

Lesson Two: Equality Before the Law

Lesson Two - Lesson Plan

PLTS:

Effective participators and reflective learners

FUNCTIONAL SKILLS:

Literacy: orally challenging other students' ideas

OBJECTIVES:

- Students will understand the concept of equality before the law, broken down into receiving equal benefit of the law and being equally subject to the law
- Students will understand how these concepts are applicable in real life situations such as the work place and dispute resolution in court

OUTCOMES:

Students will be able to explain:

- Equal benefit of the law
- Being equally subject to the law

KEYWORDS:

Benefits under the law, subject to the law, equal opportunities and equal entitlements

2.1 Introduction: Equality Before the Law

Read or paraphrase the following for the class:

We have explored equality as a concept in the previous lesson and the fact that we would generally accept that we all live according to the same law. We would not expect, say, one law for ordinary people and one law for people in important positions, or one law for the rich and one law for the poor. In everyday life, we would generally expect the law to be the same for us as for those around us who may have certain different characteristics from us. (Although remember the exception to this that we discussed in the previous lesson – where somebody has a weaker starting point, it may be right to give them an extra benefit so that he/she has an equal opportunity to benefit from the law.)

We are now going to expand on the idea of equality before the law. There are two different strands to this - firstly having equal benefit of the law and secondly being equally subject to the law.



2.1.1 Introduction : Equality Before the Law - Background for teachers

In this lesson, students will be introduced to the concept that all should be *bound by and entitled to the benefit of laws equally*¹. Going back again to the concept of fairness that we have explored, we expect that in general, our personal characteristics should not give us either an advantage or a disadvantage when it comes to being subject to the law or gaining a benefit or opportunity that we are entitled to under the law.



2.1.2 STARTER ACTIVITY: Newsreaders and Equality – Printouts for students

P Read the following quotations from a news reader at the BBC quoted in a Daily Telegraph article, entitled “BBC forced me to move to China”. Dec 2009.



Ms Osman said:

“In recent months, I’ve gone for five auditions and interviews for radio and television presenting jobs at the BBC and in the independent sector. Each time I got told how marvellous I was and that they’d call me back, and in some cases we even discussed schedules. Mysteriously, each time I never heard anything, which was not only rude but has left me wondering if it’s because of my age.

“Ironically, when I started working in television my biggest concern was being taken seriously as I was always told I was too glamorous and too young-looking. What a lot of people don’t realise is that it’s even harder for women in broadcasting to be taken seriously as they get older.”

Discuss:

Does Ms Osman feel that she was treated equally? Why/Why not?

In what other ways might employers not treat people equally?

MAIN ACTIVITIES

2.2 Equal Benefit of the Law



2.2.1 Equal Benefit of the Law

– Teacher-led introduction (5-10 minutes)

1. Ask students the following question:

What do you think 'equal benefit of the law' might mean?

2. Read the following to the class or paraphrase:

As we touched on in the last lesson, we all receive certain benefits under the law. These include benefits that we come into contact with regularly, for example, free primary and secondary education, free healthcare, state pensions and so on. We have an equal right to all these things. Generally, anything that we 'have a right to' is a benefit under the law. We receive benefits under the law in our daily lives, even where those benefits are not provided directly by the state. For example, when we apply for a job, the opportunity to be considered for that job is a benefit, and we have the right to be considered on an equal basis to everyone else who applies.

However, there are also benefits that we are entitled to under the law that we come into contact with less frequently. For example, below, we will examine the right to equal access to justice, that is, the equal opportunity and capacity to get the right outcome where there is a dispute or where someone has potentially broken the law.

3. Ask students the following question:

Are there any exceptions to equal entitlement to benefits under the law?

If there is little initial response to this question, don't worry. You may return to it after Activity 1 for the students to reflect on what they have learned.



2.2.2 ACTIVITY 1: Disability and Employment – Printouts for students

Example 1

In your groups:

Your company wants to hire a new person for a secretarial job. The job is in an office block and involves using a computer, speaking on the phone and attending meetings at the office. You are looking for someone with good skills and qualifications. If you employ a person who uses a wheelchair, you may need to improve wheelchair access to the building and make minor changes to the work station.

1. Choose the right candidate for the job.
2. Did you choose the person with a disability? Why/Why not?

A. David

Has six years of experience of working in an office as a secretary and a university degree.

Has a friendly and hard-working attitude.

Does not have use of his legs and uses a wheelchair.



B. Anisha

Has two years of experience working in an office and good GCSEs.

Seems friendly and hard-working.

Has no disability.



C. Eli

Has five years of experience and a university degree.

Seems lazy and grumpy.

Has no disability.

Example 2

In your groups:

Your restaurant wants to employ a new waiter. Your restaurant is very busy and crowded. The shifts can be long and physically demanding for waiting staff, especially on busy days. The waiter will need to be able to move fast and carefully between a busy kitchen and the crowded tables, taking orders and serving food. S/he will also need to be able to carry boxes of drinks and food to the bar and kitchen. You do not need someone with some experience of waiting work, but you need someone who is able to meet the physical demands of the job, is polite and familiar with working in restaurants.

1. Choose the right candidate for the job.
2. Did you choose the person with a disability? Why/Why not?

A. Amaya

Has no experience working as a waiter.

Has worked in the kitchen in a café.

Has no disability.

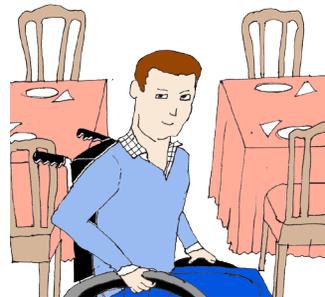


B. Tomasz

Has no experience working as a waiter.

Has worked as a cashier in a restaurant.

Does not have use of his legs and uses a wheelchair.



C. Christoph

Has no experience as a waiter.

Has worked on a farm.

Has no disability.



As a class:

1. Tell the class what decisions you made and why. What are the differences between *Example 1* and *2*?

2. In real life, an employer may not give candidates with a disability the job.

a. In *Example 1*, the company may not give the job to the candidate with the disability because it would be inconvenient to make changes to the work station. Is it ok to treat a disabled candidate differently for this reason?

b. In *Example 2*, the job requires a physically able person. Is it ok to treat the candidate with a disability differently for this reason?



2.2.3 ACTIVITY 1: Disability and Employment - Instructions for teachers (10-15 minutes)

1. Divide the students into groups of four or five and give each group Example 1 or 2 to consider. Tell the students:

In each example, your group is from a company that is looking for a new employee. Your group task is to discuss and select the best person for the job. You will be given a description of the job and a brief description of the candidates for each job. In your groups decide who you will offer the job to in each case and why. Afterwards, you will discuss your decisions with other students.

2. Give the groups 5-10 minutes for the group discussion.

3. Ask the students to feed back their answers to the class and discuss answers to the 'as a class' questions. The questions will lead the class into a discussion relating to the exceptions to equal entitlement to benefits under the law. (See "background for teachers" below to establish the key areas to draw out in the discussion.) In the discussion, encourage students to identify the differences between Example 1 and 2.



2.2.4 ACTIVITY 1: Disability and Employment - Background for teachers

The key here is for students to identify justifiable differentiation in treatment where a job genuinely has particular needs.

In Example 1, the disabled man is able to fulfil the requirements of the job and so were he to be differently treated by the employer (by not being considered), that would be unjustifiable and the candidate would be able to make a claim for unlawful discrimination.

In Example 2, the nature of the job genuinely requires that the employee be able-bodied, and therefore an employer treating the disabled man differently (by discounting him for the job) is justifiable and does not constitute unlawful discrimination.

In the UK, equal treatment in the field of employment is provided for by the Equality Act 2010. Under the Act, if not considered for the job, the man applying for the secretarial job would have a claim for discrimination against the employer.³ The man applying for a job as a waiter would not.⁴

Even without reference to the specific legislation that governs equality in an employment situation, through this example, students should be able to grasp the underlying principle of equality before the law, with limited exceptions where there is a genuine need for different treatment.

2.3 Being Equally Subject to the Law



2.3.1 Being Equally Subject to the Law - Teacher-led introduction (10 minutes)

1. Ask students the following question:

What do you think being equally subject to the law means?

2. You may then read the following to the class or paraphrase:

Again, thinking back to lesson one, we discussed the fact that we are allowed to do everything that the law doesn't say we can't do. We have to comply with the law in everything that we do, or to put it another way, we are subject to the law in everything that we do. We therefore have responsibilities under the law. When we don't meet our responsibilities under the law, we are breaking the law, and there are usually consequences such as a warning or a punishment or compensating someone for loss or damage that we have caused to them.

3. Write the following on the board:

Example:

If you kill someone unlawfully, you will be punished for it.

If you damage someone's property, you will have to pay compensation for it.

*It would not be **fair** if someone could get away with his actions just because, say, he is rich or well-connected, as he is as much at fault as someone who is not rich or well-connected.*

*The general principle is that we all have to answer for our actions equally under the law. This means that anyone who breaks the law has to face the same consequences and go through the same procedures under the law. Going back to the ideas we explored last lesson, it would be **unfair** if some people were allowed to get away with breaking the law or if some people only had to comply with lower standards under the law.*

4. Ask students the following question:

Are there any exceptions to the rule that everyone is equally subject to the law?



2.3.2 ACTIVITY 2: Crime, Civil Wrongs and Equality – Printouts for students



Example 3

A 9-year old child has been playing violent computer games, and eventually, decides to act out what she has seen. Her father is allowed under the law to shoot deer and so keeps a gun. The child steals his gun and kills someone at point-blank range.

Statements to consider – do you agree or disagree? Why?

The child's trial in court should not be conducted in the same way as it would be for an adult.

The child should receive the same prison sentence as an adult who committed this crime.

The child should not go to the same kind of prison as an adult who committed this crime.

The child has the same responsibility for the crime as an adult would have.

a) Choose one statement your group disagreed with. Explain to the class why you disagreed.

b) Work as a class. Think about the issues you have discussed in this exercise and, as a class, discuss the following question again:

Are there any exceptions to the rule that everyone is equally subject to the law?



Example 4

A 25-year old man, who suffers from mental health problems and uncontrollable thoughts is convinced that he is being followed by the police and that they want lock him up. One day, he sees a police officer who happens to be on patrol in his neighbourhood and he wrestles him to the ground, seriously injuring him.

Statements to consider – do you agree or disagree? Why?

The man is not fully responsible for the assault on a police officer because he is not well.

The man should receive the same prison sentence as any other adult who committed a similar assault on a police officer.

The man should go to the same kind of prison as another adult who committed a similar assault on a police officer.

Everyone has different characteristics but this does not mean that each person should be treated differently before the law.

a) Choose one statement your group disagreed with. Explain to the class why you disagreed.

b) Work as a class. Think about the issues you have discussed in this exercise and, as a class, discuss the following question again:

Are there any exceptions to the rule that everyone is equally subject to the law?

Example 5

A well-known celebrity drives carelessly and crashes his car into someone else's parked car. He drives off in a panic. The owner of the damaged car sues him, asking for compensation for the damage he has caused. The celebrity uses his powerful connections to get several people to say that he was with them somewhere else at the time of the crash and therefore could not have been responsible for the crash. The judge who is presiding over this case is a fan of the celebrity, and so decides to let him off despite thinking that his evidence that he was somewhere else at the time is unlikely to be reliable.

**Statements to consider – do you agree or disagree? Why?**

The judge should let the celebrity off. It's normal that we treat people whom we know and like differently.

The judge should give a lighter punishment to the celebrity. It's normal that we treat people whom we know and like differently.

The judge should trust the witnesses who said the celebrity was with them at the time of the crash because the witnesses are well-known and respected people.

If he is found to be responsible for the accident the celebrity might receive a lot of negative publicity that other non-famous people might not have. The judge should try to avoid all the negative publicity by ruling in favour of the celebrity.

The celebrity should be treated by the judge in exactly the same way as someone who is not famous who has damaged property.

a) Choose one statement your group disagreed with. Explain to the class why you disagreed.

b) Work as a class. Think about the issues you have discussed in this exercise and, as a class, discuss the following question again:

Are there any exceptions to the rule that everyone is equally subject to the law?



2.3.3 ACTIVITY 2: Crime, Civil Wrongs and Equality - Instructions for teachers (15 minutes)

Divide the students into small groups. Give them one or more example to discuss. Different groups can have different examples.

After the students have decided whether they agree or disagree with the statements, use their answers as a starting point for a class discussion to draw out ideas on being equally subject to the law, and the exceptions to this, for example children or those suffering from mental illness.



2.3.4 ACTIVITY 2: Crime, Civil Wrongs and Equality - Background for teachers

Examples 3 and 4 above show situations where the responsibility of the wrongdoers is either reduced or absent. Students should be able to understand that different (more lenient) treatment under the law in these situations is not necessarily unfair. In fact, not treating these individuals differently would probably be unfair because they do not have the same mental capacity to understand the consequences of their actions as the average adult person would. In general, children have lower mental capacity, less experience and less maturity than average adults⁵, while someone who has a condition affecting his mental state may or may not have the necessary judgement to understand the consequences of his actions, and may or may not have control of his behaviour⁶. We could say that the individuals involved are less at fault than the average adult would be in the same situation.

Example 5 shows a situation where the wrongdoer is using his connections to bypass the process of the law. The judge has treated him in a different way from how he would treat someone he does not know. The celebrity is no less at fault than a normal member of the public who had caused the damage would be and so his connections have in this case put him above the law. The outcome is therefore not one of justice.

The students should recognise through the examples that treatment and outcome under the law are linked to responsibility which depends on mental capacity and fault of the individual and not on other factors such as social status, wealth or knowledge of the system.

Again the different treatment of the individuals in Examples 3 and 4 can be linked back to the wider concept of equality explored in Lesson 1, where a more complete equality requires equalising the positions of those who have a less advantageous starting point than their counterparts.

2.4 Conclusion



2.4.1 Plenary

P Either read the following to the class or write the following on the board. Ask each student to write down an answer.

Choose the statement which is closest to what you think this lesson has explained:

1. *Everyone is different and so to be fair, everyone should be treated differently before the law.*
2. *Everyone should be treated exactly the same before the law in order to achieve equality.*
3. *For everyone to receive equal benefit of the law, sometimes we have to take into account different characteristics of individuals to make their positions more equal, for example when someone has a disability or is a child.*

Footnotes:

¹ Lord Bingham writes in Chapter 5 of *The Rule of Law* that 'the laws of the land should apply equally to all, save to the extent that objective differences justify differentiation.'

² <http://www.telegraph.co.uk/culture/tvandradio/6709728/Ageist-BBC-has-forced-me-to-move-to-China-says-female-newsreader.html>

³ Disability is a *protected characteristic* under Part 2, Chapter 1, s6 of the Equality Act. This means that it is illegal for an employer to discriminate on the basis of this characteristic.

⁴ Being able-bodied is an *occupational requirement* for the restaurant job. The situation therefore falls under Schedule 1, Part I, s1(1) of the Equality Act which means that different treatment on this basis is a permitted exception to the prohibition on discrimination on the basis of disability.

⁵ Children under the age of 10 are deemed incapable of having criminal responsibility at all. Had the child been older, juveniles (between the age of 10 and 18) are still treated differently from adults throughout the criminal justice system. Most juveniles would be tried in a Youth Court, apart from those charged with very serious crimes including in the case given in this example (homicide).

⁶ Under the defence of 'insanity' set out in the M'Naghten Rules, a person may be found not guilty of an offence if he did not know what he was doing at the time of the commission of the crime, or did not know that what he was doing was wrong. The court may discharge the person found not guilty, make a supervision order, or order that the person be detained in hospital.

Lesson 2 Glossary

Access to justice – the means to use the justice system to get a just result

Benefit under the law – an opportunity, asset or help that the law provides, for example a pension or the opportunity to be employed

Discrimination – treating someone or a group of people differently for reasons that are not objective

Dispute – used in a legal context to mean a disagreement affecting the rights of two or more parties that requires a legal solution

Entitlement – something that is due to you under the law

Equality before the law – the state of enjoying benefits of the law equally and being equally subject to restrictions or regulations set down by the law

Equal benefit of the law – having the same standing as others to receive a benefit that the law provides, for example a pension or the opportunity to be employed

Equally subject to the law – being subject to the same constraints and penalties as others under the law

Have a right to – in this context, have the legal authority to

Justifiable differentiation (in treatment) – treating someone (or a group of people) differently for a reason that is objective and reasonable

Legislation – a piece of law; Act of Parliament; a statute

Presiding (over a case) – acting as the judge in a case

Protected characteristic – characteristics on the basis of which it is illegal to discriminate, as provided under the Equality Act 2010. These are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation.

Reduced responsibility – in this context, a lower level of legal responsibility for breaking the law

Sue – to start legal proceedings against someone else (a person or an institution), usually to get compensation for being wronged or to get an order from the court that the other party must do something or must stop doing something

Unlawful – against the law; illegal