

Diversity, equal opportunities and human rights

Equality and diversity are central to education and health services, in terms of both employment and service delivery. Clinical teachers need to be able to support students and trainees around equality issues, have the confidence to challenge discriminatory practice and provide an inclusive and safe learning and teaching environment.

This article provides an introduction to equality and diversity, discrimination and social identity in relation to medical and health professions' education. It provides an overview of relevant legal frameworks, considers ways of challenging discrimination and discusses how equality principles can be applied to the education and training of health professionals.

Equality and diversity

Although sometimes used interchangeably, the terms 'equality' and 'diversity' are not the same. Equality is about 'creating a fairer society, where everyone can participate and has the opportunity to fulfil their potential' (Department of Health, 2004). It is about identifying patterns of experience based on group identity, and the challenging processes that limit individuals' 'potential' health and life chances.

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

An equalities approach understands that social identity – in terms of gender, race or ethnicity, disability, age, social class, sexuality and religion or faith – impacts on life experiences (Table 1).

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Diversity literally means difference. When it is used as a contrast or addition to equality, it is about recognizing individual as well as group differences, treating people as individuals, and placing positive value on diversity. Individual and group diversity needs to be considered in order to ensure that everybody's needs and requirements are understood and responded to within employment practice and service design and delivery.

A commitment to equality in addition to recognition of diversity means that different can be equal.

Why is equality and diversity important?

Equality and diversity are becoming more important in all aspects of our lives:

- We live in an increasingly diverse society and need to be able to respond appropriately and sensitively to this diversity. Learners in the health-care setting will reflect this diversity
- Organizations emphasize that successful implementation of equality and diversity in all aspects of work ensures that colleagues, staff and students are valued, motivated and treated fairly
- We must ensure we avoid discrimination, working within the equality and human rights legal framework covering employment practices and service delivery.

Understanding how discrimination can impact on individuals' lives is essential to

prevent potential discrimination in teaching and learning situations and to ensure confidence in dealing with discrimination issues if and when they arise. It is important that we also identify the links between social identities and individuality and/or a state and situation. Bad treatment can be multi-layered and occur because of an aspect of individuality, e.g. some aspect of personal appearance, size or personal likes, or someone's state or situation, e.g. homelessness, being a lone parent, misuse of drugs or alcohol, citizen status or health.

Valuing diversity

An individual learner's social identity may impact on his/her experience of a programme, teaching session or clinical activity. Discrimination works in practice through stereotyping, making assumptions, patronizing, humiliating and disrespecting people or taking some people less seriously.

The following principles help to ensure that we value diversity and consider the individual's social identity appropriately in clinical teaching. We must:

- Recognize that we need to respect learners as individuals and respond to them and their social identity in an individual manner
- Understand that treating people fairly does not mean treating people in the same way – we need to recognize difference and respond appropriately

Table 1. Social identity – key terms

Class	Class refers to hierarchical differences between individuals or groups in societies or cultures. Factors that determine class may vary widely from one society to another. However, economic disadvantage and barriers to access services are major issues within class discrimination
Disability	The definition of disability in the Disability Discrimination Act 1995 covers anyone with an impairment which has a substantial and long-term (at least 12 months) effect on their ability to carry out day-to-day activities such as mobility, speech, hearing or eyesight, memory or ability to concentrate, learning or understanding, or continence. The definition includes long-term illnesses such as human immunodeficiency virus infection, cancer and multiple sclerosis, from the point of diagnosis
Racial groups	A racial group is a group of people defined by their race, colour, nationality (including citizenship), ethnicity or national origins
Sexuality	This term refers to the general preference of people. It is an alternative term for 'sexual orientation' and is the term currently used

- Try to increase our knowledge and understanding of aspects of social identity that may be different from our own
- Avoid stereotyping or making assumptions about learners based on their social identity
- Recognize that some course content may impact on some learners in a negative or difficult way
- Recognize that the course structure, e.g. timing of lectures, unsociable hours or weekend working, may impact on some learners more than others
- Recognize that your own social identity may impact on learners in different ways
- Avoid using inappropriate and disrespectful language relating to social identity (Lewis and Habershaw, 1990).

Cultural competence

Organizations are increasingly recognizing that cultural competence (linked to cultural sensitivity, cultural awareness, cultural knowledge or valuing of different cultures) is important. Cultural competence can be defined as 'a set of congruent behaviours, attitudes, and policies that come together in a system, agency, or among professionals that enables effective work in cross-cultural situations' (Cross et al, 1989). Cultural competence recognizes that the diversity of employees and service users can be challenging with barriers around, for example, language, cultural misunderstandings and interpretation. These challenges need to be effectively addressed at all levels of organizations and within education and service delivery.

Institutional discrimination

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

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

1. It is triggered by social identity: the discrimination impacts on groups (or individuals because they are members of that group)
2. It is systematic and built into:
 - Laws, rules and regulations, e.g. selection criteria for jobs or courses,

laws such as the minimum wage, pension regularities

- 'The way we do things round here', including the use of authority and discretion, e.g. how training opportunities are allocated, how flexibility in learning practices is authorized
 - The popular culture and ways of describing 'normality', e.g. long working hours culture or expectations.
3. It results in patterns. Incidents of discrimination may appear isolated or random but where institutional discrimination occurs they are part of a wider, often hidden, pattern of events. Patterns of discrimination can often be surfaced by effective organizational information relating to social identity. For example, which groups of people:
- Get promoted in an organization?
 - Get accepted onto a training course?
 - Leave an organization after 6 months of employment?

The answers to these questions (obtained through systematic monitoring) may indicate that some people experience the organization in a different or more negative way than others.

The legal context

As a clinical teacher, understanding the legal framework regarding equality helps you to relate this framework to your everyday role. The UK framework comprises two elements:

- The anti-discriminatory framework (which gives individuals a route to raise complaints of discrimination around employment and service delivery)
- The public duties (which place a proactive duty on organizations to address institutional discrimination).

Overview of anti-discriminatory framework

The main pieces of legislation that support the equality and diversity agenda are the Sex Discrimination Act 1975, the Race Relations Act 1976, the Disability Discrimination Act 1995, the Employment Equality (Sexual Orientation) and (Religious Belief) Regulations 2003, the Employment Equality (Age) Regulations 2006 and the Equality Act 2006 (covers service delivery in relation to sexual orientation and religious belief) (*Table 2*).

The SEN and Disability Act 2001 extended the Disability Discrimination Act 1995 to education with effect from September 2002. This act requires teachers to explore the provision of reasonable adjustments for students who may have disabilities, including learning disabilities, to enable them to participate effectively.

In April 2010, a new Equality Act passed through the House of Commons which seeks to harmonise existing legislation and extend it to cover age, disability, sex, gender reassignment, sexual orientation, race, religion or belief and, in many but not all instances, marriage and civil partnerships. The Act will be implemented throughout 2010–11, and the final details of the Act are still potentially subject to change. Key points of the law include:

- Introducing a new public sector duty to consider reducing socioeconomic inequalities
- Introducing an Equality Duty on public bodies
- Banning age discrimination outside the workplace
- Requiring greater openness from public bodies on gender pay and employment equality reporting
- Extending the scope to use positive action
- Protecting carers from discrimination
- Strengthening protection from discrimination for disabled people
- Protecting people from dual discrimination – direct discrimination because of a combination of two protected characteristics.

Table 2. Who is protected?

Gender	Women, men, people in relation to gender reassignment
Race/ethnicity	Anyone in relation to ethnic origin, nationality, colour or culture
Disability	Anyone with an impairment that has a substantial and long-term effect on his/her ability to carry out day-to-day activities
Sexuality	Lesbians, gay men, bisexual and heterosexual people
Religion/belief	Anyone in relation to religious or philosophical belief, including not having a particular religion or belief
Age	Anyone of any age

Key legal principles

The legal framework gives rise to key principles (Table 3):

- Direct discrimination
- Indirect discrimination
- Harassment
- Reasonable adjustment
- Positive action
- Genuine occupational qualification
- Victimization.

Public duties

In 2000, the first public duty covering race was introduced, followed in 2006 and 2007 by duties covering disability and gender respectively. Under the Equality Act 2010 the duties have been extended to cover all equality strands. In addition a new socioeconomic duty has been suggested. The equality duty will be introduced in 2011. Until this time, organizations should continue to meet their obligations under the race, dis-

bility and gender duties. The duties apply to all public bodies, including local authorities, education, police forces, national health services, NHS trusts and bodies. It is through the implementation of these public duties that organizations will identify and address institutional discrimination. Each public duty requires organizations to:

- Produce a race, disability and gender equality scheme
- Carry out impact assessments on their functions, policies and practices
- Carry out equalities monitoring and take action to redress any imbalance
- Publish the results of any work undertaken.

A summary of current public duties is provided in Table 4.

Human rights

Human rights are the basic rights and principles that belong to every person in the

world. They are based on the core principles of fairness, respect, equality, dignity and autonomy. Human rights protect an individual's freedom to control his/her day-to-day life and effectively participate in all aspects of public life in a fair and equal way.

Human rights help individuals to flourish and achieve potential through:

- Being safe and protected from harm
- Being treated fairly and with dignity
- Being able to live the life you choose
- Taking an active part in your community and wider society (Equality and Human Rights Commission, 2010).

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

Since 1998 the UK has also included human rights within its legal framework. The Human Rights Act applies to all public authorities and bodies performing a public function, and places the responsibility on all organizations to promote and protect individuals' human rights (this means treating people fairly, with dignity and respect while safeguarding the rights of the wider community) and to apply the core human rights values, of fairness, respect, equality, dignity and autonomy, to all organizational service planning and decision making.

The Human Rights Act provides a complementary legal framework to the anti-discriminatory framework and public duties. www.equalityhumanrights.com, the Equality and Human Rights Commission website, contains useful resources and information.

Discrimination	Discrimination is less favourable or bad treatment of someone because of one or more aspects of their social identity. Direct discrimination is less favourable treatment on the grounds of someone's social identity which results in an adverse impact and cannot be justified. Indirect discrimination is when a rule, condition or requirement is applied to everyone but some people find this more difficult to fulfil, causing an adverse impact which cannot be justified
Genuine occupational qualification	If an employer requires a person of a specific social identity for personal services or 'authenticity', they can request a Genuine Occupational Qualification or a Genuine Occupational Requirement from the Equal Opportunities Commission
Harassment	Harassment occurs if A's conduct has the purpose or effect of violating B's dignity or of creating an offensive environment – one that is intimidating, hostile, degrading or humiliating
Positive action	In the areas of training, recruitment, and membership of organizations such as trade unions, if a gender or racial group has been under-represented in the previous 12 months, employers can offer selective training programmes, advertise to encourage applications or train staff responsible for selection. This is positive action. Offering someone a job or promotion on the basis of their gender, race etc is positive discrimination which was illegal in the past. However, the Equality Act 2010 states that in certain circumstances, organizations be allowed to recruit and promote in favour of under-represented groups. Quotas (as opposed to targets) are illegal
Prejudice	Prejudice ('prejudging') describes the feelings that individuals have about other individuals or groups, feelings that are often unfounded and based on stereotypes. We all have prejudices based on our own experiences and indirect experience, e.g. through the mass media, but usually learn to overcome these feelings, or at least control how we behave with others and what we say. Discrimination can be seen as 'prejudice put into practice', where people let their prejudices affect what they say about and how they behave towards others
Reasonable adjustment	Reasonable adjustments are steps which an employer or service provider may have to take in relation to a disabled person in order to comply with the Act, e.g. making adjustments to premises, allocating some of the disabled person's duties to another person, altering their working hours, allowing them to be absent during working hours for rehabilitation, assessment or treatment, acquiring or modifying equipment, modifying instructions or reference manuals or procedures for testing or assessment, providing a reader or interpreter
Victimisation	Victimisation arises where a person treats another less favourably because that person has asserted their rights under the Equality Act 2010 if, for example, that person has brought proceedings, or given evidence or information in connection with proceedings, under the Act

Race	Promote equality of opportunity Eliminate unlawful discrimination Promote good relations between different racial groups
Disability	Promote equality of opportunity Promote positive attitudes towards disabled people and encourage their participation in public life Take account of disabled people's impairments, even when this involves treating a disabled person more favourably than others
Gender	Promote equality of opportunity Ensure that they do not discriminate unlawfully between women and men when carrying out their employment and service functions

The learning and teaching context

As a clinical teacher you will need to role model cultural competence which may require you to challenge learners over their behaviour because you feel it is potentially discriminatory and in order to:

- Ensure you create a learning environment that is inclusive, free of discrimination and that values difference
- Reinforce the policies and procedures of your organization
- Ensure you do not breach the equalities legal framework.

Knowing what to challenge, and when to challenge, can be tricky and open to personal interpretation. There are some non-negotiables re inappropriate language or behaviour, e.g. swearing, language that is racist, sexist or homophobic. Questions such as ‘what constitutes inappropriate banter?’ or ‘they meant no offence by a comment – do I still need to challenge?’ are more difficult to answer.

Not challenging is not a neutral act – it can be seen as colluding behaviour and can in itself be seen as a form of discrimination.

Case scenarios

Here are some examples of remarks and situations that might be discriminatory or require challenging:

1. You observe a student talking to a patient with learning disabilities. The patient has a speech impairment which means that his speech is slow. The student continually interrupts him and finishes his sentences for him.
2. You have noticed that a trainee tends to make a number of assumptions when referring to patients’ social identity. For example she often says things like ‘Asian people do this’ or ‘gay men are known for doing that’. You are worried it may demonstrate underlying issues.

Other issues might require specific support from teachers or supervisors, for example:

3. A trainee tells you that he does not want to deal with a particular patient because he feels she is treating him in a racist manner. Can he refuse to deal with a patient on these grounds?
4. A student was diagnosed with depression 1 year ago but did not tell you until 3 months ago, when she confided in you about what she was experiencing and the treatment she was getting from her GP and therapist. A month ago she was

signed off on sick leave. She returned to work last week but feels overwhelmed. She is determined to carry on with her training. What support can you provide?

Challenging behaviours: guiding principles

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

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

There is no definite way to challenge inappropriate behaviour and everyone finds their own approach to challenging effectively. The following may be useful:

- Do not punish or blame – say what is better
- Understand your audience. Think about your role in the situation – clinician, supervisor, teacher, peer, colleague, manager – and consider this in your approach
- State your position: ‘That’s disrespectful; we don’t talk about patients like that’
- Understand the situation. Do you challenge there and then, or quietly at a later date? What will be most effective for the person involved and/or for those witnessing the incident?

Conclusions

Understanding the principles of equality and diversity and the underpinning legislative framework helps to inform teaching and learning practice and provide a more effective and inclusive learning environment. Teachers have a responsibility to chal-

lenge discriminatory practices and to use the legislation and diversity agenda to positively advocate for more equitable teaching and learning practices. This may involve:

- Ensuring that there are policies in place to deal with complaints about discrimination on any grounds
- Discussing equalities with student or trainee representatives
- Ensuring that learners know where to go if they have concerns about discrimination
- Ensuring that adequate procedures are in place for assessing and managing the needs of learners with disabilities
- Dealing properly with complaints and maintaining proper records (what may seem to be a small incident once may be part of a pattern)
- Ensuring that issues are discussed as openly as possible within an institution, while dealing with specific incidents confidentially
- Giving people feedback if they are complained about. They may be doing something that can easily be changed. **BJHM**

Conflict of interest: Professor J McKimm was commissioned by the London Deanery to lead on the development of the suite of e-learning modules from which these articles have been derived; Ms H Webb: none.

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KEY POINTS

- Teachers have a responsibility to promote equality, recognize diversity and provide an inclusive learning environment for students and trainees.
- Many aspects of social identity impact on the learning process, both positively and negatively.
- Equality and diversity issues may arise in formal and informal learning events, in practice settings and throughout organizational systems and structures.
- Discrimination needs to be challenged, this takes both interpersonal skills and knowledge of legislation and equality principles.
- Understanding the anti-discriminatory and human rights frameworks can help teachers provide appropriate support for learners.