

The Disability Discrimination Act Part 4 Staff Development Good Practice Guide

This guide has been published by the Disability Rights Commission in partnership with Skill, HESDA, Universities UK, Universities Scotland, Higher Education Wales and SCOP, with support from the Scottish Higher Education Funding Council.

Introduction

The Disability Discrimination Act 1995 (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 leaflet provides a brief outline of the law, and offers some ideas on how staff development can contribute to compliance.

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 Helpline details at the end of this leaflet).

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, 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. For more information on this see the guide Finding Out About People's Disabilities (see page XXX).

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
- 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

Targeting everyone

The responsible body (the governing body) is legally liable for the actions of all its employees and agents. Its only defence if an agent or employee discriminates against a disabled student or applicant, is that it took all reasonable steps to prevent discrimination occurring. Staff development is clearly one step that an institution can take. Training therefore needs to be available to all staff, for example:

- employees and contract workers
- full and part-time staff
- academic staff and research students undertaking teaching
- technicians and lab assistants
- caretakers and security staff, cleaners and wardens
- front line staff and senior managers
- admissions tutors and admissions officers
- administrative and central services staff.

Reaching everyone

Training in the DDA or the needs of disabled students may not be seen as a high priority by some staff. There are a number of strategies you may want to use to encourage staff development to take place.

- Make it clear in contracts with agents what standard of behaviour or practice is expected
- Include disability issues in induction training and any accredited training offered by the institution

- Provide encouragement and recognition of development in this area through review and/or appraisal processes
- Ensure part-time staff and contract workers can include training in their paid hours
- Take training to departments by adding short sessions on to existing departmental meetings
- Make certain aspects of training compulsory
- Involve the vice chancellor, principal or director in inviting people to attend, or introducing speakers
- Provide a free lunch
- Charge training to departmental budgets (this encourages their attendance)
- Target staff who are about to receive a disabled student into their department
- Make sure disability issues are incorporated into all appropriate training, not just disability-specific sessions
- Ask staff what training they would like, and tailor development to their needs
- Make sure resources are available in other ways, on the intranet, through good practice booklets, etc and that staff know how to obtain these
- Ensure that all training is accessible to all staff
- Involve departments in auditing their services and training needs.

Knowledge of students' disabilities and confidentiality

Institutions are expected to take reasonable steps to find out about a student's disability. Once a student has disclosed a disability even if only to one staff member, or once an institution might reasonably be expected to know about a student's disability (for example, if it is visible), the institution has a responsibility not to discriminate. Students do, of course, have a right to confidentiality, both through the Data Protection Act, and separately within the Disability Discrimination Act.

- Do staff know how to encourage students to disclose a disability?
- Do staff know how to respond if a student discloses a disability to them, and to whom any information should be passed?
- Are staff aware of the institution's confidentiality policy and what information should, or should not be communicated to others?

Issues to cover

Different staff groups will need to cover different aspects of the DDA or of good practice. Wherever possible, it is useful to tailor training to individual needs.

- Senior managers and heads of departments need to have a thorough understanding of their legal responsibilities. Other staff may need only a brief outline of the law
- Staff with management responsibility need to know how to make anticipatory adjustments in their departments
- All staff who come into direct contact with disabled students and applicants need to know how to respond to a student who discloses a disability
- All staff who come into direct contact with disabled students need to know how they can make appropriate adjustments for disabled people
- All staff need to know who within the institution can offer further advice and information. It may be helpful if one staff member in each department can receive more comprehensive training so that they can act as an initial point of contact
- All staff need to know that they personally have a responsibility towards disabled students
- Specific staff may need training “top-up” sessions in, for example, how to support a student having an epileptic seizure, or how to communicate with a hard of hearing person.

Other issues to consider

Many people have an emotional response to disability, based on fear or pity. They may have entrenched attitudes based on prejudice or previous negative (or positive) experiences. For this reason, it may be harder to change attitudes and behaviours relating to disability than on other issues.

- The disability movement recommends that disability equality training be delivered by a disabled person. In itself this may

help to challenge entrenched attitudes (see the DRC website to find trainers – www.drc-gb.org)

- When working with academic staff, involve examples or trainers from the relevant academic discipline so that it is more relevant and credible
- Involve staff in audits of provision or expertise, so that they become aware of their own development needs
- Draw attention to ways in which the institution has already supported disabled students to highlight what is possible.

Other resources and advice

For more information on good practice on staff development regarding disabled students see:

Teachability

Audit materials for use with academic departments, available from
www.teachability.strath.ac.uk

Auditing for Change: a structured discussion resource pack for use in higher education institutions

Available from Skill (see below)

IDEAs Resource Pack

Using auditing as a tool for staff development. Available on
www.ideas-project.org

Demos Project

For a variety of resources for staff development around disabled students see
www.demos.ac.uk

SENDA Compliance in Higher Education – a guidance tool for accessible practice within the framework of teaching and learning

Available at
www.plymouth.ac.uk/disability

The Coordinator's Handbook

For general information about setting up processes and services to support disabled students. Available from Skill (see below)

Accessible Curricula: good practice for all

For general information about good practice in learning and teaching for disabled students. Available on www.techdis.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

TechDis

For information on making electronic material accessible
www.techdis.ac.uk

The Disability Rights Commission

For organisations which offer disability equality training see www.drc-gb.org

For information on legal responsibilities towards disabled students and applicants under the Disability Discrimination Act see:

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

or contact:

The Disability Rights Commission Helpline

DRC Helpline
Freepost
MID 02164
Stratford upon Avon
CV37 9BR

Telephone	08457 622 633
Textphone	08457 622 644
Fax	08457 778 878
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

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