

LTC09D116

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The Equality Act 2010 and its Impact on Reassessment 2010

Background

The Equality Act 2010 has just received Royal Assent and will come into force, in phases, from October 2010, strengthening anti-discrimination legislation and extending existing legal duties for the Public Sector, including the Higher Education Sector. The Act streamlines previous legislation and simplifies the approach to equality by forming a mainly common framework for eight ‘protected characteristics’:

- Age
- Disability
- Gender reassignment
- Marriage or Civil Partnership
- Race
- Religion or belief
- Sex
- Sexual orientation

(Some parts of the Public Sector will also have responsibilities regarding socio economic equality but this will not apply to the HEI which is following the Widening Participation strategy.)

The new legislation has created a single Public Sector Equality Duty (PSED) and this will come into force from April 2011.

The PSED will, in part, require us to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it

In practice this means we need to consider what reasonable adjustments can and should be made to ensure that all students have equality of treatment in teaching and learning and that there is effective dissemination of relevant information to students and University colleagues.

Examinations and Religious Practice

Many faiths are practised within the student population at UEA. The University already provides a range of practical facilities for observance of faith. However, as our student body continues to diversify, and in light of existing, as well as strengthened, legislation, practice

regarding examinations (and, separately, scheduling of course tests/assessments) needs review.

An immediate issue will arise for the University at Reassessment in 2010 when Ramadan, which commences on 11 August and finishes on 9 September, will coincide with the published University Reassessment period, running from 23 to 31 August. This was also the case during the last academic session. As the University, in common with most HEIs, does not currently collect data relating to religious belief, our strategy at that time was to consider applications for Good Cause made on the basis that observance of fasting for Ramadan was likely to have had an effect on examination performance and that, consequently, a reasonable assessment opportunity had not been experienced by Muslim students who had failed an examined assessment. The result was that two applications were made and were approved.

In order to comply with the requirements of the imminent legislation, national guidance on which is not expected until later in the year, the University will need to ensure that its policies and practices are kept under review in the wider teaching and learning context. However, in the shorter term, preliminary discussions have taken place between the Equality and Diversity Manager (who has also consulted with the Muslim Chaplain), the University Assessments Manager, LTQO colleagues and the Director of Taught Programmes and a number of options have been considered to address our responsibilities for Reassessment 2010.

Whilst our policy at Reassessment 2009 was deemed reasonable given the very small number of students affected, there are a number of less desirable consequences, including the need for a period of intercalation for students who are approved for a reassessment or delayed reassessment arising from religious fasting.

The following recommendations are, therefore, proposed to promote fair and equitable treatment of students and to mitigate any risk for the University:

1 Manipulation of the Reassessment Timetable

Given the nature of the reassessment timetable and in the absence of monitoring data on religion, the number of Muslim students affected at Reassessment cannot easily be predicted.

In a first attempt to scope this issue, data shown at Appendix 1 estimates potential numbers of Muslim students at UEA based on broad ethnicity data (held on SITS) and potential percentages of Muslims within those populations, based on current global population statistics and information relating to the UK from the Office of National Statistics. This suggests some Schools such as Pharmacy, Development Studies and Medicine have the highest number of Muslim students here. The Schools with the highest potential proportions of affected students are listed.

These estimates suggest that one option could be to attempt to timetable the majority of PHA modules (there are only 2 or 3 MED reassessments) in the morning sessions when the impact of fasting on the mind and body will be less severe.

Given the unpredictability of the Reassessment data, the risk of this would be to publicise a strategy that could not be delivered, so any commitment to this would be subject to what is achievable during the timetabling process. The published Reassessment period is 7 days, with the understanding that the Exams Office will use only 5 of these, if possible, to reduce the burden on Teaching Offices as Registration approaches. The Reassessment period, therefore, offers little flexibility for timetabling strategies.

In addition, it is not possible to ensure morning timetabling for all modules across the University which could result in differential treatment of Muslim students in other areas of the University..

As a rough indication of volume at Reassessment, in 2009 approximately 900 students were referred to Reassessment in 400 exams.

2 Boards of Examiners

In the light of the above, a further step would be to ensure that Chairs and Secretaries to Boards of Examiners are well-briefed on what powers the Boards can exercise to mitigate the consequences for students who may have had their assessment opportunities undermined by fasting. Students who consider themselves to be in this position would notify extenuating circumstances to the Board of Examiners, under existing procedures.

3 Concessionary Route

Where it is deemed that the assessment opportunity of a Muslim student with multiple reassessments might be undermined, a further adjustment could be to consider concession applications for an alternative form of assessment prior to Reassessment. This option may not be appropriate for professional Schools, such as PHA, where specific requirements set by Professional, Statutory and/or Regulatory Bodies may have to be met..

4 Good Cause

As last year, retrospective Good Cause applications will be considered following Reassessment where the Board of Examiners considers that a student who had fasted during the examination period did not have a fair assessment opportunity. Students who are approved for a delayed or further reassessment opportunity, and who fulfil the following provisional criteria (currently under review), may be permitted to register for the new period of study, pending completion of the previous stage:

- the student must have failed only one examination
- the examination must have been narrowly failed
- the student must be level 0 or 1
- the delayed or further reassessment opportunity must be completed prior to October 30th

5 Dissertations

Taught postgraduate students completing a Masters degree are likely to be completing their dissertations or research projects during the summer period. This period coincides with Ramadan for the next few years.

It is expected that students will be able to manage their workloads to mitigate the effects of fasting and have more control over the planning of research time and writing up than over formal University examinations. Schools should, however, be sympathetic to requests for extensions from Muslim students where the student states that their progress has been slowed by the effects of fasting. Where a short extension is requested, Schools are asked to accept a student's account of the ways in which religious observance has impacted upon their ability to undertake research or complete their dissertation. Where a more substantial extension is requested, the normal requirements for independent supporting evidence should be applied (for example, a medical certificate confirming prolonged periods when a student has been unable to engage in study).

6 Dissertations and Reassessment

Students who are preparing for reassessment examinations in August or writing reassessment assignments at the same time as they are completing their dissertation or research project may potentially experience greater difficulties. It is already recommended that students who are preparing for reassessment at the same time as completing the dissertation be granted extensions to compensate for the extra demands on their time. Schools should, therefore, consider the impact of the effects of fasting on students who are preparing for reassessment and completing their dissertations when considering extension requests.

7 Appeals process

As a final stage, students who feel they have extenuating circumstances relating to fasting that have not been addressed through one of the above routes can submit an academic appeal.

8 Communication

General guidance and advice for Boards of Examiners will be issued to raise awareness of Ramadan 2010 and the potential impact on students referred to Reassessment, in advance of the May-June 2010 Assessment period. Information will also be published on the LTQ web pages and on the 'Central Student Handbook' which may be accessed via the Student. Portal. Students will be asked to make the University aware if they intend to fast for Ramadan 2010.

Lynne Ward/Helen Murdoch
April 2010

Total estimated number of students at UEA who may be Muslim	606
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Total estimated % of students at UEA
Who may be Muslim 4.3%

The figures above and below have been achieved by applying known percentages of Muslims in both UK and global populations to ethnicity data of the UEA student population. This has been done at institutional level (above) and School level (below) for those Schools with the highest proportion of Black and Minority Ethnic (BME) students.

Sources: population % stated by ONS (for UK) and the Pew Research Center report of Mapping the Global Muslim Population, as of 8 October, 2009.

Schools with highest % of BME students	Estimated number of students who may be Muslim*	% of all students in School
ECO	21	4
NBS	74	6
PHA	64	13
DEV	45	10
MED	85	8
CMP	26	5
LAW	46	7
PSI	13	3
CHE	32	6
LCS	6	4
BIO	32	4
MTH	11	3
ENV	25	3
EDU	36	4
FTV	3	1
AHP	9	2

Current Guidance from the Equality Challenge Unit (ECU)

In May 2009 the ECU issued a briefing for the HE Sector on Religious Observance.

The following extracts highlight key points of national guidance relevant to the current discussion:

Rights and responsibilities

Institutions and their staff and students have a mutual responsibility for accommodating religious observance on campus. The Employment Equality (Religion or Belief) Regulations 2003(www.opsi.gov.uk/si/si2003/20031660.htm) and the Equality Act 2006 (www.opsi.gov.uk/Acts/acts2006/ukpga_20060003_en_1) give institutions a legal responsibility to ensure their practices do not disadvantage certain groups, unless the requirement is proportionate in the circumstances and contributes to achieving a legitimate aim. Staff and students have no absolute right for their belief to be accommodated; the needs of the institution must be balanced with the beliefs of the individual. There is normally no conflict, but where it does arise, the law requires a reasonable compromise to be sought.

Exams and in-class assessment

Timetabling examinations to avoid key religious holy days and rest days, or times when students may wish to pray, will help reconcile clashes between academic assessment and religious observance.

Seeking information from students as to whether they foresee any conflicts with the examination period and their observance of their religion will help institutions to plan their timetables. There are already a number of considerations involved in timetabling, for example students' different module combinations, so gathering information at registration will give staff more time to arrange examinations. Containing information within the student fresher's pack on how to notify the institution of potential conflicts can help institutions gather this information early. Work with students' union societies can improve the clarity of the questions and students' understanding about why the information is being collected.

When examination timetables have been produced, students will be able to see if they are still able to observe their religion in line with the exam period. To help engage students, timetables can be accompanied with a follow-up reminder that if they have a clash, they should speak to the examination team and to their student society. Problems may arise, for instance, if someone has begun to follow a religious belief after starting at the institution.

Setting up support mechanisms for students will help inform students about this issue. Student societies can again play a role, although students with a religion or belief may not necessarily belong to a society.

Pressures such as room availability and staff resources associated with examinations mean that conflicts may still arise, so further measures, such as chaperoning, alternative papers and alternative sittings, may need to be adopted. Supervising a student between examinations, if they are sitting at different times from other students, requires careful planning of resources. Alternative papers that contribute to degree classification and need to be authorised by external examiners also take time to prepare. Again, communicating procedures on how students can notify institutions of any conflicts at an early stage can avoid the need to seek alternative arrangements, which can be administratively resource-intensive.