

Good Practice

Partnerships

Examinations

The Disability Discrimination Act Part 4

 **Educating For Equality**

The Disability Rights Commission

The Disability Rights Commission (DRC) is an independent body, established by Act of Parliament to eliminate the discrimination faced by disabled people and promote equality of opportunity. When disabled people participate – as citizens, customers and employees – everyone benefits. So we have set ourselves the goal of “a society where all disabled people can participate fully as equal citizens”.

We work with disabled people and their organisations, the business community, Government and public sector agencies to achieve practical solutions that are effective for employers, service providers and disabled people alike.

There are 8.5 million disabled people in Britain – one in seven of the population. This covers people with epilepsy, cancer, schizophrenia, Down’s syndrome and many other types of impairment.

Under the Disability Discrimination Act 1995, many legal rights and obligations affecting disabled people’s access to services and employment are already in force. Others become law in 2004.

Many people are still not aware that they have many new rights. And employers and service providers are often unsure how to implement “best practice” to make it easier for disabled people to use their services or gain employment.

The DRC has offices in England, Scotland and Wales. For further details of how we can help you, please contact our Helpline – contact details are featured on the back cover of this publication.

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Examinations and Assessment Good Practice Guide

The Disability Discrimination Act Part 4

Introduction

The DDA is extended to education from September 2002 following amendments introduced by the Special Educational Needs and Disability Act 2001. The legislation aims to ensure that disabled people have equal opportunities to benefit from, and contribute to, the learning and services available in higher education institutions.

The legislation protects disabled students in all aspects of their studies. This booklet provides a brief outline of the law, and offers some ideas on approaches to compliance in examinations and assessments.

A more detailed interpretation of the law can be found in the Code of Practice for Providers of Post-16 Education and Related Services available from the Disability Rights Commission (see page 15).

A brief outline of higher education institutions' responsibilities

The Disability Discrimination Act (DDA) refers to the Governing Body as the "responsible body". The responsible body is legally liable for the actions of the institution as a whole, and also for:

- the actions of individual employees of the institution in the course of their employment, whether they are full-time, part-time or temporary
- the actions of agents, including contractors, visiting speakers etc.

It may be possible to use a defence that all reasonably practicable steps were taken to prevent staff or agents discriminating.

Individuals may also be held responsible for aiding an unlawful act if they knowingly discriminate against a disabled student or applicant.

The Act makes it unlawful to discriminate against disabled applicants, potential applicants or students. The Act uses a wide definition of disabled person. It can include people with:

- physical or mobility impairments
- visual impairments
- hearing impairments
- dyslexia
- medical conditions, and
- mental health difficulties.

Institutions are expected to take reasonable steps to find out if a person is disabled.

The meaning of student is also very wide. It includes:

- full and part-time students
- postgraduates and undergraduates
- home, EU and international students
- students on short courses and taster courses
- students taking evening classes and day schools
- distance and e-learning students
- students undertaking only part of a course or visiting from another institution.

Applicants and potential students include those attending open days or interviews, receiving a prospectus or those targeted by recruitment drives and outreach work.

Discrimination against disabled applicants or students can take place in either of two ways:

- by treating them “less favourably” than other people, or
- by failing to make a “reasonable adjustment” when they are placed at a “substantial disadvantage” compared to other people for a reason relating to their disability.

The Act applies to all the activities and facilities institutions provide wholly or mainly for students, including, for example:

- all aspects of teaching and learning, including lectures, lab work, practicals, field trips, work placements etc

- e-learning, distance learning
- examinations and assessments
- learning resources, including libraries, computer facilities etc
- aspects of the physical environment such as buildings, landscaping and equipment
- welfare, counselling and other support services
- catering, residential and leisure facilities
- careers services.

A reasonable adjustment might be any action that helps to alleviate a substantial disadvantage. It might involve:

- changing standard institutional procedures
- adapting the curriculum, electronic or other materials, or modifying the delivery of teaching
- providing additional services, such as a sign language interpreter or materials in Braille
- training staff to work with disabled people and to provide appropriate adjustments
- altering the physical environment.

Under the Act, there is a responsibility to make anticipatory adjustments. This means that institutions should consider what adjustments future disabled students or applicants may need, and make them in advance.

Institutions are only expected to do what is “reasonable”. What is reasonable will depend on all the individual circumstances of the case, including the importance of the

service, the financial or other resources of the institution and the practicality of the adjustment. Other issues, such as the need to maintain academic standards, health and safety and the relevant interests of other people including other students are also important.

Most of the Act is implemented from September 2002. There are two exceptions. Adjustments requiring the provision of “auxiliary aids and services” (such as interpreters, lip-readers, note takers etc) are not required until September 2003. Adjustments requiring alterations to physical features are not required until September 2005.

The Disability Rights Commission is offering a conciliation service for students and institutions to reconcile any differences informally. If both parties do not agree to conciliation, or if conciliation fails, a student or applicant can take a case to a county court (in England or Wales) or a sheriff court (in Scotland).

Strategies for compliance

Maintaining academic standards

The purpose of an assessment, whether it is formative or summative, is to determine a student’s academic achievement and skills. To do this, examinations and assessments must be rigorous regarding standards so that all students are genuinely tested against an academic benchmark. But, similarly, if they are to fulfil their purpose, they must also be flexible regarding the mode of measurement so that each student has an equal opportunity to demonstrate

their achievement. In some cases this may mean changing the existing examinations or assessment practices within an institution. In all cases it will mean being clear about precisely what is being assessed so that modifications may be made without compromising academic standards.

The aim, wherever possible, is to change the delivery or mode of assessment, not to change the way the assessment is marked. Differential marking may be appropriate in some cases, but only if it was not possible to put reasonable adjustments in place for the examination or assessment itself.

Each student's needs will be different. For one dyslexic student it may be appropriate to set additional course work in place of an examination. For another there may be no problem sitting the examination so long as additional time to read the question and check answers is provided. For a third, spelling and fluency may be improved when using a keyboard and so using a word processor in the examination may be the right adjustment. If equal opportunities and academic rigour are to be in balance, adjustments need to be determined and administered on an individual basis.

Establishing a system

Degree/formal examinations are likely to be administered centrally and usually benefit from a clear policy about adjustments for disabled students. Other examinations and assessments may be administered by departments or tutors.

- Is there a policy which makes clear that adjustments can be made to examinations and assessments?
- Are examination and assessment methods considered for accessibility at the course planning and review stages?

- Are students aware that adjustments can be made for examinations and assessments? Are they invited to disclose that they have a disability when registering for exams even if they have not declared a disability previously?
- Is the policy sufficiently flexible to respond to the needs of all disabled students not just those who need “standard” adjustments?
- Are students involved in decisions about the adjustments they receive to ensure that they are fully appropriate to their needs? Are academic staff also involved to ensure that academic rigour is maintained?
- Does the policy apply to class examinations and assessments administered by departments or tutors?
- Are disability-related needs verified to prevent non-disabled students abusing the system?

Adjustments to examinations

Many students may be “substantially disadvantaged” in a written examination because of the stamina required to continue writing or concentrating for a sustained period of time. In some cases it may be the examination paper itself that presents a barrier, because the language in which it is written may be easy to misinterpret by a student whose first language is Sign Language or who has dyslexia. The following list, while not exhaustive, provides some examples:

- checking that the wording of the paper is as clear and straightforward as possible

- providing a reader or interpreter to read out or interpret questions
- providing the paper in large print, Braille or other formats
- allowing extra time for students who are deaf or dyslexic so that they can spend more time ensuring they understand the question, or checking their answers for spelling and grammar
- allowing time for rest breaks for example to students who experience fatigue or who have back problems and need to stretch
- providing an amanuensis (scribe). Students may need some time to practice with an amanuensis before the exam. Amanuenses may need to have some familiarity with the subject matter
- allowing a student to submit scripts on computer. This will also entail making sure that the computer is “clean” and that technicians are on hand to deal with problems
- ensuring that those with extra time or other arrangements sit their exam in a separate room (with a separate invigilator) to prevent them disturbing, or being disturbed by, others
- adjusting the examination timetable and keeping the student in “isolation” to allow a student who experiences fatigue to take appropriate rest between examinations.

Viva, orals and presentations

Vivas and presentations may be easier than written examinations for some disabled students, but much harder for others. It may be helpful to bear in mind the following:

- students who find standard means of communication difficult, or who use sign language need to be able to make presentations in alternative ways, or be given additional time to communicate
- sign language interpreters or other support workers need to have high level skills if they are not to disadvantage the student.

A student with dyslexia was given additional time in a viva so that he could locate and re-read the relevant section of his dissertation before each question was asked.

Group work

In group work it is important that both the disabled student and the other students in the group can contribute equally to the project and have the opportunity to show their abilities.

- Do other students receive training in disability equality so that for example, they can appropriately involve a disabled person in the group, or know how to communicate with a deaf person?
- Do tutors talk through with groups any practical difficulties that might arise because of an individual's disability, and make sure any appropriate adjustments can be made?
- Where groups discussions are assessed, are adjustments made to ensure full contributions from students with communication difficulties?

Practicals and performances

In a practical subject disabled people need to show their practical skills like other students. However, it may still be

necessary to make adjustments to allow disabled students to demonstrate their abilities.

- Some students may need assistants to act as extra hands. For example a student with manual dexterity problems might use an assistant to measure chemicals or operate machinery
- Some students may need extra time. For example, someone with a mobility difficulty may need extra time to move between patients when taking patient histories for a medical exam.

Computer assisted assessment

Technology can unlock doors but also create new barriers for disabled people. Good practice guidelines are available from the World Wide Web Consortium (W3C) and also from TechDis (see page 15).

- Are workstations with enabling technologies available? Is the assessment accessible to those using such technologies (for example, screen reading software) or those who cannot use a mouse?
- Is the layout and structure of the assessment suitable for students with dyslexia or with partial sight?
- Do any sound clips have text alternatives or sub-titles?
- Does the software allow students to have extra time or to take rest breaks during the assessment?
- Do tutors monitor automated marking to ensure, for example, it does not pick up misspellings as wrong answers?

Dissertations and course work

Some students may experience difficulty in producing regular course work or longer pieces of work. Discussion between the tutor and student will help in most cases to ensure that both the integrity of the assessment and the needs of the student can be accommodated. In some cases the following may be reasonable adjustments:

- provision of study skills support covering essay writing or dissertation skills
- flexible deadlines for coursework
- comments on course work in alternative formats
- support in researching booklists for those unable to “browse” in the library.

A blind student was given reduced reading lists for her course work assignments to take into account the complexity of getting books read onto tape.

A Deaf student presented her essay in British Sign Language (BSL) and this was translated into English by an interpreter.

Work-based assessment

In many cases, once adjustments have been made to working conditions or methods no adjustments will be needed to the assessment. In other cases some adaptations will be required.

- Have assessors in the workplace been trained in how to assess disabled people?

- Are assessment criteria adjusted to take into account any adaptations that have been made to the placement?

Alternatives types of assessment

It may be possible to make adjustments to enable disabled people to undertake the same assessment methods as other students. In some cases it may be appropriate to offer alternative assessment methods to prevent a student being “substantially disadvantaged” and to ensure academic rigour is maintained.

- A student with dyslexia or whose first language is sign language might be able to make a presentation instead of producing a written project
- Similarly students who have difficulty with writing might be able to take a viva instead of sitting written examinations
- A student who experienced high levels of stress or fatigue at examination time might be able to produce additional course work rather than take a final exam.

Support workers

In many cases disabled people will need human support to undertake examinations and assessments. The involvement of another person in the assessment does not devalue the qualification as long as sensible precautions are in place.

- All examinations should be invigilated, including those where a student has a support worker or amanuensis with them
- Amanuenses and other support workers usually need to have some knowledge of the subject

- Support workers need to have appropriate practical skills or qualifications for the task. For example, in a viva, a sign language interpreter's skills need to be sufficient to reflect the breadth of knowledge and ability of the student
- Support workers need to understand the limitations of their role. For example, those acting as "hands" in practical sessions should act only under instruction
- Students' friends or immediate tutors should not usually act as support workers in examinations or assessments
- Academic or examinations departments need to be resourced to pay for extra invigilators, amanuenses and other support workers.

One institution has recruited a team of people living locally to work as additional invigilators during examination periods.

Marking modifications

Wherever possible adjustments should be made during the assessment rather than during marking. However, in some case, adjustments to marking may be required.

- It may be appropriate for markers of dyslexic and deaf students' work to discount spelling and grammar errors
- Where a student's condition has become worse during an exam or assessment, it may be appropriate to take this into account during marking.

Some institutions issue guidelines on marking the work of dyslexic and deaf students. Students with dyslexia are issued with stickers to put on their exams or course work so that markers know to apply the guidelines.

Keeping adjustments under review

It is almost impossible to set up support at the beginning of a student's academic career which will hold good right to the end of a course. Lecturers and students may need to experiment with different adjustments to see what works best. Different adjustments may be appropriate for different types of assessment, and a student's needs may change over time.

- Are students asked to give feedback on adjustments to assessments?
- Are adjustments for individual students routinely and regularly reviewed?
- Are statistics kept on the examination and assessment results of disabled students, and are these compared with those of non-disabled students so that any difficulties can be identified?

Other resources and advice

For more information on good practice for disabled students in examinations and assessments see:

LTSN Generic Centre Assessment Series No 8: A Briefing on Assessing Disabled Students

Available at: www.ltsn.ac.uk/genericcentre/projects/assessment

Teachability: Creating an accessible curriculum for students with disabilities

Available at: www.teachability.strath.ac.uk

Demos Project

For a module on assessment and other materials related to disabled people: www.demos.ac.uk

Code of Practice for the Assurance of Academic Quality and Standards in Higher Education. Section 3: Students with Disabilities

Available from the Quality Assurance Agency for Higher Education: www.qaa.ac.uk

Dyslexia in Higher Education: policy, provision and practice

Report of the National Working Party on Dyslexia in Higher Education University of Hull, 1999

The Coordinator's Handbook **Skill** (see page 16), 1997

Accessible Curricula

Available at: www.techdis.ac.uk

For information on making electronic material accessible see:

TechDis website: www.techdis.ac.uk

For information on legal responsibilities towards disabled students and applicants under the DDA see:

Code of Practice for Providers of Post-16 Education and Related Services, available from the Disability Rights

Commission Helpline, contact:

The Disability Rights Commission Helpline

✉ DRC Helpline

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Email	enquiry@drc-gb.org
Website	www.drc-gb.org

For general information about good practice for disabled students, contact:

Skill: National Bureau for Students with Disabilities

✉ Information Service
Chapter House
18-20 Crucifix Lane
London
SE1 3JW

☎ Telephone	0800 328 5050
Textphone	0800 068 2422
Email	info@skill.org.uk
Website	www.skill.org.uk

You can contact the DRC Helpline by voice, text, fax, post or email. You can speak to an operator at any time between 08:00 and 20:00, Monday to Friday.

If you require this publication in an alternative format and/or language please contact the Helpline to discuss your needs. It is also available on the DRC website: www.drc-gb.org

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