Thank you for taking on the role of UCU branch/local association equality officer.

This toolkit is designed to assist you in your new role and allows for you to build on this through further training and development. UCU has a national equality unit who will provide advice and guidance throughout your time as equality officer. Details of the unit are in this pack.

As a branch equality officer, you will be concerned with wide range of issues, from putting up posters and circulating leaflets to raise awareness on equality issues, to advising on individual cases. You can make the role fit your experience and with the support of your colleagues and officials in UCU you can develop your skills and expertise. The main aspects of the role are to:

- help raise awareness of issues related to equality and diversity
- raise the profile of equal treatment of workers on the grounds of age, disability, gender identity, race, religion or belief, sex, sexual orientation
- engage employers and the branch on a range of equality issues.

Materials in this booklet will give you basic information about the equality officer functions; about the legal framework that underpins equality at work, and the structures that help us to organise effectively.

As a UCU equality officer you will receive:

- the national email newsletter
- regular circulation of updates and items of interest
- information about training and conferences
- factsheets and other resources to help you do the job.

Please keep us informed of your successes and don’t hesitate to contact us when you need advice and assistance. For more information about all of these matters, and access to resources and advice, log onto the UCU website and go to the link for Equality.

This toolkit will be updated in line with legislative or procedural changes. This toolkit does not replicate information in the Reps Handbook which you should also download from the UCU website at: www.ucu.org.uk/repshandbook
MAKING THE CASE FOR EQUALITY

UCU has a very strong tradition of placing equality at the heart of everything it does, including through our democratic structures. UCU challenges discrimination on all levels, formulates policies and responds to consultations from a variety of stakeholders, including the Government. That is why equality must not be seen as an ‘add-on’, but part of every aspect of negotiating and organising. Discrimination and victimisation takes place regardless of age, disability, gender identity, race, religion or belief, sex, sexual orientation, and our combined work goes toward ensuring that our colleges and universities are places free from institutional inequality.

Equality is central to our work and how we support our members, and is reflected through our structures. Section 2 of the UCU Rule Book states clearly these aims and objectives:

2.4 To promote equality for all including through:

i. collective bargaining, publicity material and campaigning, representation, Union organisation and structures, education and training, organising and recruitment, the provision of all other services and benefits and all other activities;

ii. the Union’s own employment practices;

2.5 To oppose actively all forms of harassment, prejudice and unfair discrimination whether on the grounds of sex, race, ethnic or national origin, religion, colour, class, caring responsibilities, marital status, sexuality, disability, age, or other status or personal characteristic;

Equality is important in all aspects of our lives and work. Students and staff in colleges and universities reflect the diversity of our society through age, disability, gender identity, race, religion or belief, sex and sexual orientation. Members will find at different times in the workplace that, for example, their age or religion or sexual orientation may affect the way they are treated at work.

Policies relating to equality issues serve to ensure that your college or university is committed to equality, ensuring that everyone is valued, motivated and treated fairly. However, the strength of these policies rests with how they are implemented, monitored and reviewed.

Branches and local associations should make sure that they have an understanding of not only the Equality Act, but also be
familiar with any negotiated policies and guidance on equality issues. Equality can be progressed by:

- ensuring that the branch and local association are consulted on policies and procedures applicable to staff
- challenging the college or university when unfair or discriminatory practices arise
- ensuring the equality legislation is followed as far as is possible, and keeping up to date on changes to equality legislation
- promoting good practice and negotiating for improvements in local agreements
- reviewing the branch committee members – are you reflecting the make-up of the institution? For example do you need to have a campaign to recruit more women members? Do you need to encourage more black members to become branch officers?
- establish networks to aid additional support to specific groups (black members, women members, LGBT members and disabled members)
- being familiar with UCU guidance on equality issues and any agreements negotiated nationally
- having equality as a standing item on the branch committee agenda.

**UCU EQUALITY UNIT**

**UCU has put equality at the heart of its activities on behalf of its members**

Some UCU branches/local associations (LAs) have equality officers who can assist members with concerns on an equality-related issue. UCU has a national team of staff with expertise and involvement in the whole equality agenda. They implement the policies and priorities determined by members through the democratic lay structures.

**EQUALITY UNIT CONTACTS**

Helen Carr, National Head of Equality  
E: hcarr@ucu.org.uk  T: 020 7756 2537  F: 020 7756 2501

Seth Atkin, Equality Support Official  
E: satkin@ucu.org.uk  T: 020 7756 2535  F: 020 7756 2501

Charlotte Nielsen, Equality Support Official  
E: cnielsen@ucu.org.uk  T: 020 7756 2534  F: 020 7756 2501

Chris Nicholas, Equality Support Official  
E: cnicholas@ucu.org.uk  T: 020 7756 2536  F: 020 7756 2501

Sharon Russell, Equality Officer  
E: srussell@ucu.org.uk  T: 020 7756 2538  F: 020 7756 2501

James Taylor, Administrator  
E: jtaylor@ucu.org.uk, T: 020 7756 2539  F: 020 7756 2501

Members will find at different times in the workplace that, for example, their age or religion or sexual orientation may affect the way they are treated at work.
UCU has negotiated national equality agreements in both the higher and further education sectors which branches/LAs strive to get implemented locally. The national equality unit supports branches/LAs and regional offices on equality issues and work to influence government policy on equality.

We live in a period of rapidly changing equality legislation. News on recent developments is to be found in the bi-monthly *Equality News*. There is an e-network for equality representatives.

The union provides many opportunities for members to become involved in our equality work. UCU organises events specifically for black members, disabled members, LGBT members and women members. We also have email network lists for each of these groups which you can join by emailing: eqadmin@ucu.org.uk stating the network list you would like to join.

UCU policy on equality is determined by Congress and its implementation is monitored by the national equality committee.

While our prime concern is to fight for greater equality at work, we also strive to campaign against injustices members face in other areas of their lives, whether on grounds of sex, race, disability, sexual orientation, gender identity, religion or belief, age or any other aspect of identity which can lead to discrimination.

**TRAINING FOR EQUALITY**

UCU offers its growing network of activists a wide range of courses. Courses are delivered on a regional basis so members benefit from the opportunity to learn from and network with UCU colleagues from branches within their region. Courses specifically for equality reps are organised every year.

**Equality reps**

This two-day course is aimed at UCU equality officers and other branch officers who want to learn more about how to tackle discrimination and promote equality at work.

**Why attend?**

UCU equality officers and branch officers will work within branches to promote equality with the employer and union members. This could include looking at issues such as flexible working, absence management, harassment, equal pay or undertaking equality impact assessments. This course will give reps an introduction to the knowledge and skills that they will need to carry out their role.

**This course will help you:**

- understand the role of the UCU equality rep or equality officer
- ensure equality is embedded within the branch bargaining, campaigning and organising agenda
- find out more about discrimination legislation
- improve equality policies and agreements
find out about good practice and share success stories
promote equality in the workplace, branch and the union
develop tools and techniques for raising equality issues
develop equality networks
sharpen your negotiating skills.

In addition to the courses offered, UCU reps are entitled to attend locally run Unionlearn courses. Unionlearn is the training arm of the Trades Union Congress (TUC).
Visit: www.unionlearn.org.uk/index.cfm/raot for courses near you.

All UCU reps and officers are also entitled to apply for a TUC online learning course. For information about Unionlearn courses, visit: www.unionlearn.org.uk/education/index.cfm?mins=17

Contact UCU training
To find out when the next equality reps course will be held, visit: www.ucu.org.uk/training or contact our training officer, Abbie Jenkinson on 020 7756 2500 or email ajenkinson@ucu.org.uk

Alternatively, contact your regional office below.

UCU REGIONAL TRAINING CONTACTS
East Midlands region
Contact Michelle Dean: mdean@ucu.org.uk/0121 634 7384

London, South East & Eastern region
Contact: training@ucu.org.uk/020 7756 2585

North West region
Contact Neva Blakesley: nblakesley@ucu.org.uk/0161 772 7010

Northern region
Contact Emma Alexander: ealexander@ucu.org.uk/0191 497 8330

South West region
Contact: exeter@ucu.org.uk/01392 412 525

Southern region
Contact Jane Gastrell: jgastrell@ucu.org.uk/023 9281 8625

West Midlands region
Contact Les Foley: lfoley@ucu.org.uk/0121 634 7382

Yorkshire & Humberside region
Contact Linda Lawton: llawton@ucu.org.uk/0161 772 7012

Northern Ireland
Contact Lauren McCullough the Belfast office
lmcullough@ucu.org.uk/028 9066 550

Scotland
Contact Ann Cowan: acowan@ucu.org.uk/0131 226 6694

Wales
Contact Karen Williams: kwilliams@ucu.org.uk/01656 721 951

UCU equality courses are delivered on a regional basis so members benefit from the opportunity to learn from and network with UCU colleagues from branches within their region.
Organising and campaigning

ORGANISING FOR EQUALITY

This quick guide for equality officers has been designed to complement UCU training, which you are strongly encouraged to attend.

The role of the equality officer

Branches that have a high membership density and high level of activity tend to have better working conditions. They also tend to be more pro-active in campaigning for improvements, rather than having to react to threats from the employer. In order for the membership to remain active, involved and informed, a branch needs to elect representatives to take on different roles.

In the UCU model rules, rule 8.1 states that: ‘Members will be elected to the following officer roles within the branch: chair/president, vice-chair/vice-president, treasurer, secretary, membership secretary, equality officer.’

Section 8.6 in the rules outlines the role of the equality officer:

8.6 Equality officer

The equality officer will:

8.6.1 Have knowledge of and commitment to relevant issues, and be willing to undertake training according to the needs of UCU, monitor the implementation of equality policies within the institution, and, where appropriate, encourage and support local negotiations on equality matters

8.6.2 Monitor the volume and nature of personal casework which involves equality issues to ensure that the branch has appropriate mechanisms in place for handling such cases

8.6.3 Where appropriate, provide information, encouragement and support to members about equality issues

8.6.4 Ensure that UCU’s national annual meetings, and any other relevant events and opportunities for women, black members, lesbian, gay, bisexual and transgender members and disabled members are publicised locally, that members from all groups are encouraged to participate, and that the branch maximises the opportunities for recruitment and organisation amongst all groups

8.6.5 Where appropriate, provide liaison between the branch and UCU’s equality structures

The equality officer should aim to ensure that UCU events for women, black members, lesbian, gay, bisexual, transgender members and disabled members are publicised locally, and that members from all groups are encouraged to participate
In the absence of the equality officer, these duties will be performed by another officer or officers as the committee decides.

The role of the equality officer can vary according to the size and makeup of the branch. The model branch plan (below) gives suggested plan a branch can use.

**The Equality committee**

It is vital UCU has representatives on the institution’s equality committee. Almost every college/university now has an equality committee or forum.

UCU reps on a college equality committee should consult regularly with relevant groups of UCU members, and should always report back to the branch at each meeting.

**Other committees**

In addition to the equality committee in the institution a branch equality officer may want to consider sitting on committees such as curriculum or career development, and student support.

**Representing members**

It is a branch decision who undertakes representation of individual members as this will depend on levels of experience, training, and size of branch. The branch committee may invite the equality officer to act as an advisor to other representatives, or to take on some cases themselves.

**BRANCH ORGANISATION: MODEL BRANCH PLAN**

What should branches be doing? Here is a ten-point plan:

1. Ensure there is an equality committee in the college or university.
2. Ensure that there is a UCU representative on this committee.
3. Have an equality officer on the branch committee, and get it established that she or he has the right to time off for relevant training.
4. Make sure that your college or university has adopted the nationally agreed policies. A full listing of agreements can be found on the UCU website in the pay and conditions section ([www.ucu.org.uk/payandconditions](http://www.ucu.org.uk/payandconditions)) under FE or HE conditions of employment.
5. Once adopted, negotiate on their proper implementation. For example:
   - Is monitoring being done, and targets set for improvement?
   - Is equality impact assessment being undertaken?
   - Is an equal pay review being undertaken?
6. Use the national agreements in both sectors to progress equality issues such a campaign to get parity for hourly-paid lecturers.
Model branch plan (continued)

7. Ensure that training is provided in working time for all your members to meet their responsibilities not to discriminate against the protected characteristics on the grounds of: age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership, pregnancy and maternity.

8. Make equality issues a standing agenda item at branch meetings

9. Ensure you have copies of all UCU’s equality publications, and keep up-to-date with Equality News, sent regularly to branch secretaries and branch equality officers

10. Make sure all your communications with members are accessible, friendly and welcoming to all.

Branch meetings

It’s a sad fact that sometimes branch meetings will not be very well attended. There are many reasons – time, distance to travel, pressures of work etc. But sometimes it’s because the meetings do not take into consideration all members’ needs. Below is a checklist to help with meeting members’ needs:

- Ask the members whether they have any specific requirements for meetings.
- Advertise the meeting as much in advance as possible and ensure the information is provided in all formats and if needed book a British sign language interpreter.
- Ensure the room is accessible for all members.
- Consider the most convenient times for members to attend. For example, late night meetings may disenfranchise members with childcare needs etc, or specific times may be difficult for those to whom religious observance is vital at particular points in the week.
- If the branch is located in more than one workplace, try and rotate the locations of the meetings.
- Ensure the meeting ends at the advertised time.
- Don’t use union jargon.
- Find out if any members need childcare and discuss what the union can do to help – for example by planning a babysitting rota or having a crèche in a room near the meeting.

This is not an exhaustive list. Your best course of action is to ask.

Branch communications

One of the most important things a branch can do to maintain members’ involvement is to keep them informed. With ever-
increasing pressures of work this can be overlooked. Information can sometimes be sent out in a way that doesn’t meet a member’s needs.

Here is a checklist for branches communicating with members.

- Ask members what is the best method of communication for them.
- Remember that not all members have access to emails or the web eg hourly-paid workers often do not have access to the intranet system.
- Provide information in all formats requested by members eg large print, braille.
- Try to use simple language and avoid jargon.
- If you are providing a British Sign Language interpreter remember a national shortage means you will need to book them well in advance.
- In terms of who pays for the interpreter please contact the regional office for advice. If the meeting relates to grievance or discipline the employer should pay.

This is not an exhaustive list. Your best course of action is to ask.

**Recruitment and organisation**
For a branch to remain well organised it needs to keep members informed and involved. It also needs to continually recruit new members and have an active branch committee made up of representatives from all areas within the workplace. UCU runs courses specifically around recruitment and organisation. But below are a few items you may want to consider if you haven’t already had this training.

- Does the membership fairly reflect the composition of the workforce?
- Are there any curriculum areas with particularly low membership?
- Does the branch committee fairly reflect the composition of the branch, for example on race or gender?
- Does the branch campaign for improvements to working conditions as well as defend existing ones?
- Does it run particular campaigns – eg defending a campus nursery – or is there appropriate space and flexibility for religious observances?

**Member networks**
The Equality unit operates email lists for black members, disabled members, LGBT members and women members. If you want to be added to one, email: eqadmin@ucu.org.uk
Time off for equality reps

Despite pressure from the unions during the drafting of the Equality Act, it makes no provision for statutory rights for equality reps. The following is guidance from ACAS on managing time off, training and facilities:

\textit{In determining what time off, training and facilities should be agreed, consideration needs to be given to the relationship between these specialists and other union representatives concerned with collective bargaining.}

Ask your branch to review who gets access to facility time. Is there capacity to include the equality rep in the facility agreement?

For further information on how this can be achieved, please download TU representation in the workplace: http://bit.ly/xmYFkd

REGIONAL EQUALITY NETWORKS

The purpose of regional equality networks is to act as a support mechanism for members who may feel isolated within their region.

Regional equality networks

The following was passed by UCU Congress in May 2008.

\textit{Congress believes that the organisation of regional equality networks can have an important role in promoting our equality agenda by contributing to overcoming isolation, involving more activists in equality work and supporting collective action on equality issues at the regional level.}

\textit{Congress instructs the Equality Unit to work together with regional UCUS, and UCU Wales offices and regional, UCUS and UCU Wales Committees to set up regional equality networks of LGBT members, disabled members, BME members, women members and equality representatives. The networks will organise autonomously with support from the Equality Unit and Regional, UCUS and UCU Wales committees. With this support, the networks will organise one annual conference which brings together all the networks with the option of separate morning or afternoon sessions for each network.}

The Equality committee agreed the following overarching principles to inform the work of regional equality networks:

- to provide access to information
- to promote advocacy at regional level
- to facilitate consultation and involvement
- to foster recognition of equality groups needs
- to provide for the exchange of informal advice and support where appropriate
to disseminate opportunities for relevant training and events

to facilitate and promote the development of equality activism at local, regional and national level

to facilitate self-organised equality groups

to facilitate the dissemination of good practice in equality activism

to ensure the industrial relations agenda is both part of and responsive to equality networks.

Membership would be for UCU members only; they would not be focused on casework, and not a substitute for formal democratic union structures. Networks are subject to UCU rules and standing orders.

Currently UCU has women networks in Northern and Yorkshire & Humberside regions; black members networks in the Northern region, and LGBT networks in Manchester and East and West Midlands. Scotland has established an equality and human rights commission that brings together all strands and equality activists. All networks operate differently with different arrangements for support. If your region doesn’t have any networks – organise one!

The Equality Committee is also tasked from Congress to organising regional meetings of equality representatives. The first meetings will take place in 2012.

Please email: eqadmin@ucu.org.uk if you would like to receive further information or advice on how to establish an equality network.

UCU EQUALITY SCHEME

UCU is not legally obliged to produce an equality scheme. We are doing this because it is a key way to demonstrate and articulate our commitment to equality.

The majority of the UCU scheme is made up of a three-year action plan which is practical, realistic yet challenging and which covers everything UCU does as a trade union and as an employer.

This is not a paper exercise. It is about improving and promoting equality with the involvement of as wide a group of UCU members and staff as possible.

Remember:

- Equality affects everyone.
- We don’t all start from the same place.
- Equality doesn’t always mean treating people in the same way; it means responding to different needs in different ways to ensure equality of access, participation and outcome.
Placing the scheme in context

**UCU’S COMMITMENT TO EQUALITY**

While our prime concern is to fight for greater equality and to oppose all forms of harassment, prejudice and unfair discrimination at work, we recognise that this includes the injustices that members face in all areas of their lives, whether on grounds of sex, race, ethnic or national origin, colour, class, impairment or disability status, sexual orientation, gender identity, religion or belief, age, socio-economic status, casualisation or any other aspect of status or personal characteristic which can lead to discrimination.

This scheme builds on UCU’s existing commitment to equality set out in our rule book and demonstrated through our structures and our actions.

UCU has campaigned hard to hold colleges and universities to account and to ensure they are meeting their legal obligations under the public sector duty legislation.

We have therefore taken the decision to develop our own equality scheme and procedures for impact assessment to build on this commitment and to go beyond the statutory position.

We recognise that the legislative structure in relation to the public sector duty, and the specific duties attached to it, have changed as a result of the new Equality Act. Irrespective of any changes to legislation, UCU believes that this equality scheme will provide a benchmark against which to measure our own progress, as an employer and a union.

To see the priorities identified by regional and national committees and head office operations, visit: [www.ucu.org.uk/equalitiescheme](http://www.ucu.org.uk/equalitiescheme)

Contact: eqadmin@ucu.org.uk for further information about the scheme.

**CURRENT CAMPAIGNS**

UCU campaigns for improvements to the pay and conditions of further and higher education staff throughout the UK, and for the provision of high-quality education opportunities. Current campaigns that we feel you should be involved in include:

Universities and colleges are responding to the coalition government’s cuts agenda. In both further and higher education thousands of jobs and services are threatened.

There is deep concern over the recent funding restrictions on English as a second language.

The changes to the funding mean that for many people with ESOL
needs, course costs will shift from the public purse to the individual, unless employers make a contribution. UCU sends weekly updates on campaigning and other news. All weekly updates are posted on the UCU website at: www.ucu.org.uk/campaignupdate

The Home Office has introduced its new points-based immigration system. The system awards points to workers from outside the European Economic Area (EEA) for skills that reflect experience, age. The system has significant implications for members working in both HE and FE.

A full list of UCU’s campaigns can be found at: www.ucu.org.uk/campaigns

It’s good practice to check the list of campaigns to see if your members will be affected either as a collective or individually.

**How can you get help from the national campaigns team?**

Just ask! Email: campaigns@ucu.org.uk and your request will get to the team.
CU structures and decision making

Members of UCU belong to branches or local associations, which are generally workplace-based. These members directly elect their own officers who negotiate and represent members locally, with support from full-time staff in regional offices throughout the UK.

Members directly elect their representatives on UCU’s National Executive Committee, from geographical constituencies based on Scotland, Wales, Northern Ireland and, in England, the areas covered by one or more Regional Development Agencies (RDAs): the north-west (North-West RDA); the north-east, (North-East and Yorkshire & the Humber RDA); the Midlands (East Midlands and West Midlands RDAs); London and the east (London and Eastern RDAs); and the south (South-East and South West RDAs).

UCU’s supreme policy-making body of the union is its annual Congress; the first of which took place in Bournemouth in May 2007. Congress includes separate annual meetings of UCU’s further and higher education sectors, where policy particular to these areas is decided.

NATIONAL EXECUTIVE COMMITTEE

Members of the National Executive Committee (NEC) of UCU, elected by UCU members include HE and FE members, some of whom are elected regionally, some on a UK-wide basis, plus through the designated reserved equality seats (see below). Members can also stand for election as an officer of the union such as the president. The NEC is responsible for conducting the union’s business between Congress meetings. The Executive has a number of sub-committees. Click here to view the current membership: www.ucu.org.uk/structures

Sub-committees of the National Executive Committee

- Education committee
- Equality committee
- Further education committee
- Higher education committee
- Recruitment, organising and campaigning committee
- Strategy and finance committee

EQUALITY COMMITTEE

The Equality committee comprises elected members of the NEC who oversee the equality work of the union. The committee secretary is Helen Carr.
Some members of the National Executive are elected to equality seats as per the composition below:

- Two black members’ representatives – one must be a woman
- Two disabled members’ representatives
- Two LGBT members’ representatives
- Five women members’ representatives

The above are elected from both the higher and further education sectors.

NATIONAL EQUALITY STANDING COMMITTEES

There are four national equality standing committees who advise the Equality committee and the NEC. The committees are the Black Members standing committee, Disabled Members standing committee, LGBT Members standing committee and the Women Members standing committee.

Elections to the four equality standing committees are held every year at the annual equality conferences. The equality standing committees are bound by the Equality standing orders that can be downloaded from: www.ucu.org.uk/index.cfm

The four standing committees are advisory; however, they can pass motions at their annual equality conferences as well as sending motions to annual Congress and the sector conferences.

The NEC members who are elected to NEC equality seats also sit on the equality standing committees.

REGIONAL STRUCTURES

UCU has a number of regional committees which bring together branches or local associations in particular geographical areas in order to enhance the union’s work. Our thirteen regions are: East Midlands, Eastern and Home Counties, London, North West, Northern, Northern Ireland, Scotland, South, South East, South West, Wales, West Midlands and Yorkshire & Humberside.

There are specific democratic structures in place in Scotland, Wales and Northern Ireland, which have their own committees and annual conferences in order to deal with their specific national issues.

In England, branches come together under a number of regional committees whose key aims are to foster closer contact between members in their region and coordinate discussion, activity and support between branches.

Regional equality officers and regional secretaries
To find your regional contacts and which institutions fall within your region, see: www.ucu.org.uk/regionalcommittees
Although employers are allowed to discriminate between two people on the grounds that one of them is better than their job than the other, they are not allowed to discriminate in one of the protected grounds, such as gender, race, disability, sexual orientation, religion or age.

What you need to know

THE EQUALITY ACT

The Equality Act 2010 came into force on 1 October introducing some new measures. This section highlights where branches will need to look at current agreements and their employer’s practice.

The chart and information overleaf (courtesy of ACAS), spells out the key changes in the Equality Act.

EQUALITY LEGISLATION


The Act does not cover cases of discrimination, harassment or victimisation that happened before 1 October 2010 but cases that began before 1 October 2010 and carried on after this date, can be considered under the Act. Cases that happened after 1 October 2010 need to be taken under the 2010 Equality Act.

Underpinning equality law is the concept of unlawful direct discrimination – in other words treating someone differently for an unlawful reason. So although employers are allowed to discriminate between two people on the grounds that one of them is better than their job than the other, they are not allowed to discriminate in one of the protected grounds, such as gender, race, disability, sexual orientation, religion or age.

For example:

- A black worker is not treated the same way as s/he would have been if s/he had been white.
- A woman is not treated the same way as she would have been if she were a man.
- A young person is not treated the same way as s/he would have been if they were older.

The different protected characteristics also contain a concept of indirect discrimination. Indirect discrimination applies in situations where an employer applies a policy or practice which on the face of it is neutral, but in practice operates to the disadvantage of a protected group.
**EQUALITY ACT 2010 – WHAT’S NEW AND WHAT’S CHANGED**

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<th>Gender reassignment</th>
<th>Race</th>
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<td>Employers are potentially liable for harassment of their staff by people they don’t employ</td>
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A policy that states only full-time work will be available will operate to the disadvantage of women who often have childcare responsibilities. This is an example of indirect discrimination.

For example:

- A requirement for an English language qualification could disqualify many foreign born workers from employment.
- A requirement that workers be at least 6’ tall would have an adverse impact on women.
- A policy that states only full-time work will be available will operate to the disadvantage of women who often have childcare responsibilities.

The law also outlaws victimisation. These provisions protect workers who are penalised or disadvantaged in some way because they have pursued a tribunal claim, made allegations of discrimination or given evidence in a discrimination case on behalf of someone else. In addition to the law itself, there are issued Codes of Practice. Although the codes do not have the force of law, they carry considerable weight as to how the law should be interpreted.

**UK discrimination law**

There are seven main types of discrimination in UK law:

- Direct discrimination
- Associative discrimination
- Perceptive discrimination
- Indirect discrimination
- Harassment
- Third party harassment
- Victimisation

**Direct discrimination**

Direct discrimination occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have (see perceptive discrimination below), or because they associate with someone who has a protected characteristic (see associative discrimination below).

**Associative discrimination**

This already applies to race, religion or belief and sexual orientation. Now extended to cover age, disability, gender reassignment and sex. This is direct discrimination against someone because they associate with another person who possesses a protected characteristic.

**Perceptive discrimination**

This already applies to age, race, religion or belief and sexual orientation. Now extended to cover disability, gender reassignment and sex. This is direct discrimination against an individual because others think they possess a particular protected characteristic. It applies even if the person does not actually possess that characteristic.

**Indirect discrimination**

This already applies to age, race, religion or belief, sex, sexual orientation and marriage and civil partnership. Now extended to cover disability and gender reassignment. Indirect discrimination...
can occur when you have a condition, rule, policy or even a practice in an organisation that applies to everyone but particularly disadvantages people who share a protected characteristic. Indirect discrimination can be justified if an employer can show that you acted reasonably in managing its business, ie that it is ‘a proportionate means of achieving a legitimate aim’. A legitimate aim might be any lawful decision made in running an organisation, but if there is a discriminatory effect, the sole aim of reducing costs is likely to be unlawful.

Being proportionate really means being fair and reasonable, including showing that employers looked at ‘less discriminatory’ alternatives to any decision made.

**Harassment**

Harassment is ‘unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual’.

Harassment applies to all protected characteristics except for pregnancy and maternity and marriage and civil partnership. Employees will now be able to complain of behaviour that they find offensive even if it is not directed at them, and the complainant need not possess the relevant characteristic themselves. Employees are also protected from harassment because of perception and association.

**Third party harassment**

This already applies to sex. Now extended to cover age, disability, gender reassignment, race, religion or belief and sexual orientation. The Equality Act makes employers potentially liable for harassment of employees by people (third parties) who are not employees of the organisation, such as customers or clients. Employers will only be liable when harassment has occurred on at least two previous occasions, were aware that it has taken place, and have not taken reasonable steps to prevent it from happening again.

**Victimisation**

Victimisation occurs when an employee is treated badly because they have made or supported a complaint or raised a grievance under the Equality Act; or because they are suspected of doing so. An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint. There is no longer a need to compare treatment of a complainant with that of a person who has not made/supported a complaint under the Act.

**The Act identifies 9 protected characteristics**

**Age (no change)**

The Act protects people of all ages. However, different treatment due to age is not unlawful direct or indirect discrimination if an employer can justify it, ie if it can demonstrate that it is a proportionate means of meeting a legitimate aim. Age is the only protected characteristic that allows employers to justify direct discrimination. The default retirement age (DRA) of 65 was abolished in 2011.
Disability (new definition and changes)
The Act has made it easier for a person to show that they are disabled and protected from disability discrimination. Under the Act, a person is disabled if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities, which includes things like using a telephone or using public transport.

As before, the Act puts a duty on an employer to make reasonable adjustments for staff to help them overcome disadvantage resulting from an impairment.

The Act includes a new protection from discrimination arising from disability. This states that it is discrimination to treat a disabled person unfavourably because of something connected with their disability (e.g. a tendency to make spelling mistakes arising from dyslexia). This type of discrimination is unlawful where the employer or other person acting for the employer knows, or could reasonably be expected to know, that the person has a disability. This type of discrimination is only justifiable if an employer can show that it is a proportionate means of achieving a legitimate aim.

Additionally, indirect discrimination now covers disabled people. This means that a job applicant or employee could claim that a particular rule or requirement you have in place disadvantages people with the same disability. Unless an employer could justify this, it would be unlawful.

The Act also includes a new provision which makes it unlawful, except in certain circumstances, for employers to ask about a candidate’s health before offering them work.

Gender reassignment (new definition)
The Act provides protection for transsexual people. A transsexual person is someone who proposes to, starts or has completed a process to change his or her gender. The Act no longer requires a person to be under medical supervision to be protected – so a woman who decides to live permanently as a man but does not undergo any medical procedures would be covered. Transgender people such as cross dressers, who are not transsexual because they do not intend to live permanently in the gender opposite to their birth sex, are not protected by the Act.

It is discrimination to treat transsexual people less favourably for being absent from work because they propose to undergo, are undergoing or have undergone gender reassignment than they would be treated if they were absent because they were ill or injured. Medical procedures for gender reassignment such as hormone treatment, should not be treated as a ‘lifestyle’ choice.

Marriage and civil partnership (no change)
The Act protects employees who are married or in a civil partnership against discrimination. Single people are not protected.
Pregnancy and maternity (no change)
A woman is protected against discrimination on the grounds of pregnancy and maternity during the period of her pregnancy and any statutory maternity leave to which she is entitled. During this period, pregnancy and maternity discrimination cannot be treated as sex discrimination.

An employer must not take into account an employee’s period of absence due to pregnancy-related illness when making a decision about her employment.

Race (no change)
For the purposes of the Act ‘race’ includes colour, nationality and ethnic or national origins. A racial group can be made up of two or more different racial groups (eg black Britons). There is power to add ‘caste’ by regulation to the definition of discrimination.

Religion or belief (no change)
In the Equality Act, religion includes any religion. It also includes a lack of religion. Additionally, a religion must have a clear structure and belief system. Belief means any religious or philosophical belief or a lack of such belief. To be protected, a belief must satisfy various criteria, including that it is a weighty and substantial aspect of human life and behaviour. Denominations or sects within a religion can be considered a protected religion or religious belief. Humanism is a protected philosophical belief but political beliefs would not be protected. Discrimination because of religion or belief can occur even where both the discriminator and recipient are of the same religion or belief.

Sex (no change)
Both men and women are protected under the Act.

Sexual orientation (no change)
The Act protects bisexual, gay, heterosexual and lesbian people.

Equality Act questionnaires
There are now two new sets of forms, one for discrimination or other prohibited conduct complaints and the other for complaints about equality of terms (equal pay). You should use these forms if the possible unlawful conduct in question happened on or after 1 October 2010 or if it started before 1 October 2010 but continued on or after that date. If the possible unlawful conduct took place before 1 October 2010, the Equality Act 2010 will not apply and these are not the right forms to use for obtaining information. Instead you will be covered by the provisions in the legislation that is repealed or revoked on 1 October and should use the individual forms that are specific to claims relating to each ‘protected characteristic’ (race, disability, sex etc) and to equal pay. The forms and guidance are on the Government Equality website.
A woman is protected against discrimination on the grounds of pregnancy and maternity during the period of her pregnancy and any statutory maternity leave to which she is entitled. During this period, pregnancy and maternity discrimination cannot be treated as sex discrimination.

New provisions
90 per cent of the Act came into force on 1 October 2010:
- the basic framework of protection against direct and indirect discrimination, harassment and victimisation in services and public functions; premises; work; education; associations, and transport
- changing the definition of gender reassignment by removing the requirement for medical supervision
- levelling up protection for people discriminated against because they are perceived to have, or are associated with someone who has, a protected characteristic
- providing new protection for carers
- providing clearer protection for breastfeeding mothers
- applying the European definition of indirect discrimination to all protected characteristics
- extending protection from indirect discrimination to disability
- introducing a new concept of ‘discrimination arising from disability’, to replace protection under previous legislation lost as a result of a legal judgment
- applying the detriment model to victimisation protection (aligning with the approach in employment law)
- harmonising the thresholds for the duty to make reasonable adjustments for disabled people
- extending protection from third party harassment to all protected characteristics making it more difficult for disabled people to be unfairly screened out when applying for jobs, by restricting the circumstances in which employers can ask job applicants questions about disability or health
- allowing hypothetical comparators for direct gender pay discrimination
- making pay secrecy clauses unenforceable
- extending protection in private clubs to sex, religion or belief, pregnancy and maternity, and gender reassignment
- introducing new powers for employment tribunals to make recommendations which benefit the wider workforce
- harmonising provisions allowing voluntary positive action
- allowing positive action in recruitment and promotion.

Some of the new measures in the Equality Act

Pre-employment health-related checks
The Equality Act limits the circumstances when you can ask health-related questions before a person has been offered a job. Up to this point, you can only ask health-related questions to help decide
whether you need to make reasonable adjustments for the person for the selection process. Once a person has passed the interview and been offered a job (whether this is an unconditional or conditional job offer) an employer is permitted to ask appropriate health-related questions.

**Extension of employment tribunal powers**
Under previous legislation, an employment tribunal could make a recommendation that an employer must eliminate or reduce the effect on the claimant of any discrimination.

The Act extends this power so that it will now be possible for a tribunal to make recommendations that an organisation takes steps to eliminate or reduce the effect of discrimination on other employees, not only on the claimant. For example, the tribunal might specify that an employer needs to train all staff on the organisation’s bullying and harassment policy. This power does not apply to equal pay cases.

**Equal pay – direct discrimination**
The Equality Act retains the framework that was previously in place. This means that in most circumstances a challenge to pay inequality and other contractual terms and conditions still has to be made by comparison with a real person of the opposite sex in the same employment.

However, a change in the Equality Act allows a claim of direct pay discrimination to be made, even if no real person comparator can be found. This means that a claimant who can show evidence that they would have received better remuneration from their employer if they were of a different sex may have a claim, even if there is no-one of the opposite sex doing equal work in the organisation. This would be a claim under sex discrimination.

**Pay secrecy**
The Act makes it unlawful for employees to be prevented or restricted from having a discussion to establish if differences in pay exist that are related to protected characteristics. It also makes terms of the contract of employment that require pay secrecy unenforceable because of these discussions. An employer can require their employees to keep pay rates confidential from some people outside the workplace, for example a competitor organisation.

**Positive action in recruitment and promotion**
The positive action in recruitment and promotion (section 159) came into force on 6 April 2011. The term ‘positive action’ covers a range of measures which organisations can use where those with a ‘protected characteristic’ (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation):

- experience some sort of disadvantage because of that characteristic
Positive action allows an employer, when faced with making a choice between two or more candidates who are of equal merit to fill a particular vacancy, to take into consideration whether any of the candidates is from a group that is disproportionately under-represented or otherwise disadvantaged within the workforce.

- have particular needs linked to that characteristic, or
- are disproportionately under-represented in a particular activity.

Where any of these conditions apply, positive action can be taken to overcome that disadvantage, meet that need or encourage participation in that activity. Positive action can be taken in relation to a wide range of activities, such as employment, education, training and service delivery. Positive action measures can be used to counteract the effects of past discrimination so that people in such groups have equal opportunities to achieve their potential.

Section 159 applies specifically to the process of recruitment and promotion. It allows an employer, when faced with making a choice between two or more candidates who are of equal merit to fill a particular vacancy, to take into consideration whether any of the candidates is from a group that is disproportionately under-represented or otherwise disadvantaged within the workforce.

Provisions in the Equality Act 2010 that will not be enforced:
- the socio-economic duty on public authorities
- dual discrimination
- the government is consulting on whether to abolish the third party harassment provision.

**Outstanding issues**
Provisions the government is still considering
- gender pay gap information
- prohibition on age discrimination in services and public functions (consulting April 2011)
- civil partnerships on religious premises.

**FURTHER INFORMATION**

**ACAS**
www.acas.org.uk
*The Equality Act – What’s new for employers?*

**ECU**
www.ecu.org.uk
*Equality Act 2010 – Implications for higher education institutions*

**The Equality and Human Rights Commission**
Information is available from: www.equalityhumanrights.com

**Government Equality Office**
Information is available from: www.equalities.gov.uk
PUBLIC SECTOR EQUALITY DUTY

The General Equality Duty
The General Duty came in on 5 April 2011 and replaced the race, gender and disability equality duties. The new duty also covers age, gender reassignment, pregnancy and maternity, religion and belief and sexual orientation. The duty has three main aims. It requires public bodies to have ‘due regard’ to:

- eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act
- advance equality of opportunity between people who share a protected characteristic and people who do not share it
- foster good relations between people who share a protected characteristic and people who do not share it.

Having due regard means consciously thinking about the three aims of the General Equality Duty as part of the process of decision-making. This means that consideration of equality issues must influence the decisions reached by institutions such as how they act as employers, how they develop, evaluate and review policy or how they design services.

Although the General Equality Duty is Great Britain-wide, Scotland and Wales are able to set their own specific duties. The specific duties in Wales came into force on 6 April 2011 and specific duties that will apply to Scottish public bodies will be in force later in the year.

The Specific Duties
The Specific Duties regulations are intended to support institutions to meet the requirements of the General Equality Duty.

The Equality Act 2010 (Specific Duties) Regulations 2011 came into force on the 10th of September in England

Specific duties in England
The specific duties regulations will require institutions to publish:

- one or more equality objectives by 6 April 2012, and thereafter at least every four years. Equality objectives must be specific and measurable.
- information to demonstrate their compliance with the equality duty by 31 January 2012 and thereafter, at least annually.

The information required must relate to employees and others affected by an institution’s policies and practices such as students and other service users who share a relevant protected characteristic. Undertaking an equality impact assessment is the best way to demonstrate ‘due regard’ and branches should continue to demand their employers carry them out. Branches should keep a record of how decisions on service delivery or staffing are reached in their institution which will help identify good and poor compliance.
The information must be published in a manner that is accessible to the public and can be published within another document.

**The Equality and Human Rights Commission**

The Equality and Human Rights Commission (EHRC) will be providing guidance on good practice on assessing the effect of policies and practices.

The EHRC is also responsible for assessing compliance with and enforcing the Equality Duty. It has powers to issue compliance notices to public bodies that have failed to comply and can apply to the courts for an order requiring compliance. The Equality Duty can also be enforced by judicial review.

**Specific duties (Wales)**


The specific duties in Wales cover:
- objectives
- strategic equality plans
- engagement
- assessing impact
- equality information
- employment information
- pay differences
- staff training
- procurement
- annual reporting
- publishing
- Welsh ministers’ reporting
- review
- accessibility.

There is a UCU guide covering:

1. (an overview)
2. equality objectives and strategic equality plans
3. engagement
4. assessing impact
5. equality information
6. employment information, pay differences and staff training
7. procurement
8. annual reporting, publishing and ministerial duties (including review and accessibility).

**Further advice and guidance**

UCU has produced a public sector equality duty toolkit which is available on the website.

A link to the Equality and Human Rights Commission website is given below. The link takes you to the guidance produced by the EHRC in 2010 for higher and further education on sound financial decision making. Although based on the old duties, institutions should be reminded of this guide.
The Equality Committee will be undertaking a survey of branches in early 2012 to find out where good practice and poor compliance exists in higher and further education. The Equality Unit welcomes feedback and information from branches on the Equality Duty. Please email: eqadmin@ucu.org.uk
UCU has a range of resources to support its equality work. As part of our anti-fascist campaigning we have produced a wall chart to mark Holocaust Memorial Day. All materials are available online or can be ordered from akhan@ucu.org.uk

Resources and contacts

EQUALITY RESOURCES

UCU produces guidance and advice on negotiating on equality issues. Please go to the website. We have also produced resources which help raise awareness including:

Disability History Month Wall Chart
UCU is pleased to mark Disability History Month with the launch of the Disability wall chart to coincide with International Day of Disabled People. Disability history month (observed annually on 3 December) is supported by a wide range of disability groups, unions and voluntary organisations, and aims to promote disabled people’s rights and their struggle for equality.

Events about disability will be held all around the UK and further information can be obtained from www.ukdisabilityhistorymonth.com

Antisemitism and anti-fascist campaigning
Members interested in fighting the rise of far right groups such as the BNP and EDL and to instead celebrate and promote the richness of all cultures. Newsletters are produced termly and are available for download from the UCU anti-fascist campaigning page.

UCU produced a wall chart to help mark Holocaust Memorial Day and educate against the dangers of anti-Semitism, fascism and racial discrimination.

To order a copy of either of these charts, please email akhan@ucu.org.uk with your details.

The majority of our resources are available to download from the UCU website. However, if you would like to receive a hard copy of any of our resources, please email eqadmin@ucu.org.uk stating which resource you would like, the quantity, and giving your full postal address.

See: www.ucu.org.uk/eqres for a full list of our current publications and resources.

Further reading
The Equality Act: UCU Briefing

Public Sector Equality Duty Toolkit

Enabling not Disabling
Age Equality FAQ  
www.ucu.org.uk/media/pdf/7/k/Age_Equality_FAQs.pdf

1 in 4: UCU Mental Health at Work Guidance  
www.ucu.org.uk/media/pdf/r/q/ucu_1in4_mentalhealthatwork_jun11.pdf

UCU Stress Toolkit  
www.ucu.org.uk/stress

The Fit Note  
www.ucu.org.uk/hsfacts

The Equality Act 2010  
www.equalities.gov.uk/equality_act_2010.aspx

Trans Equality in Post-School Education Guidance  
www.ucu.org.uk/media/pdf/i/5/forum_trans_guide_20121.pdf

Turning members into activists – issues, interests and values  
www.tuc.org.uk/alltogetherfor/Turning_Members_Into_Activists.pdf
This TUC leaflet looks at the reasons why members might be reluctant to become active and how to motivate them.

Cuts are not the cure  
www.tuc.org.uk/extras/CUTS_ARE_NOT_THE_CURE.pdf
A new leaflet setting out the economic case against the cuts

Labour Research Department  
The Labour Research Department is an independent research organisation publishing news and information for trade unionists. Around 2,000 trade union organisations are affiliated, representing more than 99% of total TUC membership. http://lrd.org.uk
USEFUL CONTACTS

University and College Union, Carlow Street, London NW1 7LH
Tel: 020 7756 2500
Fax: 020 7756 2501
Web: www.ucu.org.uk

Trades Union Congress, Congress House, Great Russell Street,
London WC1B 3LS
Tel: 020 7636 4030
Fax: 020 7636 0632
Web: www.tuc.org.uk

Scottish TUC, 333 Woodlands Road, Glasgow G3 6NG
Tel: 0141 337 8100
Fax: 0141 337 8101
Web: www.stuc.org.uk

Wales TUC, Transport House, 1 Cathedral Road, Cardiff CF11 9SD
Tel: 029 2034 7010
Fax: 029 2022 1940
Web: www.tuc.org.uk/tuc/regions_info_wales.cfm

Recourse
Tel: 0808 802 03 04
Web: www.recourse.org.uk

Recourse (formerly the College and University Support Network)
provides a range of free confidential services including a 24/7
support line, online support, web-based info centre, financial
support, online self assessment tools and e-newsletter.

Equality and Human Rights Commission (EHRC)
EHRC have offices are based in Manchester, London, Glasgow
and Cardiff.
Web: www.equalityhumanrights.com

EHRC Cardiff, 3rd floor, 3 Callaghan Square, Cardiff CF10 5BT
GENERAL ENQUIRIES
Tel: 02920 447 710
Text phone: 0292 044 7713
Fax: 02920 447 712
Email: wales@equalityhumanrights.com
HELPLINE ONLY
Helpline: 0845 604 8810  Text phone: 0845 604 8820
Email: waleshelpline@equalityhumanrights.com

EHRC Glasgow, The Optima Building, 58 Robertson Street,
Glasgow G2 8DU
GENERAL ENQUIRIES
Tel: 0141 228 5910
Fax: 0141 228 5912
Email: scotland@equalityhumanrights.com
HELPLINE ONLY
Tel: 0845 604 5510  Text phone: 0845 604 5520
Email: scotlandhelpline@equalityhumanrights.com

EHRC London, 3 More London, Riverside Tooley Street,
London SE1 2RG
GENERAL ENQUIRIES
Tel: 020 3117 0235
Fax: 0203 117 0237
Email: info@equalityhumanrights.com
HELPLINE ONLY
Tel: 0845 604 6610  Text phone: 0845 604 6620
Email: englandhelpline@equalityhumanrights.com

EHRC Manchester: Arndale House, The Arndale Centre,
Manchester M4 3AQ
Tel: 0161 829 8100
Fax: 0161 829 8110
Email: info@equalityhumanrights.com

Equality Challenge Unit, 7th floor, Queens House, 55/56 Lincoln's Inn Fields, London WC2A 3LJ
Tel: 020 7438 1010
Fax: 020 7438 1011
Email: info@ecu.ac.uk
Web: www.ecu.ac.uk

Acas: National (head office), Euston Tower, 286 Euston Road,
London NW1 3JJ
Tel: 0207 396 0022
Helpline: 08457 47 47 47

Acas stands for advisory, conciliation and arbitration service. Acas aim to improve organisations and working life through better employment relations. Acas National cannot provide information or advice on individual employment queries; this is provided by the helpline number above.

Acas East Midlands, Lancaster House, 10 Sherwood Rise,
Nottingham NG7 6JE
Tel: 0115 985 8253

Acas East of England, Acas House, Kempson Way, Suffolk Business Park, Bury St Edmunds, Suffolk, IP32 7AR
Tel: 01284 774 500

Acas London, Euston Tower, 286 Euston Road, London, NW1 3JJ
Tel: 020 7396 0022

Acas North East, Cross House, Westgate Road, Newcastle upon Tyne NE1 4XX
Tel: 0191 269 6000
Acas North West, Commercial Union House, 2-10 Albert Square, Manchester M60 8AD
Tel: 0161 833 8500

Acas North West, Pavilion 1, The Matchworks, Speke Road, Speke, Liverpool L19 2PH
Tel: 0151 728 5600

Acas South East, Suites 3-5, Business Centre, 1-7 Commercial Road, Paddock Wood, Kent TN12 6EN
Tel: 01892 837 273

Acas South East, Cygnus House, Ground Floor, Waterfront Business Park, Fleet, Hampshire GU51 3QT
Tel: 01252 816 650

Acas South West, The Waterfront, Welsh Back, Bristol BS1 4SB
Tel: 0117 9065 200

Acas West Midlands, Apex House, 3 Embassy Drive, Calthorpe Road, Edgbaston, Birmingham B15 1TR
Tel: 0121 345 1410

Acas Yorkshire and Humber, The Cube, 123 Albion Street, Leeds LS2 8ER
Tel: 08457 38 37 36

Acas Scotland, 151 West George Street, Glasgow, G2 2JJ
Tel: 0141 248 1400

Acas Wales, Third Floor, Fusion Point 2, Dumballs Road, Cardiff CF10 5BF
Tel: 029 2076 2636

A TOOLKIT FOR UCU EQUALITY AND REGIONAL EQUALITY OFFICERS