

## TECH 08/06

### EQUAL OPPORTUNITIES

*This Technical Release replaces Statement 1.312, Equal Opportunities, which has been withdrawn from the Members Handbook with immediate effect. This Technical Release has been prepared to provide all members, whether UK based or overseas, with general guidance on the need to avoid unfair discrimination in the work place, whether based on race, gender, disability or any other factor.*

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## **INTRODUCTION**

1. The Institute issued handbook statement 1.312, Equal opportunities, in April 1998. At the time only three areas of anti-discrimination legislation existed. However legislation covering areas of discrimination has increased considerably in recent years and continues to expand. Thus, the usefulness of a handbook statement, which cannot seek to give comprehensive guidance on anti-discrimination legislation, has reduced to such an extent that the decision to withdraw it has been taken.
2. The Institute continues to support equal opportunities and encourages members to do so. Members should not consider the deletion of handbook statement 1.312 as being indicative of a reduction in the importance attached to equal opportunities.
3. The legislation dealing with equality is wide ranging. The principal relevant legislation for England and Wales is set out in Appendix A. Legislation outside of the UK will vary significantly and will be influenced by, amongst other things, cultural considerations. Members will be obliged to observe local laws and practices but should give due thought to ethical considerations. Members working overseas should comply with the Institute's Code of Ethics unless to do so would breach local laws and regulations.

## **OBJECTIVITY**

4. The fundamental ethical principle of objectivity provides that members should not allow bias, conflict of interest or undue influence of others to override professional or business judgements.
5. Section 120 of the Code of Ethics states;  
*"The principle of objectivity imposes an obligation on all [members] not to compromise their professional or business judgement because of bias, conflict of interest or the undue influence of others. Objectivity is the state of mind which has regard to all considerations relevant to the task in hand but no other.*

*A [member] may be exposed to situations that may impair objectivity. It is impracticable to define and prescribe all such situations. Relationships that bias or unduly influence the professional judgement of the [member] should be avoided."*

6. Therefore, in addition to legislative requirements which prohibit discrimination on specific grounds, members should not allow considerations which are irrelevant to the purposes for which judgements are being made to result in prejudice and discrimination.

## **DISCRIMINATION LEGISLATION IN ENGLAND AND WALES**

7. At the time of issue of this technical release, there is legislation in England and Wales (see Appendix A), which prohibits, subject to exemptions, discrimination on the following grounds:
- Race
  - Gender or marital status
  - Sexual orientation
  - Religion or belief
  - Disability
  - Age

## **ANTI DISCRIMINATION AGENCIES IN ENGLAND AND WALES**

8. Prior to the enactment of the Equality Act 2006, which is partly in force at the time of writing this technical release (See Appendix A), various agencies had responsibility for the oversight and provision of services in relation to discrimination. The Equality Act 2006 brought into being the Commission for Equality and Human Rights (CEHR). The CEHR will eventually replace the activities of the Disability Rights Commission (DRC), the Equal Opportunities Commission (EOC) and the Commission for Racial Equality (CRE).
9. The CEHR is currently being constituted and it is anticipated that senior posts and the Board will be recruited by the end of Autumn 2006. Until it is fully operational the DRC, EOC and CRE will continue in their current roles.
10. Members are reminded that the DRC, EOC and CRE provide various levels of information, support, advice and services. Appendix B contains useful website links live at the time of writing.

## **CONVICTIONS**

11. Generally under UK legislation convictions for offences for which the sentence was not more than two and a half years imprisonment may be considered to be 'spent' if the offender does not re-offend for a period prescribed by the Rehabilitation of Offenders Act 1974 (ROA). Please note that in overseas jurisdictions different rules will apply.
12. The ROA contains some exceptions which provide that the offences are never considered to be spent. These exceptions can relate to the offence, the sentence or to the profession of the offender and have the effect that the offence cannot ever be considered to be "spent". The most widely known exceptions relate to working with children, with the elderly or with the sick. However, further exceptions relating to the employment of individuals in other sectors exist, for

example the financial services sector. These have not be reproduced or detailed in this technical release owing to their very specific nature.

13. If a member believes an exception applies and seeks information in accordance with it they must state, in writing, that the relevant section of the exception order applies. Members may wish to seek expert legal advice if they believe they are entitled to rely on an exemption in this respect.

#### **FIT AND PROPER STATUS - PRACTITIONERS**

14. Although members may need to consider whether their staff are fit and proper to undertake their work and to remain in the employ of the practice, such enquiries should not be discriminatory.

## **Appendix A**

### **Principal relevant legislation**

The Equal Pay Act 1970

The Sex Discrimination Act 1975

The Race Relations Act 1976

The Disability Discrimination Act 1995

The Disability Discrimination Act 2005 (some parts of which are yet to come into force)

The Employment Equality (Sexual Orientation) Regulations 2003

The Employment Equality (Religion and Belief) Regulations 2003

The Employment Equality (Age) Regulations 2003 (from 1 Oct 2006)

The Equality Act 2006 (partly came into force 18 April 2006, other parts of which are due to come into force 4 December 2006 and 6 April 2007)

The Rehabilitation of Offenders Act 1974

## **Appendix B**

### **Useful websites**

Disability Rights Commission	<a href="http://www.drc.org.uk">www.drc.org.uk</a>
Commission for Racial Equality	<a href="http://www.cre.gov.uk">www.cre.gov.uk</a>
The Equal Opportunities Commission	<a href="http://www.eoc.org.uk">www.eoc.org.uk</a>
The Commission for Equality and Human Rights	<a href="http://www.cehr.org.uk">www.cehr.org.uk</a>
The Criminal Records Bureau	<a href="http://www.crb.gov.uk">www.crb.gov.uk</a>
The Department of Trade and Industry	<a href="http://www.dti.gov.uk">www.dti.gov.uk</a>
The Women and Equality Unit	<a href="http://www.womenandequalityunit.gov.uk">www.womenandequalityunit.gov.uk</a>

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