



Fair Treatment Procedure

Information Sheet: Fair Treatment – Special Measures

Purpose

The purpose of this Information Sheet is to increase awareness and understanding of what constitutes a 'special measure' as defined under the [Sex Discrimination Act 1984 \(Cth\)](#) and as referred to in the [University's Fair Treatment Procedure](#).

Q1 What is a special measure?

Under the [Sex Discrimination Act 1984 \(Cth\)](#), s7D, 'special measure' means a measure (act, practice, program, plan, policy arrangement, mechanism or activity) taken for the purpose of achieving substantive equality between:

- men and women; or
- people who have different sexual orientations; or
- people who have different gender identities; or
- people who are of intersex status and people who are not; or
- people who have different marital or relationship statuses; or
- women who are pregnant and people who are not pregnant; or
- women who are potentially pregnant and people who are not potentially pregnant; or
- women who are breastfeeding and people who are not breastfeeding; or
- people with family responsibilities and people without family responsibilities.

The concept of substantive equality recognises that creating equal opportunities for people or treating people equally may lead to serious inequality for groups that have been disadvantaged by a system which fails to take their situations and perspectives into account. Substantive equality is concerned with changing aspects of that system which have disadvantaged particular groups. It is concerned with equality of outcomes whereas formal equality is concerned with equal treatment regardless of the outcomes.

It is only possible to determine with any certainty that a measure is a special measure on a case by case basis. The following outline of criteria are intended to provide general guidance on issues likely to be considered in determining whether a special measure exists:

a. Identifying inequality

The basis of the measure must be an existing inequality experienced by people in the designated groups. If you wish to implement a special measure you must have a clear idea of the problem which the action is designed to redress. This requires an analysis to determine whether there are practices which do, or tend to, exclude, disadvantage, restrict, or result in an adverse effect on people in those groups, or leave uncorrected the effects of past discrimination against them.

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Q1 What is a special measure? (continued)
b. Reasonable basis

If the analysis shows that practices exist in the relevant area, which do, or tend to result in and perpetuate substantive inequality, the person making the analysis has a reasonable basis for concluding that action is warranted.

c. Reasonable action

The action taken as a special measure must be reasonably related to the inequality identified. That is, the solution should be tailored to the problem. The question to ask is what action can be taken to ensure equal outcomes.

Further Information

If you require further information, please contact:

- [HR Advisor](#) (Staff Members and Titleholders)
- [Office for Community Engagement](#) (Volunteers)

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