

Applying the disability legislation when working with students

The ***anticipatory duty to take into account the needs of disabled people in general*** means that staff must plan for those needs, not await a request from a disabled person.

So if you are planning a new module, an activity or an event, you need to think ahead about the access needs of people with various kinds of impairment. This should include those with specific learning differences (eg dyslexia), sensory impairments, mental health issues, dexterity and mobility impairments and chronic medical conditions. Your institutional Disability Service should be able to offer advice on how to do this.

Institutions may not treat a disabled person *less favourably* than they would treat someone who has no disability unless this treatment can be *justified* (see below for the justifications). However, you are permitted to treat a disabled person more favourably, should that be necessary to meet their needs.

In practice this means that you need to pause and think very carefully on any occasion when you think you may need to treat a disabled person *differently* from other people in similar circumstances. If at all possible you should get expert advice from your institution's Disability Service - this is not a matter where you can rely on general knowledge or on 'common sense'.

You do not necessarily have to make a reasonable adjustment – for example if you believe that it would compromise academic or other standards (eg the requirements of certain professions) or if it would create a situation which is significantly detrimental to other people or if it is impractical. However your concerns should be discussed in detail with your institution's Disability Service before you actually need to refuse to make the adjustment. You certainly should not attempt to justify different treatment without that expert advice as such justifications must meet the legal requirements.

Institutions and their staff must make 'reasonable adjustments' in order to meet the needs of an individual disabled person, whether that person is a student or member of staff. Such reasonable adjustments might include allowing the person more time to complete a task, or permitting them to use a piece of specialist equipment. It might mean you working with a support worker who is assisting the disabled person, such as a sign language interpreter or a note-taker. If this situation occurs you should do your best to co-operate courteously and without unnecessary comment on the situation. If you have a question it should always be addressed to the disabled person and not the support worker.

You should familiarise yourself with your institution's response to the Disability Equality Duty. In particular you should read your institutional Disability Equality Statement (and any other equality statements) and the associated Action Plan.

What should I do if a student tells me they are disabled?

*"Except where there has been a specific request for confidentiality, or for limited disclosure, **the University is 'deemed to know' of a person's disability** if it is either obvious or if the person has told any member of staff or disclosed the information about their disability on any official documents (eg application forms, registration forms etc)."*

You must not ignore the student's disclosure - the first thing to check is whether the person is already in contact with your institutional Disability Service. If they are, then you can carry on and deal with anything they ask – getting advice from your Disability Service as needed.

If the person has not been in contact with your Disability Service you should encourage them to make contact if at all possible. If they refuse, you need to check with them who else they may have told and get a clear instruction from them about what they want you to do with the information. Ideally, you should ask the



student to put their disclosure in writing, along with any instruction about what they want you to do (or not do) with the information.

Keeping a copy of the statement will help if there is any complaint later from the student (eg an allegation that s/he “asked you to pass the information on to the Disability Service and you failed to do so” would be disproved if you have written confirmation that the student disclosed and said they did not want you to pass on the information).

Confidentiality

Medical information is considered confidential and is protected under the Data Protection Act. You should always treat any information you acquire about a person’s impairment or condition as confidential.

You should not ask a student about any disability issues in public – always try to offer a private space for any such conversation. For the most part you should not need to know about the person’s impairment or condition - mainly you need to know how you can help and what adjustments might be required, so try to concentrate on those points. Any reasonable adjustments made must take into account any request for confidentiality made by the disabled person and it must meet their needs in the given situation.

For example, a student who is HIV positive has difficulty attending early morning laboratory sessions because their medication regime affects their alertness and ability to concentrate in the early part of the day. The student is offered the opportunity to attend a different lab session in the afternoon, but feels that to do so would breach their confidentiality because other students would ask why they are attending in the afternoon instead of the morning. As a result the student negotiates a different adjustment in order to cover the lab work.

What happens if a student brings a case under the law?

If the institution fails to meet its obligations the disabled person affected may either request conciliation by the Equality and Human Rights Commission, take a case to the county courts, or pursue both options.

The responsibility is corporate – so the chief executive or the chair of the governing body would be the person who leads the institution’s response - though individual members of staff can be involved, usually as witnesses to specific events.

The fines for a breach of the law can be very large and court cases are obviously damaging to the institution and its reputation, so you can best help by ensuring that you do everything you can to avoid creating an issue. Ensure you attend any training offered, and familiarise yourself with the institution’s support services and processes.