



The Prevent Statutory Guidance:

Related legal obligations

Equality Challenge Unit

- Equality Challenge Unit (ECU) supports higher education providers across the UK and in colleges in Scotland to advance equality and diversity for staff and students.
- Established in 2001 to promote equality for staff in higher education.
- Remit extended in 2006 to include students.
- Expanded to support Scottish higher education and colleges in 2010.
- Now funded by the funding councils in Scotland and Wales, Universities UK, and through university subscription in England and Northern Ireland.
- 35 staff.
- Now also working with research institutes and institutions in the Republic of Ireland and Australia.

How we work

- Qualitative and quantitative research.
- Information, advice and guidance.
- Sharing good practice.
- Equality charters – Athena SWAN and Race Equality.
- Events, conferences, seminars and networks.
- Advice line.
- E-newsletter (Equalitylink): www.ecu.ac.uk/about-us/news/equalitylink/
- Training, consultancy and bespoke services.

Related legal obligations

- Equality Act 2010.
- Human Rights Act 1998.
- Counter Terrorism and Security Act 2015.
- Terrorism Acts 2000, 2006 and 2008, Public Order Act 1986, Protection from Harassment Act 1997, The Crime and Disorder Act, and The Racial and Religious Hatred Act 2006 – create criminal and civil offences.
- Section 202 of the Education Reform Act 1988 – ensure that academics have freedom within the law to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions.
- Section 43 of the Education No 2 Act 1986 – take reasonably practicable steps to ensure that freedom of speech within the law is secured for staff, students and visitors.
- Data Protection Act 1998 and Freedom of Information Act 2000 – duties to safeguard the information that they hold so that individuals are not put at risk through disclosure (exceptions for preventing/detecting crime).

Equality Act 2010

Applies to race, gender, disability, age, religion and belief, sexual orientation, transgender status, pregnancy & maternity, and marriage & civil partnership.

- Direct discrimination
- Indirect discrimination
- Disability related discrimination
- Reasonable adjustments
- Victimisation
- Harassment
- Public sector equality duty (where applicable):
 - 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 (tackling prejudice and promoting understanding).

Human Rights Act 1998

- Article 9 – 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 – freedom of expression, including the freedom to hold opinions and to receive and impart information and ideas.
- Article 11 – freedom of peaceful assembly and association with others.
- Article 14 – 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.

The rights under articles 9, 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.

Definitions

Terrorism as defined in the Terrorism Act 2000.

The use or threat of action (serious violence against a person, serious damage to property, endangering a person's life, serious risk to the health or safety of the public or a section of the public, serious interference/disruption of an electronic system) designed to influence the government or to intimidate the public or a section of the public made for the purpose of advancing a political, religious, racial or ideological cause.

Extremism as defined in the Prevent duty guidance.

Vocal or active opposition to fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs.

Counter Terrorism and Security Act 2015

- **Section 26(1)** – must have due regard to the need to prevent people from being drawn into terrorism.
- **Section 31(2)** – must have particular regard to the duty to ensure freedom of speech (section 43 Education No 2 Act 1986) and to the importance of academic freedom (section 202 Education Reform Act 1988).

Statutory guidance for higher education providers in England and Wales

- **Para 8** – The RHEB clearly needs to balance its legal duties in terms of both ensuring freedom of speech and academic freedom, and also protecting student and staff welfare.
- **Para 11** – RHEBs should consider carefully whether the views being expressed, or likely to be expressed, constitute extremist views that risk drawing people into terrorism or are shared by terrorist groups. In these circumstances the event should not be allowed to proceed except where RHEBs are entirely convinced that such risk can be fully mitigated without cancellation of the event. This includes ensuring that, where any event is being allowed to proceed, speakers with extremist views that could draw people into terrorism are challenged with opposing views as part of that same event, rather than in a separate forum. Where RHEBs are in any doubt that the risk cannot be fully mitigated they should exercise caution and not allow the event to proceed.
- **Para 20** – We would expect the risk assessment to look at institutional policies regarding the campus and student welfare, including equality and diversity and the safety and welfare of students and staff.

Real-world case study

A former student of a higher education provider is identified as an Islamic State terrorist in the media. There is also public disquiet over the attendance of preachers with a history of expressing radical Islamist views at meetings held by the provider's Islamic society in recent years, including when the former student attended the provider. The society asks for permission to hold a meeting in a lecture theatre to discuss these developments at which another controversial preacher is invited to speak who has expressed extremist views in the past.

A campaign has also been launched by the provider's LGBT (lesbian, gay, bisexual and trans) society to ban the preacher from speaking after allegations that he had made offensive remarks about homosexuality. They argue that his attendance would create a hostile environment for staff and students and may contravene the law.

Members of the Islamic society insist that the preacher should be allowed to speak as his views on sexuality are not the focus of the discussion, and they note that his beliefs are similar to those held by religious leaders in other faiths. There are now calls on the provider to suspend all events deemed "sensitive".

THE PREVENT DUTY IN THE CONTEXT OF OTHER LEGISLATION AND LEGAL DUTIES

- <http://www.ecu.ac.uk/wp-content/uploads/external/promoting-good-relations-on-campus.pdf>

ECU resources

