

Finding Out About People's Disabilities

A good practice guide for further and higher
education institutions

department for

education and skills

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FINDING OUT ABOUT PEOPLE'S DISABILITIES A GOOD PRACTICE GUIDE FOR FURTHER & HIGHER EDUCATION INSTITUTIONS

The Special Educational Needs and Disability Act 2001¹ places new duties on the bodies responsible for providing post-16 education and related services. These duties are:

- Not to treat disabled people and students less favourably, without justification, than students without a disability; and
- To take reasonable steps to enable disabled people and students to have full access to further and higher education.

Less favourable treatment and disclosure of a disability

In order to avoid discriminating against a disabled person or student by treating him or her less favourably because of a disability, responsible bodies will need to know about that person's disability. If the responsible body does not know and could not reasonably have known that a disabled person or student is disabled, then that person has not been treated less favourably for a reason relating to his or her disability. Institutions should note that when **one person** has been told in the institution then the institution could be deemed to know about a person's disability. **For example, if a student tells a tutor that she has to see a doctor and take medication on a regular basis and the tutor fails to pass that information on to a responsible person, the institution may not be able to claim that it did not know about the student's disability.**

Reasonable adjustments and disclosure of a disability

A responsible body's duty to make reasonable adjustments is an **anticipatory duty** owed to disabled people and students at large. Responsible bodies should not wait until a disabled person applies to do a course or tries to use a service before thinking about what reasonable adjustments they could make. In practice, this proactive approach means continually anticipating the requirements of disabled people or students and the adjustments that could be made for them, such as regular staff development and reviews of practice. Failure to anticipate the need for an adjustment may mean it is too late to comply with the duty to make the adjustment when it is needed. In some cases it may be obvious that students have disabilities, for example because they are visible or because you can reasonably infer it from a conversation with the individual or their application. A responsible body does not formally have to be told that a disabled person or student requires a particular adjustment before making such an adjustment.

¹ The Disability Discrimination Act 1995 (DDA), as amended by the Special Educational Needs and Disability Act 2001, makes it unlawful for education institutions to discriminate against disabled students and other disabled people. Further information about the post-16 provisions of the Act and who has rights under it will be set out in the Post-16 Code of Practice which should be available from the Disability Rights Commission on 08457 622 633 or on the internet at: www.drc-gb.org, from April 2002.

This document provides guidance and examples of good practice to post-16 institutions on the reasonable actions responsible bodies should take to find out about people's disabilities. This document has no contractual or legal status.

Application Form

The admissions process is the first opportunity to find out if a prospective student has a disability. Many institutions have a section on the application form which allows an applicant to identify themselves as having a disability or additional learning needs.

Some institutions include a section in the application form to be completed by someone from a former educational establishment attended by the applicant seeking information about whether the applicant needs additional learning support and details of the type of support required.

Others include a tick box on the application form so that applicants can indicate if they require additional support or believe that they have a disability. This is commonplace in many institutions and is a simple way of giving people an opportunity to let the institution know that they have additional learning needs.

A question on the application form ensures early identification of additional needs well before the disabled person or student arrives at the institution and can allow for the necessary support arrangements to be put in place.

What should happen once an applicant has said that they have a disability?

If a prospective student identifies him or herself as having a disability, the application needs to be passed on to the disability adviser or someone within the institution who is responsible for students with learning difficulties or disabilities. This may be someone in a learning support unit or within the Admissions Department. This person should then arrange to contact the student to discuss their needs and what support the institution can offer to them. This needs to be done for both the interview and, if a place is offered, prior to the student taking up the place.

It should clearly state on the application form what use the information will be put to. This may encourage people to disclose a disability and would also allow the information to be passed on. Institutions need to take care not to contravene the Data Protection Act by collecting information 'for admissions purposes' and then passing it on around the system.

Institutions will need to ensure that both teaching and other services are adapted as a result of the disclosure and a chain of command is put in place to ensure the student's requirements are met throughout the institution. **For example, canteen staff will need to be told if wheelchair users need help to collect their meals or find a place at table.**

Useful steps responsible bodies can take to encourage a student to disclose a disability

Institutions need to actively encourage students to disclose a disability. If a student has not said that they require support or indicated that they have a disability before they enrol or when they start on the course, they should still be able to request support at **any** stage during their course. Students will feel more comfortable about disclosing that they have a disability if the atmosphere or culture at the institution is open and welcoming. It is a good idea to publish the names of staff who have particular responsibilities for students who are disabled or who have learning difficulties. Students may not feel comfortable about approaching their own tutor but may feel more able to talk to someone they know is likely to be empathetic.

Below is a list of opportunities when it would be particularly important to ask a student to disclose his or her disability:

- when registering for examinations
- when arranging work placements and field trips
- when requesting accommodation
- when using the careers service for the first time
- when joining at the library
- when registering at the beginning of each new year or module.

It need only be an explanatory paragraph setting out the reasons for seeking the information and then a tick box.

There should also be procedures in place within the institution that would allow personal and subject tutors and lecturers to identify additional learning needs and follow them up. For example, opportunities for dyslexia screening which may identify students whose dyslexia had not previously been recognised.

Institutions should have in place a transparent system for gathering information from staff and a clear process for communicating decisions to the right people so that they can be turned into appropriate action for the benefit of the students.

Confidentiality

In some cases, a disabled student may have told someone in confidence at the institution that they have a disability. As the person will not be able to pass that information on to the relevant authorities, the institution would be able to argue in such cases that it could not reasonably have known that the person had a disability.

A disabled person can also request that their disability remains confidential. Where this is the case an institution would need to decide whether making a reasonable adjustment would be consistent with the person's request for confidentiality. In some cases this might mean that reasonable adjustments have to be made in a different way in order to ensure confidentiality. It could also mean that a less satisfactory reasonable adjustment is provided or that no reasonable adjustment can be provided. **For example, a tutor offers additional tutorial time to a student who has missed some tutorials because he has needed to attend hospital. However, the student does not want others to know of his condition so the tutor provides him with additional notes instead.**

Students should be provided with a level of confidentiality in which to disclose their disability, even if the student does not explicitly request this. For example, this may include:

- providing a confidential setting in which to disclose
- providing reassurance to the student that the information that is being collected will be dealt with confidentially and appropriately
- a written procedure to ensure that reasonable confidentiality is adhered to

It would be inappropriate for a student to be asked to disclose in front of his or her peers in the first lecture.

Students should be consulted about the use that will be made of the information they have given. A disabled student might be happy for his/her disability to be disclosed to staff who will need to make reasonable adjustments but this does not mean that they want everyone to know. Also it might mean that someone is happy that the reasonable adjustment is common knowledge but not necessarily that details of their disability are known.

Good Practice

There are many ways to obtain information about a student's disability and to follow up self-identification of a disability and lots of existing good practice that we hope institutions will build on. The following are just a few examples of existing good practice:

Example 1

The student application form has a section to be completed by the student's teacher at school:

"Does the student require additional language or learning support? If so, please give details. This is picked up when the application form is sent in and when interviews are being arranged. At the interview, two members of staff are present so that in addition to the subject/programme specialist, there is someone present who can help to determine the support needs of the student. Following the interview, a copy of the application form is put into a file, which acts as a database of all students with a special need. A tracking sheet in the file records the details, for example, the name of the student, the course which has been offered and the support required. The college is then able to ensure that the student's support is put in place properly and that a period of transition to the college can be arranged, if necessary.

Example 2

The student application form has a tick box, which enables the student to indicate that they require additional support or consider that they have a disability. A copy of the application form is sent to their Learning Support Unit (LSU), and an Additional Information Form is sent to the previous school, college or employer. (It is clearly stated on the application form that a letter will be sent to an applicant's previous school or college so that it isn't a shock to them that these people have been contacted and they can make an informed choice to disclose knowing that contact will be made.) When the additional information is received, it is photocopied and sent to the LSU. An interview is then arranged and a letter is sent to the applicant asking the student to contact the admissions unit if they have additional access requirements to the buildings. The unit will ensure that additional provision is made. A member of the LSU will attend the interview with the applicant if requested. When the applicant is offered a place, details are sent to the LSU team, to ensure that necessary provision is in place before the course begins.

Example 3

Applicants are asked to identify their particular requirements on the application form or by speaking confidentially to their interviewer. The College has developed a system of diagnostics and referral that enables students with specific learning needs to make informed choices about a proposed programme of study. The College will provide the student with an assessment of how suitable a particular programme might be for them, including how the student would be able to cope with the college building, details of specialised facilities and staff appropriate to their needs. The college will endeavour to make reasonable adjustments to its facilities and procedures to help students follow a programme of study

Example 4

The course information and prospectus provide information about the services available to disabled people and encourage potential students to contact the disability adviser if they think they have a disability or need any adjustments. Applicants to courses are asked on their UCAS forms whether they have a disability. Applicants for postgraduate and part-time courses, who apply direct to the university, are also asked to disclose their disability on application forms. These applicants are told at the application stage that this information will be needed so that appropriate adjustments can be made. All students receiving correspondence from the university before they arrive are again informed about the services to disabled students and encouraged to contact the disability adviser. Students applying for accommodation are asked if they need an accessible or adapted room. At enrolment students are given the opportunity, in confidence, to disclose any disability. Posters and information about services to disabled students are displayed prominently throughout the institution. At key points throughout a student's career it is made clear that services are on offer and students are given explicit opportunities to disclose.

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