

# Human Resources Policy Statement HRPS8

## Equality and Diversity Policy



### The General Statement of Equality and Diversity Policy

The achievement of equality of opportunities and inclusion is central to the University's mission as a provider of higher education. Our aim is to foster and develop a wide range of skills and experience which cannot be found within any single group of students or staff. In the pursuit of our aims we seek to create a community in which diversity is valued and which both reflects and services the needs of the broader communities in which we operate.

#### General Policy

1. Middlesex University is committed to the provision of equality of opportunity for all and continues to formulate and implement policies and practices to this end.
2. In the provision of equality of opportunities, the University realises and accepts its responsibilities under the law. It is unlawful to discriminate directly or indirectly in recruitment, employment or education on the grounds of the nine "protected characteristics" in the Equality Act 2010. These characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. Operationally the University aims to reach beyond legislative boundaries to provide equality of opportunity for everyone. Therefore the University aims to proactively avoid any form of unfair discrimination in either education or employment. We already have 3 statutory equality schemes for disability gender and race however the aim is to provide equality of opportunity beyond the protected characteristics for example on socio-economic grounds.

#### Responsibility

3. Overall responsibility for equality and diversity within the University lies with the Vice-Chancellor. Members of the Executive and senior management are responsible for ensuring that the Equality and Diversity Policy is implemented in their areas of responsibility.
4. The Director of Human Resources or representative is responsible for taking any action on decisions relating to equality and diversity in employment matters, co-ordinating the monitoring of the effectiveness of the policy and providing general guidance in relation to this policy.
5. Deans and Directors of Services are responsible for implementing the University's Equality and Diversity Policy and for taking action on decisions relating to equality and diversity in the staffing and operation of the academic programme, and in all other activities on campuses under their control.
6. The University will ensure that all staff and students are made aware of the Equality and Diversity Policy and procedures. All employees and students of the University are responsible for ensuring that their actions are carried out in the terms of the general policy and codes of practice. They may be held personally accountable should any complaint arise.

7. The development and monitoring of the Equality and Diversity Policy is supported by the University's Equalities and Diversity Manager, who is responsible for developing and co-ordinating initiatives that will enhance diversity and equality of opportunity within the University.

#### Application

8. The general policy relates to all aspects of employment and academic life, including advertisements, recruitment, pay, terms and conditions of service, training, secondment, redeployment, benefits, promotions, grievance and disciplinary procedures, curriculum, pedagogy and assessment, course validation and admissions practices. The University will consider equality and diversity implications when entering into contractual relationships with other organisations such as tendered purchasing contracts and collaborative programmes of study.

9. People not employed by the University but who are involved in the University's activities, such as visitors, clients, external contractors etc, are expected to operate within the terms of the general policy.

10. The policy applies to the treatment of existing as well as potential employees and students.

#### Implementation

11. Consultation with staff and students will be a necessary part of implementing the general policy and the specific policies and procedures.

12. Staff and students will be informed of their responsibilities in relation to promotion and implementation of the Equality and Diversity Policy and procedures during their induction to Middlesex University and at various intervals during their employment or study.

13. All Deans and Directors of Service will appoint an Equality and Diversity Advisor, who will be given training to assist and advise Managers and Staff and where appropriate Students, on equality and diversity issues.

14. Each School and Service will produce equality and diversity objectives or an action plan as part of their planning process. The action plan must not exceed a 2 year period. Progress on implementing the action plan will be monitored annually.

15. Appropriate training will be provided to assist with implementation of the Equality and Diversity Policy.

16. Advice on the implementation of the specific policies can be accessed through the Equality and Diversity Advisors, the Equality and Diversity Manager or Human Resource Services.

17. The University will adopt the best equality and diversity practice in the light of both internal and external research and experience.

#### Complaints

18. Any complaint made with regard to inequality shall be dealt with under the terms of the appropriate complaints procedures, bearing in mind the safeguarding of individuals.

## **Statement of Equality and Diversity Policy as it applies to the Board of Governors**

### General Policy

19. The Board of Governors will ensure that its own activities fully conform to the University's statement of Equality and Diversity, by aiming to provide equality of opportunity across the nine "protected characteristics" in the Equality Act 2010. These are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. Socio-economic status is an additional element that the University considers beyond the protected characteristics in attaining equality of opportunity.

### Application

20. In considering its own composition, the Board will try to ensure that its membership embraces the widest possible variety of backgrounds and views, consistent with ensuring that the Board has the skills and experience necessary to carry out its responsibilities.

21. The Board will particularly take into account the application of the University's Equality and Diversity Policy in all aspects of the responsibilities relating to:

- the educational character and mission of the University;
- the oversight of the activities of the University;
- the appointment, assignment, grading, appraisal, suspension, dismissal and determination of the pay and conditions of the Vice-Chancellor, Clerk to the Board of Governors and senior staff; and
- the setting of a framework for pay and conditions of other staff.

## **Code of Practice 1: Middlesex University as an Equality and diversity Employer**

### Policy

22. Middlesex University is committed to becoming an equality and diversity employer. It is important that people from all groups in society are represented at all levels of employment. This is important both for the success and development of the institution and for the provision of role models. Employment policy at Middlesex will strive to:

- eliminate unfair discrimination at each stage of the recruitment process and throughout an individual's period of employment;
- act positively, to redress discriminatory practices;
- develop patterns of work which encourage and enable the redress of institutional employment imbalances;
- ensure that all employees and all those acting on behalf of Middlesex University are aware of, trained in, and abide by the Equality and Diversity Policy.

### Recruitment & Selection

23. All aspects of recruitment and selection will be conducted in accordance with Policy and Codes of Practice on Recruitment and Selection ([Human Resources Policy Statement HRPS7 Staff Recruitment & Selection](#)).

24. Every member of staff invited to participate on recruitment and selection panel will be required to attend Recruitment and Selection training. The training incorporating equality areas will be provided by the Staff Development Unit.

### Recruitment of Ex-offenders

25. As part of its commitment to equality and diversity, the University undertakes not to discriminate unfairly against any anyone who has disclosed a criminal conviction or revealed other information. It complies fully with the Criminal Records Bureau's Code of Practice and has a policy on the Recruitment of Ex-offenders to posts or programmes of study [Human Resources Policy Statement HRPS27](#). Having a criminal record will not necessarily bar an applicant from studying or working with the University. This will depend on the nature of the programme of study or the employment and the circumstances and background of an applicant's offence(s). Guidance on assessing a criminal record is provided by the University in its Policy.

### Probation

26. Policy and procedures related to the probation period of new employees shall be conducted in accordance with principles and practices of the University's Equality and Diversity Policy ([Human Resources Policy Statement HRPS13 Probation](#)).

### Procedures for Promotion

27. All opportunities for promotion will be advertised.

28. All procedures for the promotion and career development of employees will be based on the objective assessment of the ability of an individual with respect to written criteria (for example, the job description and employee specification or agreed general promotion criteria) in accordance with equality and diversity policies and practices.

29. The constitution of recruitment and selection and promotions panels should be in accord with equality and diversity policy and practices.

30. Promotion procedures and agreements will be reviewed periodically with the appropriate trades unions. Part of this review will ensure that they are consistent with the Equality and Diversity Policy. (This review process will be monitored).

31. Employees who feel they have been unfairly discriminated against may pursue the matter under the Staff Complaints Procedure either informally or formally.

#### Staff Development

32. The Staff Development Unit will establish systems which will enable it to meet the needs of all employees at all levels and in all areas of work. Information about access to training and development opportunities will be available to all staff and associates. Systematic and equitable criteria will be applied, and the value of the provision to the individual and the institution will be monitored.

33. Action will be taken in the allocation of resources for staff development and training to support people from under-represented groups. All staff will receive training on equality and diversity.

#### Career Development

34. Career development opportunities will be consistently available to all staff, including secondments (see guidelines on HRS Intranet), work shadowing ([Human Resources Policy Statement HRPS12 Work Shadowing](#)), sabbaticals, ([Human Resources Policy Statement HRPS14 Sabbatical Leave](#)) and acting posts.

35. In most cases posts, either temporary or permanent, will be advertised. Selection for such posts should be based on objective criteria, including job description and person specification, there may be exceptional circumstances when, because of urgent need, it is not always possible to advertise the post. This may apply in the case of 'Acting up' or Secondment arrangements. In such cases guidance should be sought from Human Resource Services and reference made to the University's Recruitment and Selection procedures or secondment guidelines.

36. Staff will be given the opportunity to participate on an equitable basis in training and education which supports career development.

#### Disciplinary and Grievance Procedures

37. Employees who feel that they have been discriminated against on the grounds of a protected characteristic, in any disciplinary or grievance procedure will be encouraged to pursue the matter under the relevant section of the Staff Complaints Procedure.

#### Patterns of Work

38. The University will develop patterns of work which are consistent with equality and diversity policies and practices in relation to:

- Part-time work;
- Job share ([Human Resources Policy Statement HRPS15 Job Share](#));
- Hours of work;
- Caring and parental responsibilities ([Human Resources Policy Statement HRPS11 Maternity, Paternity and Adoption](#));

- Dependency leave ([Human Resources Policy Statement HRPS16 Dependency Leave](#)); and
- Career break and return to work ([Human Resources Policy Statement HRPS17 Career Break Policy](#)).

39. The University will review and monitor working conditions in the institution to ensure that the working and built environment, and the conditions of employment do not limit the opportunity for employment or career progression for people who have a protected characteristic.

#### Equal Pay

40. The University has an [Equal Pay Policy](#) and is committed to the principle of equal pay for work of equal value for all of its employees and understands that equal pay between men and women is a legal right under both UK and European law.

#### Training in Equality and Diversity

41. There will be a regular programme of training on issues relating to the University's Equality and Diversity Policy. All new members of staff will receive Equality and Diversity training during their probationary period, and training on equality and diversity became mandatory for all staff in 2004.

42. All Harassment and Equality & Diversity Advisors will be required to attend training in the implementation of the University's Equality and Diversity Policy, including awareness of the ways in which institutional discrimination operates. They will also receive training in how to deal with sexual, racial, disability and other forms of harassment.

#### Feedback and Monitoring Procedures

43. The Director of Human Resources or representative will be responsible for monitoring all applications and appointment and promotion procedures and will provide regular reports to Executive Briefing Group, the Equality and Diversity Committee and the Chairs Committee of the Board of Governors.

44. A record of Equality (including Harassment) complaints received, action taken and trend analysis will be made available to Executive, all Deans of Schools, Directors of Service, and the Equality and Diversity Committee.

45. A range of advice on equality and diversity will be made available to staff and students by Equality & Diversity Advisors, the Equalities & Diversity Manager, Director of Human Resources or representative, Deans of School, Directors of Resources & Students, Directors of Service and Students' Union Executive.

## **Code of Practice 2: Middlesex University as an Equality and Diversity Institution in relation to the Education of Students**

### Policy

46. The University is committed to ensuring that all students enjoy equality of opportunity during their studies at Middlesex and are free from any form of discriminatory practices by the institution or its members, as defined in the University's Equality and Diversity Policy and Codes of Practice.

### Course Publicity and Student Recruitment

47. Course publicity will be disseminated in ways which ensure that it is brought to the attention of all sectors of society. This will include the active promotion of relationships with relevant local community organisations.

48. The general statement expressing the University's commitment to equality and diversity will appear in prospectuses and publicity material.

49. Throughout the process of admissions, selection criteria will adhere to equality and diversity guidelines. In particular, questions relating to age, colour, ethnic origin, family responsibility, gender, marital status, maternity and pregnancy, nationality and race, religion, belief, sexual orientation, disability, or socio-economic status of the applicant will not form part of the interview.

50. The University is committed to promoting access to higher education for a diverse range of students. The University's strategies on widening participation and development of part-time provision are aimed at facilitating the inclusion of those students who have traditionally been excluded. The University will seek to extend access by a variety of means such as through access courses and collaborative links, forms of part-time study, non-traditional entry, accreditation of prior experience and learning and the use of access and hardship and related funds.

### Student Systems and Monitoring Procedures

51. Induction courses will include an explanation of the University's Equality and Diversity Policy, including the complaints procedure, access to child care provision, relevant facilities for disabled people, and student disciplinary and complaints procedures.

52. Clear and accessible information will be given about the structures and systems of support available to students in relation to equality and diversity and the range of staff who will be available to help them should a difficulty arise.

53. Monitoring systems will be established for admissions, course development and review and student progression.

### Teaching/Learning: Content and Methods

54. The content of modules and teaching/learning strategies will reflect, as appropriate, the needs of education in and for a diverse society.

55. Students will be given opportunities to discuss equality and diversity in the curriculum.

56. There will be increased flexibility in study programmes to meet the needs of a widening range of learners.

57. Language support will be provided, as required, for students for whom English is not their first language.

58. Leaders of all modules and programmes will ensure that the curriculum, pedagogy and treatment of students are consistent with the University's general Equality and Diversity Policy and Codes of Practice.

### **Code of Practice 3: Disabled Staff and Students**

#### Policy

59. Middlesex University is establishing systematic programmes of change across the University, to empower students and staff who are disabled to achieve their full potential. The University has a duty to make reasonable adjustments in relation to staff, students and services. These adjustments apply where a disabled person is placed at a substantial disadvantage in comparison to non-disabled people. These provisions do not apply to the other equality strands, and are unique to disability. The Equality Act 2010 defines what is meant by the duty to make reasonable adjustments. The three requirements of the duty are in relation to:

- provision, criteria or practice
- physical features
- auxiliary aids

#### Definition of Disability

60. A person has a disability as defined in the Equality Act 2010, if that person has or had a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day to day activities. However, Middlesex University acknowledges that a person is more likely to be disadvantaged by social and environmental factors than by any impairment s/he may have and will undertake practical and reasonable steps to remove these wider disadvantages.

61. Middlesex University is committed to setting up systems to break down any barriers which might prevent a disabled person from actively participating in the life of the University.

#### Implementation of Policy for Staff and Students

62. Recruitment and admissions staff will be issued with guidelines on the admission of staff and students with all forms of impairment.

63. The Disability Support Service, Deans of Students, Director of Learning Resources and Equality and Diversity Manager will provide information on academic resources and support systems available for students with disabilities.

64. The Disability Support Service, together with Deans and Human Resource Services, will be responsible for providing information on physical resources and related issues for staff and students.

#### 65. Procedures for Admission and Recruitment

- (a) The recruitment of staff and selection of students will be carried out in accordance with the University's Equality and Diversity Policy. Candidates will be selected on objective criteria to assess suitability. Issues concerning any support needed by a disabled student or member of staff will be dealt with subsequently.
- (b) Students and staff with disabilities will enjoy the same equality of opportunity available to their peers however it is not unlawful to discriminate in favour of a disabled person. In accordance with the University's Equality and Diversity Policy, support systems, curricular development and information will be designed to be inclusive and not exclude individual students or staff who are disabled.

- (c) If necessary and with their permission, the Chair of the Interview Panel or Director of Resources and Students will inform relevant staff of the support or emergency needs of disabled staff or students on their Campus.
- (d) The Director of Resources and Students shall, with regard to confidentiality, monitor that the ongoing needs (as reflected in point (c) above) of students who are disabled are being implemented and embedded as appropriate. Any resulting statistics could be made available to relevant Equality & Diversity Advisors or the Equality and Diversity Manager.
- (e) In cases where adjustments require assessment of contractual conditions, advice should be sought from Human Resource Services.

66. The University has produced a guide for managers on the [Employment of Disabled People](#) to help managers recruit and retain the very best employees, to recognise and benefit from the skills and experience disabled people can bring to the workplace and to assist disabled people to meet their full potential.

#### 67. Development and Training

- (a) The Disability Support Service, in conjunction with the Staff Development Unit, will run ongoing development and briefing programmes to fully inform staff in their provision for disabled students and staff.
- (b) The Disability Support Service, together with the Deans of Resources and Students, will make known to students and staff, at the earliest opportunity, the wide range of non-academic support facilities available.
- (c) The Disability Support Service and Head of Human Resources Services, or representative, will use outside specialist services to facilitate support or communication with disabled students or staff..

#### The Built Environment

68. Estates and Facilities Management Services and the Disability Support Service will ensure that the built environment is monitored and undertake adaptations to meet the needs of staff and students with disabilities inline with our aim to be an inclusive university.

#### Complaints Procedure

69. Complaints will follow the same procedures as for harassment and discrimination where that is appropriate.

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## **Code of Practice 4: Sexual Orientation, Religion or Belief, Gender Reassignment and Transsexuals**

### Policy

70. The Equality Act 2010 has harmonised and strengthened discrimination law to support progress on equality. The equality legislation on sexual orientation, religion and belief, gender reassignment and transsexuals has been incorporated into the new Act. The legislation outlaws discrimination, victimisation and harassment in vocational training and employment on grounds of sexual orientation and religion or belief.

71. Middlesex University recognises the benefits a diverse workforce can bring to the workplace, and is committed to ensuring that all aspects of its employment practice and working conditions do not discriminate against particular groups of staff.

### Sexual Orientation, Gender Reassignment and Transsexuals

72. It is important to note that all students in higher and further education institutions are specifically included in the legislation.

73. Middlesex University values all its staff and students equally, regardless of their sexual orientation, gender assignment or transsexuality. It recognises the extent of heterosexist assumptions in society. Through the implementation of its equality and diversity policies and procedures, it will ensure that recruitment, progression and promotion are based entirely on relevant criteria which do not include sexual orientation, gender reassignment or transsexuality.

74. Middlesex University is committed to ensuring that everyone is treated with equal dignity and fairness regardless of their sexual orientation, gender reassignment or transsexuality. Homophobic abuse, harassment or bullying, e.g., name calling/derogatory jokes, intrusive questions, are serious offences that may lead to the University's Staff or Student Disciplinary Procedures being invoked, including, for very serious offences, dismissal for gross misconduct or expulsion. All areas of the curriculum will be checked to see that they do not rely on heterosexist assumptions and that they contain no material that could offend people on sexual orientation, gender reassignment or transsexual grounds.

75. The University will provide a supportive environment for staff or students who wish it to be known that they are lesbian, gay, bi-sexual or transsexual. However, it is the right of the individual to choose whether they wish to be open about their sexuality in the University. To "out" someone, whether staff or student, without their permission is a form of harassment and will be treated as such. Assumptions should not be made about the sexuality of partners of staff or students, and where ever possible, workplace benefits will apply equally to same sex partners.

76. Lesbian, gay, bi-sexual or transsexual issues will be included in all equality training, and in the monitoring of complaints of harassment. The results of this monitoring will be published.

### Gender reassignment

77. The definition of gender reassignment has been amended so that people no longer have to be under medical supervision to be protected by the law. The Equality Act 2010 defines the protected characteristic of gender reassignment as 'where a person has proposed, started or completed a process to change his or her sex'. A transsexual person has the protected characteristic of gender reassignment.

In addition to direct and indirect discrimination, protection remains for people undergoing gender reassignment from discrimination due to absence from work. Where a transsexual person is absent from work because of gender reassignment, the Equality Act 2010 provides that they should be treated no less favourably than if the absence was due to sickness or injury or another reason e.g. caring for a relative.

78. Staff and students undergoing gender re-assignment will receive positive support from the University to meet their particular needs during this period. The Equality and Diversity Manager or a Human Resources Manager should be contacted for advice on operational issues regarding staff and the Director of Resources and Students for student issues.

79. The University recognises that lesbian, gay, bi-sexual or transsexual staff and students come from diverse backgrounds and will strive to ensure that they do not face discrimination, either on grounds of their sexual orientation or with regard to other aspects of their identity, e.g. race, age, religion, disability.

80. Middlesex University aims to create an environment in which all staff and students, whatever their sexuality or gender assignment, feel equally welcomed and valued, and in which inappropriate behaviour is not tolerated.

#### Religion or belief

81. Middlesex University celebrates and values the diversity brought to its student body and workforce through individuals, and aims to create an environment where the cultural, religious and non-religious beliefs of all its employees and students are respected. Through the implementation of the relevant equality policies and procedures Middlesex University aims to ensure that:

- admissions, recruitment and selection are based entirely on relevant criteria, which do not include religious belief or non-belief, (except in the case of a genuine occupational requirement);
- members of any religion or those who have none, are treated with equal dignity and fairness;
- under represented groups in society are encouraged to apply for jobs;
- where possible, appropriate services are provided to meet the cultural and religious needs of all employees;
- the right to freedom of thought, conscience and religion is absolute, but the right to manifest beliefs is qualified by the need to protect the rights and freedoms of others.

#### Dress code

82. Middlesex University imposes no dress code on its employees and welcomes the variety of appearance brought by individual styles and choices. The wearing of items arising from particular cultural/religious norms, e.g. higab, kippah, mangal and sutra, is seen as part of this welcome diversity. The only limitations to the above are that health and safety requirements take precedence and may mean that for certain tasks, specific items of clothing such as overalls, protective clothing, etc, need to be worn. If such clothing produces a conflict with an individual's religious belief, the issue will be sympathetically considered by the line manager, with the aim of finding a satisfactory compromise.

#### Religious observance

83. Middlesex University will ensure that all staff and students know that if they have special prayer requirements, they should notify their line manager or appropriate academic, who will provide information about easily accessible facilities in the neighbourhood. Where

there are none, the University will make reasonable efforts to provide a suitable space for prayer and washing facilities if required.

84. All staff, regardless of religious belief or non-belief, are required to work in accordance with their contract. Line managers should make every attempt to ensure that those whose religion requires them to pray at certain times during the day are free to do so. In addition, reasonable efforts to accommodate requests from those who require, for example, an extra hour at midday on Friday, or not to work beyond sunset on Friday, or even on a Saturday, should be made. Any weekend working arrangements should ensure that no one is forced or pressured to work at times when their religious beliefs forbid them to do so. Student matters in this area will be covered by the University's regulations.

#### Leave for religious festivals

85. By custom, holiday arrangements include a day off at Christmas and for Good Friday and Easter Monday. All of these are Christian festivals. In the interests of equality, those practicing other religions or none, have a right to book three days of their holiday entitlement on the dates of most significance to them. Further requests for holiday entitlement to be taken at times of religious significance will be treated sympathetically. The number of annual leave days over all will remain as in the contract of employment for all staff, of any religious belief or of none. (The main religious dates for each year will be made available on the HRS pages on the staff intranet, and on 24-7.)

#### Extended leave

86. If a member of staff requests extended leave at a particular time for the purpose of going on pilgrimage, the line manager should attempt to accommodate the request. If the extended leave exceeds the annual holiday entitlement, the excess day will be unpaid leave.

#### Food requirements

87. Middlesex University will endeavour to provide foods that meet the religious and dietary requirements of its staff and students e.g., kosher, halal. It will do this in consultation with the relevant religious groups.

#### Offensive behaviour

88. Any attempt at coercion or bullying of others to comply with a particular belief system, for example, through distribution of hate literature, propaganda or offensive remarks, may result in disciplinary action.

89. Middlesex University, through its Equality and Diversity Policy and procedure, aims to ensure equal treatment of all staff, of any religion or of none. It is based on the principle that everyone has the right to their own belief system, but they have no right to force this on other people. If any member of staff or student feels that they are not being treated fairly in accordance with this policy, they should try to resolve the matter by discussion and if that fails, take the matter up with their Director of Resources and Students or Dean of School. If this fails, the relevant complaints procedure can be used.

## Code of Practice 5: Unlawful Discrimination

### Policy

90. The University is committed to a working and learning environment that is free from unlawful discrimination.

### Definitions

91. The Equality Act 2010 gives a new definition of direct discrimination which occurs when a person treats one person less favourably than they would another because of a protected characteristic. Unfair discrimination in the workplace or in higher education on the grounds of a protected characteristic is unlawful.

92. The Equality Act 2010 makes it unlawful for staff to discriminate directly or indirectly, or harass customers or clients because of the protected characteristics of disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation in the provision of goods and services. Although discrimination in the provision of goods and services because of age is not yet covered by the Equality Act 2010, the university includes it as a matter of good practice.

93. The concept of associative discrimination in the Equality Act 2010, which is where an individual is directly discriminated against or harassed for association with another individual who has a protected characteristic (although this does not cover harassment because of marriage and civil partnership, and pregnancy and maternity).

94. Discrimination based on association can occur if, for example:

- a student, whose child has attention deficit hyperactivity disorder, is refused access to a graduation ceremony because of fears about the child's behaviour
- an employee is overlooked for promotion because their partner has undergone gender reassignment

95. Perceptive discrimination is covered in the Equality Act 2010. This is where an individual is directly discriminated against or harassed based on a perception that he or she has a particular protected characteristic when he or she does not, in fact, have that protected characteristic (although this does not cover harassment because of marriage and civil partnership, and pregnancy and maternity).

96. Discrimination based on [perception](#) can occur if, for example:

- an employer decides not to promote a female employee because senior staff believe her to be pregnant irrespective of whether she is pregnant or not
- a mental health and wellbeing officer refuses to work with a student because they believe the student to be gay irrespective of whether the student is gay or not

### Racial discrimination

97. The Equality Act 2010 reflects the previous law on racial discrimination. Discrimination on racial grounds, that is discrimination on grounds of colour, race, nationality (which includes citizenship), or ethnic or national origins. This is defined in three main ways:

- (a) Direct discrimination - This consists of treating a person, on racial grounds, less favourably than others are or would be treated in the same circumstances. Segregating a person from others on racial grounds constitutes less favourable treatment.

(b) Indirect discrimination - This occurs when an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage unless the provision, criteria or practice is objectively justified by a legitimate aim and means of achieving that aim are appropriate and necessary.

(c) Discrimination by means of victimisation - this consists of treating a person less favourably than others are or would be treated in the same circumstances because that person has made a complaint or allegation of discrimination, or has acted as a witness or informant in connection with proceedings under the Act or has been involved in any other way in its enforcement, or intends to do any of those things.

98. Activities such as the following may constitute discrimination:

- assessment systems which consistently downgrade particular groups of students without proper criterion referencing and marking scales and
- preference expressed for particular candidates at interview prior to evidence being collected from the application forms and the interview procedures.

Sex discrimination

99. The Sex Discrimination Act 1975 established the offence of discrimination, both direct and indirect and by means of victimisation. Since 1986 sexual harassment has also been defined under the law as 'less favourable treatment' and therefore a form of discrimination.

100. Students who experience harassment or discrimination in their place of education are referred to in the Act as follows: 'It is unlawful in relation to an education establishment ..... to discriminate against a woman ... where she is a pupil of the establishment in the way it affords her access to any benefits, facilities or services, or by refusing or deliberately omitting to afford her access to them or by excluding her from the establishment or subjecting her to any other detriment.'

101. Men may similarly claim unfair discrimination in similar circumstances.

Disability Discrimination

102. The Disability Discrimination Act, 1995, established the offence of discrimination against disabled people in employment, in their ability to access goods and services, or in letting or selling land or property.

Discrimination arising from disability

103. The Equality Act 2010 created a new type of discrimination – discrimination arising from disability. This replaces disability-related discrimination as currently found in the Disability Discrimination Acts. This is in addition to direct and indirect discrimination, harassment and victimisation provisions relating to disability.

104. It is discrimination to treat a disabled person in a particular way that, because of their disability, amounts to treating them unfavourably when the treatment cannot be shown to be justified. For this type of discrimination to occur, the employer, or other person, must know, or could reasonably be expected to know, that the person has a disability.

105. Discrimination arising from disability can occur if, for example, a student with diabetes, carrying medication related to their condition, is refused entry by the University to an event with a no drugs policy – the University may be discriminating against the student unless the treatment can be justified.

106. Under the Education provision of the Act, Universities are encouraged to provide a disability statement to the funding body about its facilities and policies for disabled people.

107. The Special Educational Needs and Disability Act 2001 caused the Disability Discrimination Act 1995 to be amended. Education was excluded from the main provisions of the original 1995 Act, but as of September 2002, it became unlawful for the University to discriminate against disabled students and any other disabled people. The University now has a duty to make reasonable adjustments where a student is placed at a substantial disadvantage in comparison with someone who is not disabled.

108. Current and prospective employees who think they may be discriminated against may complain to an Employment Tribunal. The Government has established a Equality and Human Rights Commission, to advise Government on the operation of the Act, and to provide a Conciliation Service.

109. The Disability Discrimination Act amendment regulations came into force in October 2004 along with the requirements of providers of goods and services to the public to ensure full accessibility for their customers.

Other form of discrimination

Pregnancy and maternity

110. Provisions in the Equality Act 2010 that relate to the workplace replicate similar provisions in the Sex Discrimination Act 1975. However, protection to women outside of the workplace from discrimination that arises as a result of pregnancy and maternity now includes higher education. The application of this to the education sector is likely to mean that we are unable to refuse an applicant entry to a course because they are pregnant or ask that they leave a course because they become pregnant. We will also need to consider arrangements for students to ensure that a woman is not treated less favourably because she is breastfeeding. Absence related to pregnancy and maternity must be taken into account by us. In addition we should not penalise students who miss examinations or course work deadlines because of pregnancy and maternity including pregnancy related illness or appointments.

Equality Schemes

111. Since 2003 there has been three Acts of Parliament that placed general and specific duties in the areas of disability, gender and race on public authorities including universities. These Acts are the Race Relations Amendment Act 2003, the Disability Discrimination Act 2005 and the Equality Act 2006. The Acts places a positive general duty on higher education institutions to promote racial equality. This duty means that in all its identified relevant functions, the University must have 'due regard to the need to:

- eliminate unlawful discrimination on the grounds of disability, sex and racial;
- promote equality of opportunity;
- promote good relations for disabled people, people of different gender and people from different racial groups.

112. Some specific duties have also been placed on further and higher education institutions, in order to help them meet the general duty. In line with the requirements of the specific duties, Middlesex University must:

- prepare a written statement of its policy for promoting disability, gender and racial equality, and have in place arrangements for fulfilling the commitments in the policy as soon as reasonably practical;
- assess the impact of its policies, including the Equality Schemes, on students and staff who are disabled, of different genders and from different racial groups;
- monitor, with reference to those groups, the admission and progression of students and the recruitment, retention and career progression of staff;
- include in the written statement of our Equality Schemes, an indication of its arrangements for publishing that statement and the results of its assessment and monitoring.

113. The University has produced a Race Equality Scheme and Action Plan which can be found at (<http://www.intra.mdx.ac.uk/services/HR/docs/eo/res0609.pdf>). The University has also produced a Disability Equality Scheme and Action Plan which can be found at (<http://www.intra.mdx.ac.uk/services/HR/docs/eo/DES%200609%20Final%20New%20Actions%200107.pdf>) and a Gender Equality Scheme and Action Plan which can be found at (<http://www.intra.mdx.ac.uk/services/HR/docs/eo/ges0710.pdf> )

#### Responsibility

114. The Complaints Procedures are intended to help all members of the University deal with any incidents which they may encounter.

115. Human Resource Services or the Harassment or local Equality and Diversity Advisor or the Equalities and Diversity Manager will be available to give advice on how a complaint should be progressed.

116. The Director of Resources and Students based on the particular Campus are responsible for ensuring that no unfair discrimination takes place on Campus.

117. Where discrimination has occurred and the victim feels fearful and unable to make a complaint, friends, colleagues and the local Equality and Diversity Advisor may take up the complaint on the individual's behalf in the interests of the University as a whole.

## Code of Practice 6: Harassment and Bullying

### Policy

118. The University is committed to a working and learning environment that is free of intimidation or unlawful harassment as defined in the Equality Act 2010, the Sex Discrimination Act (1975), the Race Relations Act (1976), the Disability Discrimination Act 1993 and the Employment Equality (Religion and Belief), Sexual Orientation Regulations 2003 and other amending legislation.

119. Harassment and/or bullying are serious offences that may lead to the University's Staff or Student Disciplinary Procedures being invoked, for very serious harassment or bullying offences, dismissal for gross misconduct or expulsion could occur.

### Harassment Advisors

120. The University has appointed a group of trained Harassment Advisors, whose role is to give support and advice to any member of staff or student who feels that they have been subjected to harassment or bullying. The Advisors can give advice on how to deal with harassment, and can assist someone who has been harassed to write letters, or to talk to the alleged harasser about stopping their behaviour. The Harassment Advisor Helpline is available on extension 4433. The Harassment Advisors cover all campuses and will treat all information in strictest confidence.

### Definitions

121. The Equality Act 2010 outlines three types of harassment:

- unwanted conduct that has the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for the complainant, or violating the complainant's dignity (this applies to all the protected characteristics apart from pregnancy and maternity, and marriage and civil partnership),
- unwanted conduct of a sexual nature (sexual harassment),
- treating a person less favourably than another person because they have either submitted to, or did not submit to, sexual harassment or harassment related to [sex](#) or gender reassignment.

### Specific forms of Harassment

#### Sexual harassment

122. Sexual harassment is a form of sex discrimination. It occurs in a variety of situations which share a common element: the inappropriate introduction of sexual behaviour or comments into the work or learning situation. Often, sexual harassment involves relationships of unequal power and contains elements of coercion. However, it may also involve relationships among equals.

#### Behaviour such as:

- unnecessary and unwelcome physical contact, touching or patting;
- derogatory name calling and ridicule, verbal abuse;
- suggestive and unwelcome comments or gestures emphasising the sexuality of an individual or of a group;
- presentation of sexist material such as magazines and sexually explicit pictures;

- unwelcome or derogatory remarks regarding the sexual orientation or preference of an individual or a group;
- unwelcome requests for social-sexual encounters and favours;
- using computer networks for abusive social, sexual or racial messages;
- criminal acts such as indecent exposure, sexual or physical assault.

All the above constitute sexual harassment to the recipient, particularly when they are accompanied by one or more of the following conditions:

- explicit or implicit promises of rewards for co-operation, via misuse of institutional authority (for example, to affect a subordinate's selection/employment, academic/professional training and advancement, salary, grading and the like);
- explicit or implicit threats of punishment for non-co-operation, via misuse of institutional authority (for example, adverse effects on the examples above);
- intimidation which creates a hostile or offensive working environment; interferes with an individual's work performance; prevents an individual's full enjoyment of education/professional opportunities; or induces conformity, stress, anxiety, fear or sickness on the part of the harassed person.

#### Sex related harassment

123. The new definition of sex related harassment will apply to unwanted conduct related to the complainant's sex or that of another person. This form of harassment is different from sexual harassment. Individuals who are not subjected to the unwanted conduct themselves will also receive protection. For example an individual (male or female) experiences a work environment where sexual banter is commonplace, although it may not be directed at them or caused by their presence, creates an offensive environment for them.

#### Racial harassment

124. Racial harassment is a form of racial discrimination. It occurs where a person "on the grounds of race or ethnic or national origins, engages in unwanted conduct which has the purpose or effect of violating that other person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for him or her".

Such behaviour includes:

- derogatory name-calling;
- presentation of racist material such as comics and pamphlets;
- insults and racist jokes;
- recruitment of others to racist organisations and groups;
- ridicule of an individual for cultural differences;
- exclusion from normal workplace conversation or social events;
- unfair allocation of work and responsibilities;
- racist graffiti or insignia;
- verbal abuse and threats;
- incitement to commit a hostile or offensive act on racial grounds; and
- physical attack.

#### Third Party Harassment

125. Third-party harassment occurs where an employee is harassed and the harassment is related to a protected characteristic (although this does not cover harassment because of marriage and civil partnership, and pregnancy and maternity), by third parties such as clients or customers. For an employer to be liable, the harassment must have occurred on at least

two previous occasions; it must be aware that the previous harassment has taken place; and it must have failed to take reasonable steps to prevent harassment from happening again.

#### Other forms of Harassment

126. There are other forms of harassment which equally can cause misery for the person suffering it. Such harassment may include, persistent teasing, comments about personal characteristics, practices or disabilities, and constant unfounded criticism of the performance of work task. Harassment because of sexual orientation or religious beliefs can also cause misery and suffering and the policy applies equally to this form of harassment.

127. The University regards harassment on the grounds of age as unacceptable.

#### Victimisation

128. Victimisation occurs when an employee is subjected to a detriment, such as being denied a training opportunity or a promotion because he or she made or supported a complaint or raised a grievance under the Equality Act 2010, or because he or she is suspected of doing so, or being about to do so. The definition is no longer based on less favourable treatment.

#### Bullying

129. Bullying frequently involves the misuse of power by someone in a position of authority (e.g. where a lecturer, manager or supervisor is able to affect another person's job, career or grade). However, it may also occur between people of the opposite sex or the same sex, between colleagues, or between students, between staff and student(s) or through upward bullying by a subordinate of his/her manager or by a student(s) of staff.

130. The University will not tolerate bullying as it can demean and undermine staff or students (individually or collectively) through negative acts or persistent behaviours, which leaves them hurt, frightened, angry or powerless.

131. Differences in culture and attitudes may mean that the person alleged to have caused offence may not have done so intentionally. However, the defining factor is the effect the behaviour has on the recipient and how this behaviour would be regarded by any reasonable person, not the intention of the alleged offender.

132. Staff and students need to be aware that not all bullying occurs face-to-face, it may be conducted by letter, memo or electronically by e-mail, facsimile or over the telephone and may include copying correspondence that is critical of someone to others who do not need to know.

133. For staff, there are other less direct (often unseen by others) forms of bullying such as unfair allocation of work and responsibilities or removal of the same without justification, monitoring work unnecessarily and intrusively.

134. Bullying is normally an accumulation of small incidents, which have formed an underlying pattern of behaviour. However, a single occurrence may be serious enough to be dealt with under the University's Student or Staff Disciplinary Procedures.

135. Any difficulty in defining what constitutes bullying should not deter staff or students from complaining of behaviour that causes distress.

136. The University is committed to removing bullying as the effects on the recipient can cause a range of negative physical and emotional symptoms and problems, including stress.

137. The term 'manager' is used generically to encompass those who line manage staff as well as academic staff members and non-academic staff who provide support services to students. It should not be implied that bullying is only carried out by line managers as bullying. Students do not have managers but the principles outlined apply equally to students in their relationships with other students and members of staff.

138. Bullying is **not**:

- legitimate and constructive and fair criticism of performance or behaviour;
- action taken in response to misconduct or poor performance in a fair and consistent way in accordance with the University's policies and procedures, although staff and students may sometimes feel emotional and physical symptoms as a result;
- vigorous academic debate; neither is it:
- the action of a manager making reasonable but perhaps unpopular, work requests of his/her staff.

The test of reasonableness (i.e. the reasonable behaviour of a reasonable person) should be applied where differences in perception are apparent.

#### Academic Freedom

139. There is no specific exemption related to the concept of academic freedom in the Equality Act 2010, but there is reference to the curriculum. The purpose of this is to ensure that the Act does not inhibit HEIs from including a full range of issues, ideas and materials from multiple perspectives in their curriculum.

140. The University is committed to academic freedom of expression and thought on campus. Where such commitment may conflict with the University's equality objectives such conflicts may be referred to the local Equality and Diversity Advisor, Equality and Diversity Manager, Director of Resources, Director of Human Resource Services or representative for guidance.

#### Responsibility

141. The Staff Complaints Procedure is intended to help all members of the University deal with any incidents which they may encounter.

142. The University undertakes to remove all graffiti in the shortest possible time.

143. Managers, colleagues, friends, union representatives and the Human Resources Service have a responsibility for ensuring that individuals do not have to suffer any form of harassment or discrimination, and that they are encouraged and supported in any legitimate complaint.

144. A witness of an incident of harassment may feel that the person experiencing it is unable to take appropriate action and may therefore give support as necessary and/or take action.

145. The steps which can be taken are outlined in the appropriate complaints procedures.

## **Code of Practice 7: Curriculum, Pedagogy and Assessment**

### Policy

146. The University is committed to an education for all students on all programmes and modules which does not discriminate against students on the grounds of age, colour, ethnic origin, family responsibility, gender, marriage or civil partnership status, nationality, pregnancy or maternity 'race,' religion, belief, sexual orientation, socio-economic status or disability. The policy embraces the development of a multi-ethnic curriculum with freedom of speech and thought in the context of scholarly dialogue.

147. The Equality Act 2010 covers the way in which an HEI provides education for students. Teaching methods, delivery and related issues such as assessment all need to comply with the main provisions of the Act, including those relating to direct and indirect discrimination, harassment and the duty to make reasonable adjustments for disabled students.

### Course Development

148. The process of review and validation shall include an examination of the extent to which programmes and modules draw upon the experience of, and address the needs of, people with diverse cultural backgrounds, those of different sex and sexual orientation, and disabled people, and different political, social and religious viewpoints.

149. The Centre for Learning Teaching and Enhancement and, Schools shall establish appropriate procedures for monitoring course submissions to ensure compliance with the Equality and Diversity Policy.

150. The development of non-discriminatory syllabi and teaching materials shall be required of all University programmes and modules including those commonly argued to be 'value-free.'

151. The teaching and learning strategies of all programmes should provide opportunities to discuss the formation of judgements and the criteria used to assess value.

### Subject and Programme Delivery

152. Within all areas of teaching and in the provision of learning resources and other student support, the University will:

- recognise and support models of good practice in this or other institutions;
- use material which recognises and values diversity, developing such materials where necessary;
- promote teaching which is anti-racist, anti-sexist and free of other forms of discrimination;
- encourage and support staff to review all learning support materials over time to ensure that their provision does not contravene the Equality and Diversity Policy;
- avoid the use of concepts or language containing disparaging or patronising connotations;
- develop programmes and new modules designed especially for disadvantaged groups;
- establish a comprehensive range of programmes of study for disadvantaged groups to gain access to courses;
- ensure that assessment procedures avoid stereotyping the abilities and potential of students and take account of disability;

- where appropriate use anonymised examination scripts for marking; and
- monitor the delivery of subjects and programmes with respect to this policy.

#### Staff Development

153. Staff development and retraining will be provided for all aspects of the implementation of the Equality and Diversity Policy, for example, to promote awareness of the limitations of particular ethnocentric approaches.

#### Complaints Procedure

154. The relevant Complaints Procedure should be invoked in case of any complaint.

## **Code of Practice 8: The Language of Equality and Diversity**

### Policy

155. Middlesex University is committed to using language spoken, written and visual which avoids sexism and racism or language offensive to those with a disability within the institution and in all its official documents, publications, committee reports and in promotional and advertising material. The goal is to achieve a writing 'house style' which embraces best practice.

### Implementation

156. Programmes of briefing and staff development will be given to all those who service University committees so that those with key roles in disseminating policy documents and such basic material as committee minutes can provide models of best practice in handling the written language.

157. Seminars for staff and students in their use of the written and spoken language will be available if requested.

### Complaints Procedure

158. When the language used is perceived to be persistently offensive and discriminatory staff and students should consult either a local Equality and Diversity Advisor, the Equality and diversity Manager, Dean of Students or Director of Human Resource Services or representative on the appropriate course of action under the various complaints procedures

### **What you should do if you believe you are the victim of:**

- Sexual, Racial, Disability or other forms of harassment;
- Bullying;
- Sexual, Racial, Disability or other forms of discrimination.

**If you are a member of staff, you should use the University's Staff Complaints Procedure. Students should use the Student Complaints Procedure [\[University Regulations\]](#).**

159. The Criminal Justice and Public Order Act 1994 makes it a criminal offence intentionally to cause a person harassment, harm or distress by using 'threatening, abusive, insulting or disorderly behaviour.'

This policy was approved by the Board of Governors at its meeting on 12 July 1993. It was reviewed and updated during 1997 and the revised policy approved by the Chair of the Human Resource Committee on behalf of the Board of Governors in February 1998. The Policy was further updated during 2000 and approved by the Human Resources Committee on 13 February 2001. The policy was further updated during 2003 and approved by the Human Resources Committee on 17 September 2003. It was reviewed in the summer of 2004 following consultation with staff, Executive Briefing Group and the recognised Trade Unions (NATFHE and UNISON). The revised version was approved by the by Executive on 28 October 2004 and by the Finance and General Purposes Committee on (15 November 2004). It is to be reviewed as/when required.

Revised Nov 2010 to incorporate legislative changes