What should we be doing already?

Since 1995, Higher Education Institutions (HEIs) have been legally required to make reasonable adjustments to "avoid as far as possible by reasonable means the disadvantage which a disabled student experiences because of their disability" (EHRC, 2010, p22). You have to take positive steps to "ensure that disabled
students can fully participate in the education and other benefits, facilities and services provided for students" (EHRC, 2010, p22).

In employment, “the duty to make reasonable adjustments aims to make sure that, as far as is reasonable, a disabled worker has the same access to everything that is involved in doing and keeping a job as a non-disabled person” (EHRC 2012 http://www.equalityhumanrights.com/advice-and-guidance/guidance-for-employers/).

What is the reasonable adjustment duty?

In both HE and employment settings you must take reasonable steps to avoid disabled people being disadvantaged in relation to:

- A provision, criterion or practice, other than a competence standard, applied by, or on behalf of the education provider/provision, criteria or practice of their employer
- physical features of the premises - you must remove, alter and/or replace the feature in question
- auxiliary aids - these must be provided if they are needed (e.g. the provision of a particular piece of equipment [which does not become the property of the disabled person], specific software, extra staff assistance, making information available in an accessible format)

When the duty arises in relation to employment, you are under a positive and proactive duty. You must make every effort to remove/ reduce/ prevent obstacles that a job applicant or an employee faces. You are only required to make adjustments when you are aware, or could reasonably be expected to be aware, that a person is disabled.

You are not required to do more than what is considered to be reasonable and this depends, amongst other things, on the size and nature of your organisation.

If a disabled applicant or employee can show that there were barriers, and also that you could have made reasonable adjustments to remove them, the person can bring a claim against you in the Employment Tribunal. One consequence of this is that you could be ordered to pay compensation to that person and also to make the reasonable adjustments (EHRC 2012).

Who does the duty apply to?

In HE the duty applies to:

- Applicants to your university
- Existing students
- Former students (in limited circumstances)
In employment the duty applies to:
- Applicants to your place of work
- Existing employees
- People who are thinking of applying for a job with you
- People who have previously been employed by you (in some circumstances)

**What is 'reasonable'?**

What is considered to be 'reasonable' is an objective decision made by the courts. Where the duty arises, you cannot justify not making a reasonable adjustment.

What is ‘reasonable’ depends on:
- available resources
- cost
- practicality of the changes
- potential benefit i.e. how effective any changes will be in avoiding the disadvantage the disabled person may face

**Example**

During a planning meeting, it was agreed that a reasonable adjustment would be to install hearing loops in all lecture theatres to anticipate the requirements of deaf students. Another suggestion was to advertise for a sign language interpreter to join the staff team. Having considered the available resources and the likely overall benefit, however, this was considered to be unreasonable.

**Your duty is to anticipate: forward planning**

You must continually anticipate the potential requirements of disabled people. Don't wait until you are approached by an individual disabled student/employee. Of course, you won't be able to predict the requirements of every potential disabled student/employee, but you must think about, and take steps to avoid the barriers that disabled people are likely to face.

**Make adjustments for individuals**

Anticipatory reasonable adjustments will improve the inclusivity of the teaching and learning and the working environments; they will not, however, cover all eventualities. You can often tailor adjustments that are already in place to meet the
requirements of individual students/employees: it is important to encourage them to be actively involved in decision-making.

On some occasions, students/employees will arrive with specific requirements that need to be dealt with separately. Changes/modifications of this type have to be made when you know, or could reasonably be expected to know, that the person is likely to be at a disadvantage as a result of a disability. You are expected to do everything you reasonably can to find out. This does not mean asking intrusive questions or ones that could be construed as violating someone’s dignity.

Example

A Speech and Language Therapist’s performance has recently been noted to have worsened and he is regularly late for work. His previous record was excellent, he had good feedback from colleagues and patients/clients and his punctuality was good. Rather than warning him and telling him he must improve, his manager had a private meeting with him. This allowed her to check whether this change could be due to any disability related issues.

He said that due to a family crisis he was experiencing a recurrence of some mental health issues, his sleep patterns are disrupted and his medication makes him less alert in the mornings. Together they came up with a plan to modify his working hours (initially on a temporary basis) and agreed that he could ask for support if/when he finds it difficult to start/complete particular tasks. These are reasonable adjustments.

Record any adjustments made and undertake a regular evaluation of their effectiveness.

- Are the staff in your area aware of the duty to make reasonable adjustments to current policies and practices?
- Do you have procedures in place to enable you to anticipate what reasonable adjustments might be required to meet the access requirements of potential students/employees who have a range of impairments?
- Do you have procedures in place to enable you to quickly act when a student/employee arrives who needs more individual adjustments?
Shouldn't everyone be treated equally?

No. Treating all students/employees equally isn't the same as treating everyone fairly. In order to counteract the inherent disadvantages of disability and to promote equality, you are legally allowed to treat disabled people differently. It is not unlawful to treat them more favourably if you think that this is reasonable.

Example

Three students who have dyslexia and one who has a visual impairment attended weekly practical anatomy sessions. The class tutor was aware of each student's disability and appropriate reasonable adjustments were made. After the third session, however, it became obvious to the class tutor that all these students were still experiencing difficulties in learning the various techniques. She decided, therefore, to offer one additional session per week specifically for the four students and produced additional hand-outs to accompany each session. A non-disabled student asked to attend and was told that she could not do so. She then complained that this was unfair because the disabled students were being treated more favourably than non-disabled students. The class tutor agreed but said that, legally, this treatment was justifiable.

What part does a disabled student/employee play in decision-making?

You are not legally required to make every adjustment that a student/employee requests. You cannot, however, claim that an adjustment is unreasonable because it is inconvenient, time consuming or too expensive. The university/workplace has a duty to pay for some adjustments. You should not necessarily expect disabled students/employees to suggest what adjustments should be made – this can be a new environment/experience for them and they may not always know what would be appropriate. You can help with this and you should discuss the options with them. Some will have ideas as to what is useful; others will need help.

Don't assume that:

- Adjustments that have been successful in one context (e.g. in the academic setting or during the undergraduate programme) will necessarily be successful in another (e.g. when undertaking a practice based placement or when in transition from education to employment)
• Adjustments that have been successful for one student who has a particular impairment (e.g. Dyslexia) will necessarily be appropriate for another student who has the same, or similar, impairment

What about the needs of non-disabled students/employees?

When making reasonable adjustments, you must take everyone's needs into account. It may be difficult to balance the requirements of disabled students/employees against those who are non-disabled. There may be a need to make a compromise. The general guidance is that you should make the adjustment.

What about Health and Safety legislation?

Health and Safety legislation overrides Equality legislation but this must not be used spuriously to avoid making reasonable adjustments. Again, consider the needs of the whole group and, where possible, make the adjustment. There will, however, be times when you will have to negotiate with a disabled person as to what is 'reasonable'.

Example

During induction week, a student who is hard of hearing asked if he could bring his assistance dog into lectures and practical sessions. This was agreed and the student brought the dog to the first practical session. After the class, another student complained to the class tutor that she was sensitive to dog dander and that the dog's presence had triggered her allergies. She said she couldn't participate in the session because she felt unwell. The class tutor discussed the matter with the disabled student and it was agreed that the dog should be located in a room next to the practical lab so that the student could collect him immediately following future practical sessions.

Be inclusive!

If your teaching/employment practice is inclusive, reasonable adjustments are less likely to be required.
Examples

1. A lecturer preferred to demonstrate techniques on a model without providing any accompanying verbal description. Following each demonstration, students were asked questions about what they had seen, with the intended aim of testing their observational skills. This discriminated against visually impaired students. In general terms, this method could be viewed as poor teaching practice, as not all students will be able to see clearly what is happening, depending on numbers and positioning in the room. Showing a technique and providing verbal description (i.e. using multi-sensory methods) is inclusive practice because it provides a more effective learning experience for everyone.

2. A Therapy Services manager included Equality and Diversity (E&D) as a regular item on staff meeting agendas. She also designated a member of staff to act as an E&D champion. Time was allocated as part of his role to attend relevant meetings in the hospital. He was supported to carry out awareness raising activities and to liaise with staff on a group and individual basis, as necessary, to ensure that any issues/barriers were identified and reasonable adjustments implemented on a rolling programme (in relation to staff, students and patients/clients).

What is substantial disadvantage?

A disadvantage that is more than trivial is 'substantial'. When compared to a non-disabled student/employee, think of the extent to which a disabled student/employee would be disadvantaged if no reasonable adjustments were made. Take the following factors into account:

- The length of time a disabled student/employee might need
- The amount of effort that might be expended
- The inconvenience to the disabled person
- The disabled person's dignity
- The potential discomfort experienced
- The loss of opportunity in relation to non-disabled students/employees
- The rate of progress on the course or in the employment role in relation to non-disabled students/employees
Examples

1. A podiatry student who has mobility difficulties was required to attend lectures and practical sessions on different campuses. She is placed at a 'substantial' disadvantage compared with non-disabled students because:
   - She takes longer to travel between the sites
   - She expends more energy in walking which is tiring
   - Her stress levels increase because she worries about being late
   - She finds concentration difficult because she needs time to recover from the journey

2. A disabled occupational therapist has to eat at set times to control his diabetes. Due to a number of issues the organisation decided to modify one of its policies so that all staff must have the same breaks and work the same hours. This put the therapist at a substantial disadvantage compared with non-disabled employees and erected barriers to the extent that he was no longer able to carry out his role effectively and considered leaving his post.

What is a provision, criterion or practice?

There is no strict definition but think of them as relating to how your educational programme is delivered or the ways in which things are done in the workplace. Also consider other general benefits, facilities and services provided by the organisation.

Look at your organisation’s policies, practices and procedures. You should review:

- access to buildings, such as level or ramped entry
- emergency evacuation arrangements including provision of:
  - flashing light fire alarms or vibrating pagers to deaf people
  - fire refuges, or alternative escape routes for people who have mobility impairments
- doors that operate automatically
- the accessibility of external paths and landscaping
- circulation within buildings, including their interior layout
- the effectiveness of lighting and signage
- the effectiveness of colour and tone contrast on walls and doors to assist orientation
- acoustics appropriate for hearing aid users and (working) loop systems in lecture theatres or at reception desks
- the flexibility and variability in height of desks, benches, work surfaces and reception desks
• seating arrangements, for flexibility and variability
• access to services, such as catering facilities or payphones
• accessible toilets
• convenient and reserved parking spaces
• facilities for assistance dogs

If you think that an existing policy, procedure or practice places disabled people at a substantial disadvantage, you must take reasonable steps to rectify the situation. In relation to each policy, procedure or practice, you may have to:

• Remove it
• Adapt/modify it
• Waive it
• Replace it

In relation to the development of new policies, it is important that you (or your organisation) are clear about the equality implications of these. It is not sufficient to impact assess at the end of a policy process.

Examples

1. A student who has mental health issues carries her medication with her all the time. The university has a strict policy that no drugs are allowed on the premises. After discussing the issue with her personal tutor, it was agreed that it would be a reasonable adjustment for the university to waive the policy in relation to this particular student.

2. An organisation has a policy whereby it only provides designated parking spaces for senior management. A dietician, who is not a manager, has mobility issues and needed to park very close to the office. She was provided with a car parking space – this is likely to be considered a reasonable adjustment to the organisation’s car parking policy.

Does this mean we have to waive competence standards?

No. A competence standard is defined as “an academic, medical or other standard applied by, or on behalf of, an education provider for the purpose of determining whether or not a person has a particular level of competence of ability. It is not a provision, criterion or practice and there is, therefore, no duty to make reasonable adjustments in relation to the application of a competence standard” (EHRC, 2010). This means that there are no legal requirements to lower standards of practice for
disabled students. All students have to meet the professional requirements of the programme.

It may be necessary, however, for you to think about and apply a reasonable adjustment to the way in which a disabled student demonstrates a competence.

**Example**

During assessment of skills in the practice setting, students were required to give verbal responses to questions from practice educators. A hard of hearing student said that she was not confident of being able to hear the questions accurately. She said she was concerned that this might adversely affect her responses and therefore jeopardise her grades. It was agreed that a lip speaker could accompany the student during her assessments and that extra time would be allowed to accommodate this as necessary.

**Fitness to practise and the HPC**

To be considered "fit to practise", HPC registrants must have the skills, knowledge, character and health to do their job safely and effectively. All practitioners - including disabled practitioners - are required to undertake appropriate CPD activities relevant to their scope of practice in order to meet the HPC's Standards of Proficiency.

Being disabled does not mean the same as being in poor health. You may, however, need to address issues that arise when a disabled person's condition undergoes a significant change.

**Examples**

1. A podiatrist in his 50s was recently diagnosed as having multiple sclerosis. He noticed that his vision was affected and that he had developed a slight tremor. He became concerned about his ability to carry out minor surgery safely. He discussed these issues with his employer and together they agreed that his role would need to change. His employer suggested that he might like to consider a management role and offered to contribute to the cost of a management course. He agreed to this and said that he would update his employer on any further changes in his condition.
2. A physiotherapist working in paediatrics developed a serious chronic back condition. She felt that she could no longer undertake her work without the help of an assistant. She approached her employer who arranged for another member of staff to provide help on a temporary basis. In view of the chronic nature of the condition, the employer suggested employing a Support Worker through the Access to Work scheme. It was agreed that support would be ongoing and that they would continue to meet regularly to review the situation and to modify adjustments as necessary.

**What about physical features?**

These include (permanent and/or temporary):

- All features relating to the design or construction of a building
- Any feature on the premises, including approaches to, exits from, and access to a building
- All fixtures, fittings, furnishings, furniture, equipment, and all moveable property in, or on, the premises
- Any other physical element or quality

There are many planning and building regulations to consider when making reasonable adjustments to buildings (leases, mortgages, restrictive covenants etc). You may, therefore, need to arrange an Access Audit to be carried out on your premises to help you to comply with your legal obligations. Consult your organisation’s disability services and estates departments. Depending upon the type of audit you need, some external disability organisations may also be able to help.

**What are auxiliary aids?**

These include:

- Provision of equipment that remains the property of the organisation eg. a computer located in the Learning Resource Centre loaded with assistive technology
- Additional assistance from staff e.g. access to BSL interpreters or a reader/scribe
- Provision of accessible course materials e.g. electronic versions of documents
Example

A student who has dyslexia said that he experienced considerable stress when undertaking examinations in an examination hall. Reading standard examination papers and producing hand-written answers was difficult. This was recorded in his interview with a university Disability Officer. As a result his examination papers were produced in a large, clear font on yellow paper and he was provided with a computer with Text Help software on which to write his answers. A separate room, together with an invigilator, was allocated for this purpose.

How much of the student's Disabled Students’ Allowance (DSA) funding can we use to pay for these adjustments?

It is likely that a student who has dyslexia will want to buy equipment such as a computer and Text Help software from a DSA. This would then remain the property of that student (but the student would usually not be allowed to use this in an exam). The DSA can also be used to pay for personal support such as the services of a support worker. The university is legally required to pay for the costs of producing examination papers and the services of an invigilator. Computers for use in exams plus any assistive software are also usually the property of the university.

For information on the DSA see Factsheet 5: The Disabled Students’ Allowance.

For information on funding for reasonable adjustments in the employment setting see Factsheet 2: Access to Work.

Will making reasonable adjustments be expensive?

Not necessarily. Some adjustments have no direct costs (such as the provision of extra time). For those with cost implications, the majority of adjustments are relatively cheap and could include providing:

- Task lighting
- Reading stands
- Labelling equipment
- Water bowls and designated relief areas for assistance dogs
- Materials in large fonts or on coloured paper
- Highlighting curbs/stair nosings
Education and employment - some general principles

You should:

- Produce information in accessible formats including websites
- Target disabled people in publicity materials (include case studies of successful individuals)
- Organise staff training on disability issues
- Encourage and support applicants/students/employees to tell you about their disability
- Provide opportunities for disabled people to visit the university/work placement provider/employment setting in advance to enable them to make informed judgements
- Become familiar with the types of access equipment and assistive technology that are available and find out how it could be used
- Take individual requirements into account during interviews
- Carry out disability Equality Impact Assessments to identify positive and negative impact
- Provide clear advice for applicants/students/employees on the Disabled Students’ Allowance or Access to Work Scheme
- Offer a range of job application methods: email, digital recording, in person, by letter or telephone
- Produce non discriminatory person specifications and job descriptions

Example

A person specification included the essential requirement that an applicant must be able to drive and hold a clean driver’s licence. There were no elements of the post that could not be carried out by a non driver and so this is likely to be considered discriminatory.

Web links


Whilst written prior to the inception of SENDA, this document contains a good range of case studies with many ideas for reasonable adjustment in the higher education
The Association of Dyslexia Specialists in Higher Education (ADSHE) provides an overview of reasonable adjustment and a range of examples specific to HE in the document available at: http://www.adshe.org.uk/WordDocs/ReasonableAdjustments.doc

The Employers’ Forum on Disability provides some information about reasonable adjustments in the workplace at: http://wwwefd.org.uk/employment/reasonable-adjustments


Reasonable adjustments and other related issues in employment is provided at: http://www.equalityhumanrights.com/advice-and-guidance/guidance-for-workers/the-employers-duty-to-make-reasonable-adjustments-to-remove-barriers-for-disabled-people/the-three-requirements-of-the-duty/

Examples of reasonable adjustments

Physical environment

- accessible external paths and landscaping
- lowered kerbs
- ramps to all necessary locations
- well lit external environment
- accessible lifts and lift buttons
- automatic doors
- good contrast visible symbols applied to clear glass doors
- accessibility within buildings, including their interior layout
- good contrast between different zones e.g. floor and walls, walls and door frames to assist orientation
- matt surfaces on walls/doors to reduce glare
- tactile flooring at top and bottom of stairs
- contrasting colour strips on edges of steps/stairs
- vibrating and flashing fire alarms
- adapted fire alarms and door bells in university/hospital accommodation
- vibrating pagers
• fire refuges or alternative escape routes for people with mobility impairments
• quiet refuges and first aid facilities where people who have epilepsy, for example, might go after an episode
• avoidance of fluorescent lighting
• flexible lighting (dimmer switches/blinds)
• enhanced signage: good contrast, well lit, matt surface, clear and accessible font
• notice boards and information monitors at heights accessible to wheelchair users and visually impaired people (who may need to get close to read text)
• enhanced lighting to facilitate lip reading
• effective sound system with T loops
• desks, laboratory benches, work surfaces and reception desks at varying or flexible heights
• appropriate seating to accommodate people with physical disabilities and wheelchair users
• reserved areas in all teaching and learning locations, including the library
• accessible technology compatible with assistive software in computer labs and libraries
• availability of a range of adapted keyboards, computer mice and large monitors in computer labs
• accessible toilets
• accessible services, such as catering facilities, student/staff accommodation, payphones, ATM machines on site
• designated parking spaces for individuals holding blue badges
• designated toilet (spending) areas and bowls of water for assistance dogs

Application process

• text phones for the enquiry stage
• information, such as university policies and programme leaflets, in potentially accessible formats, for example, email, braille, easy read, large print, MP3, DAISY audio format, CD and digital memory stick
• electronic information that can be accessed by a range of assistive software
• staff trained in communicating with a wide range of disabled people

All information should be:

• offered in both visual and audible formats
• available in different font sizes
• available with different background and foreground colours
available without enhancements such as boxes
easily navigable, if electronic, using either a mouse or key strokes.

Teaching and learning

• audience-facing lecturers under good lighting
• reduction of background noise as feasible
• use of laptops or hand-held devices for taking notes
• use of digital recorders in lectures
• a note-taker/support worker for lectures and practical sessions
• written materials available in a range of formats including electronic format to enable use of assistive software (such as text to speech; speech to text; mind mapping software)
• material placed on VLE meet established guidelines for compatibility with specialist software
• small groups for practical sessions if possible
• amplified stethoscope or one linked to a display screen
• compatibility of online teaching resources / websites with the student's assistive technology
• additional learning support and tuition including essay writing or dissertation skills
• general library support for those unable to ‘browse’ effectively including locating and searching electronic resources
• additional time and flexible deadlines for assignments
• adjustments to assignments
• comments on course work in alternative formats
• additional training for lecturers in making teaching and learning more accessible and inclusive

Other support

• allocate some of the disabled person’s duties to another person
• alter the person’s hours of working or training
• allow extra time to carry out clinical duties particularly in the early part of practice –based placements and/or the early/intermediate stage of the programme (all students will benefit from this inclusive practice)
• assign the person to a different place of work or training
• allow the person to be absent during working or training hours for rehabilitation, assessment or treatment
• give, or arrange for, training or mentoring (whether for the disabled person or any other person)
• acquire or modify equipment
• modify instructions or reference manuals
• modify procedures for testing or assessment
• provide a support worker
• provide supervision or other support
• allow time out from studies for people who have fluctuating conditions
• link with specialist organisations if help is needed, for example by students who have dyslexia or mental health issues
• provide a mentor or additional mentoring
• mentors
• offer a local ‘buddy system’ between disabled and non-disabled students
• provide disability awareness training to all staff - catering, student accommodation, etc
• train a member of staff in communication skills for deaf/hard of hearing students
• awareness of common disability related issues

References

Equality and Human Rights Commission (2010) "What Equality law means for you as an education provider - further and higher education".


Contact Us

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Acknowledgment

The Allied Health Professions Support Service (AHPSS) was launched in 1991 in response to the closure of the Royal National Institute for Blind People’s (RNIB) School of Physiotherapy which catered exclusively for visually impaired students. AHPSS’s remit was to provide support to disabled allied health profession students in mainstream higher education in the UK. It also offered information, advice and specialised disability awareness training to academic and practice-based staff.

In 2002, AHPSS staff were invited by the Chartered Society of Physiotherapy (CSP) to join a team of specialists to produce a training manual specifically designed to provide guidance for practice based staff in supporting disabled students on practice based placements. The document: "Supporting Physiotherapy Students on Clinical Placement", was published in 2004 and received very positive feedback from all stakeholders.

By 2007, it was evident that the document needed updating in response to UK legislative and technological changes and the increasing use of online information. Following discussions with CSP staff, it was agreed that the AHPSS team (Jane Owen Hutchinson, AHPSS Manager and Karen Atkinson, Senior Lecturer and Manager of the RNIB Resource Centre at the University of East London), would take on this project.

Between 2007 and 2010, considerable time was spent in obtaining feedback from a wide range of stakeholders regarding the content and format of the future document. Whist it was unanimously agreed that it should be available in both hard copy and electronically, all staff identified the importance of being able to access some of the specific guidance on disability management from the AHPSS website.

"Into Physiotherapy" was published by the CSP and RNIB in 2010. Thirteen related information sheets were subsequently uploaded onto the AHPSS website (between 2010 and 2013), at which point the AHPSS was decommissioned by NHS London. As a result of the positive feedback these fact sheets received and requests from a number of organisations, Jane Owen Hutchinson and Karen Atkinson have given permission for these materials to continue to be available online.