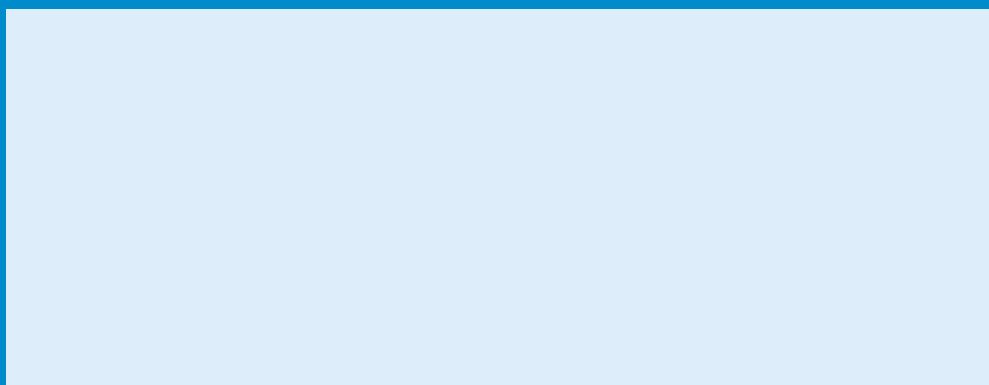


Promoting good relations on campus: a guide for higher and further education



Acknowledgments

This guidance builds on and replaces *Promoting good campus relations: dealing with hate crime and intolerance* (Universities UK/ECU/SCOP, 2005) and *Promoting good campus relations: an institutional imperative* (ECU, 2007) and ECU thanks all those involved in the earlier publications. This guidance updates changes to the law, refreshes some of the previous examples and adds new examples to provide a new toolkit.

ECU would like to thank the following people and organisations for their advice in producing this updated guidance:

- = **Naseem Anwar**, University of Strathclyde
- = **Seth Atkin**, University and College Union
- = **Jo Attwooll**, Universities UK
- = **Simi Ben Hur**, Community Security Trust
- = **Helen Bowles**, GuildHE
- = **Lucy Buchanan-Parker** and **Kat Luckcock**, National Union of Students
- = **Judith Flacks** and **Alex Green**, Union of Jewish Students
- = **Stephen Heap**, Church of England
- = **Olymbia Petrou**, Aberystwyth University
- = **Christine Yates**, Imperial College

Further information

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Promoting good relations on campus:

a guide for higher and further education

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Forewords



Higher and further education institutions have a special responsibility to ensure freedom of intellectual enquiry and expression within the law. They also have a responsibility for embedding inclusive practice in every aspect of their work and for fostering good community relations.

These principles are at the heart of a civil society.

We welcome the increasing diversification of the staff and students on our campuses and the invaluable contribution they make to enriching the social and cultural life of our communities.

Like many institutions, The University of Manchester is committed to safeguarding this freedom of expression and to encouraging tolerance of diverse views and beliefs. These commitments must be balanced alongside the need to foster good relations. This necessitates close working with key groups both on and off campus, of which the students' union is an important partner.

Against this background, this guide is a valuable resource for those involved in strategy and operational activities, and should be shared with anyone who has a role to play in creating an inclusive campus community.

A handwritten signature in cursive script that reads "Nancy Rothwell".

Professor Dame Nancy Rothwell

President and vice-chancellor
University of Manchester



NUS is totally committed to nurturing good relations on campus within higher and further education. Students' unions in particular, continue to be at the forefront of inclusive dialogue and positive engagement among a wide range of audiences. And together, we should all promote equality; respect; security; unity and co-operation and thus allow the diversity of people and their opinions to be celebrated rather than merely tolerated.

While the majority of people on campus find the learning community stimulating and inspiring, this will not be true for a small but increasing number of students. It is vital therefore, that institutions understand the current challenges, that they are aligned with the relevant legislation and can manage the spectrum of intolerance swiftly and effectively.

We warmly welcome this timely resource with its extensive range of case studies and action steps for preventing and managing respective hate crimes and intolerance on campus. It enables a flexible but coherent approach to the complex and nuanced issues involved when individuals and groups express their opinions in word and action.

Now more than ever, with global development and internationalism gathering momentum, we need to provide a space and a place for all people on campus. A space and a place in which everyone can thrive and wellbeing for both individuals and groups is upheld.

Liam Burns
President
National Union of Students

Introduction

Promoting good relations on campus provides an overview of the ways in which higher education institutions (HEIs) and colleges can develop a culture where relationships between diverse groups and individuals enhance the learning experience, facilitate the development of identity, and contribute to an inclusive society.

It outlines the issues that institutions may face in dealing with disharmony between different groups, including hate crime and extremism, and considers how a proactive approach to promoting good relations will ensure that freedom of expression cannot be exploited to damage the legitimate freedoms of others.

This publication aims to support institutions to develop and improve their long-term strategies for good relations work, within the present legal framework. It is based on the premise that practical solutions require a good understanding of the particular environment within which each institution operates and, instead of advocating a 'one size fits all' approach, it outlines good principles of practice that institutions should consider in their particular context.

As a general rule, it is recommended that institutions should consider incidents of hate crime and intolerance on a case-by-case basis within the framework of an agreed policy, seeking specific legal advice where necessary. This guidance does not constitute legal advice, but rather outlines the potential manifestations of intolerant behaviour, and looks at the ways in which the law can provide positive solutions.

The key principle for dealing with hate crimes and intolerance on campus is to understand that all staff and students have the right to work, study and live without fear of intimidation, harassment and threatening or violent behaviour. The key ingredient for the preservation of academic freedom is tolerance and respect for diversity.

The guidance is divided into four parts.

Part 1: context

Defines good relations within the higher education and college context and provides an outline of key legislative provisions that can equip institutions to meet the challenges of developing good relations work on campus.

Part 2: challenges to good relations on campus

Identifies the ways in which intolerance and negative behaviour can surface in the campus community.

Part 3: tackling intolerance and promoting good relations

Introduces general principles for institutions in relation to preventing and dealing with hate crimes and intolerance on campus.

Part 4: case studies

Presents case studies that show how intolerant and extremist activity can potentially cause problems on campus, and how institutions might deal with such incidents and restore positive relations between groups. These are examined through a legal framework and appropriate guidance is provided.

Who should read this guidance?

This guidance is aimed primarily at senior managers, equality practitioners and those leading direct services to students and staff. People involved with student and staff matters, including trade union and students' union officers within HEIs and colleges, would also find this publication helpful.

Equality Challenge Unit (ECU) works with HEIs across the UK and with colleges in Scotland. This guidance therefore does not directly address issues for further education colleges in England, Northern Ireland and Wales, although the general principles contained within it may be of interest to that wider audience.

Part 1: context

This section looks at the context within which HEIs and Scottish colleges operate and the place of good relations within that context. It also considers the challenges to good relations on campus, including extremist activity and hate crimes, and how such behaviour can impact on institutions.

The role of the institution

For many students, their university or college can provide an environment that is far richer in diversity than any they have encountered before. Living and studying with people whose life experiences, values and opinions may be radically different gives students the chance to explore ideas, develop identity and connect with others. The quality of this experience will be largely determined by the efforts that an institution makes to enable students and staff to express, encounter, negotiate and enjoy difference in a climate of respect and learning and to foster good relations across the campus community to the benefit of all.

As environments of research and learning, HEIs and colleges have a special role in promoting and encouraging vigorous debate, free speech and freedom of enquiry within the law. This means institutions need to be tolerant of a wide range of political, social, economic and scientific views, regardless of how unpopular, controversial or provocative these views are (CVCP, 1998: p8).

Special legal status applies to the promotion of free speech and enquiry within HEIs and in colleges, as laid out in the Education Act 1986, the Education Reform Act 1988, the Irish Universities Act 1997 and the Further and Higher Education (Scotland) Act 2005. This supplements the general protection given to freedom of expression in the Human Rights Act.

Alongside the promotion of free speech and enquiry, institutions have a legal duty to ensure that staff, students and others who engage with the institution are protected from discrimination, harassment and victimisation, and that good relations between individuals and groups are facilitated.

As the number of people entering further and higher education increases, there is a growing diversity of backgrounds and viewpoints within institutions, increasing both the opportunity for positive interaction and learning and the risk of disharmony, polarisation and conflict. The challenge for institutions is to develop an environment where intellectual engagement with diversity issues is encouraged but behaviour that disrespects or otherwise harms a commitment to inclusivity is not tolerated.

An institution that effectively manages to safeguard the people who study and work within its community while advancing free speech and intellectual enquiry will:

- = develop an environment of ethical and intellectual rigour that is reflected in institutional life and the experiences of staff and students
- = protect all staff and students from harassment and intimidation
- = cultivate good relations between people
- = build a culture of tolerance and respect that welcomes debate and celebrates difference
- = develop students to be equipped for the diverse and complex world of work following their studies

Good relations: a working definition for higher and further education

Guidance produced by the Commission for Racial Equality (CRE, 2005) identified five key principles for achieving good race relations.

- = **Equality**, equal rights and opportunities for everyone in all areas of activity.
- = **Respect**, acceptance of the individual right to identify with, maintain and develop one's particular cultural heritage, and to explore other cultures.
- = **Security**, a safe environment, free from racism, for all.
- = **Unity**, acceptance of belonging to a wider community, and of shared values and responsibilities, rooted in common citizenship and humanity.
- = **Cooperation**, interaction by individuals and groups to achieve common goals, resolve conflict and create community cohesion.

Today the focus of good relations work extends beyond race to include other protected characteristics, but the five principles continue to provide a useful framework for understanding the concept of good relations. Applied to HEIs and colleges they encompass the following issues.

- = **Equality**, acting swiftly to challenge discrimination, harassment and bullying in all its manifestations.
- = **Respect**, framing the right to self-expression within the context of respect for others; encouraging dialogue about the issues that connect and divide individuals and communities, discussing prejudice; challenging preconceptions and assumptions.
- = **Security**, creating a safe environment for staff and students free from intimidation, harassment and fear; tackling hate crime; challenging views that promote violence or otherwise deny human rights.
- = **Unity**, providing opportunities to learn about difference and identify common ground; promoting the benefits of developing knowledge and skills that improve personal and communal relationships.
- = **Cooperation**, taking a proactive approach to conflict resolution that is fair, consistent and transparent.

Legal framework

Domestic law in the UK, along with European law, establishes the framework within which institutions will manage good relations on campus. Legislation in this area can be characterised by three key themes:

- = protection of the special status of HEIs and colleges
- = anti-discrimination and promotion of equality
- = qualification of rights

The devolved nature of some legislative powers in the UK mean that the four nations on occasion have different laws, although often the rights, responsibilities and principles described in the statutes are similar. This publication mentions the most significant differences but is not intended to be a detailed guide and institutions should always seek clarification of their particular legal position from their own legal advisers.

In relation to colleges ECU guidance only applies to Scotland. References to legislation therefore are limited and should not be deemed to have wider application.

Most students' unions exist as separate legal entities and have their own obligations under the Equality Act 2010 and under charity law if they have charitable status.

The Equality Act 2010 does not apply to Northern Ireland; the legislative position in Northern Ireland is broadly similar to that which applied to the rest of the UK pre-2010. In practice, making the distinction between the activity of the students' union and that of the institution can be complex as frequently the students' union and the institution will have legal obligations towards each other as procurers, suppliers and users of services.

Further information can be found at:

- = www.ecu.ac.uk/publications/files/Inclusive-students-unions.pdf
- = www.universitiesuk.ac.uk/Publications/Documents/FreedomOfSpeechOnCampusRightsAndResponsibilitiesInUKUniversities.pdf
- = www.ecu.ac.uk/publications/equality-act-2010-implications-for-students-unions

Protection of the special status of HEIs and colleges

Under section 43 of the Education Act 1986, HEIs in England and Wales must take reasonably practicable steps to ensure that freedom of speech within the law is secured for staff, students and visiting speakers. This duty includes ensuring that the use of the HEI's premises is not denied to an individual or group on the grounds of views or beliefs held by the individual/group, or the policy or objectives of the group.

Institutions must balance the same considerations and qualifications as those applying to the right to freedom of speech (see below, starting at **Provisions that qualify rights**).

The effect of section 202 of the Education Reform Act 1988 has been to compel those making amendments to English and Welsh university statutes to ensure that academic staff have freedom

within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or any privileges they may have at an institution. These rights must be exercised within the law and will be subject to similar restrictions as those applying to the right to freedom of speech.

In Northern Ireland, an equivalent provision to section 202 is contained in article 3 of the Education (Academic Tenure) (Northern Ireland) Order 1988.

Under section 26 of the Further and Higher Education (Scotland) Act 2005 HEIs and colleges in Scotland must have regard to the desirability of ensuring academic freedom for those engaged in teaching, the provision of learning or research.

Anti-discrimination and promotion of equality

The Human Rights Act 1998

The Human Rights Act 1998 incorporates the European Convention on Human Rights (ECHR) into national law. Institutions in England, Northern Ireland, Scotland and Wales must carry out their public functions in accordance with the rights guaranteed by the ECHR.

The ECHR rights most likely to be engaged in this context are set out below. None of these rights are absolute which means they can, where necessary, be restricted but only on the grounds set out within the specific ECHR article.

A number of ECHR rights are particularly relevant to freedom of speech and expression.

- = Under article 9 individuals have the right to freedom of thought, conscience and religion, including the freedom, either alone or in community with others, and in public or private, to practise their religion or belief in worship, teaching, practice and observance.
- = Article 10 protects freedom of expression, including the freedom to hold opinions and to receive and impart information and ideas.
- = The right to freedom of peaceful assembly and to freedom of association with others is protected by article 11.

- = Article 14 provides an overarching principle of non-discrimination and can only be used in relation to other ECHR rights. It entitles an individual to exercise his or her rights under the ECHR without discrimination on any grounds, including sex, race, colour, language, religion, political or other opinion, national or social origin or association with a national minority.
- = Article 17 provides that no one may use the rights guaranteed by the ECHR to seek the abolition or limitation of rights guaranteed by the ECHR.

The rights under articles 9 (in relation to the manifestation of a religious belief), 10 and 11 are not absolute but subject to limitations, including those set by law and necessary in a democratic society, in the interests of national security, territorial integrity, or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, or for preventing the disclosure of information received in confidence.

The prohibition on discrimination outlined in article 14, unlike articles 9, 10 and 11, is unqualified and cannot be restricted.

The Equality Act 2010

In England, Scotland and Wales, the Equality Act 2010 consolidates previous equality legislation into one act with the purpose of making the law easier to understand and apply. The Act protects students, staff and recipients of services from unlawful discrimination, harassment or victimisation on the basis of certain protected characteristics:

- = age (does not apply to individuals aged under 18 who receive services from institutions that fall within the service provision sections of the Act)
- = disability
- = gender reassignment
- = maternity and pregnancy
- = marriage and civil partnerships (only applies to employment)

- = race
- = religion and belief
- = sex
- = sexual orientation

In Northern Ireland, the above characteristics are also protected under individual anti-discrimination legislation (principal provisions contained in the Equal Pay Act (NI) 1970; Sex Discrimination (NI) Order 1976; Fair Employment and Treatment (NI) Order 1998; Race Relations (NI) Order 1997; Employment Equality (Sexual Orientation) Regulations NI 2003; Employment Equality (Age) Regulations (NI) 2006 and the Disability Discrimination Act 1995).

The public sector equality duty

The public sector equality duty (PSED) set out in the Equality Act 2010 requires public bodies and bodies which exercise functions of a public nature in England, Scotland and Wales, including HEIs and colleges in Scotland, to, in the exercise of their functions, have 'due regard' to the need to:

- = eliminate discrimination, harassment, victimisation and any other prohibited conduct
- = advance equality of opportunity between people who share a protected characteristic and those who do not
- = foster good relations between people who share a protected characteristic and those who do not

Fostering good relations applies to the need for institutions to:

- = tackle prejudice
- = promote understanding between people from different groups

The Northern Ireland Act 1998

Northern Ireland's legislative framework on equality is outlined in section 75 of the Northern Ireland Act 1998 and in separate anti-discrimination legislation that broadly mirrors the position in England, Scotland and Wales pre-2010. The law in Northern Ireland protects people from unlawful discrimination on the same nine protected characteristics in the Equality Act 2010, and in addition, on the grounds of political opinion.

ECU (2010) *Anti-discrimination law in Northern Ireland*
www.ecu.ac.uk/publications/anti-discrimination-law-in-northern-ireland

Provisions that qualify rights

An individual's rights can be lawfully restricted if their behaviour constitutes a criminal offence. The following pieces of legislation are relevant to the issue of good relations on campus.

The Public Order Act 1986

This Act, which applies to all parts of the UK, outlaws:

- = **acts or threats of violence** – riot, violent disorder or affray
- = **causing fear or provocation of violence** – a person using threatening, abusive or insulting behaviour towards another, or displaying threatening abusive or insulting material, may be guilty of causing fear or provocation of violence if he or she intends or causes a fear of violence, or intends to provoke or causes a fear that violence will be provoked
- = **harassment, alarm or distress** – using threatening, abusive or insulting words or behaviour, or disorderly behaviour, or displaying threatening, abusive or insulting material, within the hearing or sight of a person likely to be caused harassment, alarm or distress; higher penalties apply to the more serious offence of intentionally causing harassment, alarm or distress
- = **incitement to racial hatred** – using threatening, abusive or insulting words or behaviour, or displaying, publishing or distributing threatening, abusive or insulting material intended or likely to stir up racial hatred, which is defined as hatred against a group of persons defined by reference to colour, race, nationality or ethnic/national origins

A member of the British National Party (BNP) was convicted of a religiously aggravated breach of section 5 of the Public Order Act 1986 for placing in the window of his house (in clear view of the street) a poster with the words 'Islam out of Britain' and 'Protect the British people', together with a picture of the World Trade Center in flames. His appeal was rejected because his conduct was motivated by hostility towards members of a religious group, and that protecting the rights of others, including freedom of religion, was a reasonable restriction of his rights under article 10. (Norwood v DPP 2003)

A man with sincere religious beliefs preached in a public place against homosexuality. A crowd gathered, resulting in arguing and shouting with one person hit by a placard. He was charged and found guilty under section 5 of the Public Order Act 1986. This interference with his human rights was held to be proportionate because his conduct went beyond legitimate protest, provoked violence and disorder, and interfered with the rights of others. (Hammond v DPP 2004)

The Protection from Harassment Act 1997

The Serious Organised Crime and Police Act 2005 and the Protection of Freedoms Act 2012 added further offences to this Act with the result that in England and Wales an individual may be guilty of an offence if he or she:

- = pursues a course of conduct that amounts to harassment of another, which the harasser knows, or ought to know, amounts to harassment
- = pursues a course of conduct that involves harassment of two or more persons, which the harasser knows or ought to know involves harassment and which is intended to persuade any person not to do something he/she is entitled or required to do, or to do something that he/she is not obliged to do
- = pursues a course of conduct that amounts to stalking
- = pursues a course of conduct that amounts to stalking and either causes another person to fear, on at least two occasions, that violence will be used against the person or causes another person serious alarm or distress which has a substantial adverse effect on the person's usual day-to-day activities

Additionally, there is a separate offence of causing fear of violence – pursuing a course of conduct that causes another to fear that violence will be used against him/her.

A person convicted of harassment may be made the subject of a restraining order.

A civil claim for damages or an application for an injunction may be made against the person who perpetrated the harassment by a person who suffers unlawful harassment. Damages may be awarded for (among other things) financial loss or anxiety.

In Scotland there is no criminal offence of harassment in terms of the Protection from Harassment Act but civil proceedings can be brought by a victim of harassment and the court can grant an interdict or make a non-harassment order (which has a similar effect to a restraining order) as well as awarding damages. If the perpetrator breaches the terms of the interdict or of the non-harassment order this is a criminal offence.

Harassment which is racially aggravated is an offence in Scotland under the Criminal Law (Consolidation) (Scotland) Act 1995. Harassment is racially aggravated if the perpetrator evinces malice or ill-will towards someone based on that person's membership of a racial group or towards members of a racial group because of their membership of it. It is irrelevant whether or not the person is actually a member of that group. Racial group is defined as reference to race, colour, nationality or ethnic or national origins.

A number of provisions in the Serious Organised Crime and Police Act 2005 apply in Northern Ireland and the Protection from Harassment (NI) Order 1997 applies and mirrors the 1997 Act. Harassment on grounds of a protected characteristic is also prohibited in a number of different anti-discrimination pieces of legislation (see [The Northern Ireland Act 1998](#) above).

The Crime and Disorder Act 1998

This Act increased the penalties applicable to certain offences committed in England and Wales (eg harassment, public order and assaults) if they are racially or religiously aggravated. As long as some of the motivation is wholly or partly racial or religious, the offence will count as a racially or religiously aggravated offence. This Act also increased the penalties applicable to offences committed in Scotland if they are racially aggravated.

The Criminal Justice (Scotland) Act 2003 includes a similar provision for offences aggravated by religious prejudice.

An offence is racially or religiously aggravated if at the time, or immediately before or after committing an offence, a person demonstrates hostility towards the victim based on the victim's actual or presumed membership of a racial or religious group, or the offence is motivated (wholly or partly) by hostility towards members of a racial or religious group because of their membership of that group.

The Criminal Justice (No.2) (Northern Ireland) Order 2004 includes similar provision for offences aggravated by racial, religious, sexual orientation and disability hostility (see below).

The Racial and Religious Hatred Act 2006

Preceding the Racial and Religious Hatred Act by some years the Public Order (Northern Ireland) Order 1987 made it a criminal offence to incite or arouse fear of racial or religious hatred (and hatred by reference to sexual orientation and disability).

In England and Wales and Scotland, the Racial and Religious Hatred Act 2006 amends the Public Order Act 1986 to include offences involving public order against persons on religious grounds. The Act does not outlaw disagreement with or disapproval of a particular religious viewpoint but rather focuses on those who stir up violence and hatred on religious grounds.

The following acts are criminal offences if they are committed with the intention of stirring up religious hatred.

- = The use of threatening words or behaviour.
- = The display, publication or distribution of any written material which is threatening, or possession with intent to display, publish or distribute.
- = The public performance of a play which involves the use of threatening words or behaviour.
- = The distribution, showing or playing of a recording of visual images or sounds which are threatening, or possession with intent to distribute, show or play.

Offences (Aggravation by Prejudice) (Scotland) Act 2009

This Act makes provision in Scotland for the aggravation of offences by prejudice relating to disability or to sexual orientation or transgender identity. As long as some of the motivation is wholly or partly relating to disability, sexual orientation or transgender identity the offence will count as an offence aggravated by prejudice on those grounds. Disability refers to a mental or physical impairment of any kind.

An offence is aggravated by prejudice relating to disability or sexual orientation or transgender identity if at the time or immediately before/after committing an offence, a person evinces hostility or ill-will towards the victim relating to the victim's actual or presumed disability, or if the offence is motivated by ill-will towards persons who have a disability or a particular disability or towards the sexual orientation or transgender identity of the victim or those who have a particular sexual orientation or transgender identity.

The Terrorism Acts 2000 and 2006

The Terrorism Acts 2000 and 2006, which cover all parts of the UK, create a number of offences intended to prevent the recruitment and training of potential terrorists including, by way of example, membership of or support of a proscribed organisation, the planning of serious acts of terrorism, the inciting or encouragement of others to commit acts of terrorism, the dissemination of terrorist publications and the provision or undertaking of training in terrorist techniques.

If a person receives information in the course of his/her employment which causes him/her to suspect or believe that a person has committed certain offences, such as money laundering or using funds or property for purposes of terrorism, it is an offence if the person fails to disclose, without reasonable excuse, the suspicion or belief and its basis to the police. It is a defence to show that the matter was disclosed in accordance with any procedure which the person's employer has in place for making such disclosures.

It is an offence for a person to fail, without reasonable excuse, to inform the police of any information which he or she knows or believes might assist in preventing another person carrying out acts of terrorism involving:

- = serious violence against a person
- = serious damage to property
- = endangering another's life
- = creating a serious risk to public health and safety
- = serious interference or disruption in an electronic system

Beyond the requirements stated in **Offences (Aggravation by Prejudice) (Scotland) Act 2009** opposite, there is no general legal obligation to monitor or report the activities of members of an institution's community.

Other relevant legislation

Institutions that are on the UK Border Agency (UKBA) sponsors' registers for the recruitment of international students or staff have specific responsibilities in relation to reporting information to the UKBA. Institutions should ensure that they consider how this responsibility may affect relations on campus and take steps to minimise any potential disruption.

Parties seeking to take action that may threaten good relations on campus may use the legal right to access information held by public bodies. Institutions have responsibilities under the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004 to safeguard the information that they hold so that individuals are not put at risk through disclosure. www.ico.gov.uk

In England and Wales, under the Safeguarding and Vulnerable Groups Act 2006 (as amended by the Protection of Freedoms Act 2012) it is an offence for an institution to:

- = permit a person, whom it knows or has reason to believe is barred from engaging in 'regulated activity' with children or vulnerable adults (eg unsupervised teaching of under 18s on a regular basis), to engage in such activity
- = fail to refer a person to the Independent Safeguarding Authority where permission to engage in 'regulated activity' is removed because the institution thinks that the person has engaged in certain prescribed offences or conduct against children or vulnerable adults or poses a risk of harm to such groups

For Northern Ireland, the Safeguarding and Vulnerable Groups (NI) Order 2007 contains similar provisions.

The implications of the law for institutions

Alongside their commitment to academic freedom, institutions have legal obligations in relation to equality, human rights and security. Institutions may experience no tension between the right to freedom of speech and academic freedom and the rights of the individual to be protected from discrimination, harassment or fear of violence. However, on occasions the two positions may be in opposition and institutions should be prepared to take action if ideas or views infringe the rights of others, discriminate against them, or if any activity constitutes a criminal offence or incites others to commit criminal acts.

Part 2: challenges to good relations on campus

The majority of people who attend UK HEIs and Scottish colleges will experience an environment where the opportunity to study or work in a diverse community is stimulating, safe and enjoyable. However, this will not be true for all, and for this reason it is important that institutions have an understanding of the challenges that can undermine the goal of promoting good relations.

The increasing diversity of staff and students and the growth in the number of institutions operating overseas means that now, more than ever before, institutions are connected to global political, social and economic developments. Local community ties are also increasingly strong, with a large number of UK students studying close to home and with part-time students combining study with existing work or other local commitments. Troubled relations between different groups that occur off campus, either on the world stage or in the local neighbourhood will impact on institutions, and they will need to be alert to the risk of external events damaging good relations on campus.

Hate crimes and hate incidents: definition

The Association of Chief Police Officers (ACPO) defines a hate incident as:

'Any incident, which may or may not constitute a criminal offence, which is perceived by the victim or any other person, as being motivated by prejudice or hate based on their disability, race, religion, gender identity or sexual orientation.'

And a hate crime as:

'Any hate incident, which constitutes a criminal offence, perceived by the victim or any other person, as being motivated by prejudice or hate based on their disability, race, religion, gender identity or sexual orientation.'

(ACPO, 2005)

While only hate crimes may be prosecuted, police forces encourage the reporting of hate incidents. There is considerable evidence that perpetrators of hate incidents often move on to committing hate crimes, and the reporting of hate incidents allows the police to take steps to prevent an escalation into criminal acts.

Examples of hate crime/incidents include:

- = verbal abuse
- = threatening or offensive emails
- = negative coverage of particular groups through formal or informal institutional communications
- = the use of social networking sites to threaten, harass or offend individuals or groups
- = vandalism of property including offensive graffiti and the defacing of posters
- = vandalism of equipment used by disabled people to aid mobility or otherwise provide support
- = negative, abusive or threatening behaviour relating to cultural or religious dress and artefacts, including pressure to dress in a certain way
- = physical assaults to staff or students
- = the exclusion of particular groups through the presence of 'no-go' areas on campus
- = threatening campaigning activities, including violent protest or the dissemination of inflammatory literature

Both hate incidents and hate crimes often go unreported. This may be because victims do not perceive the event to have been serious enough to warrant reporting, do not think that they will be believed or that any action will be taken, do not know how to report an incident, or are concerned that they will be the target of further incidents.

An essential part of tackling hate crimes/incidents involves understanding and dealing with the underlying issues that can result in such behaviour. A key underlying issue is intolerance. Academic freedom is an important component of academic life and flourishes best where there is tolerance and respect of a wide range of views and beliefs. Intolerance is the opposite of this.

By understanding and dealing with intolerance, institutions can prevent instances of hate crime or other unacceptable behaviour on campus.

Particular manifestations of hate crimes and hate incidents

It is important to be aware of the context in which hate crimes/ incidents and intolerance operate in the UK, the wider trends this behaviour can follow and the effect it can have on institutional life. The following are examples of the particular manifestations of intolerance that are current in UK society.

Racial intolerance

The growing diversity of the UK population, particularly among younger people, and the increasing number of international students and academics who choose to study or work in the UK mean that many institutions have staff and student bodies rich in a wide variety of nationalities, ethnicities and cultures.

Research undertaken by the National Union of Students (NUS) found that 18 per cent of black and minority ethnic (BME) respondents and three per cent of white respondents had experienced at least one racial hate incident during their studies. International and overseas students were more likely to experience hate-related incidents: 22 per cent of respondents said that they had experienced at least one racial hate incident compared with eight per cent of EU respondents and six per cent of UK-domiciled respondents (NUS, 2012a).

While many racially-motivated hate incidents experienced by staff and students occur outside of the higher education environment a significant percentage do take place on campus. The NUS research found that 27 per cent of incidents occurred in or around the institution (NUS, 2012a).

Political intolerance

Political parties such as the BNP, have existed within the British political system since the early 1980s when the party formed from a division with the then 'National Front'. Inherent in the culture of such political parties is the belief that people from BME backgrounds, and lesbian, gay and bisexual (LGB) and transgendered people are not entitled to the same rights as other people. More recently parties such as the BNP have attempted to organise themselves within the political mainstream by broadening their aims to encompass general issues of social concern, such as housing, immigration, crime and education.

Over the last few years there has been a global increase in political movements based around beliefs and practices that seek to segregate communities or further a political cause tied to extremist beliefs. These movements may be well resourced and organised in their actions, and are prepared to disrupt public life to achieve their aims. Inherent in the practices of such movements is a systematic belief that demonstration and sometimes aggression can change society and fulfil a goal of far-right or fundamentalist political change in the UK.

Movements of this nature can feed off the action of opposing movements to develop membership and increase public interest within their cause: the 2010/11 burning of poppies during remembrance day parades by Muslims against Crusades led to protests by the English Defence League in areas of the UK known for their religious and cultural diversity, and in particular their minority Muslim communities.

Of particular relevance to colleges and HEIs are the areas of environmentalism and animal rights, owing to the number of young people involved in related activity. While the large majority of protesters campaign in a lawful manner, a small group of extremists use illegal means to intimidate those involved in regulated scientific experiments involving the use of animals. Such harassment includes the targeting of both companies and research institutes (including HEIs) involved in animal sciences. It can also extend to secondary and tertiary targets such as customers, relatives and suppliers. Activities range from vandalism, threatening mail, email, faxes and phone calls, to hoax explosive packages, serious assaults and, in extreme cases, the use of explosive devices against property. In 2004 the Royal Society estimated that security measures to defend against acts of animal rights extremist activity cost British HEIs an average of about £175,000 each per year.

Royal Society. 'Animal rights terrorism costing universities dearly'
www.royalsociety.org/News.aspx?id=1259

The Equality Act 2010 provides protection for individuals from discrimination related to philosophical belief. Case law has determined that a wide range of beliefs including certain political philosophies, environmentalism and animal rights may (subject to certain criteria) be recognised as philosophical beliefs and therefore be protected under the Act. Institutions will need to bear this in mind when dealing with such cases (although of course this does not prevent them from taking action to deal with illegal acts).

Balancing the right for students and staff to engage in political activity and debate with the wider effect on the community is a core part of maintaining good relations on campus.

Religious intolerance

A survey by NUS found that 52 per cent of Muslim, 35 per cent of Hindu, 33 per cent of Sikh and 32 per cent of Jewish respondents were very or fairly worried about being subject to abuse because of prejudice against their religion or belief, compared to four per cent of respondents who were atheist and four per cent of respondents who identified as having no religion. Almost one fifth of hate incidents reported by respondents were thought to have had an element of religious prejudice (NUS, 2012b).

The freedom to express religious beliefs is important to many people and generally makes a positive contribution to the campus community. However, the subject of religion and belief can be misappropriated and used as a means of legitimising discrimination, extremism and intolerance.

It is important for institutions to recognise that an individual's religion or beliefs can be both the target for hate crimes/incidents and the motivation for committing such unacceptable behaviour.

Religious intolerance can lead to intimidation, harassment or victimisation. In much the same way as political extremism, religious hate crimes and intolerance can curtail an individual's freedom to participate in civil society.

The first decade of the 21st century saw a discernible rise in religious hate crime and intolerance. Various religions have been the target and the perpetrators have come from both religious and non-religious backgrounds. Activities that have been attributed to members of particular religious groups can lead to reprisals on these groups as a whole, and on other groups who are perceived to share a common ethnic, national or racial background. For example, acts of terrorism (such as the attack on the World Trade Center on 11 September 2001 and the London bombings of 7 July 2005), claimed to have been carried out by extremist groups in the name of Islam, have led to reprisals against the Muslim community as a whole, and against people of Asian origin irrespective of their religious beliefs.

The impact of both local and global politics on relations between different religious groups (and between religious and secular groups) and on attitudes toward different religions in the UK is significant. For example, British government intervention in Iraq and Afghanistan has divided public and religious opinion and fuelled hostility between groups with opposing views (see **Political intolerance**), religious-based hostility has found expression in conflict over Irish independence, and sectarianism in Scottish football is based on religious divides. On an international level, conflicts such as that between Israel and Palestine also reflect back on public opinion in the UK, often leading to increased intolerance against religious communities.

Acts of religious intolerance and hate crime can exist within faith communities, particularly where an individual or group from a particular community is viewed by others of that community as deviant or disrespectful of particular beliefs or associated culture. Such intolerance may manifest as 'honour-based' violence, forced marriage, exorcism or other abuse based on belief in witchcraft or voodoo, exclusion from worship or other religious practice, public denouncement or ostracism. Similarly differences between sects within a faith can result in intolerance and unacceptable behaviour.

Examples of intolerance towards particular religions that are most frequently expressed within the UK include the following.

= **Islamophobia**

Fear and dislike of Islam and Muslims has been on the rise in some parts of the world, particularly since the terrorist attacks of September 2001 and July 2005. Muslim students have, in a number of cases, been victims of hate crimes and intolerance on campus or been affected by attacks on mosques and other instances of Islamophobic hostility in the wider community.

= **Antisemitism**

Motivated by religious or racial hatred (and legally defined as both religious and racial discrimination), antisemitism is hostility towards or prejudice against Jews or Judaism and has been on the rise globally over the last few years. The UK has seen the number of antisemitic assaults and other incidents increasing steadily since 2001. The report of the all-party parliamentary inquiry into antisemitism, published in 2006, found that despite a growing level of activity to combat antisemitism on campuses, more work was required. Antisemitic incidents have included violent attacks on synagogues, cases of suspected arson and the desecration of Jewish cemeteries. As with instances of Islamophobia, such negativity can affect the lives of Jewish students and staff on campus.

= **Sectarianism**

In current usage sectarianism most often refers to internal divisions and hostility between religious groups or denominations of a group often also divided by class, region or political involvement. In the context of the UK, sectarianism usually refers to conflict between the Protestant and Catholic faiths in or related to Northern Ireland. However, sectarian conflict also exists in parts of Scotland and can still be the cause of problems, as shown clearly in football-related violence during recent history. Sectarianism also exists in many other religions where differences in culture and belief result in hostile relations, for example between some Sunni and Shia Muslim groups. Sectarian-based intolerance can lead to negative relations on campus between groups and individuals, directly affecting an individual's ability to grow and develop.

= **Casteism**

Refers to discrimination based on systems of social stratification within communities, often resulting in the maltreatment of an individual or family based on their respective caste level within the culture or community. While caste systems are found in many societies, in the UK caste is understood primarily in relation to cultures from the Indian subcontinent, and in religious terms the caste system is often seen to relate to the Hindu and Sikh faiths, although the connection between religion and caste is frequently disputed. Caste discrimination is not currently explicitly covered under UK discrimination law although there is provision within the Equality Act 2010 for this to change without the need for further legislation if the government decides to do so.

Homophobic/biphobic intolerance

Homophobia is the hatred, intolerance or fear of lesbian and gay people. Biphobia is the hatred, intolerance or fear of bisexual people. People can be subjected to homophobic or biphobic behaviour based on their actual or perceived sexual orientation.

While there is increasing recognition in further and higher education that homophobic/biphobic jokes or banter are unacceptable, there is some way to go before instances of such behaviour are universally treated with the same disapproval as overtly racist comments.

In 2009 the Crown Prosecution Service reported that 3400 people were prosecuted for homophobic (or transphobic) hate-related offences (CPS, 2009). Confidence within the LGB community that such offences will be taken seriously has continued to grow over the past decade as the police have developed campaigns aimed at encouraging the reporting of homophobic/biphobic hate incidents and crimes.

Disability-related intolerance

'For many disabled people, harassment is an unwelcome part of everyday life. Many come to accept it as inevitable and focus on living as best they can. And too often that harassment can take place in full view of other people and the authorities without being recognised for what it is. A culture of disbelief exists around this issue.'

(EHRC, 2011)

The past decade has seen a growing national awareness of hate crimes and intolerance against disabled people, with numerous studies consistently identifying a high level of abuse and harassment. Research conducted by the department of children, schools and families in 2007 showed that more than four-fifths of young people with a statement of special educational needs or a disability that affected their schooling reported being bullied (DCSF, 2007).

Research by NUS found that eight per cent of disabled respondents had experienced at least one incident of disability-related prejudice. One in four who were victims of physical abuse stated that they had experienced such mistreatment many times. 26 per cent of incidents believed to have been motivated by disability-related prejudice occurred in or around the institution and a further 24 per cent occurred in a learning environment such as a classroom or lecture theatre. 56 per cent of incidents involved perpetrators who were known to be students (NUS, 2011b).

Sex-related intolerance and transphobia

While sex is not recognised in the current UK classification of hate crime/incidents, institutions nonetheless have a responsibility under the Equality Act 2010 to ensure that both men and women are protected from sexual harassment, and activity designed to promote good relations should include gender-related issues.

Research carried out by NUS between August 2009 and March 2010 found that 68 per cent of the female students surveyed had experienced some kind of verbal or non-verbal harassment, including groping, flashing or unwanted sexual comments, in or around their institution, with one in seven experiencing a serious physical or sexual assault during their time as a student. The majority of perpetrators were fellow students (NUS, 2011a).

Gender identity is officially recognised as a motivation for hate crime and many UK police forces have taken action to encourage the reporting of transphobic hate crime (transphobia is the hatred, intolerance or fear of those who identify as transgender, or do not adopt the perceived social norms of gender identity), however, reporting rates remain low with many victims of such incidents being reluctant to come forward.

20 per cent of transgendered respondents to an NUS survey had experienced at least one incident of physical abuse while 38 per cent had experienced verbal abuse, the threat of violence or threatening behaviour (NUS, 2011c).

Other challenges to good relations

Violent extremism

The threat of terrorist activity undertaken by extremist groups has dominated the UK security agenda in the last decade. The government's response has been delivered through a four strand strategy, one element of which – Prevent – is intended to stop people from becoming terrorists or supporting violent extremism.

Although a small number of cases of extremism linked to terrorism have involved students and graduates of UK universities, it is generally recognised that the sector does not have a major problem with violent extremism. However, the government has recommended that institutions should be aware of the risk of radicalisation and the challenges posed by violent extremism.

A survey conducted by Universities UK in 2010 found that two-thirds of universities had engaged with Prevent and several expressed a wish to do more. However, there have been criticisms of Prevent for focusing predominantly on the Muslim community and for channelling counter-terrorism activity through community cohesion strategies.

Part 3: tackling intolerance and promoting good relations

Armed with knowledge of the legislative framework, a commitment to academic freedom and an understanding of the spectrum of intolerance, an institution is well equipped to develop an effective strategy to promote good relations on campus. It is useful to consider this in three parts:

- = immediate action to deal with hate crimes/incidents and other intolerance
- = medium-term action by the institution to tackle specific hate crime and intolerant activity in the wider institutional context
- = long-term activity designed to help promote good relations between all people in the institution

The importance of reasonableness and proportionality

It is important that institutions have in place robust processes for investigating incidents of hate crime and intolerance and encourage individuals to report such incidents, either using internal processes or through external procedures. Equally important is the work done to raise confidence in the institution's commitment to dealing with alleged incidents seriously, fairly and with appropriate sanctions should they be proved true.

When making a decision on how to deal with an incident of hate crime or intolerance, institutions will need to take into account reasonableness and proportionality. In order to demonstrate that a decision to curtail rights to freedom of expression is justified, and that the limitations imposed are reasonable and proportionate, an institution will need to show that:

- = the decision has been reached after careful consideration
- = the decision is based on evidence
- = the decision is necessary to prevent crime or disorder, or otherwise to protect the rights and freedoms of others
- = the decision has been taken with due regard to the relevant legislation and ensuing action observes legal requirements
- = the action taken is proportionate to the perceived or actual threat of disruption to good relations

If a reasonable decision is taken and documented as a result of evidenced balancing of all relevant issues, an institution should be able to defend its actions against any subsequent claim.

Immediate crisis intervention

The majority of incidents of intolerant activity and hate incidents are likely to involve an individual or a small group of people and the impact, while possibly severe for those people, will not significantly affect the wider campus community. Institutions should ensure that they have appropriate policies and procedures for dealing with such cases (eg harassment and bullying policies, codes of conduct, disciplinary and grievance procedures), and that mechanisms are in place to support individuals in dealing with the immediate and longer term impact of the situation (eg counselling and other forms of student liaison services). In the case of a potential criminal offence the institution should work with the police as appropriate to support the investigation.

On occasion an incident may have a wider impact, either because of the number of people involved or the potential for disruption to good relations (eg in a dispute between two student groups), because of risk to student or staff safety, or because of significant media interest or potential damage to the institution's reputation. An institution should prepare for such a situation by having in place effective policies and processes. The following steps are recommended.

Use of appropriate decision-making processes

Decisions that need to be taken about how to deal with a particular incident may need to be made quickly and often under the spotlight of stakeholder or media attention. It is important that they are made by the right people with sufficient authority to ensure that all relevant information is considered, that agreed actions are carried out and outcomes are achieved. Where an institution does not already have in place a process for managing critical incidents a senior manager should be designated to lead the decision-making process, with support from a working group made up of appropriate specialists (eg equality advisers, communications and HR staff) and reporting responsibilities to the vice-chancellor or principal's office.

Deciding upon a course of action

As well as looking at the evidence directly related to the incident in question, the working group will find it useful to consider:

- = the responsibilities the institution has under relevant legislation
- = the institution's policies and procedures
- = consultation with those likely to be affected, both directly and indirectly
- = the likely impact of any decision on campus relations
- = the reputation of the institution among particular communities and more widely

Consultation with relevant organisations

The senior manager responsible for dealing with the incident should consult with interested parties across campus and, where appropriate, with relevant external organisations, such as the police, who might be able to provide further support and assistance. The formation of an emergency working group to bring relevant people together and support the senior manager might be useful, although consideration should be given to the different interests that might exist within this group and care taken to underline its advisory capacity. Membership of such a group might include press/communications, equality and HR specialists, the students' union, recognised trade unions and staff networks and, if possible, representatives from relevant communities and organisations.

Developing a communications strategy

The institution should consider its approach to communications relating to the incident, bearing in mind issues of confidentiality and data protection and balancing them against calls for openness and transparency. It will be useful to monitor what is being communicated about the incident in student publications, blogs, social networking sites and in the media generally.

Learning from the experience

An in-depth evaluation of the effectiveness of actions taken to deal with a particular emergency situation might prove valuable in preventing/managing future incidents. The institution should ensure that any action points are taken forward through the appropriate channels and should also consider how the lessons might be used to raise awareness across campus of the shared responsibility for maintaining good relations.

Medium-term anticipatory action

An institution may find itself in a situation where local, regional or national issues have reached an intensity that might affect it in the future, and where carefully targeted intervention might prevent or limit any negative impact. Examples of such issues might include attacks on local halal butchers by animal rights activists, protests about the location of an authorised encampment for Gypsy and Traveller families in an area adjacent to campus, or a number of homophobic assaults occurring in the same region as an institution. The following actions are recommended.

Consultation

In order to find out the extent of the issue and how it could affect the institution, consultation with local internal and external groups and individuals who have been or may potentially be affected by such activity is recommended. Certain groups in the campus community may have concerns about their safety and the institution should therefore ensure that any information provided is treated sensitively and that confidentiality is maintained where appropriate.

Communication

The institution should consider reminding students and staff of the collective responsibility for maintaining good relations by highlighting key messages on what activity is acceptable within the institutional environment. Raising awareness of the institution's commitment to dealing with intolerance and of the processes for reporting hate incidents/crime may help to alleviate the concerns of groups who feel they may be the targets of such activity.

Pre-emptive action

The institution should look for opportunities for pre-emptive action that can reduce the risk of the national/local issue in question spilling over on campus. This might involve organising a debate or other forum for dialogue that allows opposing views to be expressed and explored in a controlled environment, developing activity that brings different groups within the institution together to promote good relations, or working within the further and higher education sectors (or more widely) to minimise the spread of hate incidents.

Long-term preventive action

While no institution can rule out the possibility of activity that threatens good relations on campus, it is likely that few institutions will deal regularly with incidents that require the kind of immediate or medium-term interventions outlined above. Institutions should create strategies that promote good relations between people from different backgrounds and beliefs in order to pre-empt hate incidents, crime and intolerance on campus. They should consider the variety of ways in which hate incidents, crime and intolerance can occur and take account of changes in legislation when developing and updating such strategies. The following actions are recommended.

Commitment and mainstreaming

Effective counteraction against hate crime and intolerance may involve using institutional processes at short notice and require the rapid mobilisation of different groups of staff, students and others. This is more likely to occur if the commitment to tackling intolerance is recognised as part of the institution's core values and supporting activities are embedded within its strategic framework. Involving staff and students in the development of this process and communicating the outcomes clearly will ensure a wide understanding of, and participation with, the commitment to good relations on campus.

Alignment with equality and diversity activity

Under the Equality Act 2010 PSED, institutions are required to demonstrate their ability to foster good relations between different groups. They therefore need to ensure that the work they undertake to deal with intolerance is part of the overall approach to equality and diversity and aligned with other activities that promote an inclusive culture. Institutions should reflect their commitment to promoting good relations in their equality objectives or outcomes and consider the methods by which they will report progress in achieving objectives or outcomes. By making good relations activity part of the overall equality agenda institutions will ensure that it is managed and evaluated effectively and that it informs the development of future strategies. Working with the students' union and trade unions, which often have significant expertise in this area including organising activities that have a direct impact on good campus relations, will ensure a holistic approach.

An institution's equality strategy/policy should outline the mission, stance and activity in relation to equality and diversity, including how the institution would react against activity that threatens the safety of individuals or groups in the community or seeks to undermine good relations between different groups on campus. The strategy/policy should outline the rights and responsibilities of staff, students and others with potential and actual links to the institution such as visitors and contractors, and link to a programme of action that will detail the activity undertaken to promote good relations. The following checklist might prove useful in evaluating progress made to date and identifying new areas for action.

- = How does the institution bring people together to explore experiences, challenge assumptions and stereotypes and develop shared goals toward achieving equality?
- = How does the institution enable debate and discussion of difference and shared experience?
- = How does the institution promote a better understanding of equality and human rights through events, forums and other social gathering as well as through teaching and learning?
- = How does the institution tackle intolerant behaviour that creates inequality between different groups?
- = How does the institution explore and respond to issues of freedom of speech on campus?

Understanding the legal context

It is important that institutions have a good idea of the present and prospective legal environment in this area, and how legislative provisions serve to assist institutions in carrying out their functions. Institutions should ensure that processes are in place to keep abreast of legislative developments in this area and apply them to policies and procedures as necessary.

Understanding the issues

In order to design an approach that is reasonable and proportionate institutions should ensure that they have a good understanding of the causes, forms and consequences of hate crime and intolerant activity within and beyond the further and higher education sectors. This is important as institutions become increasingly diverse and therefore more at risk of being affected by troubled relations between different groups of people. In particular, institutions should ensure that they consider the impact of their internationalisation strategies on good campus relations.

Reviewing and strengthening existing structures and practices

Institutions will find it useful to review existing strategies, policies and procedures including equality and diversity strategies, student regulations, guidelines for dealing with harassment, disciplinary, grievance and complaints procedures, and communication and stakeholder engagement strategies. This will help to identify any deficiencies that may have an impact on work against hate incidents, crime and intolerant activity. The Equality Act 2010 requires institutions to demonstrate their effectiveness in meeting the PSED, therefore equality analysis/ impact assessment of policies, provisions, criteria and practices to ensure there is no adverse equality impact on people may prove a valuable review and change-management tool.

Institutions should identify particular areas of business where there is potential for a disruption to good relations and review related policies and processes as a priority. For example institutions may have in place regulations such as a notification procedure, requiring student societies and other organisations that use campus facilities to give notice of activities they propose to undertake. This would usually be an agreed protocol negotiated between the institution, the trade unions, students' union and other appropriate stakeholders. Institutions should ensure that such protocols contain a clear statement that the right to assemble, demonstrate, protest and speak within the law is not to be infringed, but that hate crime and incitement to commit illegal acts will not be tolerated. This should be supported by guidelines/protocols for external speakers and a process that enables student societies to work with the institution to reach a satisfactory solution in case of dispute, and to minimise potential damage to good relations and risk to the institution's reputation.

Developing skills and confidence

All staff have a responsibility for maintaining good relations on campus and an institution will need to ensure that they understand their role and have the knowledge and skills to carry it out. A greater level of responsibility rests with staff who work directly with students or who are responsible for staff and who are best placed to identify and resolve issues likely to threaten good relations (such as staff with teaching and pastoral care responsibilities, HR staff, equality advisers and mediators, line managers and staff who work in student services). Institutions should ensure that these staff are competent and confident to carry out their responsibilities, and that performance management and career development activities include these skills.

Effective consultation

Investing time and energy in the development of trusting and honest relationships with a wide variety of groups will help to ensure effective dialogue should an incident arise. Institutions should ensure that good relations is on the agenda as part of regular meetings with staff and trade unions, students' unions, staff networks, external agencies such as the police and the wider community. Opportunities to engage with bodies such as the UKBA or initiatives such as the government's Prevent strategy will inform the institution about possible challenges to good relations and could provide a helpful framework for discussion with the students' union and local communities. Additionally efforts should be made to build relationships with groups who feel particularly vulnerable to intolerant activity or who traditionally have not engaged with the institution. While it is important to ensure that the voices of those who may be the subject of hate incidents are heard, attention should also be paid to those groups who may fear that they will be negatively stereotyped as holders of intolerant views or potential perpetrators of intolerant activity (religious groups who do not condone homosexuality for example or supporters of the anti-immigration lobby).

Raising awareness

Every member of an institution's community shares in the responsibility to support good relations on campus, and the institution should actively ensure that individuals understand what they are required to do in order to uphold this commitment. Codes of conduct for both staff and students should clearly set out expected standards of behaviour and the action that may be taken in response to any departure from them. In order to ensure that all staff realise how hate incidents, crime and intolerance can affect institutional life, institutions should provide training to raise awareness of equality issues, the rights and responsibilities of different sections of the community, and the institution's policies and procedures.

Similarly, institutions should work with students' unions and student stakeholder groups and include briefings in student induction programmes to ensure that students are aware of their rights and responsibilities in this area. Institutions that have good links with external organisations can invite representatives from these groups to inform programmes or take part in training activities.

Celebrating a culture of inclusion

A considerable number of HEIs run programmes of events to acknowledge and celebrate the diversity of their institutions and the progress that is being made to create an inclusive and accessible culture: activity to promote good relations can complement and enrich the overall message and emphasise the importance of understanding and accommodation of difference. Institutions should consider ways in which work by staff and students that helps to promote good relations should be rewarded. Rewarding success can take the form of partnership events and diversity awards events with stakeholder organisations and equality groups in the local community.

There may be opportunities within other areas of activity across the institution to encourage staff and students to proactively engage with the good relations agenda. For example, an institution might develop opportunities for staff and students to volunteer with organisations that support victims of hate crime, or arrange work placements with community cohesion projects. Inquiry into aspects of good relations might make a suitable subject for student research or be otherwise incorporated into the curriculum.

A good relations focus can be given to the institution's diversity programme by finding opportunities to share understanding between groups and identify shared experience as well as recognise the positive elements of difference. The involvement of local community organisations in the planning and delivery of events demonstrates the commitment of the institution to active membership of the local community. For example, work with Muslim and other faith groups during Ramadan could involve discussions on the meaning of fasting and the sharing of food in spiritual practice generally, creating opportunities to further understanding and focus on common ground rather than religious differences.

Institutions may wish to consider the following questions in the development of equality or engagement work to ensure good relations.

- = How does the event develop understanding and engagement between social groups within the institution?
- = Does the event promote knowledge of differing lifestyles, beliefs and social groupings?
- = How does the event clearly demonstrate that harmful perceptions, assumptions and intolerance within the institution are challenged?
- = Does the event actively engage in community development and understanding?

Bringing people together to explore shared experience

As places of debate and discussion institutions are ideally positioned to facilitate the promotion of greater understanding between different groups. However, bringing together groups of people with differing perspectives can be a challenge, particularly when exploring issues which might relate to beliefs that lie at the heart of individual or group identity.

Tensions cannot be resolved through groups ignoring each other, or working in silos. Encouraging discussion and engagement between groups allows the diverse experiences and opinions that enrich society to be explored and common ground to be identified. For example, bringing LGB and faith groups together to commemorate Holocaust Memorial Day in recognition of the oppression that both religious communities and LGB people suffered under the Third Reich. This emphasis on shared history and parallel experience promotes tolerance and understanding while not denying the separate identities of each group. Potential tensions can be explored without directly confronting issues that may lead to argument or hostility.

Other topic areas which facilitate discussion of shared qualities without entering into debate on questions of right versus wrong, or acceptable versus unacceptable, include:

- = experiences of bullying in educational settings
- = experiences of discrimination in the workplace
- = media stereotyping
- = feelings of social isolation

Part 4: case studies

Part 4 considers various scenarios that have the potential to damage relations between different groups on campus, promote intolerance or give rise to hate crime, and outlines what steps could be taken to deal with them. This guidance does not constitute legal advice; institutions should consult their own legal advisers where necessary when dealing with incidents. The appendix contains a checklist to assist an institution in the systematic consideration of responsibilities and risks relating to the examples given below.

The examples have been chosen to demonstrate the range of circumstances where the issue of apparently conflicting rights surfaces and how legal principles and best practice might be applied. The examples consider:

- = the role of institutions in promoting the expression, development and debate of diverse ideas and views within the law and without fear of reprisals
- = the aim of promoting tolerance and fostering good relations between groups from different backgrounds or with different views or beliefs
- = the rights of students and staff to work, study and live with dignity and without harassment or intimidation
- = the principle of proportionality; action taken to restrict activity should be no more than is strictly necessary to protect the legitimate rights of individuals or others
- = the relative consequences of a decision – is it likely that the decision could cause real harm or distress to one party while only inconveniencing the other party?
- = the recognition that if an expression of views or beliefs is highly offensive with the potential of being reasonably perceived as harassment, or may constitute criminal activity, the balance is likely to lie in favour of restricting that activity

Invitations to external speakers

In the run up to a local election, a student debating society asks for permission to hold a meeting in a lecture theatre. Speakers from the political parties fielding candidates in the election, including a speaker from a far-right party, are invited to speak. The far-right party has a history of incitement to racial, religious and homophobic hatred and a senior member of the party has recently been convicted of incitement to racial and religious hatred. None of the staff members have attended any previous presentation given by the speaker in question, but they are concerned that he may create a hostile environment for staff or students or may contravene the law.

In deciding how to approach the situation, attention should be paid to the following points.

- = The institution must not subject students, staff or others to discrimination, harassment or victimisation.
- = The institution is subject to the PSED to foster good relations.
- = Rules relating to the holding of hustings may apply. The institution should ensure that it follows guidance produced by the Electoral Commission (www.electoralcommission.org.uk).
- = Institutions should be encouraging the exploration and debate of divergent views and opinions.
- = The institution has a duty to prevent public disorder on campus.
- = The guest speaker may have a right to express his views as the member of a registered political group and staff and students may have a right to hear and debate them provided that in doing so there is no threat to public safety, no likelihood of disorder or crime and no interference with the rights and freedoms of others.
- = The speaker's conduct could amount to a public order offence, such as using threatening, abusive or insulting words or behaviour within the hearing or sight of a person likely to be caused harassment, alarm or distress or incitement to racial, religious or homophobic hatred.
- = The presence of the speaker on campus might result in protest from groups opposed to his presence and might pose a threat to public safety.

As no staff or student member should be intimidated or harassed on campus, the institution must decide whether the impact of having a guest speaker from a far-right party would place student and staff members in that position. A proper investigation would mean examining the wider impact on campus and community relations of allowing a member of such a party to speak and taking into consideration the duty to foster good relations.

Legally, the institution should balance all relevant factors when deciding if permission should be granted, including the likelihood that the guest speaker may act in a way that constitutes discrimination, harassment or victimisation; that is, making hostile statements about people on the grounds of race, gender, ethnicity or national origin, religion or belief, or sexual orientation or disability which have the purpose or effect of violating their dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

It is also necessary to examine whether the speaker would incite racial, religious or homophobic hatred, or commit some other public order offence, and whether the meeting might result in disorder. In coming to a decision on this it might be useful to look into the history of the speaker and/or the organisation they represent.

The requirement to sign a protocol that sets out the institution's commitment to tolerance and inclusivity and the standards of behaviour that an external speaker is expected to agree to as a condition of being given a platform might assist institutions in deciding whether or not to allow a particular speaker. As the speaker is invited by a third party (the students' union) rather than by the institution directly, this requirement might apply to any organisation that seeks to use campus facilities.

Early consultation with both the student group wishing to invite the speaker and representatives from any groups that oppose the invitation might enable the institution to manage the situation without damage to good relations and to the reputation of the institution for safeguarding freedom of expression.

Lawful speech

During a lecture on the history of Tibet, a university lecturer expresses strong opinions on the actions of the Chinese government. Her remarks are felt to be offensive and insulting by some Chinese students present, who make a complaint of harassment.

The lecturer's opposition to China's role in Tibet is evident in her involvement in a boycott of Chinese institutions, about which she comments extensively on her page on the university's social networking system. The students argue that this activity is indirectly discriminatory and mount a campaign against it.

In deciding on how to approach the situation, attention should be paid to the following points.

- = The university must not subject students or members of staff to discrimination or harassment on the grounds of race.
- = The university must not subject students or members of staff to discrimination or harassment on the grounds of religion or belief. Belief includes philosophical belief and may encompass some political philosophies.
- = The university is under a general duty to foster good relations.
- = Institutions should be encouraging the exploration and debate of divergent views and opinions.
- = Academic staff have freedom within the law to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing either their jobs or any privileges they may have had at an institution.
- = Proportionate interference with the lecturer's right to freedom of expression is permissible where necessary to protect the rights and freedoms of others.

The university has to determine whether the comments made about the actions of the Chinese government would constitute harassment or have an adverse impact on Chinese students. If a complaint of this nature is made it should be investigated and the outcome communicated to all parties, with due regard for confidentiality.

Unless academic freedom is being abused, for example, by stirring up public disorder, or by infringing the rights and freedoms of others there will not be occasion to restrict the academic's freedom of expression. Therefore expressing opinions on the actions of the Chinese state is unlikely to justify any interference by the university or to amount to unlawful discrimination towards the students present. Consideration should be given, however, to the way in which the lecturer communicated her views. For example, there may be concerns with regards to the manner in which the subject was approached, particularly if this might lead to unwanted attention or hostility from other students towards Chinese students. The university should consider how it supports academic staff to explore challenging global issues in a way that encourages students to engage with new ideas in a safe environment.

In the second part of the example, the lecturer's association with a boycott of Chinese institutions associated with the government and the state is of itself unlikely to constitute discrimination or harassment on grounds of race or national origin, unless the way that it is conducted or the way that the underlying views are expressed genuinely creates a hostile environment for individuals of Chinese nationality. An academic has the right to choose not to associate with public instruments of a particular regime. The university may however, wish to review its guidance on use of the university's social networking in order to ensure that all content is in line with its equality policies.

The legality of an academic boycott of institutions must be distinguished from taking adverse decisions against individuals because of their race or nationality. The latter would obviously be discriminatory and the specific wording of any boycott would have to be examined in close detail.

The lecturer may be protected from discrimination and harassment on the grounds of her beliefs if they meet the definition of a belief in the Equality Act 2010 and associated case law. The university should ensure that the student campaign against the boycott is conducted lawfully.

Protests

A student animal rights group stages a protest outside its college's canteen about the way in which food is resourced. They gather at the gates to the building, hand out leaflets protesting about the preparation methods for halal and kosher food, the use of non-free range eggs and chickens, and animal welfare generally, but do not enter college premises. Their protest is peaceful but both members of the catering staff and students entering the site complain that they feel intimidated by the presence of the demonstrators and the placards they carry. A few days later a statement is issued naming particular members of staff who work in the canteen and threatening them by saying that their home addresses are known. The college does not know the identities of those responsible for the statement and the organisers of the protest also claim not to have this information.

In deciding how to approach the situation, attention should be paid to the following points.

- = Institutions should be encouraging the exploration and debate of divergent views and opinions.
- = The animal rights protesters have a right to freedom of expression, including the right to receive and communicate information, and a right to freedom of peaceful assembly and association, provided that in doing so there is no threat to public safety, no likelihood of disorder or crime and no interference with the rights and freedoms of others.
- = The college must maintain a campus on which students and staff can participate in lawful activities unimpeded.
- = The catering staff have a right to be protected from serious harassment and intimidation.
- = Jewish and Muslim staff and students have a right not to be harassed on the basis of their religious practices, including those relating to food preparation.

As long as the protest is a peaceful one, which does not seem likely to result in public disorder or involve the implied or actual use of threats or violence, the fact that staff and students feel intimidated is unlikely to justify a ban on the protesters.

Once the protest spills over into the threatening and intimidating behaviour described in the second part of the example, the protest may be interfered with within the correct legal parameters, provided the response is proportionate.

References should be made to the equality duties and other relevant legislation to ascertain whether any of the behaviour described above contravenes lawful protest in UK law.

If the individuals making the threats can be identified and are found to be students or staff, they could be disciplined. If the individuals cannot be identified, then the group should be given the opportunity to disassociate itself from such actions and take action to stop them. If they continue the college may have grounds to place restrictions on their right to protest.

Individual/group behaviour

An administrator who works in a university's open-plan admissions office is a member of a Christian group which believes homosexual practice is contrary to the law of God. He has chosen the extract from the Bible, Leviticus 18:22, as his screensaver. The extract states, 'You shall not lie with a man as with a woman; it is abomination'. Staff are generally free to personalise their screensavers and, provided that they are not obscene, the university does not seek to regulate their form and content. This text is within the view of his colleagues, one of whom is gay, several of whom complain to their manager about the offensive nature of the screensaver. The administrator does not directly refer to his colleague's homosexuality.

In deciding on how to approach the situation, attention should be paid to the following points.

- = The university has a duty not to discriminate against members of staff on the grounds of sexual orientation, and can be held vicariously liable for acts of discrimination (including harassment) of its employees by other employees on the grounds of sexual orientation, unless it can show that it took reasonable steps to prevent harassment.
- = The university has a duty to protect the absolute right of staff to freedom of thought, conscience and religion. The right to manifest those beliefs however is qualified.
- = The university is obliged under the PSED to foster good relations between different groups.
- = The university's mission statement and equality strategy includes a commitment to maintaining an inclusive and tolerant culture equality policy.

The university needs to determine if this employee's action is unlawful (eg if it amounts to harassment on the grounds of sexual orientation), or if it breaches the institution's equality policies.

If the university believes that there is clear evidence of a breach in law or institutional policies it may be justified in taking steps to moderate or terminate such conduct, provided these steps are no more than is necessary to pursue the legitimate aim identified. If it is agreed that the screensaver creates a hostile working environment, and this is a reasonable response in the circumstances, then the university would be justified in requiring the screensaver to be removed, with appropriate disciplinary action, if the employee refuses to do so.

The university should ensure that it has a policy which explores issues of respect in the workplace and sets out the behaviour that is expected from all staff, and that this policy has been communicated clearly.

If relations within the team have been damaged, the manager may wish to consider some training that encourages collective development of a set of team behaviours. More generally the university may find it useful to review the policy on the customising of screensavers to avoid such situations occurring in future.

A support group for trans students takes an active part in an institution's diversity month by running workshops to raise awareness of trans issues. These workshops involve members of the group talking about their personal experiences of transitioning. The workshops have received a lot of publicity, largely positive, and have been featured both in the student newspaper and on local radio.

The institution receives a request for a meeting from a group of female students who feel that the workshops are promoting a very conservative view of gender, reinforcing gender stereotypes and resulting in the harassment of women who do not conform to those stereotypes in their body shape, style and appearance. They have recent examples of a number of occasions when female students, particularly lesbian students, have been subjected to abusive comments about their appearance and say that these have increased since the workshops began. There is no evidence that any members of the trans group have been directly responsible for this behaviour.

In response the trans students point to a debate organised by the feminist society which considered the politics of gender reassignment and which caused considerable offence among the trans community for some of the views expressed.

In deciding on how to approach the situation, attention should be paid to the following points.

- = The institution has a duty to ensure that students are not discriminated against or harassed because of their sexual orientation, gender or gender identity.
- = The institution has a duty to foster good relations between protected groups.
- = The institution should encourage the exploration and debate of divergent views and opinions.

The institution values its diversity month for the focus it gives to equality and diversity issues and the contribution it makes to promoting tolerance and understanding between different groups across the institution. It also recognises the positive reinforcement that minority groups can get from sharing their experiences and raising awareness in the wider campus community.

Staff in student services have considerable experience of working with students who have been bullied or marginalised because of their appearance or who have negative body image which affects their studies and general welfare. They identify this issue as having a significant impact on a considerable number of students.

The institution needs to determine whether any unlawful action has occurred or whether there has been a breach of equality and diversity policies.

As both parties are concerned about the negative impact of restrictive views of gender and gender identity, albeit from different perspectives, there would seem to be opportunities for identifying common ground. Facilitated dialogue between the parties to explore tensions and raise awareness on both sides may lead to collaboration and mutual support.

A university receives a complaint from a student about the conduct of some other students in one of her seminar groups. She is offended by their frequent references to the lecturer's well-known history of mental ill-health and use of terms such as 'nutty' and 'mad'.

The lecturer has not made a complaint. When asked about the incident he says that he feels that the terms are used in good humour, and it makes him feel accepted within the group. He is happy to be open about his history of mental illness and feels that he is a good role model for any student who might have a similar condition.

In deciding on how to approach the situation, attention should be paid to the following points.

- = The university has a duty to eliminate discrimination and harassment.
- = The university has a duty to make reasonable adjustments to accommodate the needs of disabled staff.

The university has a responsibility to create an environment that is not hostile or degrading to any member of its community. The students may consider that the language they use shows that they accept the lecturer, and value him as an individual with particular identities. However, although the lecturer may find the comments positive, an environment is being created and accepted which other people may find uncomfortable (including, but not limited to, students experiencing mental health issues who have chosen not to disclose this to their peers). If an institution ignores the student complaint, they may be liable to a claim of unlawful discrimination on the grounds of disability.

The way an institution handles a situation may have a negative impact on the lecturer, as his current relationship with the students may be compromised. This may cause anxiety for the lecturer. The university should ensure that any action on their part does not place further strain on the lecturer's mental health and that he has access to appropriate support.

Tackling the situation also has potential for a negative impact on the student who has made the complaint, particularly if the lecturer or other students feel that they are being wrongly criticised for actions that were intended to be in the spirit of inclusivity and acceptance. The university should ensure that all parties understand the issues and the reason for intervention. The student who has made the complaint may need support.

The university might take measures to promote understanding of mental health issues to all students. Although the students in the class may feel that they were using terms in an accepting way and that the lecturer was not offended, they need to understand the potential impact of their language on other people who may find it uncomfortable, isolating or hostile. Raising awareness of mental health issues will have the further positive effects of communicating how the institution supports students experiencing mental health issues.

The university might consider incorporating some guidance on how to create inclusive seminar groups where the full range of student experience is respected and valued as a resource that enriches learning into its pedagogical practice. This would assist lecturers in managing the complex issues that can arise in a diverse group of students.

In a review of the use of its facilities a college becomes aware that the student common room is not being used by students who are on its employment skills course, a significant number of whom have learning disabilities. Discussion with this group of students reveals that they do not feel welcome in the common room – some of them have received unfriendly treatment from other students including name-calling, pushing and derogatory remarks. They say that the other students generally do not talk to them and so they have decided that they feel safer and happier if they meet up elsewhere.

Further investigation uncovers that there seems to be a particular issue about use of the pool table. The employment skills students feel that there is a lot of resentment whenever they use the table, with comments being made about the length of time they take and their skills. On more than a few occasions they feel that they have been intimidated into giving up their game before they have finished.

In deciding how to approach the situation, attention should be paid to the following points.

- = The college has a duty to eliminate discrimination and harassment.
- = The college has a duty to ensure that its facilities are accessible to disabled students.
- = The college code of conduct for students requires all students to behave in a manner that respects diversity and promotes inclusivity.

The college should remind students of their responsibilities under the code of conduct and the sanctions that might be applied to anyone who breaches them. Posters in the common room would refresh awareness and assist people to challenge unacceptable behaviour. It might be useful to work in partnership with the students' union to ensure that the approach is effective.

The fact that the students on the employability skills course have not reported the incidents to date may indicate either that they are not aware of the college's policy on bullying and harassment, or that they did not feel confident enough to disclose them. Work with this particular group of students to inform them of the college's approach and to build their confidence and self-assertiveness might be useful.

The college might take measures to promote understanding of learning disability as part of its programme of diversity activities. The college could support a group of learning disabled students to share their experiences with students or ask an external support organisation to give a presentation. A buddying scheme which paired a student from the employability skills course with another student might help to break down barriers and develop positive relationships.

**Displays of notices,
distribution of literature and
electronic communications**

Members of an anti-abortion group, some of whom are members of staff and students of the university, put flyers on noticeboards, in common areas and under doors of student rooms in halls of residence. In addition to strong wording urging women not to have abortions and referring to abortion as murder, the flyers contain graphic pictures of an abortion and claim abortion is immoral and should be illegal. They also email staff who work in the university's medical centre which offers an abortion referral service. The emails, which do not identify the sender but originate from the university's system, address members of staff personally stating that acts of violence such as abortion beget violence and those who help women obtain abortions are vulnerable to being attacked.

While the anti-abortion group is not officially part of any other student association on campus quite a few of its members are also members of faith societies. There is some concern among these societies that they will be the focus of counter protest.

In deciding how to approach the situation, attention should be paid to the following points.

- = The university should be protecting the rights to freedom of expression and to manifest religious beliefs.
- = University medical staff are entitled to protection from harassment.
- = Employees can reasonably expect privacy in the workplace, including the privacy of communications and the extent to which the university can intercept or monitor emails.

Abortion is legal in the UK and therefore women have a right to seek to have an abortion should they wish to. At the same time, the group is entitled to express its views, unless the manner of expression or content of those views is unlawful or breaches the rights of others.

The university has a responsibility to protect staff members and students from harassment. The literature distributed by the group, while shocking, is unlikely to amount to an obscene

publication on its own. However the manner of distribution should not harass or intimidate: putting flyers under halls of residence doors or emailing threats to those who work in the university's medical centre are not acceptable forms of behaviour.

An institution should ensure it has policies in place so that all staff and students are aware of standards of acceptable campaign literature. Insofar as members of the group are resident students, they can only be prevented from distributing the literature to the extent that, for example, it breaches the university's right to quiet enjoyment of its property by causing a significant nuisance. In these circumstances, the university may be justified in prohibiting the distribution of the literature in that manner, but should accommodate an alternative means of distribution, for example by allowing the students to affix a limited number of posters to noticeboards.

The emails sent to the staff of the medical centre may amount to harassment, cause fear or threaten violence. In order to deal with this the university may take appropriate action in order to ascertain the identity of the sender and to take appropriate steps to penalise the activity and prevent a recurrence. The university should make clear provision for the monitoring and interception of staff and student communications in its email/internet policy and not give licence to invade the privacy of all staff and students, but only those whom it reasonably believes are sending the offending material, or only those messages which it reasonably suspects contain such material.

Controversial issues such as abortion cause considerable tension between groups with opposing views and it is likely that pro-abortion groups will respond to the activity described above. The university needs to ensure that it treats all parties fairly and consistently with the same regard for legal compliance, freedom of expression and respect for good relations.

Banning of groups

Members of an extreme political organisation, who are not students or staff, come to a campus to distribute flyers and put up posters promoting their policies and views and generally to canvass support. A number of students complain that they believe this to be contravening the institution's equality policy; some students claim to have been intimidated and threatened by members of the organisation in the past.

In deciding how to approach the situation, attention should be paid to the following points.

- = The institution is under a general duty to foster good relations and could be liable for failing to deal with a situation where harassment or incitement to hatred is taking place.
- = The organisation's conduct could amount to a public order offence such as using threatening, abusive or insulting words or behaviour likely to cause harassment, alarm or distress or incitement to racial, religious or homophobic hatred.
- = Different considerations will apply if the relevant part of the campus is public or private property. On public property the organisation has a right to express its views to freedom of peaceful assembly and association. The institution has a right to allow only legitimate visitors access to its private property and to require them to conform to certain standards of behaviour.
- = Students have a right to hear and debate the organisation provided that in doing so there is no threat to public safety, no likelihood of disorder or crime, and no interference with the rights and freedoms of others.

The rights of freedom of expression and peaceful assembly can be interfered with if necessary to protect public safety, prevent crime or disorder, or protect the rights and freedoms of others. Therefore the rights of any extreme political organisation to make its presence felt on campus would have to be seen within these parameters.

The institution would have to examine the literature given out by the group and history of group activity to determine if there is a reasonable risk that there is a breach of the law or that they could constitute a breach of institutional equality policies. In order to ensure that staff and students are able to voice their concerns over any such incidents a clear complaints and reporting procedure should be set in place. All relevant evidence should be taken into consideration and equality groups, trade unions and the students' union should be consulted.

If it is decided that the group poses a threat to staff or students, damages good relations on campus and/or within the wider community, or may partake in activity that is unlawful, the institution will be justified in taking action to remove it from campus. In order to deal with situations where this may be necessary, security staff should be fully trained (in consultation with the local police) in evicting people from campuses.

Any offensive display in the form of flyers, posters or graffiti should be removed immediately. An institution may be held liable for harassment if it does not remove offensive materials within a reasonable timeframe.

If the campus is private property, and if it was felt the group's behaviour was in contravention of the institution's equality policies, the group could be asked to leave. If the part of the campus where the group congregates is public property, the institution may have to rely on the police to intervene.

Where the group's activities amount to the criminal offence of harassment (which requires a course of conduct designed to harass an individual, or identifiable group of individuals), an injunction may be obtained to prevent the group from congregating even on public land, but this is more difficult to secure than on private land. Where the group has a clear history of hate incidents, crime and intolerant behaviour, it is legitimate to exclude them from campus.

Students' unions

Students in support of Palestine (SiSoP) has existed for a number of years, affiliated to the students' union. Its constitution states that the objective of the club is to support the Palestinian struggle for independence by increasing awareness and raising funds. The society operates according to students' union rules, membership is open to all students and there are several Jewish members. SiSoP has taken care to ensure that its criticism of the actions of the Israeli state have not promoted antisemitism and relationships with the Jewish students' society have always been amicable.

Following a change of leadership there are several complaints that the society is adopting a more aggressive stance in its publications that is bordering on antisemitic. Two of the Jewish members of the society complain that they are being marginalised and no longer feel welcome at meetings and social events. Following a public meeting organised by SiSoP a Jewish student was threatened on their way home (off campus). While there is no evidence that the threat was made by anyone connected to SiSoP, a number of students insist that the society has been supportive of activity likely to harm the Jewish community and insist that it should be banned.

In deciding how to approach the situation, attention should be paid to the following points.

- = The university has a duty to protect its students from discrimination and harassment.
- = Students' unions must require clubs to accept the principles of equality as a precondition of funding.
- = The institution must ensure that the students' union implements a complaints procedure, which provides an effective remedy when a complaint is upheld following investigation.
- = Students have the right to freedom of expression and of peaceful assembly and association, and the institution cannot interfere with this right unless it is justified.

Students' unions are usually autonomous from institutions. An institution does however have a statutory duty to ensure that the students' union conducts itself in a fair and democratic manner (section 22, Education Act 1994). This includes specific requirements that institutions take reasonable steps to ensure that the students' union adopts a complaints procedure available to all students who have a grievance or complaint against the union.

Clear guidance should be provided by the students' union or by the institution on the constitution of clubs to avoid breach of the law. This includes acting in a way that is compatible with the Human Rights Act 1998 and the Equality Act 2010, including the PSED. An institution and students' union should also have policies in place which state when and how clubs can be dissolved and this could include a clause about failure to maintain compliance with legislative or institutional requirements.

In the circumstances outlined in this example, the students' union would have to investigate any claims of unlawful activity or breach of institutional policy through its procedures. It would need to establish whether it was SiSoP's official practice to persuade its Jewish members to leave (in which case it would be in breach of its constitution) or the unauthorised actions of some of the society's members. In the latter case if it was found that the actions amounted to harassment then SiSoP would be expected to deal with the members in question.

Generally students have the right to freedom of expression, which includes criticising a particular regime. However, if the publications that SiSoP produce are targeted at particular individuals or a racial group so as to incite racial hatred or otherwise cause fear or provoke violence then they would become unlawful.

The institution has a duty to ensure that students feel safe on and around campus and may, in the light of the threats to the Jewish student, wish to work with the students' union, the police and other agencies to prevent further incidents occurring and to make the campus a safer place for all. This could include a campaign to raise awareness of hate crime reporting processes.

The students' union at a university takes pride in organising a vibrant freshers' week, full of entertainment to introduce students to university life and help them to feel at home. Student societies are encouraged to put on activities during the week and the response from them is usually enthusiastic.

One student society organises a photographic treasure hunt. Participants are given a list of things to photograph at various locations across campus. While some of the subjects are innocuous many involve students (most frequently women) in states of undress or in sexual poses.

The majority of students who take part seem to enjoy the treasure hunt. However, two female students complain that they were put under pressure to pose for photographs that made them feel uncomfortable. One of the female students eventually gave in having been assured that the photograph would not be published. She has just learned that a photo showing her in a sexual pose is posted on the student society's website and she is extremely distressed. She wants to know what the university intends to do about the situation.

Initial conversations between the university and the students' union are not well received by some students who take offence at what they perceive to be censorship. There is a heated discussion on the university's online forum with accusations that the university is anti-heterosexual, pushing an agenda that is repressive of personal freedom, in thrall to conservative and religious forces, promoting sexual and gender stereotypes, and there are calls for organised protest.

In deciding how to approach the situation, attention should be paid to the following points.

- = The university can be held liable for acts of discrimination (including sexual harassment) of its students by others, unless it can show that it took reasonable steps to prevent harassment.
- = Students' unions must require clubs and societies to accept the principles of equality as a precondition of funding.
- = The institution must ensure that the students' union implements a complaints procedure, which provides an effective remedy when a complaint is upheld following investigation.

The students' union or university should provide clear guidance on the responsibilities of student societies and individual students in relation to preventing harassment. This includes acting in a way that is compatible with the Human Rights Act 1998 and the Equality Act 2010. The students' union should have policies that state when and how affiliated societies can be dissolved, which could include a clause about failure to maintain compliance with legislative or institutional requirements.

The university should work with the students' union to ensure the removal of the offending photographs from any university-hosted websites. The university should check that other similarly explicit photographs are not displayed. The university might consider developing a policy on appropriate website content.

Freshers' week is an ideal opportunity for the university to make sure that all new students are aware of the standards of behaviour that are expected of them, their rights and responsibilities under the Equality Act 2010 and the university's equality strategy and supporting policies and procedures. The university and the students' union have a shared interest in creating a programme for freshers' week that recognises the diversity of students and is inclusive, accessible and promotes respect. By working together and using equality analysis to inform the process they will minimise the risk of including events that have the potential to result in unacceptable behaviour.

The university should be alert to the risk that the online dialogue may result in the scapegoating of groups that are perceived to hold conservative views of gender and sexuality such as religious groups, or whose interests are thought to be prioritised by the university over others such as LGB people. Clear communication about why the university wishes to dissuade student societies from activities that may lead to harassment (without referring to those involved in this particular case) may help to avert this.

There is potential to use the interest from the online response to promote a greater understanding of the impact of harassment and the tensions between personal freedom and respect for others in a creative way. The university and students' union might respond by organising a debate about the issues, talks from visiting lecturers from across the spectrum, a film night or an exhibition in the library.

Community engagement

As part of their course, a group of drama students write and produce a play for performance on university premises. The play is a fictional story of a young Sikh woman who is forced to marry against her wishes and the discrimination she faces within the local community when she leaves the marriage. It deals with issues of tension between generations, different interpretations of religion and the interface between religious belief and gender. The university campus is based in a city with a large Sikh community, and the university has a number of Sikh students. Before the opening of the play some Sikh students and members of the local Gurdwara complain that it is highly offensive and demand that the university cancels all performances. This angers other members of the university's community (including the Asian Women's Group campaigning against forced marriage and honour-based violence) who demand that the performance continues.

In deciding how to approach the situation, attention should be paid to the following points.

- = Institutions should be encouraging the exploration and debate of divergent views and opinions. The drama students have a right to freedom of expression, including artistic expression, provided that in doing so there is no threat to public safety, no likelihood of disorder or crime and no interference with the rights and freedoms of others.
- = A person commits a criminal offence if he or she uses threatening, abusive or insulting words or behaviour or displays, publishes or distributes threatening, abusive or insulting material intended or likely to stir-up racial or religious hatred.
- = The university is under a general duty to foster good relations and eliminate discrimination.

The drama students have a qualified right to freedom of expression. The Sikh students have a right to freedom of religion, which could be undermined if material offensive to their faith was depicted.

The content of the play should be assessed before performance to determine whether the play deals with issues governing the Sikh faith, or whether it is a political play about family relationships, culture and the position of women, albeit set within the Sikh community. This will enable an informed decision as to whether or not the play's content either does or is likely to breach the relevant legal provisions.

The university would need to assess if there is a real risk of public disorder or other threat to public safety if the play is permitted to proceed. In the absence of any of these factors, there are unlikely to be lawful grounds for cancelling it.

The debate about how religious belief should impact on lifestyle, choices and behaviours can be as vigorous between members of a religion as it is between those of that religion and those who do not follow that religion, and has the potential to damage good relations on campus if not conducted with a commitment to tolerance and respect for human rights. The university should ensure that all parties over which it has authority understand their responsibilities to frame their protests in a way that does not intimidate individuals or otherwise harm good relations.

The university is an important member of the local community and should be working to ensure the performance (or non-performance) of the play does not significantly damage relationships or disrupt community cohesion. Proper dialogue between the university, the objectors, the performers and the faculty involved will help to ensure that all parties feel that their views are given proper consideration and that efforts are made to reach a resolution that most people feel comfortable with. If the university has one, its Sikh faith adviser will have a useful role to play in these discussions.

It is important that students understand the parameters of freedom of artistic expression and the university should consider ways of incorporating this into the curriculum as appropriate.

A university begins to get complaints from ethnic minority students who claim to have experienced abuse and discrimination while travelling on a popular public bus route leading to the main campus during evening. The university does not have a history of such incidents and is concerned by the response from the local police and bus operating company who seem slow to act.

At a meeting with the local Neighbourhood Multi-Agency Forum it is apparent that the incidents have taken place in an area where a number of Roma families have been recently housed, that similar allegations have been made from members of the local community and counter-allegations of hate incidents made by the families in question. The police and other agencies are experiencing challenges in engaging with the Roma community who are reluctant to work with them. The university has good connections with other local community groups who make use of campus facilities but to date has not developed a relationship with the Roma community. Further discussions identify that the families may be in the target group for widening participation initiatives. To its knowledge, the university has never had a Roma student.

In deciding on how to approach the situation attention should be paid to the following points.

- = The university has no jurisdiction outside campus.
- = The students concerned have the status of adult private citizens.
- = The alleged incidents may be criminal acts.
- = The university has a commitment to increase the number of students from social groups that are currently underrepresented in higher education.

In order to exercise its duty of care for its students, the university should ensure that is represented in discussions with the police and other agencies that are tackling the situation and that it argues for a better response to these incidents. The duties of the bus operating company and the police under the Equality Act 2010 and the crime and disorder legislation could be emphasised.

Students should be made aware of the law relating to hate crime and encouraged to report any incidents to the police. The university might consider the establishment of a third party reporting centre on campus which would facilitate the full and quick monitoring of incidents. A mobile police unit might make regular visits to the campus, which would be particularly helpful for students with mobility impairments.

The university might review its student support services to ensure that staff are aware of the situation and have the knowledge and skills to deal with students who might feel traumatised by their experiences of hate crime/incidents. This might be particularly important for students who do not have other easily accessible support networks (international students for example). Some students may wish to receive support from someone who has personal experience of race discrimination and, where this resource is not available through the staff team, the university should consider with which external organisations it might make links.

In partnership with the students' union, the university should raise awareness of personal safety among students. A scheme to ensure that students could travel together (perhaps using the institutions mini-buses) might help to ease feelings of vulnerability.

The university might consider establishing links with the Roma community either through widening participation activity, through the work of its faith advisers, through its volunteering programme or other community engagement initiatives.

In partnership with other agencies the university might contribute to the funding for CCTV cameras on bus routes to and from the campus and other community safety initiatives.

Appendix: legal responsibilities checklist

This checklist can assist institutions to ensure that the implications of any planned activity (visiting speaker, public debate, panel discussion, publicity campaign, diversity event, etc) are understood in relation to the legal framework for good relations and that actions are taken to reduce the potential for negative outcomes.

Responsibility	Questions to ask	Mitigating action
Encouraging divergent views and debate Education Act 1986 Education Reform Act 1988 Further and Higher Education (Scotland) Act 2005 Education (Academic Tenure) (Northern Ireland) Order 1988	How will the activity encourage debate? Is there potential for the activity to interfere with the rights and freedoms of others?	Maximise opportunities to include ideas that give a range of perspectives either in the main activity or in associated activities.
Freedom of expression Human Rights Act 1988	How does the activity support the right to freedom of expression? Is the expression of views likely to affect public safety, lead to disorder or crime, or affect the rights and freedoms of others?	Ensure that participants understand their legal responsibilities and agree to adhere to standards of behaviour required by the institution's equality and diversity policies.
Good relations Equality Act 2010 Northern Ireland Act 1998	How does the activity contribute to the promotion of good relations between individuals or groups? Does the activity pose any risk to good relations? If so, what is the risk and who might be affected?	Emphasise the collective responsibility for good relations. Create opportunities for dialogue between groups with a focus on what is shared between them rather than what is different.

Responsibility	Questions to ask	Mitigating action
<p>Protection against incitement to hatred</p> <p>Public Order Act 1986</p> <p>Public Order (Northern Ireland) Order 1987</p> <p>Racial and Religious Hatred Act 2006</p>	<p>Is the activity likely to incite or otherwise stir up hostility towards people from a particular protected group? Is it likely to cause people to feel intimidated or to fear that violence will be used against them?</p>	<p>Ensure that the institution has a clear approach to dealing with activity likely to provoke hostility and that this is widely publicised.</p> <p>Require those who speak at events to commit to appropriate behaviour while on campus.</p>
<p>Protection against discrimination and harassment</p> <p>Public Order Act 1986</p> <p>Equality Act 2010</p>	<p>Is the activity likely to discriminate against one or more particular groups, or lead to an environment that is intimidating, hostile, degrading or offensive? Is it likely to cause people to feel intimidated or to fear that violence will be used against them?</p>	<p>If the potential for discrimination or harassment is identified, consult with those groups which might be affected to identify an acceptable approach.</p> <p>Ensure that harassment policies are fit for purpose and used appropriately.</p> <p>Develop mechanisms for supporting those people who may feel vulnerable.</p>
<p>Maintenance of public order and safety</p> <p>Public Order Act 1986</p> <p>Terrorism Act 2006</p>	<p>Is the activity likely to cause public disorder on campus? Is there likely to be a threat to public safety as a result of the activity? Have the views of students/staff/others been consulted and concerns addressed?</p>	<p>Ensure processes are in place for the effective assessment of risks and the development of proportionate responses.</p> <p>Consult with all parties as early as possible to identify concerns.</p> <p>Communicate decisions clearly and fully to avoid speculation and misunderstanding.</p>

References and further reading

ACPO (2005) *Hate crime: delivering a quality service*. Association of Police Officers, London.

www.bedfordshire.police.uk/pdf/tacticalguidance.pdf

CPS (2009) *Hate crime report 2008–2009*. Crown Prosecution Service, London.

www.cps.gov.uk/publications/docs/cps_hate_crime_report_2009.pdf

CRE (2005) *Promoting good race relations: a guide for public authorities*. Commission for Racial Equality, London.

CVCP (1998) *Extremism and intolerance on campus*. Committee of Vice-Chancellors and Principals, London.

DCSF (2007) *Youth cohort study and longitudinal study of young people in England: the activities and experiences of 16 year olds England 2007*. Department for Children, Schools and Families, London.

www.education.gov.uk/rsgateway/DB/SBU/b000795/index.shtml

ECU (2012) *Equality Act 2010: implications for students' unions*. Equality Challenge Unit, London.

www.ecu.ac.uk/publications/equality-act-2010-implications-for-students-unions

ECU (2010a) *Anti-discrimination law in Northern Ireland*. Equality Challenge Unit, London.

www.ecu.ac.uk/publications/anti-discrimination-law-in-northern-ireland

ECU (2010b) *Internationalisation and equality and diversity in HE: merging identities*. Equality Challenge Unit, London.

www.ecu.ac.uk/publications/internationalisation-and-equality-and-diversity-in-he-merging-identities

ECU (2009) *Inclusive students' unions: equality and diversity in practice*. Equality Challenge Unit, London.

www.ecu.ac.uk/publications/inclusive-students-unions-equality-and-diversity

EHRC (2011) *Hidden in plain sight. Inquiry into disability-related harassment*. Equality and Human Rights Commission, London.
www.equalityhumanrights.com/legal-and-policy/inquiries-and-assessments/inquiry-into-disability-related-harassment/hidden-in-plain-sight-the-inquiry-final-report

NUS (2012a) *No place for hate: hate crimes and incidents in further and higher education: race and ethnicity*. National Union of Students, London.
www.nus.org.uk/PageFiles/12238/2012_NUS_No_Place_for_Hate_Race.pdf

NUS (2012b) *No place for hate: hate crimes and incidents in further and higher education: religion or belief*. National Union of Students, London.
www.nus.org.uk/PageFiles/12238/2012_NUS_No_Place_for_Hate_Religion_Belief.pdf

NUS (2011a) *Hidden marks: a study of women students' experiences of harassment, stalking, violence and sexual assault. Second edition*. National Union of Students, London.
www.nus.org.uk/Global/NUS_hidden_marks_report_2nd_edition_web.pdf

NUS (2011b) *No place for hate: hate crimes and incidents in further and higher education: disability*. National Union of Students, London.
www.nus.org.uk/PageFiles/12238/2011_NUS_No_Place_for_Hate_Disability.pdf

NUS (2011c) *No place for hate: hate crimes and incidents in further and higher education: sexual orientation and gender identity*. National Union of Students, London.
www.nus.org.uk/PageFiles/12238/2011_NUS_No_Place_for_Hate_Full_Report.pdf

Universities UK (2011) *Freedom of speech on campus: rights and responsibilities in UK universities: executive summary*. Universities UK, London.
www.universitiesuk.ac.uk/Publications/Documents/FreedomOfSpeechOnCampusExecutiveSummary.pdf

Further information

The following organisations may be useful if seeking further information and guidance:

Community Security Trust
www.thecst.org.uk

Equality and Human Rights Commission
www.equalityhumanrights.com

Institute of Community Cohesion
www.cohesioninstitute.org.uk

The Inter Faith Network for the UK
www.interfaith.org.uk

National Union of Students
www.nus.org.uk

Religious Literacy Leadership in Higher Education
www.religiousliteracyhe.org

Stonewall
www.stonewall.org.uk

Equality Challenge Unit

ECU works to further and support equality and diversity for staff and students in higher education across all four nations of the UK, and in colleges in Scotland.

ECU works closely with colleges and universities to seek to ensure that staff and students are not unfairly excluded, marginalised or disadvantaged because of age, disability, gender identity, marital or civil partnership status, pregnancy or maternity status, race, religion or belief, sex, sexual orientation or through any combination of these characteristics or other unfair treatment.

Providing a central source of expertise, research, advice and leadership, we support institutions in building a culture that provides equality of both opportunity and outcome, promotes good relations, values the benefits of diversity and provides a model of equality for the wider UK society.

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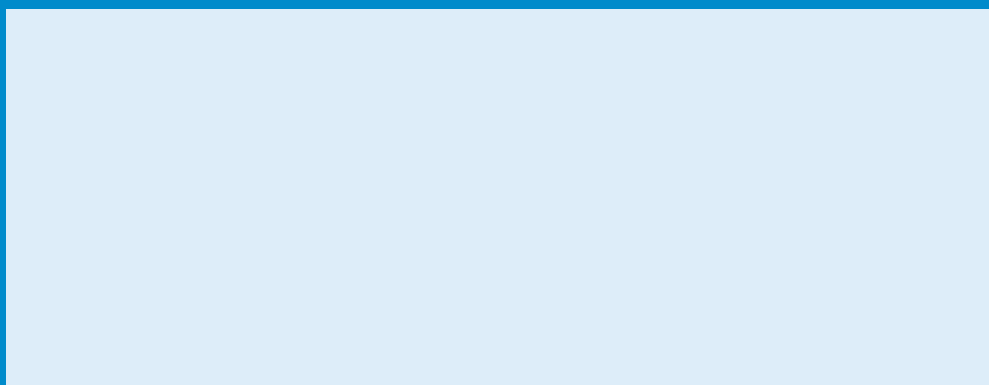
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