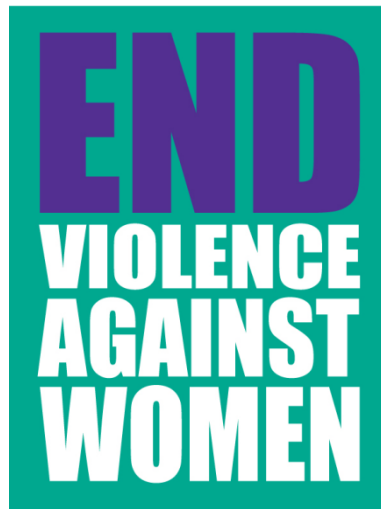


Women Students: Safe and Equal



Student – Worker - Activist Guide, 2015

This short guide has been written for students, academics, HE and FE workers and activists who want to address these issues with their university or college, and is designed to be read alongside the End Violence Against Women Coalition Legal Briefing, '[Spotted: Obligations to Protect Women Students' Safety & Equality](#)' (also available on the EVAW Coalition website). It outlines how you can challenge policies and improve practice in the way your higher or further education institution responds to violence and abuse of women students.

if you do write to your vice-chancellor or principal, meet with them, or use any other means to raise these obligations with them, please let the EVAW Coalition know so that we may map this activity and gauge what impact it is having; we are also available to support you in your efforts with 1-2-1 telephone advice and more

The legal briefing uses two main sources to show that universities and FE colleges, which provide a public service, are obliged to ensure that women students have a safe and equal place to study, live and work:

The Public Sector Equality Duty (PSED)

Universities and colleges are considered public authorities for the purposes of the Public Sector Equality Duty 2010 (PSED). Student Unions are not considered public authorities, however if they carry out a 'public function' on behalf of the University they also have to comply with the duty. For example, if they are funded by the University to carry out pastoral care. The law states that when a public authority exercises a function it is required to have due regard to:

- The need to eliminate discrimination and harassment of women;
- The need to advance equality of opportunity for people with particular protected characteristics (including gender);
- The need to foster good relations between different groups, in this case between women and men.

This means that universities and colleges must consider these three points when making decisions – such as planning accommodation services and campus security, developing disciplinary and equality policies, and more.

The Human Rights Act

The Human Rights Act 1998 (HRA) makes it unlawful for a public authority to act in a way that is incompatible with a right included in the European Convention on Human Rights. Under the HRA, a public authority is a body that exercises functions of a public nature, so this includes higher and further education institutions. In particular the rights to life and to be free from torture/inhuman-degrading treatment, as well as the right to education, put a positive obligation on the state and public bodies to ensure protection from such abuse and to ensure there is redress should it occur.

What Does This Mean in Practice?

While the PSED does not prescribe exactly what action colleges and universities should take to ensure safety and equality, the courts do expect them to document the process of how they applied their mind specifically to the various parts of the duty

when making decisions. Without such a record it would be difficult for the court to accept that the public authority in question met the duty. The HRA, in practice, works in two ways. Individuals whose rights have been breached can take the offending public authority to court to seek a declaration and damages after an abuse. And the rights can also be used to lobby public authorities to change their behaviour, policies and practices before abuse occurs.

Taking Action

If you think the institution you deal with may be in breach of either the Public Sector Equality Duty or the Human Rights Act – so if you think it has policy which conflicts with providing a safe and equal institution, or if it has actually acted in a way which breaches safety/equality already - you can begin the process by sending our **template letter to your Vice Chancellor or Principal** (available to download from the EAW website on the same page as this guide). This letter asks to see the policies relevant to violence against women and girls and requests a meeting to discuss these. All policies should be readily available.

If the policies are not available, or you do not feel they are adequate, your starting point is to set out in writing to them where you think they are going wrong and what you think they should do to put matters right. If you think a decision is wrong or that a policy has been devised without taking the HRA or PSED into account, ask the institution to provide you with all the materials, for example, minutes of meetings, that were considered when the decision-maker took their decision, or when the policy was devised.

If these do not show adequate consideration of the HRA and/or the PSED offer to meet with the institution to resolve any dispute about their possible breaches. Follow this up in writing to the institution, with your account of what the institution's representatives said, what they agreed to do to put matters right (or why they said there was no problem) and confirm any deadlines in relation to next steps. Set out what further action you will take if they do not act on the concerns you have raised. Keep records of all your communications. You should also consider using the institution's complaints procedure, for example if you do not get any response at all to your queries or if the institution refuses to disclose documents.

EAW is available to discuss and advise at any point in this process, do get in touch

Taking It Further

If you are making no headway through negotiations and discussions, you can consider notifying the Equality and Human Rights Commission of the failures by the educational institution you are dealing with and ask them to look into this. They will expect you to have tried to resolve matters yourself and to have a specific concern about equality/discrimination and/or human rights. For disputes in Higher Education institutions you can also contact the Office of the Independent Adjudicator (<http://www.oiahe.org.uk/>). They do not have regulatory powers in relation to Universities but they can adjudicate on complaints and make recommendations as to what the University should do to put matters right. Complaints about Further Education institutions can be taken to the Skills Funding Agency (SFA) or the Parliamentary Ombudsman, but again, this is only after the institution's complaints procedure has

been exhausted and neither will assess the merits of a case but can facilitate resolution.

Taking Legal Action

Legal action should only be contemplated if you have tried negotiations, discussions or other alternatives such as formal complaints including complaining to regulatory bodies. You need to ensure that taking such steps does not mean that you inadvertently miss the deadline for taking court action, and you will need to get specialist legal advice in good time before the deadline expires. See EVAW's legal briefing, '[Spotted: Obligations to Protect Women Students' Safety & Equality](#)', for more information on deadlines for legal action.

If there has been a breach of the HRA by an education institution, you can take the institution to court to get a declaration that there has been a breach and to get damages for that breach. Damages are usually relatively low (even for the most serious of breaches), but a declaration can be very powerful and even the threat of being taken to court can sometimes be enough to make a public authority act differently. If there is an ongoing breach of the HRA and/or a breach of the PSED, you may be able to bring judicial review proceedings. This is a special type of court case where the judge looks at the policy, or a decision-making process, and rules on whether it is lawful or not. Time limits for judicial review are very tight so you must act quickly. A claim must be started within three months of the incident complained of, so if it is a specific decision, the court case must begin within three months of that decision, or in the case of a policy, the three months would usually run from the date the policy was introduced, although if the policy is not published, or only comes to light at a certain point in time, it may be possible to extend this.

Working Together to End Violence Against Women Students

The End Violence Against Women Coalition have created this guidance and the template letter to help you to challenge your institution, however we know that no one can do this alone. Please let us know if you have used any of our materials to contact your institution, and also send us through any response you receive. If you need further support in taking action you can contact us at admin@evaw.org.uk. Together we can ensure all women have safety and equality in UK universities and colleges. Thank you for any action you take.

Contact: EVAW Coalition, 020 7033 1559; admin@evaw.org.uk @EVAWhd