

## **Equality, Diversity and Inclusivity Policy for Students and Academic Team Members at The Institute**

### **The General Statement of Equality and Diversity Policy**

This policy and the use of the term 'employees' or 'staff' applies to The Academic team at The Institute who are associate academic colleagues of Middlesex University. The provisions in this policy apply irrespective of where the academic team member carries out their work, whether it is on campus, as a home worker, or through a blended pattern combining both office and home-based work. The achievement of equality of opportunities and inclusion is central to The Institute's partnership with the partner 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.

This policy is for students and staff to follow the principles of equality, diversity and inclusivity, however for any students who are employed, it is the employing organisational policy that will be followed, if any further action is required. For Academic Team staff it is the States of Guernsey policies as The Institute's employer.

### **General Policy**

1. The Institute 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 Institute realises and accepts its responsibilities based on the principles of 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. The Institute follows these principles and will incorporate the Prevention of Discrimination (Guernsey) Ordinance (2022).

These characteristics are: Age, disability, gender, marriage and civil partnership, pregnancy and maternity, race, religion or belief, carers, sex and sexual orientation. For Guernsey, sex and sexual orientation characteristics for employment remain under The Sex Discrimination (Employment) (Guernsey) Ordinance, 2005. Operationally, The Institute aims to reach beyond legislative boundaries to provide equality of opportunity for everyone. Therefore, The Institute aims to proactively avoid any form of unfair discrimination in either education or recruitment.

## **Responsibility**

3. Overall responsibility for equality and diversity within The Institute lies with the Senior team made up of the Head of Institute and Academic Leads that the Equality and Diversity Policy is implemented in their areas of responsibility.
4. The Senior Team are responsible for taking any action on decisions relating to equality and diversity in recruitment matters, co-ordinating the monitoring of the effectiveness of the policy and providing general guidance in relation to this policy.
5. The Senior Team are responsible for implementing The Institute'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.
6. The Inclusivity Leads will ensure that all staff and students are made aware of the Equality and Diversity Policy and procedures. All Academic Team members and students at The Institute are responsible for ensuring that their actions are carried out in the terms of the general policy. 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 Inclusivity Leads, who are responsible for developing and co-ordinating staff initiatives that will enhance diversity, equality of opportunity and inclusion within The Institute.

## **Application**

8. The general policy relates to all aspects of recruitment and academic life, including advertisements, recruitment, bursaries, terms and conditions training, benefits, promotions, grievance and disciplinary procedures, curriculum, pedagogy and assessment, programme validation and admissions practices. The Institute has its equality and diversity provision considered alongside the partner University's approval to enter into contractual relationships such as collaborative programmes of study and other collaborative relationships.
9. People not working for the Academic Team at The Institute but who are involved in its 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 Academic Team members and students.

## **Implementation**

11. Consultation with Academic Team members and students will be a necessary part of implementing the general policy and the specific policies and procedures.
12. Academic Team members and students will be informed of their responsibilities in relation to promotion and implementation of the Equality, Diversity and Inclusivity Policy and procedures during their induction to The Institute and to Middlesex University and at various intervals during their work or study.

13. Appropriate training will be provided to assist with implementation of this policy.

14. Advice on the implementation of the specific policies can be accessed through the University Link Tutor and the Institutional Link Tutor.

15. The Institute, in line with the University will adopt the best equality and diversity practice in the light of both internal and external research and experience.

### **Complaints**

16. 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, Diversity and Inclusivity Policy as it applies to the Board of Governors General Policy**

17-19. This section for The Institute will be considered once the Bailiwick Education Law has been approved.

### **Code of Practice 1:**

#### **The Institute as an Inclusive Employer Policy**

Please see below Middlesex University's guiding principles. For Academic Team members at The Institute this will be led by the employer, 'The States of Guernsey'.

20. Middlesex University is committed to becoming an inclusive 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 University 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**

21. All aspects of recruitment and selection will be conducted in accordance with policy and procedure.

22. Every member of staff invited to participate on a recruitment and selection panel will be required to attend Recruitment and Selection training. The training

incorporating equality areas will be provided online by the Organisational and Staff Development Team. Recruitment of Ex-offenders

23. 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 Disclosure and Barring Service Code of Practice and has a policy on the records to posts or programmes of study. 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 DBS Policy. Probation

24. 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. Procedures for Promotion

25. All opportunities for promotion will be advertised.

26. 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.

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

28. 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.

29. Employees who feel they have been unfairly discriminated against may pursue the matter under the Grievance Procedure. Organisational and Staff Development

30. The Organisational and Staff Development Team 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. Systematic and equitable criteria will be applied, and the value of the provision to the individual and the institution will be monitored.

31. 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

32. Career development opportunities will be consistently available to all staff, including secondments (see guidelines on HRS Intranet), sabbaticals, (Human Resources Policy Statement HRPS14 Sabbatical Leave) and acting posts.

33. 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.

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

35. 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 Grievance Procedure. Patterns of Work

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

- Part-time work;
- Flexible working
- Hours of work;
- Caring and parental responsibilities ;
- Dependency leave (Leave); and
- Career break and return to work (Career Break Policy).

37. 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

38. 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 UK law. Training in Equality and Diversity

39. All new members of staff will be required to undertake the mandatory online Equality and Diversity training during their probationary period. Feedback and Monitoring Procedures

40. 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 the Leadership Forum, the Equality, Diversity and Inclusion Committee and the Board of Governors.

41. A record of Equality (including Harassment) complaints received, action taken, and trend analysis will be made available to the University Executive Team, Directors of Service, and the Equality, Diversity and Inclusion Committee.

## **Code of Practice 2:**

### **The Institute as an Equality, Diversity and Inclusive organisation in relation to the Education of Students Policy**

42. The University is committed to ensuring that all students enjoy equality of opportunity during their studies at The Institute and are free from any form of discriminatory practices by the organisation as defined in the Equality, Diversity and Inclusivity Policy.

### **Programme/Module Publicity and Student Recruitment**

43. Programme/module 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.

44. A general statement expressing The Institute's commitment to equality and diversity will appear in prospectuses and publicity material.

45. Throughout the process of admissions, selection criteria will adhere to equality and diversity guidelines. In particular, age, colour, ethnic origin, family responsibility, gender, marital status, maternity and pregnancy, nationality and race, religion, belief or sexual orientation, of the applicant will not form part of the selection process, including being referred to in questions at an interview.

46. The Institute is committed to promoting access to higher education for a diverse range of students. The Institute's strategies on widening participation and the development of varied pathways and modes of study into and through higher education are aimed at facilitating the inclusion of those students deemed 'harder to reach' or who may have previously 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, vocational pathways, non- traditional entry, accreditation of prior experience and learning.

### **Student Systems and Monitoring Procedures**

47. Online welcome materials refer to The University's and The Institute's Equality, Diversity and Inclusivity Policy, including the complaints procedure, relevant facilities for disabled people, and student complaints procedures (for Franchised students see UniHub).

48. Clear and accessible information will be made available online 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.

49. Monitoring systems will be established for admissions, programme development and review and student progression.

### **Teaching/Learning: Content and Methods**

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

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

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

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

54. Leaders of all modules and programmes will ensure that the curriculum, pedagogy and treatment of students are consistent with The Institute's Equality, Diversity and Inclusivity Policy and Codes of Practice

### **Code of Practice 3:**

#### **Disabled Students and Academic Team members Policy**

55. The Institute has a duty to make reasonable adjustments in relation to Academic Team members and students. 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) and the Prevention of Discrimination (Guernsey) Ordinance (2022) 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**

56. 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, The Institute acknowledges that a person is more likely to be disadvantaged by social and environmental factors than by any impairment they may have and will undertake practical and reasonable steps to remove these wider disadvantages. The Guernsey definition (Prevention of Discrimination (Guernsey) Ordinance (2022)) of disability is:

1. (1) Disability is a protected ground.
- (2) A person has a disability if the person has one or more long term impairments.
- (3) A long term impairment is an impairment which –

- (a) has lasted, or is expected to last, for not less than six months,
- (b) is expected to last until the end of the person's life.

(4) For the purposes of the time periods specified in subsection (3), an impairment can have lasted, or can be expected to last, notwithstanding –

- (a) the impairment being, or having been, in a period of remission where the impairment has the potential to recur, or
- (b) medical treatment controlling the symptoms of the impairment to any extent.

(5) If there is any doubt as to whether an impairment is a long term impairment, medical evidence may be sought by the person with the impairment from a registered health professional, special educational needs coordinator or occupational health practitioner, as the case may be, as to the expected duration of the impairment.

(6) In relation to the protected ground of disability, a reference to a disabled person is a reference to a person who has a disability.

(7) For the purposes of this Ordinance, "impairment" means –

- (a) the total or partial absence of one or more of a person's bodily or mental functions, including the absence of a part of a person's body,
- (b) the presence in the body of organisms or entities causing, or likely to cause, chronic disease or illness,
- (c) the malfunction, malformation or disfigurement of a part of a person's body,
- (d) a condition or malfunction which results in a person learning differently from a person without the condition or malfunction, or
- (e) a condition, illness or disease which affects a person's thought processes, perception of reality, social interactions, emotions or judgement or which results in disturbed behaviour.

57. The Institute is committed to setting up systems to break down any barriers which might prevent a disabled person from actively participating the organisation's activities/provision.

### **Implementation of Policy**

58. Academic Team members involved with Recruitment and Admissions will be issued with guidelines on the admission of students with all forms of impairment.

59. The Inclusivity and Wellbeing Leads will provide information on academic resources and support systems available for students with disabilities.



60. The Inclusivity Leads together with the Senior Team, will be responsible for providing information on physical resources and related issues.

61. Procedures for Admission and Recruitment of students (Academic Team members' recruitment remains under the employers policy – States of Guernsey)

(a) The recruitment and selection of students will be carried out in accordance with The Institute's Equality, Diversity and Inclusivity Policy. Candidates will be selected on objective criteria to assess suitability. Issues concerning any support needed by a disabled student will be dealt with subsequently.

(b) Students' 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 Institute's Equality, Diversity and Inclusivity Policy, support systems, curricular development and information will be designed to be inclusive and not exclude individual students who are disabled.

(c) If necessary and with their permission, the Admissions lead will inform relevant Academic Team members of the support or emergency needs of disabled students at The Institute.

(d) The Inclusivity Leads and Informatics Co-Ordinator will monitor that the ongoing needs (as reflected in point (c) above) of students who are disabled are being implemented and embedded as appropriate.

### **Academic Team members' recruitment remains under the employer's policy – States of Guernsey**

62. 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.

### **The Built Environment**

63. The Senior Team and Inclusivity Leads will ensure that the built environment is monitored and undertake adaptations to meet the needs of Academic team members and students with disabilities in line with our aim to be an inclusive organisation.

### **Complaints Procedure**

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

#### **Code of Practice 4:**

Sexual Orientation, Religion or Belief, Gender/Sexual Reassignment and Transgender, Gender Identity and Expression

65. The Equality Act 2010 legislation outlaws' discrimination, victimisation and harassment in vocational training and employment on grounds of sexual orientation, gender reassignment and religion or belief.

66. The Institute 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 Identity, Gender/Sexual Reassignment, Transgender, Gender Identity and Expression

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

68. The Institute values all its staff and students equally, regardless of their sexual orientation, gender identity and expression, sexual reassignment, and transgender status. It recognises the extent of heterosexist assumptions in society. Through the implementation of its equality, diversity and inclusivity policies and procedures, it will ensure that recruitment and progression are based entirely on relevant criteria which do not include sexual orientation, sexual reassignment, transgender status, gender identity and expression.

69. The Institute is committed to ensuring that everyone is treated with equal dignity and fairness regardless of their sexual orientation, gender identity, gender expression, or trans identity. Homophobic, biphobic, and transphobic and gender identity and expression abuse, harassment or bullying, e.g., name calling/derogatory jokes, intrusive questions, 'outing' of LGBTQ+ staff, inappropriate comments about trans staff or those who identify as non-binary way are serious offences that may lead to 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 identity/expression and reassignment or trans grounds.

70. The Institute will provide a supportive environment for staff or students who wish it to be known that they are lesbian, gay, bi, trans, and those who identify as non-binary, and other. However, it is the right of the individual to choose whether they wish to be open about their sexuality or gender identity at the Institute. To "out" someone, without their permission is a form of harassment and will be treated as such. Assumptions should not be made about the sexuality or gender identity of partners of staff or students.

71. LGBTQ+ issues will be included in all equality, diversity and inclusivity training, and in the monitoring of complaints of harassment. The results of this monitoring will be published in annual monitoring and reporting mechanisms.

## **Gender reassignment and/or sexual reassignment**

72. The Equality Act 2010 defines the protected characteristic of gender reassignment as 'where a person has proposed, started or completed a process to change their sex'. A trans person has the protected characteristic of gender reassignment. We prefer to refer to this as sexual reassignment as no change to the gender expression may take place. In addition to direct and indirect discrimination, protection remains for people undergoing gender/sexual reassignment from discrimination due to absence from work. Where a trans person is absent from work because of gender/sexual 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. For Guernsey based students the law underpinning practice is the The Sex Discrimination (Employment) (Guernsey) Ordinance, 2005 rather than the Prevention of Discrimination (Guernsey) Ordinance (2022)

73. Staff and students undergoing gender/sexual reassignment will receive positive support from The Institute to meet their particular needs during this period. The Institutional/University Link Tutor should be contacted for advice on operational issues the Student Support and Wellbeing Service should be contacted.

74. The Institute recognises that staff and students who identify as LGBTQ+ and those who identify with another gender expression or identity 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 or expression including but not limited to, e.g., race, age, religion, disability, sex.

75. The Institute aims to create an environment in which all staff and students, whatever their sexuality or gender identity, feel equally welcomed and valued, and in which inappropriate behaviour is not tolerated.

## **Religion or belief**

76. The Institute 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, diversity and inclusivity policies and procedures, The Institute 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;
- underrepresented 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**

77. The Institute follows States of Guernsey dress code policies depending on their role. The Institute welcomes the variety of appearance brought by individual styles and choices. The wearing of items arising from particular cultural/religious norms, e.g. hijab, kippah, Mangal sutra, is seen as part of this welcome diversity. There are limitations to the above with regard to health and safety requirements that 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 Senior Team at The Institute, with the aim of finding a satisfactory compromise.

### **Religious observance**

78. The Institute 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 either on site or in the neighbourhood. Where there are none, The Institute will make reasonable efforts to provide a suitable space for prayer and washing facilities if required.

79. 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 partner University's regulations.

### **Leave for religious festivals**

80. 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.

### **Extended leave**

81. 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 days will be unpaid leave.

### **Food requirements**

82. Guernsey currently has limited opportunities for accessing provision of certain foods that meet the religious and dietary requirements of its staff and students e.g., kosher, halal. The Institute will endeavour to identify alternatives in consultation with the relevant religious groups.

### **Offensive behaviour**

83. 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.

84. The Institute, through its Equality, Diversity and Inclusivity Policy, 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 manager relevant academic team member. If this fails, the relevant complaints or grievance procedure can be used.

## **Code of Practice 5:**

### **Unlawful Discrimination**

85. The Institute is committed to a working and learning environment that is free from unlawful discrimination.

### **Definitions**

86. The Equality Act 2010 gives a 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. For the Guernsey legislation Prevention of Discrimination (Guernsey) Ordinance (2022), the definition is:

#### **Direct Discrimination**

6. (1) A person ("A") discriminates against another ("B"), if because of a protected ground, A treats B less favourably than A treats or would treat others.

(2) The protected ground referred to in subsection (1) which is the reason for the less favourable treatment may, at the time of the less favourable treatment - (a) exist, (b)

have previously existed but no longer exist, (c) exist in the future, or (d) be imputed to B by A.

(3) If the protected ground is disability, and a disabled person ("C") has a particular disability, A does not discriminate against B (where B is not a disabled person, or where B is a disabled person who does not have the particular disability that C has) only because A treats or would treat C more favourably than A treats B for the purpose of removing or mitigating a disadvantage to which C would otherwise be put as a result of C having that particular disability.

(4) If the protected ground is carer status, and B does not have carer status, A does not discriminate against B only because A treats or would treat a person with carer status more favourably than A treats B for the purpose of removing or mitigating a disadvantage to which the person with carer status would otherwise be put as a result of having carer status.

(5) For the purposes of establishing a contravention of subsection (1), it does not matter whether A has the same protected ground as B. Discrimination by association.

7. A person ("A") discriminates against another ("B") who is associated with another person ("C") if - (a) A treats B, by virtue of that association, less favourably than a person who is not so associated is, has been or would be treated, and (b) similar treatment of C would, by virtue of section 6(1) and (2), constitute discrimination. Indirect discrimination.

8. (1) A person ("A") discriminates against another ("B") if A applies a provision, criterion or practice which has a discriminatory effect on B in relation to a protected ground. (2) For the purposes of subsection (1), a provision, criterion or practice has a discriminatory effect on B in relation to a protected ground if - (a) A applies, or would apply, it to persons with whom B does not share the ground, (b) it puts, or would put, persons with whom B shares the ground at a particular disadvantage when compared with persons with whom B does not share it, (c) it puts, or would put, B at that disadvantage, and (d) A cannot show it to be a proportionate means of achieving a legitimate aim. Discrimination arising from disability.

9. (1) A person ("A") discriminates against a disabled person ("B") if –

(a) A treats B unfavourably because of something arising in consequence of B's disability, and

(b) A cannot show that the treatment is a proportionate means of achieving a legitimate aim.

(2) Subsection (1) does not apply if A shows that A did not know, and could not reasonably have been expected to know, that B had the disability.

Points 87 to 116 (see below) are the University's principles for staff discrimination. For The Institute's Academic Team members, the employing organisational policies will be followed (States of Guernsey).

87. 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. From 2012 discrimination in the provision of goods and services because of age is covered with some legal exceptions. The University includes discrimination on the grounds of gender expression and gender identity as a matter of good practice as it is not yet covered by the Equality Act 2010.

88. 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).

89. 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

90. 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 they have a particular protected characteristic when they do not, in fact, have that protected characteristic (although this does not cover harassment because of marriage and civil partnership, and pregnancy and maternity).

91. Discrimination based on perception can occur if, for example: • an employer rejects a job application from a white woman who he wrongly thinks is black, because the applicant has an African sounding name • 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

92. 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.

93. 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

94. Sexual harassment has been defined under the law as 'less favourable treatment' and therefore a form of discrimination.

95. 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.'

96. Men may similarly claim unfair discrimination in similar circumstances. Disability Discrimination

97. 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

98. 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 Act. This is in addition to direct and indirect discrimination, harassment and victimisation provisions relating to disability.

99. 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.

100. 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. Other forms of discrimination Pregnancy and maternity

101. Protection to women/birth parents outside of the workplace from discrimination that arises as a result of pregnancy and maternity includes higher education. The application of this to the education sector means that the University must not refuse an applicant entry to a course because they are pregnant or ask that they leave a



course because they become pregnant. The University will also need to consider arrangements for students to ensure that a woman/birth parent is not treated any less favourably because they are breastfeeding. Absence related to pregnancy and maternity must be taken into account by the University. In addition the University should not penalise students who miss examinations or course work deadlines because of pregnancy and maternity including pregnancy related illness or appointments.

### 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 will be available to give staff advice on how a complaint should be progressed. Student and Legal Affairs will give advice to students on how to progress a complaint.

116. Where discrimination has occurred and the victim feels fearful and unable to make a complaint, friends and colleagues 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

117. The Institute is committed to a working and learning environment that is free of intimidation or unlawful harassment as defined in the Equality Act (2010)

118. Harassment and/or bullying are serious offences that may lead to student disciplinary procedures being invoked, and for The Institute's Academic Team members, States of Guernsey policies. For very serious harassment or bullying offences, dismissal for gross misconduct or expulsion could occur.

#### Definitions

119. Middlesex University follow the principles of The Equality Act (2010) which 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.

This definition is for students and staff to follow the principles of equality, diversity and inclusivity, however for any students who are employed, it is the employing organisational policy's definition that will be followed, if any further action is required. For Academic Team staff it is the States of Guernsey policy definitions as The Institute's employer.

### **Specific forms of Harassment Sexual harassment**

120. 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**

121. The 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 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.

### **Race-related harassment**

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;
- 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;
- physical attack.

### **Third Party Harassment**

122. 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.

### **Other forms of Harassment**

123. 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.

124. The Institute regards harassment on the grounds of age as unacceptable.

## **Victimisation**

125. Victimisation occurs when an employee is subjected to a detriment, such as being denied a training opportunity or a promotion because they made or supported a complaint or raised a grievance under policy and/or legislation, or because they are suspected of doing so, or being about to do so.

## **Bullying**

126. 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 their manager or by a student(s) of staff.

127. The Institute 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.

128. 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.

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

130. 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.

131. Bullying can be 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 States of Guernsey Student or Staff Disciplinary Procedures.

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

133. The Institute 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.

134. 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. Students do not have managers, but the principles outlined apply equally to students in their relationships with other students and members of staff.

135. 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 partner University, Institute and/or States of Guernsey 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 their 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**

136. 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.

137. The Institute is committed to academic freedom of expression and thought on site. Where such commitment may conflict with the University's equality objectives such conflicts may be referred to the Head of Institute, University /Institutional Link Tutor or a Director of Human Resource Services or representative for guidance.

### **Responsibility**

138. The Institute Complaints Policy is intended to help all students deal with any incidents which they may encounter. For Academic Team members, The States of Guernsey Complaints Procedure is intended to help all members of staff deal with any incidents which they may encounter.

139. The Institute undertakes to remove all graffiti in the shortest possible time.

140. 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.

141. 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.

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

## **Code of Practice 7:**

### **Curriculum, Pedagogy and Assessment Policy**

143. The Institute is committed to an education for all students on all programmes and modules which actively promotes a curriculum reflecting a global outlook, where relevant drawing upon theorists from both western and non-western backgrounds. Programmes are to be designed that consider the learning and teaching methods, assessments, delivery and resources which reflect our student body and 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; although some PRSB requirements may need to be considered in conjunction with the curriculum. The policy embraces the development of a multi-cultural curriculum with freedom of speech and thought in the context of scholarly dialogue.

144. The Equality Act (2010) provides the minimum legal requirements in the way in which an HEI who The Institute partners with provides education for students. Pedagogy, curriculum design and delivery are required 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. However, alongside the protected characteristics within the act considerations should be made in considering students entry routes and commuter students within the curriculum design.

### **Course Development**

145. The process of review and validation shall include the consideration of how reflective the learning and teaching is of the student demographics. Curriculum should encourage the interrogation of traditional frameworks, models and assumptions in a scholarly manner.

146. The teaching and learning strategies of all programmes should provide opportunities to discuss the formation of judgements and the criteria used to assess value. Programme teams from HEI's should review annually with Institute Academic team members the modules to ensure resources, assessments, activities and materials are current and champion equality, diversity and inclusion.

### **Subject and Programme Delivery**

147. Within all areas of teaching and in the provision of learning resources and other student support, The Institute 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 promotes global thinking, acknowledging global theorists from western and non-western viewpoints;
- encourage and support staff to review all learning support materials annually 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;
- explore opportunities to access 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 marking; and
- monitor the delivery of subjects and programmes with respect to this policy.

### **Complaints Procedure**

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

### **Code of Practice 8:**

#### **The Language of Equality, Diversity and Inclusivity Policy**

149. The Institute is committed to using language spoken, written and visual which avoids language which could cause offence to those with a protected characteristic 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.

### **Complaints Procedure**

150. When the language used is perceived to be persistently offensive and discriminatory staff and students should consult either the Head of Institute, the Inclusivity team or the Institutional/University Link Tutor 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 an Institute Academic Team member, you should refer to the States of Guernsey policies and procedures. Students should use The Institute Complaints Guidance for Academic Provision (this follows University regulations).

These principles of The Institute's Academic Team & Students EDI policy have been adopted from The Institute's primary partner University, Middlesex's policy.

This was approved by their 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 May 2013 to incorporate legislative changes and in 2017 to incorporate Trans best practice, revised to include current HR practice and approved by the EDI Committee on 19 May 2020. Revised 18 November 2020 in support of the Stonewall WEI. Revised in June 2021 to incorporate changes to job roles and blended working. Revised in August 2022 in support of the Stonewall WEI.

**This is the University's statement of equality, diversity and inclusivity as it applies to the Board of Governors General Policy. For The Institute, this will be reviewed and agreed once the Bailiwick Education Law has been approved.**

The Board of Governors will ensure that its own activities fully conform to the Institute'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

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.

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.

**For States of Guernsey Employees, please access policies from LiveWire. For students who are not employed, please follow the policies on The Institute**



**website. For employed students (whose employer is not States of Guernsey), please follow your own employer policies. See links below:**

[LiveWire - the States of Guernsey intranet - Home \(sharepoint.com\)](#)

[Policy & Procedure - Institute \(theinstitute.gg\)](#)

**Agreed at The Institute Academic Board May 2023**

**Review September 2024**

*Adapted from Middlesex University as Partner University EDI policy (August 2022)*