1. Legal Context

The Equality Act 2010 protects prospective students from discrimination because of the following ‘protected characteristics’ - age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation. The University must not discriminate against prospective students -

- in the arrangements it makes for deciding who is offered admission as a student;
- in the terms on which it offers to admit the person as a student;
- by not admitting the person as a student.

Whilst the Act does not prohibit higher education institutions from having and applying course requirements, they must do so lawfully. Requirements for entry onto a programme or admission to an institution can lead to discrimination. A requirement (i.e. a provision, criterion or practice) that leads to direct discrimination would always be unlawful, except in relation to age where it can be justified if it is a proportionate means of achieving a legitimate aim (such as the protection of vulnerable groups, or health and safety considerations).

The question of whether a provision, criterion or practice is a proportionate means of achieving a legitimate aim should be approached in two stages:

- Is the aim of the provision, criterion or practice legal and non discriminatory, and one that represents a real, objective consideration?
- If the aim is legitimate, is the means of achieving it proportionate – that is, appropriate and necessary in all the circumstances?

The legitimate aim cannot be related to age discrimination itself and must be based on hard evidence rather than assumptions - whether or not a university can objectively justify an age-based approach to admissions will depend on the circumstances of each case. In any claim of age discrimination by a student, the burden of proof will rest on the University to show that the treatment was objectively justified. If in doubt, contact the Equality and Diversity Team at equality-diversity@bristol.ac.uk for advice at any point of the admissions process.

2. Issues to be considered

During the admissions process staff are advised to be mindful of the following points:

- Avoid making reference to age in your course literature unless there is a statutory or other lawful requirement justifying specific age criteria (such as trying to recruit more mature students under the positive action exemption).
Consider each application on their individual merits, within the parameters of University policy on the admission of students under the age of 18.

Avoid making assumptions about particular age groups (e.g., ‘people over 40 could not cope with the demands of the course’; ‘people under 18 lack the personal maturity to thrive at the University’).

Once you have decided to provisionally offer a place to a student, consider if there are any particular issues connected to age that should be addressed in relation to the particular applicant.

Consider any risks associated with the applicant and consult colleagues on how these risks could be managed. Guidance to help you with this process is provided as annex A. The Health and Safety Office has also developed a code of practice on risk assessment that sets out the general principles that should be followed when you are considering any new activity\(^1\).

If you are rejecting an application from an applicant for reasons relating to age, ensure that this decision is based on evidence rather than an assumption that a particular age group is unsuitable for a particular course.

Familiarise yourself with the Child Protection policy and any related procedures that you may have to follow\(^2\).

Where appropriate, ensure that staff are subject to the necessary CRB checks. This applies to staff where their normal duties involve caring for, training supervising or being in sole charge of children. The definition of “normal” in this instance is in accordance with the standard dictionary definition (or variations thereof), which is “usual, regular or typical”. Therefore positions that have incidental/irregular contact with children or scenarios where an individual has incidental or indirect contact not related to a position of employment do not give rise to eligibility for CRB checks. Decisions in relation to who should be subject to a CRB disclosure should be undertaken as part of a risk assessment, taking into account the exact nature of the employee’s duties, where they work and the degree of contact that they have with the students under the age of eighteen years. If you identify staff who should be subject to a CRB disclosure of have any questions relating to this area, please contact Eddie Procter, Resourcing Manager, Human Resources (Eddie.Procter@bristol.ac.uk).

Depending on numbers, consider allocating all under-18s within your School to the same Personal Tutor. The Undergraduate Admissions Office will provide a list of accepted under-18s to you in September to assist you with this process. Please note that, due to the nature of their role, this person would require a CRB check (see above).

\(^1\) The guidance is available via the A-Z index at http://www.bristol.ac.uk/safety/

\(^2\) The policy and associated guidelines are available at http://www.bris.ac.uk/secretary/legal/cppolicy.html
ANNEX A

Admitting under-18s: Health and Safety Considerations
Students are not in the legal sense employed persons and hence many of the specific provisions of the Health and Safety at Work etc Act 1974 do not apply to them. Equally, they are not bound by the duties of employees as laid down in the Act. As with all other members of the public the University owes them a general duty of care in order that they, their health and their safety is protected. It is important therefore to ensure:

1. When under the control of University members of staff that the responsibility for the students safety or health is adequately met;
2. That students are given full instructions in health and safety matters relating to the normal functioning of the School;
3. That local rules appropriate to the School and course activities are drawn up, published, clearly displayed and enforced;
4. That the supervision given is adequate both with regard to the nature of the work in which students are involved and the experience of the particular student. If necessary a risk assessment for individual student projects should take place and any control measures should be agreed with students and written down before commencement of work;
5. Details of relevant policies, Codes of Practice and guidance are issued to students at the beginning of their work or their period of residence.

Students do have responsibilities to comply with health and safety instructions, not to misuse or damage equipment provided and may be responsible for the consequences should they neglect to carry out a task required for their health or safety or of others.

There are few differences with regard to health and safety requirements for the admittance of a student under 18 to a student that is above 18 years of age. The following document outlines some key risks to young persons and actions with regard to completing specific risk assessments in line with legislation or guidance. It is expected that many risk assessments will already be in place with regard to student activities but may need to be revised to include the possibility of increased lack of experience and maturity.

Further details can be obtained in the Codes of Practice available via the A-Z Guide on the Health and Safety Office web site at http://www.bristol.ac.uk/safety/.
<table>
<thead>
<tr>
<th>Description and location of Hazard</th>
<th>Who might be harmed</th>
<th>What is the risk?</th>
<th>Comments/Actions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Psychological capacity</td>
<td>Young persons</td>
<td>There will be large individual differences in the psychological capacity of young persons based on differences in experience, skills, personality and attitudes. Lack of awareness might lead to an increase chance of an accident and supervisors must be aware of this.</td>
<td>Risk assessments and control measures adopted must concentrate on the areas of work that could be beyond a young person’s emotional coping ability. Examples of these may involve decision making in stressful situations.</td>
</tr>
<tr>
<td>Physical capacity</td>
<td>Young persons</td>
<td>Young persons may not be physically capable of some manual handling activities, training and supervision must be provided. Young persons may not be capable of operating machinery designed for adults.</td>
<td>Complete a risk assessment in compliance with the manual handling Regulations. Provide effective training and supervision. Further details are contained in the University Code of Practice.</td>
</tr>
<tr>
<td>Ionising radiation</td>
<td>Young persons</td>
<td>The risk of developing cancer and hereditary defects from exposure to ionising radiation, which increases slightly for young people is controlled by setting statutory dose limits.</td>
<td>Design work procedures to keep exposure as low as reasonably practicable and within the statutory dose limits. For further information contact Tony Butterworth, Radiation Protection Officer, Tel: Ext 88323 or <a href="mailto:a.r.butterworth@bristol.ac.uk">a.r.butterworth@bristol.ac.uk</a></td>
</tr>
<tr>
<td>Biological agents</td>
<td>Young persons</td>
<td>Young persons are no more likely to contract infections from biological agents than adults. Like any person they may be at greater risk if they suffer from any other disease or from the effects of medication or pregnancy.</td>
<td>Complete a risk assessment in line with Control of Substances Hazardous to Health (COSHH) Regulations 2002 requirements; identify measures to control any risks. Further details from Simon Golding, Biological Safety Officer Tel: Ext 88783 or <a href="mailto:simon.golding@bristol.ac.uk">simon.golding@bristol.ac.uk</a></td>
</tr>
<tr>
<td>Toxic, harmful, corrosive and irritant substances</td>
<td>Young persons</td>
<td>Young persons are not physiologically at any greater risk. The actual risk can only be determined through a risk assessment of the particular</td>
<td>Complete a risk assessment in line with Control of Substances Hazardous to Health (COSHH) Regulations 2002 requirements; identify measures to control any risks. Further details available from Andy</td>
</tr>
<tr>
<td></td>
<td>Substances used.</td>
<td>Macquiban Tel; 89080 or <a href="mailto:andy.macquiban@bristol.ac.uk">andy.macquiban@bristol.ac.uk</a></td>
<td></td>
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<tr>
<td><strong>Electrical hazards</strong></td>
<td>Young persons</td>
<td>The risk is one of electric shock, burns or electrocution. Young people do not face greater physical risks from electricity than others.</td>
<td>Young persons must not carry out any work involving electricity unless they have enough technical knowledge and experience to prevent injury and are under the appropriate supervision.</td>
</tr>
<tr>
<td><strong>Working with animals</strong></td>
<td>Young persons</td>
<td>Young persons may be more at risk because of their inexperience and lack of appreciation of the risks.</td>
<td>Safety management systems must be put in place to prevent access to potentially aggressive animals, provide proper training, adequate handling facilities available and proper supervision. Risk assessments must be completed or revised to take into account lack of experience and immaturity.</td>
</tr>
<tr>
<td><strong>Noise</strong></td>
<td>Young persons</td>
<td>There is no evidence that young persons face greater risk of damaged hearing from noise exposure than others.</td>
<td>Ensure compliance with the Noise at Work Regulations 2005.</td>
</tr>
</tbody>
</table>