

## 'From Compliance to Culture Change' – demands of the Commission for Disabled Staff in Lifelong Learning

The commission launched its final report in March. Led by NIACE, the commission included representatives from all the major stakeholders in the post-school sector, including two UCU commissioners. In addition, our Disabled Members Standing Committee submitted a series of recommendations, all of which were taken on board, and meetings were held between commissioners and some of our disabled members. The end result was a final report which was radical, hard-hitting and demanding. It contains a set of recommendations to each of the major stakeholders in the sector, including to 'trade unions and employer organisations'. These include a call to all institutions, not just FE colleges, to adopt the *Joint Agreement on Disability Equality in Employment* made between the AOC and the FE recognised unions and all UCU branches, both FE and HE, are now urged to try to get it implemented locally. This can be found at [www.ucu.org.uk/index.cfm?articleid=1968#equality](http://www.ucu.org.uk/index.cfm?articleid=1968#equality).

The report also talks about the need to distinguish between sick leave and disability leave. It further calls specifically on trade unions to: produce an equality scheme covering disability equality; incorporate disability equality into national and local negotiations; provide disability equality training for paid officials and lay representatives; disseminate good disability equality practice. UCU nationally will be considering how it can meet these demands.

The reports key finding is that 'there has been a systematic failure in public policy to address the needs and requirements of disabled staff throughout the lifelong learning sector, to the extent that there is widespread institutional discrimination, despite some beacons of good practice'. It draws attention to the neglect of the needs of disabled staff in the sector, compared with the attention and resources given to the needs of disabled students. UCU entirely concurs with these findings.

The report has the full backing of government. Lifelong Learning Minister Bill Rammell said 'My department will be providing a response to the commission's report. I can assure you that the response will be very positive and show that we intend to demonstrate the leadership needed to change the sector from compliance to culture change.'

An implementation group is about to be set up, on which UCU is almost certain to be represented nationally. What will determine whether the transformative potential is fulfilled, however, is what happens at local level. The executive summary of the report can be downloaded from: [www.niace.org.uk/projects/commissionfor-disabledstaff/docs/Compliance-culture-summary-report.doc](http://www.niace.org.uk/projects/commissionfor-disabledstaff/docs/Compliance-culture-summary-report.doc)

The full report (all 146 pages) can be purchased from NIACE for £18.

All UCU branches are urged to access the summary, and ask for consultation with management on implementing the recommendations to trade unions and employers. It is time to start dismantling the institutional discrimination that disabled staff working in the post-school sector have faced for too long.

### Get in touch

Please send any views, letters etc for this publication to [eqadmin@ucu.org.uk](mailto:eqadmin@ucu.org.uk) For queries in relation to anything in this newsletter, please use the following contacts. To contact the Equality Unit for more information about:

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## Letters

### Bullying and harassment procedures

Dear Editor,

Following a number of years of bullying by my line manager I used my university's bullying and harassment procedure to make a complaint. The UCU fully supported my complaint.

After only one interview with the investigating officer and my submission of over 200 pages of evidence, I was told one year later there was no evidence of bullying. I went to appeal and lost.

My observations on the investigation were that: many witnesses named by me were not interviewed, I did not see, nor was I able to test or comment on 'evidence' from persons not named by me, there was failure by the to investigate the dichotomy, serious inaccuracies, omissions and contradictions in and between some of the witness statements. Many of the investigator's questions were not open questions and lead witnesses, witness statements included hearsay, some witnesses were answering questions outside their remit, two witnesses witness statements were not timed or signed and there was a lack of appreciation of how I came within the Disability Discrimination Act.

The appeal process was limited to examining procedural issues and did not question the veracity and contradictions within the investigation and appeared to accept the investigators and Human Resources evaluation and opinion of the quality of the original investigation.

I suggest that an agreed protocol should be drawn up regarding investigating complaints of bullying to include agreed levels of evidence required, examination of evidence and the taking of witness statements. Professional training and competent support should be given to investigators and to persons who hear appeals. Further investigations and appeals should be heard by persons independent of the university otherwise you can have senior managers investigating other senior managers.

*(Name and address supplied)*

### Editor's Comment

The legal remedies for someone who has experienced bullying at work are largely ineffective unless it can be associated with a ground of unlawful discrimination. For a time it seemed as

if the Protection from Harassment Act 1997 could be used as an effective remedy for employees being bullied at work. A new judgement in the case of *Conn v Council of the City of Sunderland* (2008) appears to return us to the position where bullying at work can only be contested legally if it involves criminal behaviour. This makes it particularly important that there are good bullying and harassment procedures in place – watch out for a new agreement between the AOC and the FE unions, coming soon, and for UCU's new Bullying and Harassment booklet, to be launched at Annual Congress.

### HESA data shows small improvements for women in HE

The first analysis of the HESA Staff Record for 2006/7 shows that 17.5% of professors in higher education institutions are female, up from 16.7% in 2005/6.

The proportion of female academic staff in all grades has increased over the same period, from 41.9% in 2005/6 to 42.3% in 2006/7.

The data, collected from all UK higher education institutions by the Higher Education Statistics Agency, also shows an overall increase in the number of academic staff in the UK. There were a total of 169,995 academic staff in 2006/7 compared with 164,875 in 2005/6, an increase of 3.1%.

41.8% of female academics worked part-time in 2006/7, compared with 26.8% of male academics.

The number of non-academic staff (including managers and support staff) in UK higher education institutions is also up on the previous year. There were 194,170 non-academic staff in 2006/7 compared with 190,540 in 2005/6, an increase of 1.9%. Of these non-academic staff, 62.6% were female.

The wheels turn exceedingly slowly – but it looks as if progress, although agonisingly slow, is occurring.

### Quotation Corner

'A right delayed is a right denied.'

**Martin Luther King**, who died forty years ago this month.

## Survey on accessible technology

The JISC TechDis service (hosted by the Higher Education Academy) provides advice and guidance on the use of technology to achieve a more accessible experience for students and staff in higher and further education. To assess their impact in post-school education and inform future work, they're undertaking a survey. They're seeking responses from anyone and everyone working in HE and FE, from a wide range of subject disciplines, role areas and institutions. Everyone who completes the survey can be included in a draw for one of eight £25 book tokens (usable online and in stores), although it is also possible to complete the survey anonymously.

The survey, live until the end of June, can be found at <http://tinyurl.com/3DTQFY>. It should take between two and ten minutes to complete.

## Legal changes from 6 April 2008

The Sex Discrimination Act 1975 (Amendment) Regulations 2008 SI 2008/656 came into force in April. There are three main changes, all improvements:

Section 4A, on harassment, previously dealt with harassment 'on the grounds of her sex.' This phrase is now changed to 'related to her sex or that of another person.' This means that a person complaining of harassment under the Act is only required to show that the alleged treatment was connected or associated with sex and not that it took place because the complainant was a woman (or a man). The Regulations also add a provision to impose liability on an employer for failing to protect employees from harassment by third parties, such as students.

In relation to less favourable treatment on the grounds of pregnancy, the Regulations remove the previous requirement in S.3.A for a woman to compare her treatment to that of a woman who is not pregnant or not exercising her right to maternity leave.

Changes to S.6.A will mean that women whose expected week of childbirth falls on or after October 5th 2008 can bring a discrimination

claim relating to additional maternity leave (weeks 27-52) and not, as previously, only relating to ordinary maternity leave (weeks 1-26).

The same Regulations brought in goods and services protection relating to trans people. This is the good news. The bad news is that the regulations are problematic in that they allow certain service providers to justify different treatment for transsexual persons where it is a 'proportionate means of achieving a legitimate aim.' The exceptions will apply to: voluntary bodies (eg single-sex membership clubs), hospitals, facilities where there is likely to be embarrassment if the facilities are mixed sex, charities, communal accommodation, services provided by an organised religion, education, (ie schools), media and advertising. This leaves one wondering just who will be required not to discriminate on the grounds of gender re-assignment. The government says it will produce guidance on the exceptions. They would be better occupied removing most of them.

## Campaign to stop the EU from back-peddling on discrimination

An urgent campaign is called for to put pressure on European Union politicians to carry out an earlier commitment to introduce an EU directive to level up legal protection against discrimination for all groups. Currently, there is a range of European anti-discrimination law, offering different levels of protection on different grounds. The strongest protection is on race, followed by gender. Currently for the grounds of disability, sexual orientation, religion or belief and age, protection is limited to employment and training.

In 2004, The President of the European Commission promised to introduce a new directive (the 'horizontal framework directive') that would provide equally comprehensive levels of protection on all grounds. This directive was expected in June 2008.

Disturbing new information suggests that this commitment has been abandoned in favour of a new directive that will increase protection only on the grounds of disability. While UCU entirely welcomes this increased protection, we are utterly opposed to retreat on the other grounds. The retreat seems to be for political reasons. The hostility from governments and popular culture

to equal rights for LGBT people in some of Eastern Europe accession countries is one factor, as it the nervousness about issues of religious adherence in some of the older member states. As for age, the motivation not to extend protection to goods and services is probably largely economic.

Morally, there can be no justification for maintaining a hierarchy of different rights on different grounds. This perpetuates discrimination rather than ending it.

EU Directives have, in the past ten years, been the major factor in moving the British government to improve discrimination legislation. This retreat, at a time when the content of a British Single Equality Act hangs precariously in the balance, is very bad news indeed.

What can UCU do about it? Immediate plans include an emergency IDAHO (International Day against Homophobia) open meeting to be held in the Mechanics Institute, Manchester, from 11am to 4pm on 17 May.

This will be organised by UCU, seeking support from other education unions, MEP's, and local community groups. It is open to all, not just LGBT members.

Individuals can go to:

[www.signtostopdiscrimination.org](http://www.signtostopdiscrimination.org) and sign the online petition. Branches can also write to the President, Manuel Barroso at European Commission, Rue de la Loi 200, 1040 Brussels, Belgium, urging that the original proposal for an all-embracing 'horizontal framework directive' is maintained.

Nationally, UCU will be making its views known, and Equality Support Official Seth Atkin will be using his position as the LGBT representative on EI (Education International) Europe's Equality Committee to co-ordinate an EI Europe-wide campaign.

Members with other ideas or contributions to make should contact [satkin@ucu.org.uk](mailto:satkin@ucu.org.uk)

## News in brief

- Gail Adams, a lecturer at an FE college in Northern Ireland has won an employment tribunal ruling that she was treated less favourably as a part-time worker. Full-time lecturers studying for an FE teaching certificate were given three hours remission to enable them to study. Gail was given less remitted time, even though she had to undertake the same course of study. The tribunal agreed that she had suffered unjustifiable discrimination because she was a part-time worker, and ordered her employer to pay compensation based upon the costs of the time denied to her. This is an important decision that every college and university employer should note. Hopefully, all part-time lecturers will benefit from it.
- The old JNCHES guidance on work-life balance issues in HE has been updated to reflect changes in the law, and to give examples of good practice. UCU signed up to it, as although it has considerable limitations, it is an improvement on the previous outdated agreement. It can be found at [www.ucu.org.uk/index.cfm?articleid=1969](http://www.ucu.org.uk/index.cfm?articleid=1969) along with a UCU commentary pointing out where local improvements could be made. Although the agreement is for HE, FE branches might also find it useful.
- The fight against enforced retirement at 65 is gathering pace. You will probably have read elsewhere about the high-profile campaign against the enforced retirement of Professor Sheila Rowbotham, the well-known socialist feminist historian, from Manchester University. An informal but rapidly-growing group of single-minded individuals who are intent on changing the minds of government and university administrators has been set up for academics who want to fight on this issue. UCU supports their position. If you want to get involved, contact [H.Wynn@lse.ac.uk](mailto:H.Wynn@lse.ac.uk).
- The second three-year review of institutions race equality policy is due on 31 May 2008. How far has your institution got in producing this review?