



SPA equality briefing

Age considerations in admissions

Admissions staff should always be vigilant to avoid discrimination against applicants on the grounds of age. However, there may be uncertainty where HE providers would like to take account of age in the context of an applicant's academic and experiential learning, the environment HE students would occupy, or the broader duty of care. The following points may be of use when considering age-specific criteria within admissions policies or age-dependent activities within admissions practices:

General

- The Equality Act 2010 includes age as a protected characteristic and section 91 stipulates it is unlawful to discriminate either in the terms or arrangements for admission. That includes direct and indirect discrimination, harassment and victimisation.
- Specific age restrictions (minimum or maximum) would therefore not normally be permissible. However, they may be applied where it can be justified they are a proportionate means to achieving a legitimate aim. Being an 'adult' place of learning is unlikely in itself to be viewed as justification and an outright ban is unlikely to be viewed as proportionate. However, there may be other concerns (e.g. child protection) where it may be justified.
- There is specific dispensation to apply positive action: i.e. treating a particular age group more favourably to compensate for, and overcome, distinct disadvantage. HE providers are able to lawfully target support in a proportionate way if it enables them to overcome a proven disadvantage that people in the protected group share.
- There may be additional dispensation or exemption permitted where it is a state-directed scheme. Recourse to, or eligibility for, public funding may be the most obvious example, but there may be other state support limitations.
- Similarly, where an external professional, statutory or regulatory body (e.g. NHS) has legitimate age restrictions for an accredited course, then it would be necessary to adopt those restrictions to run such a course. However, the provider of the course, not any third party, is ultimately responsible for ensuring its admission is non-discriminatory.
- If there are any arrangements that must be completed before continuing with an application (e.g. gaining parental consent or confirmation of a UK guardian), ensure everyone involved understands the rationale for any delay in sending the offer (which will constitute discrimination under section 91 unless it can be demonstrated to be a proportionate means of achieving legitimate aim) and that it is clearly communicated to the applicant.
- Consider what policies are already in place that admissions must align with to meet the institution's duty of care. Most HE providers will have an equality and diversity policy and specific policies/procedures for safeguarding young people on campus, whilst some will have a separate policy for admitting minors.
- Ensure your applicant complaints and appeals policy/procedures allow for dispute on grounds of age (as it should for all protected characteristics). This should be broad enough to be able to investigate complaints against a perceived discriminatory policy as well as appeals against a potentially biased decision.

- Effective collection, monitoring and reviewing application data by age will support analysis, indicate where positive action may be proportionate and provide robust evidence in response to any complaint or appeal.
- An equality impact assessment of admissions policies, backed up by clear communication to ensure all involved understand and apply it consistently, will support appropriate consideration of age within admissions. This will help the HE provider in meeting its equality duty.
- Discuss all aspects of your admissions with your own equality and diversity staff, not just the section specifically referring to age. HE providers in Scotland may wish to contact the [Equality Challenge Unit](#) (ECU) if they have any queries. ECU's remit in the rest of the UK doesn't specifically cover applicants, although they may be willing to discuss matters informally with their subscribers.

Minors

- All minors in education in the UK are required to have a parent or legal guardian resident in the UK. If the HE provider cannot act *in loco parentis* (accepting legal responsibility on behalf of the parent) then it should ensure such provision is in place. There are a number of organisations in the UK that will act as guardian and it may be helpful, especially for overseas students, to be able to signpost to, though not recommend, some. Local authorities may be able to advise on any in the area that they have dealings with. However, although a legal parent or guardian must be in the UK, it is not necessary they live within a specific range of the HE provider: any requirements about ease of access (e.g. in case of medical emergency) should be applied consistently to all minors, whether UK or international.
- Parents and guardians of minors have additional rights, responsibilities and legal authority to act on behalf of their dependents. Therefore, whilst it should be appropriate to state that correspondence concerning an applicant should primarily be with that applicant, you should recognise parental rights, including in some areas where they may override the decisions made by their dependent (e.g. medical treatment if there is an emergency whilst at a summer school, open day or similar activity run by the HE provider).
- Although minors have the authority to enter into contracts, so long as they are deemed old enough (usually over 7 years) and mentally able to understand the nature of the contract, they do have the right to cancel contracts entered into at any point prior to, and for a reasonable time after, reaching the age of majority without having to provide any valid reason. Contracts concerning service, apprenticeships and education with children are exceptions to this rule and may be binding on minors. Guarantors (e.g. parent/guardian) may be used if there are any aspects where the HE provider may wish to apply default charges.
- If treating some minors differently to others (e.g. different arrangements for someone reaching the age of majority in the first term, vs someone reaching age of majority in second term or later), ensure your reasoning is clear and that such treatment is proportionate. Be sensitive to any intersectionality with other protected characteristics (e.g. race – if your entry requirements accept a national qualification from another country that is generally awarded to those who would be under the age of majority in your country).
- Consider any unintended consequences across contiguous areas, such as any outreach, recruitment activities or partnership arrangements, especially where eligibility onto and progression from such pre-HE participation arrangements may be inferred, implied or even guaranteed.

- Peer mentoring schemes involving minors, or supervision that falls under regulated activity, may need to be mindful of legislation concerning the safeguarding of vulnerable groups if it constitutes frequent and intensive contact.

Mature

- Caution may be required if using the term 'mature' within admissions practice, especially if it is arbitrarily linked to a specific age. Arrangements should not disadvantage individuals on grounds of their age (e.g. refusing to recognise prior experiential learning for someone aged 20, but readily accepting such evidence from someone aged 21).
- However, where there is evidence of disadvantage across certain age groups it would be appropriate to take positive action to target such groups (e.g. holding an event specifically aimed at attracting more older applicants and focusing on issues associated with those who are no longer in school/college).
- Any arrangements should recognise that, although 'mature' may normally be associated with individuals over a certain age, it is not exclusive to any age. Flexibility in allowing demonstration of maturity should be encouraged, to avoid the risk of excluding anyone who could benefit.

Maximum age

- It would be inappropriate to stipulate a maximum age limit to entering higher education, except where there are external professional, statutory or regulatory body stipulations.
- In the event maximum age limits are necessary, they should be communicated clearly and the rationale for such measures explained. Wherever possible, appropriate alternatives should be signposted.

SPA would be interested in any developments within individual HE providers that could be beneficial to developing new good practice guidance on this topic. Please forward on any updates, or feel free to contact us with any queries – enquiries@spa.ac.uk.

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