considered discrimination. Employers are allowed to have a default retirement age of 65 until April 2011. The prohibition on age related discrimination also covers training and education. A wider prohibition on age related discrimination in the context of services and functions is currently being reviewed and we anticipate this will come into force in 2012.

***Marriage and Civil Partnerships:***

Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. The Equality Act protects employees who are married or in a Civil Partnership. Single people are not protected.

Key legal principles

<p><b><i>Direct discrimination:</i></b></p> <p>This occurs when someone is treated less favourably than another person because of a protected characteristic.</p>	<p><b><i>Discrimination by association:</i></b></p> <p>This is a form of direct discrimination and occurs when a person is treated less favourably because they are linked or associated with a person who has a protected characteristic.</p>	<p><b><i>Perception based discrimination:</i></b></p> <p>This is a form of direct discrimination and occurs when a person is treated less favourably because others wrongly think they have a protected characteristic and treat them on the basis of such perception.</p>
<p><b><i>Indirect discrimination:</i></b></p> <p>Indirect discrimination occurs when there is a rule, a policy or a practice that applies to everyone but particularly disadvantages people who share a protected characteristic. Indirect discrimination can be justified if the rule, policy or practice can be shown to meet a legitimate objective in a fair, balanced and reasonable way, i.e. that it is a proportionate means of achieving a</p>	<p><b><i>Harassment:</i></b></p> <p>Harassment is unwanted conduct related to a protected characteristic, which has the purpose or the effect of violating a person's dignity, or which is hostile, degrading, humiliating or offensive. Deciding what counts as harassment is a matter of reasonableness and people must exercise common sense.</p>	<p><b><i>Third Party Harassment:</i></b></p> <p>Applies to age, disability, gender, gender re-assignment, race, religion or belief and sexual orientation. The Equality Act makes employers potentially liable for harassment of your employees by people (third parties) who do not work for you, e.g. customers or contract workers.</p>

legitimate aim.		
<p><b>Victimisation:</b></p> <p>Victimisation occurs when a person is treated badly because they are making a complaint, or supporting a complaint or are raising a grievance about discrimination, or they are suspected of doing so.</p>	<p><b>Discrimination arising from disability:</b></p> <p>An organisation must not treat a disabled person unfavourably because of something connected to their disability, where they cannot show that what they are doing is objectively justified.</p> <p><b>Duty to make &amp;quot;reasonable adjustments&amp;quot;;</b></p> <p>The Equality Act recognises that, in order for organisations to ensure equality outcomes are met for disabled people, they may need to consider changing the way in which they deliver services and employ disabled people, for instance by providing extra equipment or removing physical barriers.</p> <p>The duty to make reasonable adjustments aims to ensure that organisations consider the ways in which they provide services and facilities to disabled people in order to ensure that disabled people can use services and facilities on the same basis as non-disabled people.</p> <p><b>This duty is &amp;quot;anticipatory&amp;quot;;</b></p> <p>This means organisation should not wait until disabled people want to use their services, instead they should think in advance about what &amp;quot;reasonable adjustments&amp;quot;; disabled</p>	<p><b>Positive action</b></p> <p>It is important to recognise that some people with protected characteristics are disadvantaged or under-represented in services and workforces. They may have particular needs linked to protected characteristics or may need additional help or encouragement to ensure they are provided with the same opportunities as others.</p> <p>The Equality Act enables organisations to take proportionate steps to help people overcome their disadvantages or to meet specific needs. As a service provider or employer you can use positive action where you believe one of these conditions apply:</p> <ol style="list-style-type: none"> <li>1. People who share a protected characteristic suffer disadvantage associated with that characteristic;</li> <li>2. People who share a protected characteristic have needs that are</li> </ol>

people with a range of impairments may reasonably need.

different from the needs of people who do not have that characteristic; or

3. Participation in an activity is disproportionately low.

# Key legal principles: examples

## Direct Discrimination

### *Example: services and functions*

Staff at a local NHS trust refuse to record a complaint of neglect by Michael, one of their long-term patients, because he is known to have a mental health condition, resulting in hallucinations. This is direct discrimination based on Michael's disability.

### *Example: employment*

Natasha, who is the manager of student Support Services, turns down an application to the role of Student Support Officer from Lynda. Lynda, who is a lesbian, learns that Natasha did this because she knew that some members of her team would be uncomfortable working with a lesbian. Natasha felt that Lynda's sexual orientation would prevent her from working professionally with her colleagues and would, therefore, get in the way of her ability to perform the role of Student Support Officer. This is direct discrimination based on Lynda's sexual orientation.

## Discrimination by association

### *Example: discrimination by association*

William has a child with a disability and his employer has agreed to flexible working hours in order to accommodate his caring responsibilities. His line manager resents this and treats William poorly as a result. This is discrimination based on William's association with his disabled child.

### *Perception based discrimination:*

Example: perception based discrimination

Joe is often teased by his work colleagues for being gay, based on their perception that he is gay. Joe is not gay. This is direct discrimination based on a perception of Joe's sexual orientation.

### *Example: perception based discrimination*

Jackie, a female by birth, visits her local NHS Walk-in centre and asks to see a nurse. The reception staff make a negative comment based on their perception that Jackie has undergone gender reassignment. This is direct discrimination against Jackie because she was wrongly perceived to have undergone gender reassignment.

## Indirect discrimination

### *Example: indirect discrimination*

Scarlett is pregnant and works as a hospital receptionist. The manager is aware that Scarlett is pregnant but still disciplines her for taking too many toilet breaks as the manager would for any other member of staff. This is indirect discrimination because of pregnancy and maternity.

***Example: indirect discrimination (justifiable)***

NHS Direct advertises a vacancy in their telephone support team and states applicants must be fluent English speakers. This could indirectly discriminate against some ethnic groups but would likely be justified given the nature of the job and the emphasis on clear oral communication.

## **Harassment**

***Example: Harassment in service delivery***

Sarah, a White British council tenant, is making a cup of tea for repair officers, who are inspecting her door locks, when she overhears them telling racially offensive jokes. This conduct was unwanted by Sarah, who found it offensive and degrading. Consequently, she could bring a claim of harassment against the council.

***Example: Harassment in employment***

Michelle and Nikki work for the same university, but in separate departments. Their colleagues do not know that they are lesbian. Michelle's colleagues have often made homophobic comments and some have suggested they disapprove of same sex relationships. Michelle finds these comments offensive and hostile. This is harassment based on sexual orientation.

## **Third Party Harassment**

***Example: third party harassment***

Jonathan, who has a mild learning disability, works as a part-time librarian. Jonathan mentions to his manager, Julie, that he is unhappy after a library user made offensive remarks based on his disability. Julie is concerned and decides to monitor the situation. Within a few days the same person is heard making further offensive comments. Julie responds by informing them that their comments and behaviour are not acceptable. Julie follows this up with a letter informing the person of their unacceptable behaviour and stresses that, should it continue, she may consider banning them from using the library's services. Julie informs Jonathan of her actions. Failure to take such reasonable steps and intervene could constitute third party harassment.

## **Victimisation**

***Example: Victimisation in services***

Laura makes a formal complaint to her local NHS Trust suggesting that she was not consulted on changes to maternity services. She suggests this is because of her gender. The complaint is resolved through the Trust's complaints processes. However, as a result of making such a complaint Laura is removed from the Trust's mailing list, meaning she no longer receives information on local services. This is victimisation.

***Example: Victimisation at work***

Paul makes a formal complaint to his head of department because he believes he is being discriminated against because of his ethnicity.

Although the complaint is resolved through the organisation's formal grievance procedures, Paul is subsequently ostracised by his colleagues, including his manager. This is victimisation.

## **Discrimination arising from disability**

### ***Example: discrimination arising from disability***

A disabled person who is a wheelchair user cannot attend a council meeting discussing changes to the local bus service because this has been booked at a venue with no ramps or lifts and is thus inaccessible. The person is treated unfavourably because of their use of the wheelchair, which is connected to their disability. Unless the council can show that what happened is objectively justified, this is likely to be discrimination.

## **Positive action**

### ***Example: meeting different needs***

A law firm launches a Senior Issues website in order to improve the service they offer to older people and to develop their reputation as older people's specialists. They identify Powers of Attorney, Wills and Equity Release as three key legal issues for this age group and produce a range of relevant resources about these and a number of other issues, which can be downloaded from the site. In addition, staff have received a great deal of additional training on specific legal issues for older people and also on 'softer skills', such as working with bereaved families.

### ***Example: enabling or encouraging people to overcome disadvantage***

The Legal Gateway scheme is an initiative set up by the Black Lawyers Directory (BLD) to attract and support more black and minority ethnic people into the profession. The scheme is targeted at ethnic minority lawyers, trainees, paralegals and students as well as school children and adults considering a career in law. It provides access to an array of career development opportunities such as mentoring, workshops, work placements and events.

# Public sector equality duties

The public sector equality duties under the Equality Act 2010 cover eight core ‘protected characteristics’; These are:

Age	Disability
Gender	Gender re-assignment
Pregnancy and maternity	Race
Religion or belief	Sexual orientation

The new duty requires public bodies – such as local authorities, education institutions, police forces, national health services, NHS trusts and bodies to have *‘due regard’* to the need to:

- Eliminate unlawful discrimination, harassment and victimisation;
- Advance equality of opportunity; and
- Foster good relations across all the protected characteristics (with the exception of marriage and civil partnership).

The public equality duty also applies to marriage and civil partnership, but only in respect of the requirement to have due regard to the need to eliminate discrimination.

It is through the implementation of these public duties that organisations will identify and address institutional discrimination.

Having ‘due regard’ means consciously thinking about the three aims of the general duty as part of the process of decision making. This means that consideration of equality issues must influence the decisions reached by public bodies – in how you act as employers; how you develop, evaluate and review policy; how you design, deliver and evaluate services, and how you commission and procure from others.

Having due regard to the need to advance equality of opportunity involves considering the need to:

- remove or minimise disadvantages suffered by people due to their protected characteristics;
- meet the needs of people with protected characteristics; and
- encourage people with protected characteristics to participate in public life or in other activities where their participation is low.

Fostering good relations involves tackling prejudice and promoting understanding between people from different groups.

Complying with the general duty may involve treating some people differently from others, as far as this is allowed by discrimination law.

For example, it may involve making use of an exception or the positive action provisions in order to provide a service in a way which is appropriate for a particular group.

The general duty also explicitly recognises that disabled people's needs are different from those of non disabled people. In considering the need to meet the needs of disabled people, public bodies should therefore take account of disabled people's disabilities. This might mean making reasonable adjustments for them. See guidance from the [Government Equality Office](#).

## Specific duties

The general duty is underpinned by a number of specific duties which provide a framework to help public bodies meet the general duty. Most public bodies subject to the general duty are also subject to the specific duties. The specific duties require public bodies to set specific, measurable equality objectives and to publish information about their performance on equality, so that the public can hold them to account. All information must be published in a way which makes it easy for people to access it.

***Information showing that they have complied with the general duty:*** Public bodies covered by the specific duties must publish sufficient information to show that they have considered the three aims of the general duty across their functions.

The information published must include information on the effect that the public body's policies and practices have on equality for service users, and (for those with 150 or more staff) on equality for their employees. Public bodies with 150 or more staff will be expected to publish information on significant and long standing inequalities such as the gender pay gap and the proportion and distribution of disabled employees and staff from ethnic minority communities.

***Evidence of equality analysis undertaken:*** Public bodies must publish evidence of equality analysis they have undertaken to establish whether their policies and practices would further, or have furthered, the three aims of the general duty. They must also publish details of the information they considered in conducting that analysis.

***Equality objectives:*** Public bodies must publish equality objectives that will help them to further the aims of the general duty. These must be based on published equality evidence and analysis, and they must be specific and measurable. Public bodies must also publish how they will measure progress towards their equality objectives.

***Details of engagement undertaken:*** Public bodies covered by the specific duties must publish information about engagement they have undertaken with people who have an interest in furthering the three aims of the general duty. They must also publish details of the engagement they undertook in developing their equality objectives.

For a full explanation of each individual piece of legislation follow the following links:

- [Equality and Human Rights Commission](#)
- [Department of Health & Equality and Diversity](#)

# Challenging discrimination in the teaching context

Within your role as a clinical teacher you will at times be required to challenge learners over their behaviour because you feel it is potentially discriminatory.

You are required to challenge in order to:

- ensure you create a learning environment that is free of discrimination and that values difference
- reinforce the policies and procedures of your organisation
- ensure you do not breach the equalities legal framework.

Knowing what to challenge, and when to challenge, can be tricky and open to personal interpretation. There are some non-negotiables re inappropriate language/behaviour e.g. swearing, language that is racist/sexist/homophobic, etc. We can often find debate over questions such as ‘what constitutes inappropriate banter?’ or ‘They meant no offence by a comment – do I still need to challenge?’

However, not challenging is not a neutral act – it can be seen as colluding behaviour.

## Guiding principles re challenging

If in doubt about whether you should challenge someone’s behaviour or not, consider the following.

- Is the banter/joke/comment excluding anyone or aimed at anyone in order to ridicule them?
- Could someone be offended by the behaviour?
- Lack of intention is not an excuse for behaviour. You are required to consider and manage the effect of behaviour.
- Is the banter/joke/behaviour open to misinterpretation or misunderstanding?

## How to challenge

There is no definite way to challenge inappropriate behaviour and no doubt you will find your own approach to challenging effectively. The following may be useful to consider.

- Don’t punish or blame – say what is better.
- Understand your audience. Think about your role in the situation – clinical practitioner, colleague, manager – and consider this in your approach.
- State your position: ‘That’s disrespectful; we don’t talk about patients like that.’

- Understand the situation. Do you challenge there and then, or quietly at a later date? What will be most effective for the person involved/for those witnessing the incident?

## Case studies

Sometimes you need to respond to remarks and situations that might be discriminatory. The next exercise gives you an opportunity to practise some skills and strategies and consider good practice in these situations.

What issues are raised by the following situations?

1. You observe a trainee talking to a patient with learning disabilities. The patient has a speech impairment which means that his speech is slow. The trainee continually interrupts him and finishes his sentences for him.
2. A learner has raised with you that they do not feel confident when discussing disability issues with patients as they are not sure they are using the latest 'pc' language and terminology relating to this group. They are worried they may be open to challenge and not have the knowledge or confidence to respond. You recognise that this could be an issue for other learners in your group.
3. You have noticed that a trainee tends to make a number of assumptions when referring to patients' social identity. For example she often says things like 'Asian people do this' or 'gay men are known for doing that'. You are worried it may demonstrate underlying issues.
4. A tutorial has just begun and a student makes a joke about Polish people being everywhere. The group laughs awkwardly and no one challenges.
5. The standard of college work produced by a student has recently shown a marked decline. When you talk to the learner about this she says that she is experiencing racist behaviour from another learner on the course and is finding this impossible to cope with.

Please see our [suggested responses](#) to the above.

# Human rights

Human rights are the basic rights and principles that belong to every person in the world. Human Rights are based on the FREDAs principles: Fairness, Respect, Equality, Dignity and Autonomy (EHRC). Human rights protect an individual's freedom to control their day-to-day life, and effectively participate in all aspects of public life in a fair and equal way.

Human rights help individuals to flourish and achieve potential through:

- being safe and protected from harm
- being treated fairly and with dignity
- being able to live the life you choose
- taking an active part in your community and wider society.

Intrinsic to these statements should be the principles of equality and diversity.

Since 1998 the UK has also included human rights within its legal framework. The Human Rights Act applies to all public authorities and bodies performing a public function. The Human Rights Act places the following responsibility on your organisation.

- Organisations must promote and protect individuals' human rights. This means treating people fairly, with dignity and respect while safeguarding the rights of the wider community.
- Organisations should apply core human rights values, such as equality, dignity, privacy, respect and involvement, to all organisational service planning and decision making.

The Human Rights Act provides a complementary legal framework to the anti-discriminatory framework and the public duties.

Visit the [Equality and Human Rights Commission website](#) for useful resources and information.

# Taking it back

## Back in your own organisation

- Ensure that there are policies in place to deal with complaints about discrimination on any grounds.
- Discuss equalities with the student body or those representing doctors in training.
- Ensure that students or doctors in training know where to go if they have concerns about discrimination.
- Ensure that there are adequate procedures in place for assessing and managing the needs of students or training doctors with disabilities.
- Ensure that complaints made are properly dealt with and proper records kept (what may seem to be a small incident once may be part of a pattern).
- Ensure that these issues can be discussed in as open a way as possible within an institution, although of course, specific incidents must be dealt with confidentially.
- Give people feedback if they are complained about. They may be doing something that can easily be changed.

## Congratulations

You have now reached the end of the module. Provided you have entered something into your log you can now print your certificate. To generate your certificate please go to [my area](#) and click on [complete](#) in the course status column. Please note, you will not be able to print your certificate unless you have entered something in your [reflections area](#).

Please now take a moment to evaluate the course and enter your comments below.

# Further Information

This module was written by Helen Webb, senior consultant at Equality Works, with additional material by Judy McKimm. The module relates to area 2 of the Professional Development Framework for Supervisors in the London Deanery.

## Teachers’ Toolkit

The following guidelines are useful in ensuring that clinical practitioners create a positive and non-discriminatory learning environment.

[Guidelines for identifying discrimination](#)

[Guidelines on using language and images](#)

[Guidelines for positively acknowledging difference](#)

## References

Department of Health (2004) Sharing the Challenge, Sharing the Benefits – equality and diversity in the medical workforce directorate. Department of Health, London.

Department of Health (2005) Promoting Equality and Human rights in the NHS: a guide for non-executive directors of boards. Department of Health, London.

Lewis V and Habeshaw S (1990) 53 Interesting Ways to Promote Equal Opportunities in Education. Technical and Educational Services, Bristol

Equality and Human Rights Commission website 2008 – [Human Rights section](#)

## Explore around this topic

[Department of Health Single Equality Scheme 2007–2010](#)

Some examples of how the NHS has mainstreamed equality and diversity into its work are:

- [Improving Working Lives](#)  
An organisational change programme that aims to make the NHS an ‘employer of choice’; particularly for women who make up the majority of staff.
- [Positively Diverse](#)  
A strategic approach to managing and improving equality of opportunity for staff, and benefiting from the diversity of culture, skills and experience they bring to the workplace.

- [The Vital Connection equalities framework](#)  
Aims to put values of equality, fair treatment and social inclusion firmly at the centre of NHS workforce policy and practice.

A [gateway to information](#) on the DH's equalities work on race, sexual orientation, gender identity, and disability.

'You can [make a difference](#): improving hospital services for disabled people'; Disability Rights Commission/ NHS, 2004

[Age and the workplace](#) &ndash; putting the employment equality guidelines 2006 into practice'; ACAS

[Maternity Care for Lesbian Mothers](#), Position Paper 22, Royal College of Midwives, 2000 (reviewed 2005)

Department of Trade and Industry &ndash; [discrimination in employment pages](#)

[Cases for change &ndash; anti discriminatory practices](#), National Institute for Mental Health in England, 2007

[Understanding the DDA](#) &ndash; a guide for colleges, universities and adult community learning providers

# Course Glossary

## Aim

An aim in educational terms, is a brief statement of intent, indicating the scope and range of intended learning outcomes that the educational episode has been structured to address.

## Assessment

Assessment is the term used to indicate an appraisal of students' performance. Typical formal assessments in medicine include written examinations, Multiple choice questionnaires (MCQ), observations of clinical or communication skills, Objective Structured Clinical Examinations (OSCEs) and Multi-Source Feedback (MSF). Assessments may be summative (where the marks gained contribute to a formal grade or award) or formative (where the focus is on providing feedback for ongoing development).

## Class

Class refers to hierarchical differences between individuals or groups in societies or cultures. Factors that determine class may vary widely from one society to another. However, economic disadvantage and barriers to access services are major issues within class discrimination.

## Disability

The definition of disability outlined by the Disability Discrimination Act 1995 covers anyone with an impairment which has a substantial and long-term (at least 12 months) effect on their ability to carry out day-to-day activities such as mobility, speech, hearing or eyesight, memory or ability to concentrate, learning or understand, continence. The definition also includes long-term illnesses such as HIV, cancer and multiple sclerosis, from the point of diagnosis.

## Discrimination

Direct discrimination – Direct discrimination is less favourable treatment on the grounds of someone's social identity. If the treatment results in an adverse impact and cannot be justified.  
Indirect Discrimination – Indirect discrimination is when a rule, condition or requirement is applied to everyone but some people find this more difficult to fulfil. The rule, condition or requirement causes an adverse impact and cannot be justified.

## Diversity

Diversity literally means difference. When it is used as a contrast or addition to equality, it is about recognising individual as well as group differences, treating people as individuals, and placing positive value on diversity in the community and in the workforce. Historically, employers and services have ignored certain differences.

## Equality

Equality is about creating a fairer society, where everyone can participate and has the opportunity to fulfil their potential (DH 2004). It is about identifying patterns of experience based on group identity, and the challenging processes which limit individuals' health and life chances. An equalities approach understands that our social identity – in terms of gender, race,

disability, age, social class, sexuality and religion “ will impact on our life experiences.

#### Genuine Occupational Qualification

If an employer requires a person of a specific gender or race / ethnic identity for personal services or “authenticity”, they can request a Genuine Occupational Qualification (GOQ) from the Equal Opportunities Commission or the Commission for Racial Equality.

#### Harassment

Harassment occurs if A’s conduct has the purpose or effect of violating B’s dignity or of creating an offensive environment “ one that is intimidating, hostile, degrading or humiliating.

#### Positive Action

In the areas of training, recruitment, and membership of organisations such as trade unions, if a gender or racial group has been under-represented in the previous 12 months, employers can: “ Offer selective training programmes; “ Advertise to encourage applications; “ Train staff responsible for selection. This is positive action. Offering someone a job or promotion on the basis of their gender or race is positive discrimination and is illegal. Quotas (as opposed to targets) are also illegal.

#### Prejudice

Prejudice (‘prejudging’) describes the feelings that individuals have about other individuals or groups, feelings that are often unfounded and based on stereotypes. We all have prejudices based on our own experiences and indirect experience e.g. through the mass media, but usually learn to overcome these feelings, or at least control how we behave with others and what we say. Discrimination can be seen as ‘prejudice put into practice’, where people let their prejudices affect what they say about and how they behave towards others.

#### Racial groups

A racial group is a group of people defined by their race, colour, nationality (including citizenship), ethnicity or national origins.

#### Reasonable adjustment

Reasonable adjustments are steps which an employer/service provider may have to take in relation to a disabled person in order to comply with the Act. For example: “ Making adjustments to premises “ Allocating some of the disabled person’s duties to another person “ Altering their working hours “ Allowing them to be absent during working hours for rehabilitation, assessment or treatment “ Acquiring or modifying equipment “ Modifying instructions or reference manuals “ Modifying procedures for testing or assessment “ Providing a reader or interpreter

#### Sexuality

This term refers to the general preference of people. It is an alternative term for ‘sexual orientation’ and is the term currently used.

#### Victimisation

Victimisation arises where a person treats another less favourably because that person has asserted their rights under the SDA or RRA; if, for example, that person has brought proceedings, or given

evidence or information in connection with proceedings, under either Act.

# Learning Activities

Select one or more of the activities below to focus your attention on equality and diversity issues within your role and put into practice some of your learning from the module.

## 1. Understanding discrimination

Select some of the key points and approaches from this module that you feel are important in ensuring you create a positive learning environment that is free of discrimination and respectful of all learners's social identities.

Make a commitment to consider these points and approaches in relation to all aspects of your role with learners.

List some of the advantages and challenges you encountered from your approach.

## 2. The legal framework

Test yourself on how much you know and understand the legal framework. Answers are to be found at the end of the quiz.

1. From the end of 2007, UK legislation offers protection against discrimination in which of the following areas?

- a. age
- b. disability
- c. gender
- d. religion
- e. race/ethnicity/nationality
- f. sexual orientation
- g. class.

2. The concept of a 'reasonable adjustment' to a job for a disabled employee or potential employee means that:

- a. employers now have to invest a lot of extra money on disabled employees
- b. employers must explore the possibility of making a reasonable adjustment, if this would enable a disabled person to do a job
- c. all disabled people who apply for a position must be interviewed
- d. employers have to employ a 3% quota of disabled employees.

3. On average, what proportion of patients, service users and visitors to a hospital are disabled?

- a. 7%
- b. 14%
- c. 33%
- d. 55%

4. Age discrimination legislation means that:
- employers can no longer make anyone retire
  - employers can set a normal retirement age, and an employee can request to work beyond this
  - each employee can select their own retirement age.

5. A Gender Equality Scheme is:
- a document that all public bodies must produce and update at least every three years
  - a document that is produced by the Equality and Human Rights Commission
  - a document that explains how an organisation intends to fulfil its duty to achieve gender equality in employment and service delivery
  - a document that sets out gender quotas for staff employment.

6. A racist incident is:
- any incident that is perceived to be racist by the victim or any other person
  - any incident where racist intention can be demonstrated
  - any incident where two people of different races are involved and there is a disagreement.

7. Protection against religious discrimination at work means:
- you should not be subjected to harassment on the basis of your religion
  - your employer should offer you a uniform which allows you to follow the dress code of your religion, unless there is a clear health and safety conflict
  - you do not have to treat lesbian or gay patients if your religious beliefs mean that you believe their way of life is wrong
  - you have the right to practise your faith whenever necessary while at work and your employer must make provision for this.

8. If people of a specific gender or ethnicity are under-represented in a particular job or grade, an employer can undertake positive action. This means:
- people from the over-represented sex or ethnicity can be barred from applying for vacancies or promotion to those jobs
  - training or development opportunities can be targeted at people from the under-represented group
  - if there is a choice between two equally qualified candidates, the person from the under-represented group will get the job.

9. Monitoring of patients, student and staff by gender, ethnicity and disability is necessary because:
- it provides data for improving services and redressing inequality
  - it means the Deanery has fulfilled its duty under the Race Relations Amendment Act
  - it is part of a wider legal requirement under the general duties for public bodies.

Answers &ndash; how did you do? (this should come up in a pop-up window)

1. All options except g.
2. b.
3. c.
4. b.
5. a. and c.
6. a.
7. a. and b.
8. b.
9. a. and c.

### **3. Your organisation's approach to equality and diversity**

You need to ensure that you are familiar with your own organisation's policies and procedures regarding equality and diversity and dealing with discrimination.

Find out what the policies say and consider how they relate to your role.

If a learner reported an incidence of discrimination to you, what action would you be required to take to ensure you dealt with the issue in a sensitive manner and also followed your organisation's approach?