Equalities Law and the Impact on the REF 2021

This table[[1]](#footnote-1) illustrates how Equalities Law might impact on the assessments for the REF 2021.

| **Characteristic** | **Current legislation** | **REF implication** | **Individual Circumstances** |
| --- | --- | --- | --- |
| **Age** | **All employees within the higher education sector are protected from unlawful age discrimination and harassment in employment under the Equality Act 2010**  Age discrimination can occur when people of a particular age group are treated less favourably than people in other age groups. An age group could be, for example, people of the same age, the under 30s or people aged 45-50. A person can belong to a number of different age groups.  Staff are now protected from discrimination that arises because they are perceived to be or if they are associated with a person of a particular age group.  Use of the Default Retirement Age was abolished from 1 October 2011 in England, Scotland, Wales and Northern Ireland. This means that it is no longer possible to compulsorily retire employees. | * Decisions on selection of outputs should not be affected by staff members’ age. Selection should be made on the basis of the quality of their research (i.e. internal and external reviewer star ratings) only. * If a researcher meets the criteria for selection described in the institution’s Code of Practice an HEI will not be able to justify not submitting them because of their age group, perceived age group or association with someone of a particular age group. | * Staff with responsibilities for older dependents or children may be entitled to a reduction in outputs. * Early career researchers can come from a range of age groups. The definition of early career researcher used in the REF is not limited to young people. |
| **Disability** | **The Equality Act 2010, prevents unlawful discrimination relating to disability.**  A person is considered to be disabled if they have or have had a physical and/or mental impairment which has ‘a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities’. Long-term impairments include those that last or are likely to last for at least 12 months.  Equality law requires HEIs to make reasonable adjustments for disabled employees. Failure to make a reasonable adjustment constitutes discrimination.  Normal day-to-day activities are taken to mean activities that people carry out on a daily or frequent basis. For example, using a computer.  Staff are protected if they are perceived to have a disability or if they are associated with a person who is disabled. For example, if they are responsible for caring for a disabled family member. | * Decisions on selection of outputs should not be affected by staff members’ impairment or perceived impairment. Selection should be made on the basis of the quality of their research (i.e. internal and external reviewer star ratings) only. * If a researcher meets the criteria for selection described in the institution’s Code of Practice an HEI will not be able to justify not submitting them because of staff members’ impairment or perceived impairment. * Assumptions should not be made as to whether or not a member of staff has an impairment. * Reasonable adjustments should be made to ensure that disabled staff can produce research outputs. | * Carers of disabled people may be entitled to submit a reduced number of outputs if their caring responsibilities have affected their quantity of research outputs. * If a disabled researcher’s impairment has affected the quantity of their research outputs, they may be eligible to submit a reduced number of outputs. |
| **Gender reassignment** | **The Equality Act 2010 protects from discrimination trans people who have proposed, started or completed a process to change their sex.**  The Gender Recognition Act 2004 gave enhanced privacy rights to trans people who undergo gender reassignment.  Staff do not have to be under medical supervision to be protected from discrimination because of gender reassignment.  Staff are also protected if they are perceived to be undergoing or have undergone gender reassignment. They are also protected if they are associated with someone who has proposed, is undergoing or has undergone gender reassignment. | * Decisions on selection of outputs should not be affected by staff members’ gender reassignment status, perceived status or association with someone undergoing gender reassignment. Selection should be made on the basis of the quality of their research only. * If a researcher meets the criteria for selection described in the institution’s Code of Practice an HEI will not be able to justify not submitting them because of staff members’ gender reassignment status, perceived status or association with someone undergoing gender reassignment. * If you acquire information about a person’s status as a transsexual person in an official capacity e.g. when selecting staff for submission to the REF, it is a criminal offence to pass the information to a third party without consent. Consequently, you must ensure that information you receive about gender reassignment is kept confidential. | * Staff whose ability to work productively during the REF assessment period due to gender reassignment may be eligible to be submitted with a reduced number of research outputs. * Not all staff who were undergoing gender reassignment during the REF period will have medical evidence of transition. |
| **Marital or civil partnership status** | **Under the Equality Act 2010 individuals are protected from unlawful discrimination on the grounds of marriage and civil partnership status.**  The protection from discrimination does not apply to single people. | * Decisions on selection of outputs should not be affected by staff members’ marital or civil partnership status. Selection should be made on the basis of the quality of their research (i.e. internal and external reviewer star ratings) only. * If a researcher meets the criteria for selection described in the institution’s Code of Practice an HEI will not be able to justify not submitting them because of staff members’ marital or civil partnership status. |  |
| **Pregnancy, maternity, paternity and adoption** | **Under the Equality Act 2010 women are protected from unlawful discrimination related to pregnancy and maternity.**  Work and Families Act 2006 gives adopters of children entitlements to statutory and additional adoption leave and partners of new mothers entitlements to additional paternity leave.  New paternity leave entitlements for partners of new mothers were introduced in April 2011 that enable them to take up to six months’ additional paternity.  Entitlements to six months’ additional adoption leave were also introduced from April 2011. | * Decisions on selection of outputs should not be affected by staff members’ pregnancy or their having taken maternity or adoption leave. Selection should be made on the basis of the quality of their research (i.e. internal and external reviewer star ratings) only. * If a researcher meets the criteria for selection described in the institution’s Code of Practice an HEI will not be able to justify not submitting them because of staff members’ pregnancy or their having taken maternity or adoption leave. * Staff who are on maternity leave or adopt a child should not be overlooked during an HEI’s submissions process. | * If a researcher has taken time out of work because of their pregnancy or they have taken maternity or adoption leave they may be eligible to be submitted with a reduced number of research outputs. |
| **Race** | **The Equality Act 2010 protects HEI staff from unlawful discrimination connected to race. The definition of race includes colour, ethnic or national origins or nationality.**  In England, Scotland and Wales, staff are also protected if they are perceived to be or are associated with a person of a particular race. | * Decisions on selection of outputs should not be affected by staff members’ ethnicity, their perceived ethnicity or association with someone of a particular ethnicity e.g. because research outputs are not in English (See paragraphs 285-287 of the REF 2021 guidance on submissions). Selection should be made on the basis of the quality of their research (i.e. internal and external reviewer star ratings) only. * If a researcher meets the criteria for selection described in the institution’s Code of Practice an HEI will not be able to justify not submitting them because of staff members’ ethnicity, their perceived ethnicity or association with someone of a particular ethnicity. |  |
| **Religion and belief** | **The Equality Act 2010 protects HEI staff from unlawful discrimination to do with religion or belief.**  ‘Belief’ includes any structured philosophical belief with clear values that has an effect on how its adherents conduct their lives.  In England, Scotland and Wales, staff are also protected if they are perceived to be or are associated with a person of a particular religion or belief. | * Decisions on selection of outputs should not be affected by staff members’ religion or belief (including non-belief), their perceived religion or belief or their association with someone of a particular religion or belief. Selection should be made on the basis of the quality of their research (i.e. internal and external reviewer star ratings) only. * If a researcher meets the criteria for selection described in the institution’s Code of Practice an HEI will not be able to justify not submitting them because of staff members’ religion or belief (including non-belief), their perceived religion or belief or their association with someone of a particular religion or belief. |  |
| **Sex** | **The Equality Act 2010 protects HEI staff from unlawful discrimination to do with sex.**  The sex discrimination provisions of the Equality Act explicitly protect women from less favourable treatment because they are breastfeeding.  In England, Scotland and Wales, employees are also protected because of their perceived sex or because of their association with someone of a particular sex. | * Decisions on selection of outputs should not be affected by staff members’ sex, perceived sex or association with someone of a particular sex. Selection should be made on the basis of the quality of their research (i.e. internal and external reviewer star ratings) only. * If a researcher meets the criteria for selection described in the institution’s Code of Practice an HEI will not be able to justify not submitting them because of staff members’ sex, perceived sex or association with someone of a particular sex. | * If a researcher has taken time out of work due to breastfeeding they may be eligible to be submitted with a reduced number of research outputs. |
| **Sexual orientation** | **The Equality Act 2010 protects HEI staff from unlawful discrimination to do with sexual orientation.**  Staff in England, Scotland and Wales are  protected if they are perceived to be or are associated with someone who is of a particular sexual orientation. | * Decisions on selection of outputs should not be affected by staff members’ sexual orientation, their perceived sexual orientation or association with someone of a particular sexual orientation. Selection should be made on the basis of the quality of their research (i.e. internal and external reviewer star ratings) only. * If a researcher meets the criteria for selection described in the institution’s Code of Practice an HEI will not be able to justify not submitting them because of staff members’ sexual orientation, their perceived sexual orientation or association with someone of a particular sexual orientation. |  |

1. Adapted from ECU Briefing Changing Equalities (2012) [↑](#footnote-ref-1)