Understanding the Disability Discrimination Act

A guide for colleges, universities and adult community learning providers in Great Britain

The Disability Rights Commission

The Disability Rights Commission (DRC) is an independent body, set up by an Act of Parliament, which has the goal of creating a society where disabled people including those with long-term health conditions can participate fully as equal citizens.

We work with the voluntary sector, the business community, government and public sector agencies to achieve practical solutions which benefit disabled people and society as a whole.

There are around 10 million people with rights under the Disability Discrimination Act (DDA) in Great Britain. The legal definition of disability covers people with physical, sensory, communication and intellectual impairments, and people with mental health and other long-term health conditions such as diabetes, epilepsy, cancer, multiple sclerosis, HIV and schizophrenia.

Under the Disability Discrimination Act 1995, disabled people have the legal right to fair treatment in employment, in education and as customers of services. Most duties of the Act are now in force. A new Disability Discrimination Act received royal assent in 2005. This created a duty on public bodies to actively promote disability equality from December 2006 as well as closing some of the loopholes in the previous Act.

The DRC has offices in England, Scotland and Wales and can support both those with rights and those with responsibilities under disability legislation. For further details of how we can help you please contact our Helpline – contact details can be found on the back cover.

In October 2007, a new Commission for Equality and Human Rights will begin its work. This body will have responsibility for the activity currently undertaken by the DRC. Their website is at: www.cehr.org.uk

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Introduction

The education sector has done much to improve the experiences of disabled people. More disabled students are gaining access to education and training than ever before, receiving improved support, and having better experiences and educational outcomes than in the past. People are working together for change, and much has been achieved. This is evident in the increased participation by disabled students in post-16 education over the last six years. The Higher Education Statistics Agency (HESA) shows a percentage increase from 4.1 per cent to 5.8 per cent (30,970 known disabled students from a total population of 755,095). The Learning and Skills Council[1] in England also reports progress. In 2004/05 there were 477,417 students with learning difficulties and/or disabilities compared to 336,537 in 2001/02. In Scotland, the Scottish Further Education Funding Council (now the Scottish Funding Council) reported that in 2004/05, 44,682 students in Scottish colleges (FE and HE students) declared a disability: 13 per cent of all students. In Wales ELWA (Education and Learning Wales) (now DELLS (Department for Education, Lifelong Learning and Skills)) states that in 2003/04, 12,653 students declared a disability (6.9 per cent of all students) which marks a sharp increase from 2001/02 when only 4,481 (2 per cent) of all students declared a disability. However, there are significant numbers of disabled people still experiencing barriers to education and employment, key challenges have yet to be overcome and much more remains to be done.

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1   Learning and Skills Council (2006) Learning for Living and Work: Improving education and training opportunities for people with learning difficulties and/or disabilities.

About the guidance

There have been a number of changes in recent years to disability discrimination legislation, especially to the education provisions of the Disability Discrimination Act (DDA). The law now protects disabled people, including people with a long-term health condition, against discrimination and unfair treatment in almost every aspect of college and university life. This includes students, staff and others who use the services and facilities of the institution.

In addition the Disability Equality Duty (DED) requires education institutions to promote disability equality across the whole range of their functions and activities. Institutions also need to measure the progress they make in improving outcomes for disabled students and staff.

This guidance is therefore intended to support post-school education institutions to improve disability equality and to implement all relevant aspects of the DDA.

Aimed at staff in Further Education Colleges (FE), Adult Community Learning (ACL) and Higher Education Institutions (HEIs), the guidance provides holistic information and advice about all responsibilities under DDA legislation. Throughout this guidance the term 'colleges, universities and adult community learning providers' will be used. This refers to all colleges of further education, adult community learning providers, and higher education institutions in England and Wales that fall within the remit of the Further and Higher Education Act 1992 sections 91(3) and (5).[2] It also refers to all colleges of further education, adult community learning providers, and higher education

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2 Further and Higher Education Act 1992 (c.13), www.opsi.gov.uk

institutions in Scotland that fall within the remit of fundable bodies as defined in Schedule 2 of the Further and Higher Education (Scotland) Act 2005, or managers of a central institution (within the meaning of section 135 of the Education (Scotland) Act 1980).[3] There are many issues common to colleges, universities and adult community learning providers in England, Scotland and Wales. It is the aim of this guide to help the sharing of good practice amongst different countries and types of institution.

This guidance does **not** look at how the DDA applies to post-16 learning provided by schools, whether for young people (aged 16–19) or adults. Neither school sixth forms nor adult education provided by schools are covered in this guidance.

This guidance focuses on implementing all relevant aspects of the DDA in colleges, universities and adult community learning across Great Britain. It complements the Codes of Practice accompanying the legislation, which provide statutory guidance and other guidance materials on key topics. It should be used alongside the relevant Codes. A full list of Codes of Practice and additional guidance is provided in Appendix A.

This guidance has also been produced to draw attention to new DDA Part 4 duties, new Codes of Practice and to the implementation of the DED. It shows how the different parts of the legislation work together so that all the requirements can be effectively implemented; namely to build disability equality into policy and practice from the outset, provide a more inclusive environment for all disabled people and eliminate disability discrimination across the whole institution.

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3 Further and Higher Education (Scotland) Act 1992 (c. 37), www.opsi.gov.uk

Real-life case study examples are included in the text. They are intended to illustrate the principles and concepts enshrined in the legislation and to help educational organisations to implement fully their duties in relation to staff, students and service users. The examples attempt to use as many situations as possible to demonstrate the breadth and scope of DDA legislation.

A note on terminology: reference to 'disabled people' includes disabled students, staff, and other disabled people who visit or use the facilities or services of colleges, universities and adult community learning providers. These include visitors to conferences, parents at open days and graduation ceremonies, and users of training restaurants, hairdressing training salons, sports centres and theatres. A disabled person is someone who has a physical or mental impairment that has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities. Section 1 provides the definition of disability in the DDA.

The term 'support' is used throughout the guidance and requires some explanation. When applied in the context of a medical model of disability which sees disability as inherent in an individual, the term 'support' can be seen simply as an attempt at an individual solution that does not require fundamental change in an organisation as a whole. However, in the context of education, 'support' has broader connotations and can be taken to mean the services, facilities, equipment and resources available to all disabled people, such as tutorial 'support'. In this guidance, 'support' should be seen in this context and taken to mean the responsibility of organisations to make adjustments to meet disabled people's legal rights to education, employment and inclusion.

Why disability equality is important

Although, under the Further and Higher Education Act (1992) and the Learning and Skills Act (2001), education institutions had duties towards disabled students, the DDA marked a fundamental shift in giving legal rights to disabled students in post-school education.

While increasing numbers of disabled people are now entering post-school education, they are still not achieving educational outcomes on par with their non-disabled peers. In particular, education for disabled students often does not result in desired employment (Burchardt, 2005). The DRC analysis from the Spring 2005 Labour Force Survey indicated that only 50 per cent of disabled adults are employed, compared to 81 per cent of the non-disabled adult population. In the same survey, one-third of those unemployed stated that they would like to find employment.

Skills and qualifications are an ever more crucial determinant of individual life chances. Anyone wishing to secure sustainable employment and an independent life now requires basic skills in numeracy, literacy, information and communications technology (ICT), higher-level formal qualifications and effective 'informal' social and interpersonal skills.

The number of jobs that require no qualifications fell from about 18 per cent in 1994 to 11 per cent in 2004, while the number of jobs requiring a degree level qualification or above rose from 23 per cent to 30 per cent. It is predicted that by 2020, 42 per cent of jobs will require a degree level qualification or above.[4]

4   Leitch Review of Skills (2006) Skills in the UK: The Long-Term Challenge Interim Report.

Of all people in Britain without any formal qualifications, more than a third are disabled.[5] Disabled people are about twice as likely as other citizens to have no recognised qualifications[6, 7] and disabled 19-year-olds are three times as likely not to be in employment, education or training.[8]

Studies indicate 49 per cent of disabled people of working age do not work[9] and disabled people are at considerable risk of living in poverty, with severe consequences for their families and children.[10] Of all children living in poverty, one in three has a disabled parent.[11] Disabled people in work are more likely to be in low paid, low skilled jobs.[12] Of all disabled parents living below the poverty line, a quarter (100,000) are in work.[13]

Formal skills play a critical role in narrowing the gap in employment opportunities between disabled adults and others. Figures for England, likely to be indicative for Scotland and Wales, show that where the employment gap between disabled adults and others without any

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5   Labour Force Survey, Spring 2005.
6   Labour Force Survey, 2003.
7   Welsh Assembly Government National Statistics (2003) Statistical focus on disability and long-term illness in Wales.
8   Department for Education and Skills (2005) Youth Cohort Study: The Activities and Experiences of 19-Year-Olds: England and Wales.
9   Labour Force Survey, Spring 2005.
10 Fabian Society (2006) Narrowing the Gap: The final Report of the Fabian Commission on Life Chances and Child Poverty.
11 Lyon, Barnes and Swelry (2004) Families with Children in Britain.
12 DRC (2006) Disability Briefing.
13 Households Below Average Income, Family Resources Survey, 2004–05.

qualifications is 38 per cent, the gap narrows to 22 per cent between disabled adults and others who have GCSE grades A–C.[14]

Research by the Association of Graduate Careers Advisers (2004) clearly shows the impact which higher education qualifications can have both on life chances and on entry into employment. It challenges assumptions about employability of disabled graduates, showing that overall there is relative equity between disabled and non-disabled graduates although disabled graduates tend to be more likely to be doing part-time or voluntary work, or to be unemployed.

Work experience while in education plays a very important part in giving people the skills which they require to enter employment. In recent research carried out by the National Council for Work Experience, 44 per cent of students and graduates said that they thought work experience was the most important factor influencing their future employers.

Not being in employment, education or training for six months or more between 16 and 18 is the single most powerful predictor of economic inactivity at age 21.[15] Young disabled people aged 16 are twice as likely not to be in any form of education, employment or training (NEET) as their non-disabled peers. By the age of 19, this increases to three times as likely. Between 2000 and 2004 the numbers of young disabled people who were NEET increased from 11 to 15 per cent.[16]

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14 Labour Force Survey, Spring 2005 – In England, only 23 per cent of disabled adults without qualifications are in work compared to 61 per cent of other adults – a gap of 38 per cent. Of those with GCSE grades A–C, 56 per cent of disabled adults work compared with 78 per cent of other adults – a gap of 22 per cent.
15 The Equalities Review (2006) Interim Report.
16 DfES op. cit.

By the age of 26, the expectations of young disabled people have departed considerably from non-disabled people of the same age, with significant numbers saying that nothing they can do in their lives makes a difference.[17] When they become parents, these low expectations and the reality of their experience can lead to reduced life chances for their children.

Access to goods and services more generally continues to be problematic for disabled people across a range of settings. In 2002 a Department for Work and Pensions report found that one in five had experienced problems which were directly related to their disability.[18]

In 2003 an NOP survey found that 7 in 10 disabled people with mobility and sensory impairments in Britain had difficulty in accessing goods and services. The survey reported that the factors most likely to cause difficulty were: steps at the entrance of the building, heavy external/internal doors, use of disabled parking by non-disabled customers, no lifts and lack of accessible toilets.[19]

It is in an institution's best interest to design services which are widely accessible and appeal to a diverse number of users, including disabled people. It is equally important for institutions to recruit staff and students from a broad pool of talent if they wish to be successful. This will include disabled staff and disabled students.

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17 Burchardt (2005) The education and employment of disabled young people. Frustrated ambition.
18 DWP Research Report Number 173 (2002) Disabled for Life? Attitudes towards, and experiences of, disability in Britain, pp.180–1.
19 DRC (2003) NOP Survey on disabled peoples' experiences of physical access to goods and services in Britain.

The social model of disability

An underpinning principle of the Disability Equality Duty is the social model of disability, which shifts the focus from what is 'wrong' with a disabled person to what is wrong with attitudes, systems and practices that create disabling barriers and prevent participation by disabled people.

The definition in **The Duty to Promote Disability Equality Code of Practice** England and Wales (2005) and its sister publication for Scotland (2005) states:

> **The poverty, disadvantage and social exclusion experienced by many disabled people is not the inevitable result of their impairments or medical health conditions, but rather stems from attitudinal and environmental barriers.**

The DDA encompasses ways in which education professionals can work with disabled people to identify organisational and attitudinal barriers. Together they can develop solutions, make adjustments and provide support to overcome identified barriers. In this way, the social model of disability promotes the right of a disabled person to be valued, to determine choice and to experience full inclusion in society as equal citizens.

How to use the guidance

Duties under the DDA apply to all staff, teaching and non-teaching, in all post-school education organisations. The following sections are relevant to staff fulfilling particular roles.

Section 1:
A brief overview of the DDA from 1995 to 2005. **This section is relevant to all staff**.

Section 2:
Leadership and embedding the Disability Equality Duty to ensure disability equality across the whole organisation.

There are subsections on:
  Leading disability equality
  Involving disabled people
  Duties as an employer
  Carrying out impact assessments
  Gathering and using information
  Publishing the Disability Equality Scheme
  Annual reporting

This section is relevant to all those in strategic senior management positions and also those with a specific remit for co-ordinating disability equality issues.

The subsection on duties as an employer is of particular relevance to all human resources staff and also to all line managers.

Section 3:
Implementing the DDA and the experience of disabled people. This section discusses the way staff undertaking particular functions can respond to the barriers that disabled people face, and how equality of opportunity can be promoted in all aspects of college or university life. It follows

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a pathway through for students, staff and service users, from the information they receive prior to application, until they leave. It also highlights the responsibilities of education institutions across the different aspects of DDA legislation and includes summary checklists for staff with particular functional roles to consider.

Many organisations have pockets of good practice in some areas of their institution. Organisations have often made greater progress in dismantling barriers for disabled students than for disabled staff or service users. These experiences are combined in this guidance to help highlight approaches which might have led to greater improvements for one group, but which could also be applied to all groups; that is, students, staff and service users.

The functions and responsibilities include:

- marketing
- admissions
- induction
- frontline services
- estates
- procurement
- health and safety
- reviewing support
- dealing with bullying and harassment
- ensuring participation in public life
- social activities
- partnership working
- teaching and learning
- assignments, assessments and exams
- competence standards
- work placements, field trips and visits
- staff development.

Section 1: The DDA – Overview of legal duties

This section provides a brief overview of the requirements of Disability Discrimination Act (DDA) legislation for education institutions. The intention of the legislation is to:

- prohibit discrimination and harassment against disabled people

- ensure that 'reasonable adjustments' are put in place for disabled people

- ensure full and equal participation in learning and public life.

The section goes on to refer to the educational context and legislation and resources available to institutions.

1.1   Disability Discrimination Act

The DDA is divided into different parts, covering the duties that organisations have towards disabled people. Not only Part 4 (education) but also Part 1 (definition), Part 2 (employment), Part 3 (goods and services) and Part 5A (disability equality duty) are relevant to colleges, universities and adult community learning providers, as together they cover the various functions of educational institutions.

The DDA (1995) originally applied only to education institutions as employers and service organisations. The Special Educational Needs and Disability Act (SENDA) (2001) amended the DDA Part 4 to place specific duties on all educational institutions (pre- and post-16) in the provision of education.

As a result of the European Union Employment Directive on Equal Treatment, the DDA Part 2 was amended from October 2004 to strengthen the rights of disabled people in employment and vocational training, including work placements, and Part 4 was amended from September 2006 to strengthen their rights in education.

The DDA (2005) made further amendments by:

- widening the definition of who may be a disabled person

- bringing general qualifications bodies under the Act

- introducing a duty to promote disability equality on the public sector; the Disability Equality Duty (DED).

The sections below examine the rights and duties enshrined in the different parts of the DDA and the way in which the legislation has changed with recent amendments.

Part 1 of the Disability Discrimination Act – Definition of Disability

Part 1 defines who is a disabled person under the Act. It encompasses a very broad definition and will include, for example, people with a wide range of impairments and conditions including:

- physical or sensory impairments

- mental health difficulties, such as depression

- specific learning difficulties, such as dyslexia

- health conditions, such as Alzheimer's, HIV, epilepsy, arthritis and cancer.

The impairment must have:

- a substantial, adverse effect on a person's ability to carry out normal day-to-day activities

- lasted for at least 12 months, or be likely to last for 12 months or more.

One important result of changes made in the DDA (2005) is that people with the specific conditions of human immunodeficiency virus (HIV), cancer and multiple sclerosis (MS) are now covered effectively from the point of diagnosis of the condition.

Part 2 of the Disability Discrimination Act – Employment
Part 2 prohibits discrimination in employment and covers all employers in their capacity both as employers and as work placement and work experience providers. Part 2 also covers trade organisations including trade unions. As a result of amendments in 2004, Part 2 now also covers: qualification bodies, such as the General Medical Council and CORGI; and examining bodies offering vocational qualifications, such as National Vocational Qualifications (NVQs) or Scottish National Vocational Qualifications (SNVQs). These amendments are particularly relevant for educational institutions which are preparing students for employment.

General Qualification Bodies (GCSEs and A levels) are covered as a result of amendments to Part 4 of the DDA from September 2007 (see below).

Trade organisations and qualification bodies have similar duties to those of employers. They cannot discriminate against disabled people when deciding who can be admitted to a particular trade or qualification – the terms on which people are admitted or deciding upon whom to confer any awards. They also have a duty to make reasonable adjustments for disabled people, unless the application of a competence standard applies. However, they must ensure that their competence standards are not discriminatory.

More information on competence standards can be found in Section 3.16.

Whilst **education institutions** have separate duties under Part 4 (see below) because they provide the education or training needed for someone to attain a vocational

qualification, they also need to work with qualifications bodies to share information to ensure that discrimination does not happen and that reasonable adjustments are made. They must work in a similar way with other employers providing work placements and work experience.

For further information about Part 2 of the DDA please see the **Employment and Occupation Code of Practice** (2004) and the **Trade Organisations and Qualifications Bodies Code of Practice** (2004) replaced in late 2007 by the **Trade Organisations, Qualifications Bodies and General Qualifications Bodies Code of Practice**.

Part 3 of the Disability Discrimination Act – Goods, Facilities and Services
Part 3 prohibits discrimination when providing services to the general public and requires service providers to make reasonable adjustments for disabled people. Although they are not required to anticipate the needs of every individual, they are required to take reasonable steps to overcome any features that may impede disabled people. Part 3 covers education institutions when they provide services and facilities to the public, such as conference facilities, a training restaurant or hairdressing salon. Part 3 also covers private work-based learning providers. Student union facilities and services are covered by Part 3 of the DDA rather than Part 4.

The Code of Practice for Part 3, **Rights of Access: Services to the public, public authority functions, private clubs and premises** (2006) provides further information about service providers' duties.

Part 4 of the Disability Discrimination Act – Education (The Special Educational Needs and Disability Act, 2001)
Part 4 of the Act, which forms a substantive part of this guidance, prohibits discrimination in the provision of education. The original and fundamental duties in DDA Part 4 state that disabled people cannot, without justification, be

discriminated against or receive less favourable treatment for a reason related to their disability and that educational institutions must make 'reasonable adjustments'. These duties are 'anticipatory', hence education institutions need to look ahead to provide the necessary adjustments which disabled people are likely to require.

The duties required of post-16 education institutions changed on 1 September 2006 to bring the Part 4 duties into line with those for Part 2, and in line with the European Directive on employment and occupation.

The key changes to Part 4 of the DDA are as follows:

- There are four, rather than three, kinds of discrimination now specified: direct discrimination, failure to make a reasonable adjustment, disability-related discrimination and victimisation (see next section on discrimination; also Appendix D of **The Duty to Promote Disability Equality Code of Practice** England and Wales and Appendix E of **The Duty to Promote Disability Equality Code of Practice** Scotland).

- Justification is now only possible in cases of disability-related discrimination. Specific rules, however, apply in relation to the application of a competence standard.

- There is now a free-standing concept of harassment of a disabled person (see **Post-16 Education (Revised) Code of Practice** (2007), 7.13).

- The justification related to academic standards has been replaced by competence standards, which are academic, medical or other standards to determine whether or not someone has a particular level of competence or ability. The reasonable adjustment duty does not apply to competence standards (see Section 3.16 of this Guidance).

- All qualifications which are awarded or delivered by the university or college directly are covered.

- There are new specific duties towards students who have left but who still have a relationship, such as the provision of references and disciplinary hearings.

- Discriminatory adverts are now specifically prohibited by the Act.

- It is now easier for a disabled person to prove they have experienced discrimination. Where a disabled person has proved that they are protected by the Act and that there is a prima facie case for discrimination, the burden of proof then falls to the education institution to prove that they have not acted in a discriminatory way, rather than on the disabled person to prove the discrimination.

- There are new duties in relation to prohibiting instructions and pressure to discriminate.

The **Post-16 Education (Revised) Code of Practice** (2007) provides further information.

The Disability Discrimination Act (2005) also amended Part 4 to cover General Qualifications Bodies from September 2007. This means that bodies who confer qualifications such as A levels in England, Highers in Scotland, the Welsh Baccalaureate and GCSEs are all covered from September 2007. Education institutions will have to work in the same way with General Qualifications Bodies as they do with trade organisations and qualifications bodies. (See section on the DDA Part 2 above.)

Please see **Trade Organisations, Qualifications Bodies and General Qualifications Bodies Code of Practice** (2007).

The bedrock of the DDA is concerned with eliminating discrimination and the provision of 'reasonable adjustments'. These two areas will now be explored in greater detail. Because the issue of discrimination is closely linked to that of ways of encouraging disclosure of a disability the section on discrimination will also examine issues related to disclosure.

Discrimination

Discrimination is at the core of DDA legislation and is summarised below.

Direct discrimination applies in both Parts 2 and 4. It is defined as less favourable treatment of a disabled person because of an impairment or health condition. Direct discrimination can often occur because of generalised, prejudiced or stereotyped assumptions about impairment or its effects or about the perceived limitations of its effects on a person. Such assumptions would not normally be made about a person without that impairment or health condition in the same circumstances. For example, an admissions tutor may refuse to accept someone who is Deaf into an English course because he/she believes that people who are Deaf are not able to meet the required course standards. In this way, direct discrimination may be inadvertent and an individual might discriminate against a disabled person even while believing that they would never do so. Direct discrimination can never be justified.

Disability-related discrimination also applies in both Parts 2 and 4 and is defined as less favourable treatment of a disabled person for a reason relating to his or her impairment or condition. For example, a student with a mental health condition is told that she must not carry medication with her at college because of a strict policy that does not allow any drugs on the premises.

Disability-related discrimination can only be justified once the reasonable adjustments duty has been considered and no adjustments have been found to be effective.

Making reasonable adjustments

The duty to make reasonable adjustments is covered in-depth throughout this guidance and is a cornerstone of the DDA as a whole.

The duty to make adjustments in education (DDA Part 4) and in providing services (DDA Part 3) is an anticipatory one. This means that organisations should continually anticipate the general requirements of disabled people with a wide range of impairments and health conditions rather than simply waiting until a disabled person requests a particular adjustment. This will involve, for example, ensuring that disabled people are aware that information is available in alternative formats or electronically as a matter of course, or ensuring that, as buildings are refurbished, access requirements are considered throughout the refurbishment and in plans for new buildings, rather than as an add-on at the end.

Once a reasonable adjustment has been put in place, the existence of the adjustment should be drawn to the attention of disabled people by, for example, putting a sign or notice at the entrance, or highlighting it in publicity materials. Under Parts 3 and 4 of the Act, failing to make people aware of the adjustment, if it is not obvious, may be tantamount to not making the adjustment at all.

The duty to make adjustments in relation to employment and occupation (DDA Part 2) is not an anticipatory one. Although employers only have to make adjustments when they know, or ought reasonably to be expected to know, that someone is disabled and is likely to be put at a substantial disadvantage, employers should ensure that potential applicants or employees are aware of how to request an adjustment. In addition, the requirement to have due regard to the elimination of discrimination under the Disability Equality Duty may require organisations to adopt a similarly proactive approach by anticipating the needs of their disabled staff and applicants.

Discrimination and disclosure
The reasonable adjustment duty in Part 3 of the DDA is a duty to disabled people at large and applies whether or not the

service provider knows that a particular person is disabled, and so knowledge is irrelevant. However, under Parts 2 and 4, when making reasonable adjustments for staff and students, education institutions can only discriminate if they know, or can be reasonably expected to know, that someone is disabled. Parts 2 and 4 therefore effectively require that education institutions are proactive in encouraging people to disclose, which means that they must take reasonable steps to find out whether someone is disabled. How to best encourage disclosure is an issue which will be returned to in Section 3, but it is important to remember that all disabled people (and particularly those with an unseen impairment) are far more likely to feel confident in disclosing this if the organisation they are entering has a positive and welcoming approach towards disabled people.

Under the DDA Parts 2 and 4, once one member of staff knows about a person's impairment or health condition, and explicit consent has been obtained to share this information with others, then it is up to the organisation to have effective channels of communication to pass this information to relevant staff. Both direct and disability-related discrimination can take place without the organisation knowing that someone is disabled within the meaning of the Act. Staff training about both the DDA and Disability Equality Duty duties will help to ensure that such types of discrimination do not take place.

Further information about direct discrimination, disability-related discrimination and making reasonable adjustments can be found in the DDA Codes of Practice. See Appendix A.

1.2   Disability Equality Duty

The Disability Equality Duty (DED), in force since December 2006, places a duty on all public sector bodies to promote disability equality. While not conferring any additional rights, the DED instead demands systemic changes in the way organisations work. It aims to tackle institutional disability-related discrimination and complements the individual rights focus of the DDA. This should result in improvements for disabled students, staff and service users. The DED requires education institutions to promote and embed disability equality proactively across the whole institution – in policies, procedures, plans and practices. This will help dismantle barriers before they impact the individual. This approach strongly supports the social model of disability discussed in the Introduction.

The main outcome of promoting disability equality should be that disabled people have full opportunities and choices to improve the quality of their lives. They should be respected and included as equal members of society. Equality of opportunity can be promoted for disabled staff, students and others by working with disabled people strategically to close gaps between disabled and non-disabled people.

The general duties
The general duty means that institutions, when carrying out their functions, must have due regard for the need to:

- promote equality of opportunity between disabled people and other people

- eliminate unlawful discrimination under the DDA

- eliminate disability-related harassment

- promote positive attitudes towards disabled people

- encourage participation by disabled people in public life

- take steps to take account of disabled people's disabilities,

even when that involves treating disabled people more favourably than others.

Each element of the general duty requires due regard in its own right, but the elements also work together to achieve the overarching goal to promote disability equality.

Further and higher education institutions and the Disability Equality Duty (DRC, 2006) provides guidance on how organisations can meet the different elements of the general duty.

The specific duties
Colleges, universities and adult community learning providers (organisations listed in the DED regulations) also have specific duties which help organisations to meet the general duty. These include developing and implementing a Disability Equality Scheme (DES) which includes an action plan. All colleges, universities and local authorities must produce and publish a Disability Equality Scheme.

In drawing up a Disability Equality Scheme organisations are required to:

- involve disabled people. More information on the involvement of disabled people is provided at the end of Section 2.2

- set out their arrangements for gathering and using information

- set out their method for carrying out impact assessments

- produce an action plan

- report annually on progress made

- review and revise the Scheme every three years.

Listed organisations include:

- further education colleges

- sixth-form colleges

- specialist colleges

- adult community learning (ACL) providers

- higher education institutions.

The DfES, Scottish Ministers and Welsh Assembly, as well as funding, audit and inspection bodies are also covered by the duty, including:

- the Learning and Skills Council

- the Higher Education Funding Council for England

- the Higher Education Funding Council for Wales

- the Scottish Further and Higher Funding Council

- Estyn

- OFSTED.

Funding, audit and inspection bodies, as well as developing their own Disability Equality Schemes to embed disability equality into their work, will also need to ensure that organisations they fund or inspect are meeting their duty to promote disability equality. For example, the inspectorates will need to ensure that the duty is built into their inspection regimes so that how well an education institution meets the DED becomes part of the inspection process.

1.3 Education legislation and context

The Further and Higher Education Act (1992) which covered FE colleges, ACL providers and universities in England and Wales, included a duty on education institutions to 'have regard' to the needs of students with learning difficulties. The definition of 'learning difficulty' used in this Act and the subsequent Learning and Skills Act (2001) differs from the definition of a disabled person under the DDA. A learning difficulty is a comparative term which refers to those who

have a 'significantly greater' difficulty in learning than their peer group of a similar age or who have a disability which prevents them from making use of the facilities generally provided. This can be wider in scope than the DDA definition of disability. There are some students who would be defined as having a 'learning difficulty' who would not meet the definition of a disability, and others who have a disability which does not result in a significantly greater difficulty in learning. In either case, both education and DDA legislation have a common underpinning purpose in promoting equality of opportunity for the students covered by their respective definitions.

The Further and Higher Education (Scotland) Act 2005, requires the Scottish Funding Council to 'have regard' to the educational and related needs (including support needs) of people who might want to become students.

Resources and the DDA
Education institutions need to ensure that they have appropriate resources in place to both carry out their DDA duties to make reasonable adjustments and to implement their Disability Equality Scheme and related action plans. The DED represents a good opportunity for organisations to consider how they allocate general resources across the institution to improve disability equality and accessibility. The Employers' Forum on Disability indicates that, in practice, the cost of most reasonable adjustments is very low (generally less than £100).

When implementing the DED and producing or revising the Disability Equality Scheme, colleges, universities and adult community learning providers will need to invest time and allocate resources to the implementation of the duty. When allocating resources, organisations will need to consider all the resources that are available to them and not just resources identified for disability-related requirements.

Different funding arrangements exist in the different sectors and in each country, although each assume that colleges, universities and adult community learning providers will invest some of their funding made generally available to support the implementation of the DDA. In England, the Learning and Skills Council funds provision for students within the FE system. Different arrangements apply to further education, adult community learning, work-based learning, independent specialist colleges and school sixth forms. These arrangements are being reviewed. The allocation to organisations assumes that they will provide the support and make the reasonable adjustments that individuals require from within their general allocations. Although, where higher levels of support are required or the costs of support or adjustments are high, FE, ACL and WBL providers can utilise additional learning support (ALS). ALS is for direct support for individuals, over and above that which is normally provided in a standard learning programme that leads to their learning goals.

In Scotland, the Scottish Funding Council funds provision for students within FE. Colleges receive additional weightings to their teaching funding grant based on the number of disabled students who require additional support. For students in mainstream courses requiring Extended Learning Support (ELS) to help them access the course, the college will receive a weighting of 1.5 per student. For students on 'special' programmes (which are designed specifically for students with learning disabilities), the weighting is increased to 1.8. Although such funding is not specifically earmarked for individual students, colleges are expected to use this funding to put in place appropriate support measures.

The Scottish Funding Council has recently developed proposals to broaden this system of support by developing a 'needs-led' model of funding. This will mean that funding is allocated to colleges on the basis of the number of students

with 'additional support needs', including, for example, those experiencing domestic problems or language barriers, rather than only those with specific impairments or conditions. This process will be piloted in a number of colleges in Scotland over the academic year 2007–08.

For further education students, it is expected that the college will meet the majority of their needs through institutional funding (see above). However, where necessary, some individual funding can be accessed from the college through the Additional Support Needs for Learning Allowance which is not income-assessed and is intended to meet disability-related study or travel costs.

In Wales, the Department for Education, Lifelong Learning and Skills (DELLS) within the Welsh Assembly funds disabled students in FE via a 'supplementary funding' stream which FE institutions may apply for annually. Detailed returns are submitted by the institutions outlining the need for additional human and/or technical support for individual disabled students; the Welsh Assembly Government allocates a contribution to the cost based on those returns. Provision designed exclusively for disabled students (ie discrete provision) is funded via subject area weights.

Institutions are eligible to apply for exceptional funding only in those cases where a student with considerable support needs wishes to attend their institution on a day basis, where the recommendation of a multi-professional assessment is that a specialist residential placement would be appropriate.

The Assembly has recently introduced a new National Planning and Funding System (NPFS) for post-16 education and training. In 2005 the first part, 'Student Provision', was rolled out. However, funding for disabled students and plans to change the system have yet to take effect.

Institutions in HE are allocated specific funding, through their widening participation funding stream, from their relevant

HE funding council to support eligible disabled students. These funds are generally based on the numbers of students in receipt of Disabled Students' Allowances (see below) although each funding council in Scotland, Wales and England has a different method of calculating the specific allocation. Many HE institutions use such funds to resource their disability offices and to provide both anticipatory and individual adjustments for disabled students.

Disabled Students' Allowances (DSAs) are available for HE students in the UK who need additional support in their studies because of a specific impairment or condition. Students apply directly to their funding body for support and receive the appropriate grant unless they ask their college or university to administer it on their behalf. The funding bodies are the Student Awards Agency for Scotland (SAAS), local education authority (Wales) and local authority (England). From 2008, students in England will apply through the Student Loan Company (SLC). There are currently four allowances to cover: general needs, travel, non-medical help and equipment. All allowances are capped at specific annual rates, with the exception of the travel allowance which is not capped. DSAs are available for home students, studying full- or part-time (over 50 per cent) and for undergraduates or postgraduates. More information on DSAs can be found in the booklet 'Funding for disabled students in HE', published by Skill.

In terms of funding support for staff, Access to Work (AtW) is a government-funded scheme which provides support for disabled members of staff. It is administered by JobCentrePlus and provides practical help to disabled employees to overcome barriers in the workplace by meeting additional employment costs that may arise from having an impairment or condition. It can pay for many aspects of support such as the extra cost of getting taxis to and from work, a support worker, specialist equipment, and even

adaptations to premises in certain circumstances. AtW is available to all disabled people who are in or about to start any kind of work, part-time, full-time, temporary or permanent, and may be able to provide help for job interviews, even if a person is still studying.

Section 2: Leadership and embedding disability equality

Implementing disability equality requires organisations to embed disability equality in all core processes. The general duties in the Disability Equality Duty (DED), outlined in Section 1, require organisations to look at their practices, procedures, plans and policies across the whole organisation.

An underpinning principle of the Disability Discrimination Act (DDA) is to bring about change that tackles discrimination and promotes equality for disabled people. Change cannot be achieved by one or two individuals; it requires the involvement of the whole organisation. The change required to bring about disability equality is a long-term process which is dependent upon:

- commitment from senior managers to drive forward the change process (discussed in this section)

- a partnership with disabled people (for examples of how organisations have achieved this see Section 1)

- embedding disability equality in all core processes

- a willingness among all staff to learn, to adapt and to ultimately embrace change, taking responsibility to promote disability equality within their job role, whatever the role might be (see Section 3).

2.1 Leading disability equality

This section is particularly relevant for:

- senior managers including Governors, Council members,

Chancellors, Vice-Chancellors, Principals, Deputy Vice-Chancellors, Pro Vice-Chancellors, Deputy Principals, and anyone with responsibility for strategic planning within an organisation.

The Codes of Practice for the DED make clear that:

Change starts at the top. Strong, clear and consistent leadership is the key to achieving change in the public sector. Senior management and governing bodies need to take visible ownership of the Disability Equality Duty, for example by requiring reports on its implementation and delivering clear messages to staff about its importance. People feel permitted to do the right thing when the person at the top is saying that they want them to do that. (DRC, 2005, 2.59 England and Wales version, 2.58 Scotland version)

Senior managers are responsible for ensuring that the duty is met. They play a crucial role in influencing culture and ethos and in driving forward change. They are able to align disability equality to the strategic priorities, quality and business development plans of the organisation to ensure that a coherent and holistic approach is taken throughout the organisation.

This statement from the Vice-Chancellor of a university in their Disability Equality Scheme clearly illustrates why the university believes it to be important, and how the Scheme will be used to embed disability equality:

Our Disability Equality Scheme will provide the essential framework for promoting and embedding disability equality across all areas of our work. It will enable us to provide a positive and lasting difference to the experiences of current and potential disabled students and those disabled people who would like to join us as employees. This will also provide the opportunity for (this university) to attract and retain talented staff and students and enhance our diversity and competitiveness in the changing and dynamic higher education environment.

Senior managers are pivotal in ensuring that all staff across all levels of the organisation embrace their responsibilities, shifting a potential mindset of 'this is the responsibility of specialist staff' to 'this is the responsibility of all staff'. Senior managers will need to ensure that the institutional and departmental action plans are met. This will require senior managers to allocate appropriate resources and ensure that information and training is available to all staff.

2.2   Involving disabled people

Colleges, universities and adult community learning providers must involve disabled people in developing and revising their Disability Equality Schemes and must include a statement on how disabled people have been involved in the development and revision of their Schemes. Disabled people will know best about the barriers they face and what needs to be done to address the barriers. They will also be able to provide valuable feedback on whether things have changed as a result of the various actions within the Scheme. Organisations should aim to continually involve disabled staff, students and other service users, as well as disabled people in the wider community, in all aspects of the Scheme's development, implementation and review.

One organisation adopted a particular approach to setting up a forum for disabled staff and for disabled students to develop their Disability Equality Scheme.

The organisation routinely asks for feedback from students, including disabled students, in order to improve performance. However, staff wanted to form a specific group of students to help develop the Disability Equality Scheme. The marketing department produced posters that were displayed around the college promoting the DED and the college's intention to involve disabled people in its

development. As a result, a forum of disabled students was formed to identify key improvement outcomes for the college to achieve.

A disabled staff forum was also formed, with some members having an active role in developing the Disability Equality Scheme and accompanying action plan.

One immediate issue in involving disabled staff is that many organisations do not know who they are. Some organisations have been successful in encouraging staff to declare an impairment or health condition.

An organisation surveys staff via their payslip every two years to ensure that the information held in Human Resources (HR) is correct. Staff are asked, 'Do you consider yourself to be a disabled person?' This is the only formal opportunity staff have to declare that they are a disabled person. In 2005, only 26 members of staff (2.4 per cent) had identified themselves in this way. The organisation recognised that this is likely to represent significant under-declaration and/or participation.

To try and rectify this situation, HR sent a survey to all staff. The survey explained what was meant by a disabled person, and also explained how information would be kept confidential and how the organisation would use any information supplied by staff. Forty-four more staff declared that they were a disabled person.

The organisation recognises that this is very much a 'first step', and will identify further actions to help create an environment where disabled people feel comfortable in identifying themselves as disabled people.

The process for communication when developing the Disability Equality Scheme needs to be accessible to all involved.

One institution established a Virtual Learning Environment to encourage all members of the core group developing the Disability Equality Scheme to share documents, ideas and other relevant information. This aimed to enhance access, and the facility would be rolled out to other groups as it progressed.

Schemes themselves should indicate that they recognise the importance of, and value the involvement of, disabled people in the planning process. Statements such as, 'We are committed to working in partnership with disabled people in the development, implementation and ongoing review of our Disability Equality Scheme' help set the framework for the involvement within the Scheme.

One university held an Open Day for staff and invited local Access to Work representatives and suppliers to demonstrate equipment and services. They provided post-it notes around all the walls, so that staff could raise issues and questions anonymously on these notes, or provide their details for future contact. This really significantly raised the profile of not only the Disability Equality Scheme but also the adjustments available for disabled staff. From this contact, disabled staff that were unknown came forward and formed a group and disabled staff network.

Disabled service users should also be actively involved.

A group of disabled people made regular use of the service provided by an educational institution while using their sports facilities. They were invited to discuss proposed developments to the sports centre with centre staff. One of the issues the group raised was the impact on access while the work was being carried out. Centre staff agreed to include this in their planning.

Methods of involvement

Involvement processes should be accessible so that the full diversity of disabled people can participate. For example, paper-based surveys should be available in alternative formats such as Easy Read and Audio. Focus groups should take place in fully accessible venues, with access to hearing loops and sign language interpreters, for example. Other adjustments may be necessary to ensure that disabled people can fully participate in involvement activities.

> One organisation regularly uses a variety of student forums to obtain feedback. However, they recognised that such forums can be intimidating. They involved staff from a local branch of MIND (the National Association of Mental Health) to empower students with mental health difficulties to have a voice in such forums. After the training, some of the students volunteered to also work as advocates for other students with mental health difficulties.

Some organisations have experienced difficulties in involving disabled students, while others have experienced difficulties in involving disabled staff and service users. It is important to identify strategies to address this issue.

> A director at one college convened a group of disabled students to help inform plans to improve accessibility. This was an informal group that was given high status with the use of the board room and notices around the college. Students were provided with a buffet lunch and a choice of gift vouchers or phone credits to help recompense attendance. The group has become a valuable advisory group to the college. Students meet regularly to provide advice and are informed of the changes that have taken place as a result of their input. This helps to acknowledge their time and expertise.

Some organisations have identified that they simply do not know who their disabled employees are. To overcome this problem, some organisations have issued open invitations to all staff to assist with the Disability Equality Scheme.

A college sent out an invitation to all staff to join a newly formed forum to help develop their Disability Equality Scheme. Staff were welcomed to attend if they:

- were a disabled person

- knew someone who was a disabled person

- were interested in promoting disability equality.

A list of what was meant by a 'disabled person' was attached to the invitation, along with reassurance that no one would ask why individuals were interested in joining the group. The invitation made clear that an anonymous poll of the group would be carried out to ensure that disabled staff were well represented (the law only requires institutions to involve disabled people). They took this approach to allow disabled people to contribute to discussions without being required to disclose their impairment or health condition. The college has also formed an email advisory group for disabled staff who prefer to be engaged in a less public way. The organisation recognised that staff are not always confident to disclose their disabilities and this is a first step to creating an atmosphere and culture where staff are happy to disclose.

There are many different ways of involving disabled people. Depending on the nature of provision and the resources available to the organisation, these might include:

- representatives on committees and boards

- meetings with groups such as forums, committees, task or working groups, focus groups

- egroups or on-line discussion forums/fora

- specific events such as conferences, equality days, open days, community events

- staff and student surveys

- trade union activities.

Each method has its own inherent advantages and disadvantages. For example, surveys permit quantitative information to be collected from a large number of people, but the information will be less in-depth than if it were produced as a result of discussions during a focus group. Using a variety of involvement methods will help ensure that the views of disabled people fully inform changes to practice.

It can sometimes be helpful for organisations to work together and to pool their resources in some of their involvement activities. This is particularly helpful where organisations are located close together or where groups of disabled people have been overwhelmed by requests for involvement.

One HEI worked with another local HEI and seven local FE colleges to involve local disabled people and organisations in the drawing up and implementation of all the institution's Disability Equality Schemes. They agreed to host joint events across the different campuses to ensure full representation of local disabled people.

Involvement should be long term and influential, not merely tokenistic. It is important to establish mechanisms to evaluate the involvement of disabled people. It is all too easy to slip into a set of activities that focus on low-level approaches or inadvertently exclude certain groups of disabled people, such as those with mental health or learning difficulties. Evaluating the process of involvement with disabled people will help to ensure that this does not happen in practice.

For more information about involvement see **The Disability Equality Duty and involvement: Guidance for public authorities on how to effectively involve disabled people** (DRC, 2006).

2.3   Duties as an employer

This section is particularly relevant to staff responsible for human resources. In general, colleges, universities and adult community learning providers have made more progress in responding to their duties in relation to disabled students than to their disabled staff. This section shows how the DED expands the focus from reasonable adjustments for individual disabled employees to establishing a clear responsibility to promote equality through a public body's employment practices and policies. It covers the requirements to:

- gather and use information about disabled staff

- involve disabled people – including disabled staff

- impact-assess employment-related policies and practice, to monitor recruitment, progression, appraisals and retention and consider flexible working practices.

It is important that this section is read in conjunction with Section 3, in particular Sections 3.7 on Anticipating and making reasonable adjustments and Section 3.9 on Reviewing support for students and staff, as it is here that issues concerning making reasonable adjustments for both staff and students, and having procedures in place for monitoring these, are explored in greater detail.

Evidence gathering and monitoring
Colleges, universities and adult community learning providers are required to gather evidence about how many disabled people they employ and about their career development and retention. Numbers of staff declaring a

disability will need to be regularly monitored as will the take-up of Access to Work funds. Not all staff will be aware of the support they may receive from Access to Work, and HR staff need to think about how they can publicise its availability. One organisation put information about support for disabled staff on its payslips.

If numbers of staff declaring a disability are low, it will be particularly important to examine the stages of recruitment to see where barriers are arising. Disabled people might not be applying or they might be experiencing particular difficulties in being appointed. The patterns of employees leaving the organisation and the reasons are also important. For example, if there are high numbers of ill-health retirements might some have been averted by reasonable adjustments? Exit interviews need to include information about disability to ensure that a disabled person's requirements have been effectively addressed.

Other evidence that might be collected includes the take-up and success rates by disabled employees of training opportunities, as well as looking at other areas like performance assessments and promotion. One problem may be reluctance among employees to disclose a disability, and further information about disclosure may be found in Section 3.2.

While gathering evidence for the Disability Equality Scheme, the head of HR notices that the numbers of disabled applicants for clerical posts is disproportionately low. As a result, he decides to review the standard job description that is used as a basis for such posts. One criterion is 'must have an excellent telephone manner' which is included as standard for all such posts, regardless of how much telephone answering is required. He therefore amends the standard template to ensure it reflects only those criteria that are essential elements of clerical posts and issues this, with explanatory guidance, to all departments.

Involving disabled employees

It will be important to involve disabled employees, even if they are few in the workforce. A number of different approaches to involving disabled people may be required and they also need to be involved in deciding what would work best in their organisation. One approach might be supporting employees to set up a disabled employee's network to encourage membership and be more successful as a mechanism for peer support, involvement and good practice sharing. Human Resources staff will need to look at ways of gathering the views of disabled people, for example by annual surveys or by focus groups, and feed these into the organisation's Disability Equality Scheme action plan.

A specialist college recognised that disabled staff were under-represented in the organisation, and explored strategies to address this issue. They formed a working group of disabled staff to identify the barriers for disabled applicants in staff recruitment and selection processes. They canvassed views from other disabled members of staff and contacted external agencies such as Jobcentre Plus. They also met managers at the college to find out what they thought about employing and working with disabled colleagues. As a result, the organisation has produced a DVD promoting employment opportunities for disabled people at the college, and developed a new employment charter. They have redesigned their application processes and made available online an electronic application form. They have widened their routine advertising campaign to include specialist publications such as Royal National Institute for the Blind newsletter, Disability Now and local radio.

Impact assessment and reasonable adjustments

Even if the information a college or university is able to gather from its disabled employees is limited, it is essential to impact

assess employment policies and procedures. Areas for impact assessment might include: recruitment, promotion, appraisals, retention, working practices and staff development.

HR managers and staff are key to ensuring that educational organisations respond to the DDA duties. All HR staff will require training on their responsibilities towards disabled employees and on the kind of adjustments which they might need to put in place. They will need to act strategically to ensure that their organisation as a whole is actively looking at how best to recruit and support disabled employees.

This requires them to ensure that the organisation and work practices are both accessible to, and supportive of, disabled staff. They will need to make sure that any information about human resources is accessible to all staff, for instance is available in alternative formats. They will need to think of ways of ensuring that all staff know of the HR services available for disabled staff, for example by having an annual questionnaire, or by attaching information with payslips. They will need to monitor the organisation to assess its accessibility for staff with specific requirements, for example the availability of certain ergonomic equipment such as special chairs or keyboards, and will need to know where, if necessary, they can loan specialist equipment and have an allocated budget for providing special requirements. This information will then need to be widely disseminated among all staff.

A college has a pool of equipment available from personnel for any member of staff who feels they may be developing repetitive strain injury. An ergonomic keyboard and, 'mice', are available so that any member of staff can try them out, to see if they help alleviate the condition. This is regularly advertised in the staff newsletter, the most recent copy of which is sent out to all job applicants as an example of the types of ways that the provider communicates with its staff.

They will also need to think about other less obvious adjustments which staff might require, for example building in rest breaks or changes in the allocation of duties. Policies on flexible working practices may be able to address the reasonable adjustments that some disabled employees require. Opportunities to work at home, part-time working, job sharing or flexible hours need to be considered.

Not all staff will be aware of the range of adjustments which might be beneficial to disabled staff, hence organisations need to think of ways in which they can positively promote the good practice which they have in place.

A college wants to promote the support it provides to disabled employees and has decided to gather 'good news' stories to encourage staff to discuss support options with HR. Examples of this include:

- raising awareness of 'Access to Work' and how it has helped support staff across the college with work and training

- providing examples of different adjustments that are available and have been provided for disabled staff

- issuing laptops to a number of staff with dyslexia to help them work at home and other areas that are quieter than the college's open-plan offices

- agreeing staged back-to-work plans after periods of long illness or absence due to a disability.

Training
All HR staff will require training on the DDA and information on the likely requirements of disabled staff. However, HR staff are not alone in having responsibilities towards disabled staff members. They will need to think how they work with line managers, for example in offering them training on how to ensure that job descriptions and person specifications do not include discriminatory standards, how to ensure the

interview process is accessible to, and supportive of, disabled applicants, and how to offer, put in place and monitor reasonable adjustments.

Further information on staff training and development for all staff can be found in Section 3.18.

An HR Department offers disability awareness training designed specifically for all staff who are involved in interviewing staff or students. Refresher courses are also made available for staff who may have been trained previously. It is a requirement that all staff involved in interviews for potential staff or students must undergo this training.

Becoming a 'two ticks' employer
Many organisations state that they are a 'two ticks employer' but do not then have procedures in place to ensure that they are actively promoting equality of opportunity in employment. In employment, the 'two ticks' symbol – Positive about Disabled People – has been developed in conjunction with Jobcentre Plus as a means of identifying employers who are positive about employing disabled people, and who want to demonstrate their commitment by displaying the symbol on advertisements. If providers want to become a 'two ticks' employer and use this symbol, they must give a commitment to interview all disabled applicants who meet the minimum criteria for a job vacancy and consider them on their abilities.

Four other commitments are required:

1) To ensure there is a mechanism in place to discuss, at any time, but at least once a year, with disabled employees what can be done to make sure they can develop and use their abilities.

2) To make every effort when employees become disabled to make sure they remain employed.

3) To take action to ensure that all employees develop the appropriate level of disability awareness needed to make these commitments work.

4) Each year to review the five commitments and what has been achieved, plan ways to improve them and let employees and Jobcentre Plus know about progress and future plans.

Further details can be obtained from the Disability Employment Adviser at the local Jobcentre Plus office.

An education institution has rewritten the recruitment pack that it sends out to prospective employees to highlight that they are a 'two ticks' (Positive about Disabled People) employer. The recruitment pack includes a leaflet highlighting the support and services available to disabled staff, as well as Access to Work. Potential applicants are encouraged to contact a specific person should they wish to discuss, in confidence, any issues around reasonable adjustments. This leaflet also contains information about the numbers of disabled staff working for the provider with some positive case studies from staff members about the support they have received.

Recruitment
Advertising posts:

Under DDA Part 2, it is unlawful to publish an advertisement which indicates, or might reasonably be understood to indicate:

● that the success of a person's application for a course or job may depend to an extent on his or her not having any disability, or any particular disability

● that the person determining the application is reluctant to make reasonable adjustments.

This means that providers must consider carefully the information contained in their adverts to ensure that they are not discriminatory.

HR departments need to ensure that their desire to recruit disabled staff is actively promoted both to potential applicants and to existing staff. Information sent out to potential applicants needs to welcome disabled applicants, to be offered in alternative formats, and to state clearly how disabled applicants can discuss specific requirements. Organisations also need to think about where they advertise posts, for example, are they making use of disability publications or making links with local disability organisations?

Application packs should include monitoring forms which can be used by the HR department to gather information about whether or not an applicant is a disabled person (using the DDA definition). This information should be used separately for monitoring purposes only and not as part of the recruitment process. This should be made clear to all potential applicants.

When applicants are invited to interview providers should ask whether the applicant has any disability which may require adjustments to be made at the interview. It is not good practice to discuss the impairment or disability at interview or at any stage prior to the post being offered.

Once a post is offered then the provider should invite the applicant to disclose any disability which may require reasonable adjustments to be made in the workplace. There also needs to be opportunities to disclose a disability in confidence and the type of reasonable adjustments required.

An education institution has a policy of inviting all successful job applicants to a meeting (prior to beginning work) to discuss any disability or impairment for which

they may require reasonable adjustments and support requirements. During this meeting, the candidate discusses with their prospective line manager and relevant occupational health professionals, if appropriate, reasonable adjustments and support that might be provided. This helps both the job applicant and the institution plan better for when the applicant starts work to ensure important adjustments are in place from the beginning.

An education institution carries out an impact assessment on its staff recruitment documentation. Disabled staff point out that there is no place in the application pack's monitoring form to declare that an applicant is a disabled person as defined by the DDA and also that those invited for interview are not asked about whether they will require any reasonable adjustments as a result of a disability. This prevents the organisation from putting adjustments in place for disabled people during interview. It also prevents the organisation from fulfilling its obligation to interview all disabled people who meet the minimum entry criteria as it is a 'two ticks'– Positive About Disabled People employer. Other changes as a result of the impact assessment process included:

- changing the font colour of headings (red on purple) to provide a stronger contrast (black on cream)

- enlarging sections to make it easier to complete

- providing examples in the detached monitoring form which asks the applicant if they are a disabled person

- placing the application form on the website to permit electronic applications.

Induction
Induction processes should offer further opportunities for

disclosure and discussion regarding reasonable adjustments and should themselves be scrutinised to ensure their accessibility. Disabled people need to be actively involved in making suggestions to changes which could enhance recruitment or induction procedures.

Appraisal procedures

Adjustments put in place for disabled staff need to be regularly monitored to ensure that they are working effectively and whether any changes need to be implemented. Appraisal processes should provide ongoing opportunities for disabled staff to discuss the adjustments which might be in place and how well these are working for them.

Complaints and appeals

Complaints and appeals procedures should be accessible for disabled people and should take account of disability-related harassment or bullying. Disabled staff need to be fully aware of how they might be able to make a complaint about any act of disability discrimination and should also be involved in discussing how complaints and appeals procedures might be improved.

After staff have left

HR staff need to be clear that they have ongoing duties towards disabled staff after the staff have left their organisation. In particular, they need to ensure that any references written for staff do not pass on any sensitive information without the consent of the member of staff involved and do not, for example, erroneously provide information on disability-related absence as sickness absence.

Key questions for HR managers to consider:

General responsibilities:

- How are disabled employees encouraged to become actively involved?

- Have all employment policies and practice been impact assessed or are they scheduled for impact assessment?

- Are HR staff aware of their responsibilities under the DDA? Have they received training and regular updated information?

- Have all staff received information about the support offered for disabled employees?

- Are all staff aware who to contact in HR to discuss a disability-related issue in a confidential setting?

- Do you consider the full range of reasonable adjustments that are possible, including flexible working practices?

Recruitment:

- When drawing up advertisements do you consider carefully what information is included in them – both to encourage applications from disabled people and to avoid breaching discriminatory advertisement provisions?

- Are job adverts advertised in an accessible way?

- Do job adverts mention any policies around equal opportunities or disability-friendly policies?

- How can advertising be targeted to reach and appeal to disabled people?

- Are accessible recruitment packs sourced routinely?

- Are job descriptions and specifications promoting equality? Do they ask for criteria which could be discriminatory?

- Are applicants able to apply online, which may be more accessible?

- Are interviews routinely held in accessible venues?

- Is there a way of recording how many disabled applicants apply for jobs?

- Is there a process in place to monitor numbers of disabled staff?

Induction:

- Are induction processes accessible?

- Is information about arrangement for disabled staff provided during induction?

- Are there opportunities for staff to disclose a disability during the induction process?

Retention:

- How long do disabled employees stay with an organisation?

- What is the rate of returns to work after an employee has been on long-term sick leave?

- How many staff are offered retirement on grounds of disability or sickness?

- How many employees are referred to occupational health practitioners (if the organisation uses them)? How many of these employees continue to work, are retired, or on leave?

Appraisals and promotion:

- Do appraisal procedures allow for staff to discuss any reasonable adjustments which might be being made for them and to feed back on how well these are working?

- Is there a mechanism in place to record, not only how many disabled staff there are, but at what level they are and how they progress through the organisation?

- Are disabled employees taking up training opportunities which are available to them?

Complaints and appeals:

- Are complaint and appeal procedures clearly available to all staff, including disabled staff? Were disabled people involved in looking at how these procedures might be improved?

- Are there opportunities for disabled staff to contribute to discussion about how services for disabled people could be improved and are there views fed into the organisation's Disability Equality Scheme action plan?

- Do harassment and grievance procedures take into account harassment or bullying which may be related to a person's disability?

After staff have left:

- Are HR staff aware of their obligations to disabled staff even after these staff have terminated employment (particularly in the area of writing references) and has this information been passed on to all staff?

2.4   Carrying out impact assessments

To ensure that organisations are complying with the DED and to demonstrate that they are having due regard to the need to promote disability equality, senior managers need to ensure that their organisations impact assess all policies and practice. Policies and practice are broad terms that cover all the policies, procedures, plans, practices and all key activities that an organisation undertakes. As part of the specific duties under the DED, methods for carrying out impact assessments have to be set out. These are the mechanisms for ensuring that due regard is given to disability equality in decision making. Impact assessments help ensure that decisions and activities do not disadvantage disabled people and also help to identify areas where disability equality might be better promoted. It is important to consider all six parts of the DED when making judgements. When a negative impact, or a missed opportunity to better promote disability equality, is identified, institutions must give due regard to modifying the policy or practice.

Further information on impact assessments is provided in the guidance document: **Disability equality impact assessments and the Disability Equality Duty** (DRC, 2006).

Impact assessment needs to be an ongoing process, something that develops or evolves along with the policy or practice. As well as proposed practices and policies, those already in existence will also need to be considered for impact assessment. The organisation's first Disability Equality Scheme (DES) and action plan should have contained a timetable to carry out a rolling programme of impact assessments on existing policies and practices over the three-year period of the Disability Equality Scheme.

The requirements relating to disability equality impact assessment arrangements apply to both new policies and old policies (described in the Code as the 'back catalogue'). All new policies, including reviews of, and changes to, existing policies, will have to be screened for disability equality impact assessment, to ensure that an authority gives 'due consideration' to disability equality. In parallel with this, authorities will also have to prioritise and schedule for impact assessing its existing policies and practices.

It is as important to ensure that all possibly relevant policies are put through a screening process as it is to ensure that the screening process 'screens in' (for full assessment) the policies it needs to. The Codes suggest that a policy will require a full assessment if:

- It is a major one in terms of the scale or significance for the college or university's activities.
- Although minor, it is likely to have a major impact upon disabled people.

The following example demonstrates how senior staff can exercise leadership in undertaking impact assessment.

A university has formed a steering group to take responsibility for carrying out disability equality impact assessments. The group consists of the Pro Vice Chancellor, the deputy director of HR, the director of student services, head of learning support, two heads of departments and three disabled people. A consultant also sits in to help provide external expertise.

The group carried out an initial mapping exercise that identified policies, procedures, plans and practice within the following areas:

- academic office
- university secretariat
- estates
- finance
- Human Resources
- library and learning services
- recruitment, admissions and student records
- research office
- student services
- learning and teaching enhancement unit
- chaplaincy
- student union
- schools.

Priorities have been assigned on the basis of the following three criteria:

1. If the policy, procedure, plan or practice is major in terms of scale of significance.

2. If the policy, procedure, plan or practice is minor in terms of scale of significance, but has the potential to have a major impact on disabled people.

3. If the policy, procedure, plan or practice has been highlighted as a cause for concern by disabled people.

As well as providing an opportunity to embed disability equality across the organisation, the steering group have recognised that the impact assessment process provides an opportunity to significantly streamline policies and procedures and to help ensure more consistent practice across schools within the university.

The executive team, senate and staff forum have all been briefed about the purpose of the group and the programme of impact assessment.

This example also illustrates how senior managers can be actively involved in the organisational processes promoting disability equality through positive leadership.

A college has formed a group of staff to take responsibility for carrying out disability equality impact assessments. The group includes the head of HR, the vice principal for curriculum and quality, six heads of centre, the additional support manager, clerk to the governors and two disabled people.

Initial training was provided on the requirements of the DED and the steps involved in carrying out disability equality impact assessments.

The group then undertook a mapping exercise to identify all policies, procedures, plans and practice within the college. A spreadsheet was generated which identified the owners of the policies, procedures, plans and practice. This spreadsheet is used to record the priorities given to each in the form of a traffic light – red being high priority, yellow medium and green indicating a low priority. The spreadsheet will also be used to record the outcomes of the impact assessment process over the next three years.

2.5   Gathering and using information

Senior managers are required to gather and use information as one of the specific disability equality duties. They must specifically set out in their Disability Equality Scheme their arrangements for gathering information on the effect of their policies and practices in:

● the recruitment, retention and career development of their disabled employees

● the educational opportunities available to, and achievements of, disabled people.

This will involve gathering and using a wide range of qualitative and quantitative information. For example, for disabled students it may include:

- recruitment, retention, achievement and success statistics
- attendance data
- access to visits, field trips and work experience
- feedback from disabled students on the quality of their educational experiences
- analysis of complaints, both in general terms and specifically relating to bullying and harassment
- satisfaction surveys, with information disaggregated to provide the views of disabled students.

For disabled staff, this may include:

- application, short-listing and appointment profiles
- access to, and satisfaction with, staff training
- retention
- promotion
- grievance procedures
- disciplinary procedures
- terminations, such as redundancies, or end of fixed term contracts
- feedback from disabled staff.

For further information refer to **The Disability Equality Duty: Guidance on Gathering and Analysing Evidence to Inform Action** (DRC, 2006). The Employers' Forum on Disability provides guidance on monitoring disability in employment (www.employers-forum.co.uk).

One institution decided to monitor data and information of the entire staff lifecycle, eg from application to leaving. By adopting this method, they found several areas where it would be helpful to collect further data to help ensure that equality could better be promoted.

Colleges, universities and adult community learning providers are not specifically required to gather information on service delivery and the satisfaction of service users for their Disability Equality Scheme, but the DRC recommends that institutions do this. The general duty does apply to service users; therefore organisations may find it difficult to meet the provisions of the general duty if information is not gathered on the experiences of this group.

Organisations will need to ensure an appropriate balance is taken when gathering quantitative and qualitative information. The former helps form comparisons with benchmarking data, whereas the latter provides good insight into people's experiences and may provide a deeper understanding of the barriers experienced by disabled people in the organisation.

Organisations will require evidence to assess the impact of their activities on disabled people and to measure progress towards disability equality. Information should identify the barriers which disabled people face, such as inaccessible teaching resources, as well as those which measure successful outcomes, such as improved retention rates for disabled students. Institutions will want to gather information on the extent to which they are meeting the different elements of the general duty, such as gathering information on harassment, and the extent to which disabled people participate in public life.

Disabled people with different impairments or health conditions can experience fundamentally different barriers and it may therefore be pertinent, at times, to gather and analyse information according to impairment type.

In analysing responses to a student questionnaire on the Disability Equality Scheme, one institution noticed that no responses had been submitted by students with mental health concerns; their views were then sought via the mental health co-ordinator.

Disabled people will be able to provide advice on whether asking people about the nature of their impairment, or analysing information by impairment type, would serve a useful purpose. Trade unions, student councils and people from external agencies and organisations will also be able to contribute to these discussions.

Many education institutions already collect information to evidence disability equality. However, it is likely that they will need to expand these to obtain appropriate and sufficient information to consider the impact which their policies and procedures are having on disabled people.

The degree of disclosure, particularly among disabled staff, is often low. Disabled staff may be concerned at the potential negative impact of disclosure and the possibilities that such information will be used against them, for example in job promotion opportunities or during restructuring activities. Disabled people will feel more comfortable responding positively to information-gathering activities if they:

● understand the reasons why institutions are asking questions

● are satisfied at the levels of confidentiality assured

● have opportunities to give their views anonymously

● believe that the institution genuinely wants to remove barriers and improve practice for disabled people

● see changes to practices as a result of information-gathering activities

● are informed that they have the right to decline to give information.

Senior managers can have a strong influence on the disclosure rate among their staff. Disclosure is strongly influenced by the extent to which the culture of the organisation is disability equality friendly.

A college has 17 per cent disclosure on their staff individualised record (the HR data base). They recognise that this is higher than many other colleges, and believe that a number of factors contribute to this, including:

- the Vice-Principal has a visible impairment, and is an effective role model to other staff

- senior managers are passionate about promoting disability equality in everything that they do

- equality and diversity are standing agenda items on all management meetings

- statements welcoming disabled staff and students are included at the front of promotional literature such as the prospectus and recruitment and selection packs.

Gathering information is not an end in itself, and organisations must show how they are using the information gathered to identify what they are doing well and what needs to be improved. These activities will also permit institutions to review the effectiveness of their disability equality action plans and help with the development of subsequent Disability Equality Schemes.

Disability equality at a sixth form college is an integral part of department and faculty reviews. Recruitment, achievement, success, value added and destination data are routinely disaggregated by disability or learning difficulty and the information is used within each curriculum area to inform its self-assessment report and development plan. Qualitative information is also collected, including feedback from:

- focus groups of disabled students

- the student council, which has representation by disabled students

- one-to-one interviews with disabled students

- student satisfaction surveys, with information disaggregated by disability or learning difficulty

- annual evaluation forms completed by disabled students

- evaluation of feedback on support in exam arrangements.

Priorities are set each year, which feed into equality and diversity impact measures (EDIMs). For 2002–05, the college focused on improving support for students on the autistic spectrum. The focus for 2005–08 is on improving the support provided for students with mental health difficulties, and it has organised a Mental Health Awareness Day and planned staff development activities. New partnerships were established with adolescent mental health services and local mental health trusts. Further information was collected and used when the college conducted a disability equality review, involving parents, carers, disabled students, Connexions staff and external agencies, to improve services and further promote disability equality.

Statistical information may highlight inequality gaps but will not explain the reasons for these gaps or what needs to be done to remedy them. Institutions will need to investigate the reasons for such gaps, identify and implement appropriate actions to address the issues raised, review the effectiveness of such actions and decide what further work needs to be done. Setting targets enables organisations to ensure that due regard is paid to disability equality in key employment and education areas and can act as a useful focus for action and encourage staff ownership and commitment.

Each department in a large FE college gathers and analyses the recruitment, retention, achievement and success of disabled students compared with non-disabled students. This information is also gathered and analysed

by impairment type, in recognition that students with different impairments or health conditions can experience fundamentally different barriers. They found that students with health conditions have lower achievement rates than others, and students with mental health difficulties are under-represented. The investigation identified a number of issues, and actions have been identified to address these. Targets have been set that provide a focus for action and are used as the basis for planning at school and course levels. Disability equality targets feed into the Equality Self Assessment Report (SAR) that informs the equality action planning process. Actions will be reviewed at the end of the year to assess the impact on the recruitment and achievement of students with mental health difficulties and health conditions respectively.

2.6   The Disability Equality Scheme

Publishing the Disability Equality Scheme
Senior managers are responsible for the publication of the organisation's Disability Equality Scheme. This is a public document which needs to be readily accessible to all stakeholders.

The organisation's website is an obvious place to allow general access to the Scheme. Hard copies should also be available in places where people from a range of different groups may ask to see the Scheme, such as student or learning services, the disability office and reception. Organisations should think carefully about how they publicise the Scheme, for example, including key extracts within a staff newsletter and the student handbook with a clear explanation of where a copy of the Scheme can be obtained.

The Scheme should be available in accessible formats such as Easy Read, large print, CD Rom and Audio.

An organisation has undertaken a wide range of activities to disseminate its Disability Equality Scheme. It has been published on the website and is available in accessible versions. The Disability Equality Scheme was launched at a major event. As well as information being included in staff and student newsletters, there is a dedicated email address for ongoing feedback. The Disability Equality Scheme was also discussed at all the key management groups.

Annual reporting

Although a Disability Equality Scheme covers a three-year period, senior managers need to ensure that there is an annual review and are required to produce a report on the outcomes of their activities during the year.

The annual report should be produced in straightforward, attractive and accessible formats and be made available for all interested stakeholders. Organisations may want to use existing annual reports to provide a vehicle for this information, such as an annual equality and diversity report to governors. The report is also a public document and should be readily available for all those with an interest in the progress of the organisation, dismantling barriers and promoting disability equality.

Key questions for leaders to consider:

Responsibilities at senior level:

- Who is the senior management champion who will be a visible leader regarding disability issues for both staff and students? How does this person link with the Equal Opportunities Committee or equivalent? How is this work prominent across the institution?

- Who is the clear senior management leader with overall responsibility for the implementation of your institution's Disability Equality Scheme and action plan?

- Who has overall responsibility for impact assessment

processes within the institution? How have these been written into business and development plans?

- Who has overall responsibility for the provision of services for both disabled students and for disabled staff? Are disabled people aware of these avenues of support? Are these services adequately resourced?

- How have you ensured that all senior managers are aware of their responsibilities under all parts of the DDA, including the DED, and that they take this seriously?

The Disability Equality Scheme:

- Does your institution's Disability Equality Scheme have a clear and visible statement from the head of the institution to set the institutional framework for its activities, as recommended in the Code of Practice?

- How will you ensure that the annual report on the Disability Equality Scheme is made publicly available to all stakeholders and also adequately discussed at senior level committees?

- What resources have been allocated to the Disability Equality Scheme action plan so that the actions can be properly implemented across the institution?

- What senior-level committee meetings have regular reports from service or departmental heads responsible for progressing the Disability Equality Scheme and action plan? Do they also have regular reports on the development of services for disabled people?

Section 3: Implementing the DDA – The impact on the experience of disabled people

This section discusses ways organisations can respond to barriers that disabled people face in all aspects of college or university life, and to their use of the services provided by the organisation. It also highlights the responsibilities of education institutions under Disability Discrimination Act (DDA) legislation to remove these barriers and provide an inclusive experience for all who learn in, work for, or use the services of their organisation. Also discussed is how to encourage an organisational approach towards disability equality across the institution and how to implement disability legislation, which is the responsibility of all staff. This section:

- identifies the key actions that staff fulfilling particular functions will need to consider
- offers illustrations drawn from practice
- provides lists of prompt questions at the end of sections.

The experiences of disabled staff, students and people who use the services of an organisation are discussed together to demonstrate how many aspects of good practice apply to all disabled people, irrespective of their relationship with an organisation. That is, as a student, as an employee or as a service user.

The section is organised to reflect the experiences of disabled people. It follows a pathway from the information they receive prior to application, what happens when they join an organisation, through to after they have left. Legal duties apply whether the disabled person attends a one-day conference, a three-year degree, a one-year vocational programme or if they have been employed in an organisation for ten years.

Section 3 describes the impact organisations can have on the experiences of disabled people in relation to:

3.1   Marketing
3.2   Student admissions
3.3   Frontline services
3.4   Estates
3.5   Procurement
3.6   Induction
3.7   Anticipating and making reasonable adjustments
3.8   Health and safety
3.9   Reviewing support for students and staff
3.10   Bullying and harassment
3.11   Ensuring participation in public life
3.12   Social activities
3.13   Partnership working
3.14   Teaching and learning
3.15   Assignments, assessments and exams
3.16   Competence standards
3.17   Work placements, field trips and visits
3.18   Staff training and development
3.19   After leaving – references, alumni and reunions.

3.1   Marketing

Staff involved in marketing have a very important role to play in the implementation of the DDA. It is their work which will not only ensure that disabled people can access information about the organisation, but also feel positively welcomed by it.

Marketing materials
All materials produced by marketing teams, whether they

give information about courses (for example, the prospectus, course leaflets, etc) or information concerning job opportunities, need to be available in a variety of formats – such as large print, Braille or electronically. This not only enables disabled people to have access to the materials but also provides an opportunity to create a good first impression with disabled people. It is important to reach disabled people as up to one in five people of working age are disabled. As well as providing information in alternative formats, marketing teams should also ensure that any adjustments the organisation makes for disabled people are clearly stated and include details about where further information can be obtained.

A sixth form college has revised its prospectus to ensure that the support available for disabled students features prominently at the beginning of the prospectus, together with other support provided for students such as tutorial support, financial support and childcare. Previous versions focused on disabled students with physical or sensory impairments, and this was expanded to include the full diversity of disabled students including students with mental health difficulties, Asperger's syndrome and students with medical conditions.

On the advice of disabled students and an external consultant, the college made a number of changes to improve accessibility, for example:

- enlarging and changing text to a sans serif font

- removing patterned backgrounds behind text

- removing sections with poor contrast between font and background.

The prospectus now clearly states the availability of alternative formats on the front page and signposts further sources of information such as the college's Disability Statement (which they renamed 'Support for You' booklet). The college ensures that all students who

disclose an impairment or medical condition are routinely provided with a copy of this booklet. The college has also revised its promotional leaflets on the support available to disabled students and provided a summarised statement in the student diary and in course handbooks.

Some organisations provide courses for students with learning difficulties and it may be necessary to ensure that Easy Read versions of marketing materials are available for these students, as well as ensuring staff talk with potential students about the options available.

Tom is a student with learning difficulties at a FE college. What was important to him was having a course leaflet in a language which was easy to read, with both words and pictures. He was also invited to talk to the course tutor who explained the course to him and allowed him the opportunity to discuss any problems or issues he might have while studying at the college. Staff also ensured that Tom had support to complete the college application form.

'Marketing materials' is a broad concept and includes the organisation's prospectus and course leaflets as well as websites, poster displays and marketing activities such as open days, campus tours, summer schools and taster courses. To ensure that they meet the requirements of the DDA, it is essential that all these activities are fully accessible to disabled people.

Websites
Websites play an important role in providing information about the organisation. Increasingly, people make initial contact via online application, so ensuring that the organisation's website is fully accessible is doubly important. An accessible website will, for example, have:

● uncluttered and simple page structures
● clear and logical navigation mechanisms
● text alternatives to describe images
● appropriate use of colours

- good contrast between content and background
- readable and resizable fonts and layout.

Guidelines on making websites fully accessible have been laid down by the World Wide Web Consortium. See also **PAS 78: A guide to good practice on commissioning accessible websites** (BSI, 2005).

A college decides to encourage more people to apply for job vacancies electronically through its website, which it recognises is an essential marketing tool. Staff ensure that the website conforms to guidelines set by the World Wide Web Consortium and check that recruitment materials posted on the website are fully accessible for people using a range of assistive technology. It asks a number of disabled staff to test out how easy it is to use and to download information from the website.

Advertising
Under the DDA Part 4, it is unlawful to publish an advertisement which indicates, or might reasonably be understood to indicate:

- that the success of a person's application for a course may depend to an extent on his or her not having any disability, or any particular disability
- that the person determining the application is reluctant to make reasonable adjustments.

This means that providers must consider carefully the information contained in their advertising material to ensure that it is not discriminatory.

Promotion
Marketing is not just about making information accessible. Marketing departments also play an important role in promoting disability equality and encouraging applications both from disabled students and job seekers. This might include ensuring that disabled people feature in the organisation's publicity, ensuring that job advertisements appear in the disability press or making proactive links with local disability organisations.

There is a variety of ways that colleges can promote positive images which can, in turn, result in having a positive impact on changing and developing the lives of other disabled people.

A college promotes various courses through posters displayed in the community, such as the local library. John, a disabled person, sees one of these posters, which portrays disabled people participating in sport as part of the college recreational programme. As a result, John enrols onto an NVQ course at the college.

Open days

Open days for prospective students and other public events need to be carefully planned to ensure that they are fully accessible for all disabled people. This includes the need to ensure that any tours are accessible for wheelchair users and that any talks are carried out in rooms with hearing loops. Open days can be greatly enhanced by the active involvement of current disabled students, as can be seen in the example below.

Disabled students at a college are encouraged to take up positions of responsibility by acting as ambassadors during open days. All ambassadors talk routinely to all parents and students about the positive and open approach that the college takes towards disabled people, the support available and the benefits of disclosing support requirements. Materials advertising the availability of support include a statement that disabled students are welcome in the organisation and outline the different types of support available for disabled students. Contact names and numbers are provided for further information. These materials are professionally produced and widely available. For example, they are distributed by ambassadors, and presented on a stand at the front of the building. They are displayed at reception and in Student Services where career advice staff are located. They are also routinely included in offer letters and made available at feeder school events.

Disabled students are involved in the development of marketing materials. They have suggested that success stories of disabled students are used in promotional literature alongside the success of non-disabled students, to help raise aspirations and encourage application.

Disability and diversity are promoted and celebrated through disability awareness days which celebrate the success of disabled celebrities, and raise the awareness of particular aspects of disability equality. Last year the college focused on raising awareness of mental health, inviting mental health service users to come into the college to give talks about their experiences.

Staff development
All staff involved in marketing need to be aware of their duties under the DDA. They will require DDA training and support in how they might best promote disability equality in all their activities.

Planning and monitoring an inclusive marketing strategy
Marketing teams will need to examine their policies, procedures, plans and practice in order to check that they are fully responding to the requirements of disabled people. They then need to prioritise what needs to be done and set out a plan with a clear timetable. Disabled people themselves, staff and students, should be involved in this review and planning. Involving disabled people is a specific duty requirement of the Disability Equality Duty (DED). It is disabled students and staff who have first-hand information as to how well marketing materials and activities worked for them, and their input is invaluable both in redesigning existing materials and activities and contributing towards new initiatives.

A university conference office has involved disabled people in helping to redesign their marketing materials to ensure that disabled people are aware of the adjustments that will be available when they attend conferences.

Key questions for staff concerned with marketing to consider:

- Are your marketing and publicity materials accessible for the full range of disabled people, and also welcoming of them? Are they available in a range of different formats, do they give information on adjustments and support offered by your organisation?

- Have you taken steps to ensure your website is as accessible as possible for the full range of disabled people?

- When drawing up advertisements do you consider carefully what information is included in them, both to encourage applications from disabled people and to avoid breaching discriminatory advertisement provisions?

- Are you continually looking at new ways of promoting disability equality in your organisation, both in your representation of disabled people in your publicity materials and in where you advertise your courses and job vacancies?

- Are your open days accessible to all disabled people and do you involve current disabled students to act as 'Ambassadors'?

- Are all staff involved with marketing aware of their duties under the DDA and do they have the opportunity to attend relevant staff development activities?

- Have you identified key issues which you wish to address over the next three years and is this plan regularly monitored?

- Do you actively involve disabled people both in monitoring your current materials and activities and in designing new initiatives?

3.2   Student admissions

The DDA Parts 2 and 4 cover all recruitment activities for staff and students respectively. Section 8 of the Post-16 Education (Revised) Code of Practice (2007) outlines discrimination in relation to the admission of disabled students. It is important that these activities are accessible for disabled people and many of the issues discussed in this section are equally applicable to recruiting staff. For example, having application forms available in alternative formats, carrying out interviews in accessible venues and ensuring that all staff involved in the interview process, for staff and students, have disability equality training, are all important features of good staff recruitment and student admissions processes. Refer to Section 2 of this Guidance for further information on duties as an employer.

Under the DDA Part 4, it is unlawful for an education institution to discriminate against a disabled person:

- in the arrangements made for determining admissions to the institution

- in the terms on which it offers to admit the disabled person to the institution, or

- by refusing or deliberately omitting to accept an application for his or her admission to the institution.

The arrangements for student admissions are wide-ranging and include more than just deciding who should be offered a place on a course or a job within an organisation. Activities such as course design and admissions criteria are all included as these will impact on who ultimately decides to apply.

Planning selection criteria
When recruiting students it is important that colleges, universities and adult community learning providers plan their selection and entry criteria and procedures so that these are non-discriminatory. They should not include unnecessary or marginal requirements in admissions and course criteria. Institutions should review their application forms and procedures to ensure that they are fully accessible. Some forms of discrimination can occur whether or not the

provider knows that a person is disabled, and, therefore, training staff who are involved in selection, recruitment and admissions is needed to ensure that non-discriminatory practices are embedded throughout the process.

The DDA does not prevent organisations from carrying out aptitude tests or pre-course assessments. However, staff would need to revise such tests and assessments, or the way the tests or assessments are carried out or assessed, to take account of disabled candidates. Reasonable adjustments may include, for example:

● allocating a disabled person extra time to complete a test

● providing a disabled person the assistance of a reader, scribe or support worker

● adapting the test to make it accessible for a disabled person.

There is no requirement to make adjustments to competence standards. However, it is important to ensure that these are genuinely necessary and proportionate to the requirements of that course. The DDA Part 4 defines a 'competence standard' 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 or ability' (Post-16 Education (Revised) Code of Practice (2007), 6.24). If competence standards are of a much higher level than the course demands, the organisation may be, even inadvertently, excluding disabled people. Competence standards are discussed further in Section 3.16.

A college runs a course in plumbing, which is heavily oversubscribed. As part of the selection procedure, all applicants who meet the minimum entry criteria for the course are set a test devised by the tutor. However, applicants are not given the opportunity to request reasonable adjustments. The nature of the test means that applicants with dyslexia are disadvantaged and refused a place, even though these applicants would be able to fully complete the course.

In order to ensure equal opportunity and eliminate discrimination, the college implements new procedures. All applicants who meet the minimum entry criteria for the course are offered a place on the course until the course is full. The application form asks all applicants if they have any access requirements at interview. The college identifies appropriate monitoring processes so that it can identify whether recruitment for this course has appropriate numbers of disabled students, using internal and external college benchmarks.

Promoting support

How organisations promote their services and respond to disabled people can be the deciding factor when applying for a course or a job at a particular organisation.

Jamie made the decision that she wanted to move away from home to study a foundation degree. She visited a large number of institutions and ruled many of them out because they did not have good public transport links and she wanted to ensure she could live independently. She eventually made the decision to study in a large northern town, which she felt offered the best local transport links and which was less expensive.

Jamie met with her tutors and the learning support staff on an open day. Staff were very supportive and each sat with her on a one-to-one basis for a short time to introduce themselves and give Jamie the opportunity to ask any questions about the course, available support and the college environment. Jamie felt that these meetings were invaluable in giving her the confidence to move away from home and to feel comfortable with the decisions she had made.

Mechanisms to promote support can include:

- guidance in student handbooks
- discussion at induction

- marketing brochures and advertisements that carry information on the support that is available

- leaflets on support that are included within recruitment packs.

Staff involved in the interview process for potential disabled students can act as 'gatekeepers' to courses. Disabled applicants need to make their own decisions as to the type of course they wish to apply for. Those involved in interviewing, while ensuring they give as much information as possible about the requirements of a particular course, should never automatically assume that an applicant will be unable to follow a course solely because they have a particular impairment. While it is important to give as much information as possible to disabled applicants so that they can make fully informed choices, it is equally important to recognise the rights of disabled applicants to choice and inclusion. Disabled people sometimes say that they are actively deterred from submitting an application form despite meeting the entry criteria of a course.

Providers should be proactive in finding out about individual disabled people's requirements and thinking about the needs of disabled people in general. For example, when inviting applicants to interview it is good practice to ask whether they have any access requirements and what adjustments might be needed to enable the applicant to participate fully in the process. Without this information, discrimination may occur if stereotyped judgements are made about an individual's behaviour or their past experiences or if the person is unable to fully participate in the interview. A provider should still anticipate and be prepared to make adjustments even if applicants have not requested any adjustments in advance. This might involve having accessible rooms identified and available for interviews.

Key questions for staff concerned with admissions processes to consider

- Have you reviewed entry criteria with course or programme managers to ensure that any competence standards are fit for purpose and not discriminatory?

- Have you reviewed interview practice, particularly if this involves pre-entry tests, to ensure that disabled people are not disadvantaged and all applicants have an opportunity to demonstrate their strengths? For example, do you provide rest breaks for a potential student with a medical condition, or additional time for a potential student with dyslexia?

- Are all admissions staff aware of the disability equality duty? What aspects of practice have they identified where they can further promote disability equality within their job role and responsibility?

- Have all staff involved in recruitment, selection and admissions undertaken disability equality training?

Encouraging disclosure

Section 1 discussed the need for organisations to be proactive in encouraging disclosure. Admissions processes provide one opportunity for this activity. It is important that admissions staff recognise the reasons why students might be reluctant to disclose a disability. To begin with they may understandably be concerned about how any information they give might be used and therefore there need to be transparent procedures in place which ensure that students are aware of why questions are being asked and that any information received will be dealt with confidentially.

Secondly, a study (DWP, 2002) has shown that a very large proportion of people who may be technically covered by the DDA definition of disability do not actually perceive themselves to be 'disabled'. Students who may be covered by the DDA will use a variety of language to name and explain their 'disability' and the support they require. Questions need to be posed to take account of this. This might include

questions about the nature of the support required and the barriers they are facing in college or university, as well as questions relating to specific impairments or health conditions.

A college was concerned that disclosure rates during admissions processes were low. Discussion with a focus group of disabled students revealed inconsistent practice during the interview process; some tutors only discussed academic support, while others discussed other support options if students had indicated an impairment or health condition on the application form. When the college investigated this, some tutors expressed concern about the intrusive nature of questions that asked students if they had an impairment or health condition. They therefore avoided this set of questions in the interview process.

As a consequence, interview documentation was revised and disability equality training was provided for all those involved in the interview process. The college now has a standardised approach, part of which involves promoting, to all students, the support available and asking students if they would be interested in further information or a confidential interview to discuss support options. This approach focuses on procedures and processes of the college, rather than on a student's impairment or health condition, and recognises that some of these are 'unseen'. Disclosure rates during admissions have improved significantly.

Such actions help to eliminate disability discrimination. In addition, by ensuring that disability equality training is mandatory for all staff, particularly those involved in the admissions process, the provider is giving due regard to promoting disability equality, an important element of the DED.

Appropriate opportunities for disclosure should also be provided during enrolment. This is particularly important for open enrolment courses that do not require an interview.

An adult and community learning (ACL) provider carries out a large number of telephone enrolments, and staff were anxious about disclosure over the telephone, for fear of causing offence. The organisation produced disclosure procedures that included a script for staff to use during a telephone booking when asking about possible support requirements. The fact that support is available is now described and the applicant is now asked:

'Would you like our learning support officer to contact you, in confidence, to discuss options or can we send you further information in the post?'

Once disclosure has taken place to a member of staff then in legal terms the whole organisation is deemed to know. However, if the disabled person has not given permission for this information to be shared with the rest of the organisation then this would impact, in legal terms, on what the organisation could reasonably have done for the student. As has been seen in Section 1, under the DDA it is up to the organisation to have effective channels of communication to pass information to relevant staff. It is not up to the disabled person to fulfil this requirement.

During the enrolment process, a student explained to a member of staff at reception that she was a disabled person and required certain adjustments. When the student turned up for her first class, these adjustments had not been put in place, and the tutor was unaware of these requirements. The member of reception staff had not realised her responsibilities in passing on such information, with student consent, to relevant staff. As a result the organisation has developed new disclosure procedures that explain how information can be passed confidentiality to others, with student consent, and the responsibilities of staff in this process. The new procedures have been used as a pivot for training for all staff on disability disclosure and confidentiality.

Many providers have made considerable progress in improving disclosure processes for students, recognising that disclosure is more effective if disabled people:

- know what will happen next if they disclose on application or other forms

- appreciate the benefits of disclosure

- understand the levels of confidentiality in place

- are reassured that discrimination such as stereotypical reactions are unlikely to take place.

Disabled people will be more comfortable in disclosing if the process takes a social rather than medical model approach, focusing on the support or reasonable adjustments that can be provided rather than focusing on someone's impairment or medical condition. The social model is an underpinning principle of the DED. Refer to Section 1 for the definition of the social model of disability and to Section 1.6 and Appendix E in The Duty to Promote Disability Equality Code of Practice (England and Wales), and Appendix F in the Scottish Code.

A college ensures that there is a section on their enrolment form for disabled students to disclose impairments or medical conditions. The question consisted of a list of different impairment categories and applicants were asked to tick the relevant box. The forum of disabled students in the college said that they did not like this tick-box approach, and there was no explanation of how the information would be used. Disabled staff expressed unease at the medical model approach. As a result, the enrolment form question has been revised to include the support provided by the organisation. The question provides some examples of disabled people and explains what will happen next if the applicant chooses to disclose on the enrolment form. Applicants are informed that they will be contacted in confidence to discuss support options and any information will not be passed to others without the consent of the disabled person.

Staff were also concerned that if students disclosed after enrolment, no mechanism was in place to update the database. They recognised that this would affect the reliability of judgements when gathering and using this information on student recruitment, progress and performance. New disclosure procedures ensure that whenever students disclose, information is passed, with student consent, to staff responsible for updating the college's management information system.

There are two main reasons why it is important to know if staff, students and service users are disabled. The first is to make sure that the reasonable adjustments they require are put in place. The second is to provide information that you will need to use as part of the monitoring requirements of the DED. A general question about support alone will not give institutions the data they need.

Institutions need to collect data on various impairments and health conditions which are covered by the DDA to check that people with impairments or health conditions are not having adverse experiences or being discriminated against compared to non-disabled people or people with different impairments. The barriers that disabled people face vary according to the type of impairment or health condition.

There is further information on disclosure in **Do you have a disability – Yes or no?** Learning and Skills Development Agency (LSDA), 2005.

Key questions for staff to consider on disclosure:

● Does your prospectus and other information indicate who potential disabled applicants can contact to find out further information on the adjustments available? Do they encourage the applicant to contact the organisation to discuss the support on offer?

● Do you have appropriate processes for encouraging disclosure during admissions and induction? How might these be improved?

- Do you have robust procedures in place to refer disabled applicants to staff responsible for supporting disabled students, following disclosure? Are disabled people themselves central in deciding exactly what information is passed on to whom, and are they aware of their right to ask that this information is kept confidential or restricted to certain members of staff?

- How are disabled applicants provided with opportunities to discuss support options at interview and at enrolment? For example, is a private area available for applicants to discuss support requirements in confidence?

Discussing reasonable adjustments

To meet the requirements of the DDA, colleges, universities and adult community learning providers must have robust processes in place to discuss reasonable adjustments for disabled students who disclose. These include clear referral mechanisms between staff involved in admissions and staff responsible for supporting disabled students.

Students who disclose at any point during the admissions process are contacted by staff to arrange a confidential interview to discuss support options. At this interview, the adjustments that can be put in place are discussed and agreed. The student is informed that if they choose to enrol at the organisation, they will be contacted to check if anything has changed and to sign a consent form to pass information on to relevant staff in the organisation.

The organisation routinely sends, within offer letters to successful applicants, information on the support available for disabled students, where further information can be obtained and the contact details of key staff.

Key questions to consider when anticipating requirements:

- Do you have procedures for referring students who have impairments to those with whom they can discuss support requirements?

- Are all staff aware of these procedures?

Reviewing admissions, selection and recruitment processes
Providers should regularly review their admissions and selection processes, including the way courses are delivered and assessed. Under the DED, providers will need to impact assess all their policies, procedures, plans and practices, and it is good practice to involve disabled people in any such reviews. Further details in relation to impact assessment are provided in Section 2 of this guidance.

A college carried out an impact assessment of its admissions procedures. The marketing department designed and displayed posters around the college asking disabled students to participate in a forum. Twelve disabled students were involved, with experience of a wide diversity of impairments and medical conditions. They gave positive feedback on the support available, but said that:

- they found the enrolment processes confusing and the enrolment form difficult to read

- when they initially informed staff of their impairment or medical condition, they were 'passed around too many people'

- information about the support available was not consistently discussed by tutors at interview and induction

- they would like the forum to continue so that they 'could have more of a voice within the college'.

The college is undergoing a merger and the outcome of this impact assessment has significantly influenced the new structure. A post has been created within Student Services to provide a central point for advice and guidance for disabled students and to co-ordinate support. Other outcomes of the impact assessment process include:

- new guidelines for staff conducting interviews

- revised enrolment forms, including online availability

- revised procedures following disclosure during admissions, and tightening up of communication between admissions and the support department

- new information leaflets to provide clear advice and guidance for additional support.

The student forum will be retained to help ensure that these changes are working well in practice and to provide advice on other aspects of college activity.

Providers will need to gather data and information on disabled applicants to courses in order to meet the requirements of the DED. For example, an education provider should gather data on the numbers of disabled applicants and the numbers of disabled students subsequently recruited onto courses, as well as retention rates. Such data may highlight equality gaps and allow the provider to put actions in place to encourage more disabled people to apply. Further details about requirements in relation to data and information gathering can be found in Section 2 of this guidance.

Key questions to consider when gathering and using information on admissions:

- What qualitative and quantitative information will you gather and use to inform planning and improve practice? For example, the views of disabled people on publicity materials and interview experience, the numbers of disabled applicants who apply, are interviewed, and choose to enrol, the reasons why disabled applicants choose not to enrol, outcomes of satisfaction surveys on admissions processes which are disaggregated by disability and learning difficulty to establish the views of disabled students.

- How will you use this information to inform planning and improve practice?

3.3   Frontline services

Frontline staff, such as staff employed in reception, security and Student Services play an important role in welcoming and providing good customer care for disabled people. These staff are often the first point of contact for potential employees, students or people using the services of an organisation, and are therefore able to provide important advice and guidance for disabled people.

Julie, a student at a HE institution, had a particularly difficult time doing her A levels at school following a car accident which left her disabled. Her results hadn't gone as well as she'd hoped due to difficulties following the accident. When applying for a place through clearing, what made a big impact on her was a friendly voice on the other end of the phone. She found the admissions person very helpful and this had positively influenced her decision to join that particular institution. In addition, there was also a useful and prominent section in the prospectus which clearly outlined all the facilities and resources the university was able to provide for disabled students.

Frontline staff also includes porters, residential wardens, security staff, catering staff and those with cleaning and caretaking responsibilities. To ensure that frontline staff understand how they might anticipate disabled people's requirements, they should be trained in DDA awareness and disability etiquette. All staff need to be confident in working effectively with disabled people. They also need to know what provisions are available for disabled students and disabled people using the services of the organisation, and the process for ensuring that reasonable adjustments are made.

The attitudes and assumptions of staff can sometimes present a greater barrier than the physical infrastructure.

Iraina, who is a wheelchair user, applied for a post at a university. She had stated on her form that she had access requirements and requested a parking space. She arrived for the interview and was impressed that a parking space for disabled people had been reserved for her. Reception staff greeted her courteously and showed her into the Student Services area. Unfortunately, this positive first impression was spoilt because the staff member had assumed that because she was disabled, she was a prospective student, not a prospective staff member.

Key questions for frontline staff to consider:

Anticipating the needs of disabled people:

- How can you prepare to meet the needs of disabled staff and students that you work with or come into contact with? What kind of training have you received to assist you in meeting the requirements of the DDA? Are there other kinds of training that you can identify that would help you to do your job? Who would you ask about this?

- What procedures and policies are there in place to support disabled people as they enter and enjoy the facilities and services of your organisation? Who is responsible for these policies and procedures? How approachable are they?

Reception and security:

- How do you anticipate the needs of disabled staff, students and visitors you may come into contact with? For example, how might you communicate with people with sensory impairments?

- How would you help someone who has difficulties with their hands to show a pass or ID?

- What kind of facilities are there at reception to enable people with mobility difficulties? For example, are there chairs nearby to sit down on?

- How would you support someone with a visual impairment to find their way in your organisation? For example, are you able to guide someone to their destination?

Catering and accommodation:

- Are staff in catering aware of people with different medical conditions or specific impairments who may require alternative ways of being served? For example, is there a system in use for people with Asperger's syndrome who may require being served at non-busy times? Are there lowered tills for payment?

- What kinds of assistance are you offering at present to disabled people who use your facilities? For example, do you offer to carry a tray for someone who is unable to do so? How do you offer help to read the menu for a student with a visual impairment and/or learning difficulties?

- If you have a resident student who was distressed due to a mental health difficulty, are you confident in being able to support the student? What kinds of training would you need to support you in this?

Cleaning and caretaking staff:

- Are you aware of any precautions you might need to take to ensure the wellbeing of disabled people? For example, when cleaning corridors or other areas, do you ensure that you don't leave anything that may cause an obstruction, eg a bucket etc? It is important that staff adhere to health and safety procedures.

- How can you ensure that areas that are slippery after being cleaned are not a hazard? For example, by closing off areas. Are you careful not to use the accessible toilet for storage purposes?

- It is important not to rearrange the room that a student who is blind or visually impaired uses as the student will be unfamiliar with any changes.

3.4 Estates

Estates managers and staff are crucial in ensuring implementation of the DDA. The DDA covers all aspects of the physical environment. This means that estates staff need to take a 'pan disability' approach. They need to be aware of the requirements of people with physical disabilities, for example ramps, lifts, accessible toilet facilities and flexible height desks. They also need to ensure their buildings are accessible for those with sensory disabilities, for example loop systems and flashing fire alarms for deaf people, clear signage, Braille instructions, contrasting paintwork and good lighting for those who are blind or partially sighted. Section 12 of the Post-16 Education (Revised) Code of Practice (2007) explains the legal considerations when making reasonable adjustments to premises.

Planning

All new building plans should be disability equality impact assessed to ensure that inclusivity is central to design features and the requirements of disabled people are built in at the start of any project. A full access audit is key to determining the strengths and weaknesses of existing physical features and will help determine what changes are required to improve accessibility. Existing physical features should be regularly reviewed to see what changes are required to improve accessibility. Required actions should be prioritised and a plan drawn up showing clearly what will be done and when. This plan needs to be regularly monitored and reviewed.

Many providers have made substantial adjustments to ensure the physical accessibility of buildings. However, it can take time to ensure buildings are fully accessible, and interim actions should be considered so that disabled people are not substantially disadvantaged and so that equality of opportunity can be promoted.

The learning resource centre at a FE college installed a lift to improve the accessibility for wheelchair users and others for whom the stairs are a barrier to access. However, the centre has some resources on a mezzanine floor that has no access. Plans are in place to rectify this issue, but these will take 18 months to implement. The centre invited students who are wheelchair users to provide advice on what could be done on an interim basis. As a result, the college:

- carried out a survey of all resources, found what was least used and put those resources on this floor

- produced a guide on resources and support available at the centre, including those for disabled students

- liaised with learning support staff to arrange for any new student who cannot easily access resources to have a planning meeting with learning resource staff; at this meeting staff discuss the support that can be offered including times when staff are available to go up and down to get resources from the mezzanine floor

- revised the disability statement to explain plans and interim arrangements for the learning resource centre.

Assistive technology and technological aids
As well as the physical environment, estates staff are often responsible for purchasing and managing specialist equipment. In this role they need to ensure that their organisation has a range of equipment to respond to specific requirements of disabled people. They also need to make sure that all staff are aware of the existence of this equipment.

A college has purchased a range of equipment and software for disabled staff and students, including alternatives to standard mouse devices and keyboards, task lamps, ergonomic pens and specialist software. Many items have been purchased for specific students. The

estates manager was concerned that teaching and learning support staff were often unaware of what was available, with equipment tucked away in cupboards and not used. To help ensure that all staff know about what is available, they created a simple database which was circulated to all staff.

Working in partnership
Estates managers might well benefit from close working relationships with local disability organisations (for example a local branch of RNIB) in order to find out the most appropriate access equipment available and to explore how best to purchase or loan it. Where these organisations are skilled in carrying out access audits, they might also agree to audit the college or university in order to point out accessibility issues which could be improved.

Accessibility
Staff responsible for timetabling should be fully aware of access issues, for example accessibility of teaching rooms or laboratories, the presence of loop systems, and whether the room has fixed and movable seating. This will ensure that sessions can be timetabled in accessible teaching environments when required, as an interim measure while the accessibility of estates is improved.

Issues of accessibility are important not just for students, but need to be considered for service users and staff as well.

The HR Department in one college is located on the second floor of a listed building that has no lift. The provider recognised the importance of ensuring that all staff could access HR whenever they needed to and has therefore set aside meeting space on the ground floor of the building. Any member of staff, therefore, can book appointments with HR and meet with them on the ground floor.

Health and safety and risk assessment
Estates managers will be responsible for ensuring that their

health and safety policies and procedures are inclusive of disabled people. They will need to ensure that emergency evacuation arrangements include, for example, flashing light fire alarms for Deaf people and alternative evacuation strategies for those with mobility difficulties. They will also need to liaise with other staff (for example a disability co-ordinator) to develop risk assessment procedures which include an awareness of the needs of disabled people.

Promoting positive images

Estates staff need to think not only about the accessibility of their buildings but also about how much the appearance of their buildings is welcoming to disabled people and promotes positive images of disability. For example, whether wall displays feature disabled students, or general posters include images of disabled people.

Staff training

Not just the estates manager, but all staff in the estates team, will need to know about the DDA and have the opportunity to receive disability equality awareness training. This will include staff who might not be directly employed by the college or university such as canteen, security and cleaning staff (for more information on Procurement see Section 3.5).

Monitoring the environment

Even when physical access has been significantly improved, estates staff have a vital role in ensuring that areas remain accessible for disabled people. For example, estates staff should ensure that accessible car parking bays are monitored to prevent misuse. Accessible toilets should be properly maintained and not used inappropriately, for example to store cleaning equipment. Corridors and other routes should be kept clear of obstructions that might hinder the movement of disabled people. Hearing loop systems should be regularly serviced. Estates staff will also need to ensure that any faults which are reported are dealt with as a matter of urgency.

It is very important that disabled people themselves should be a part of the monitoring process. They are the people who are directly affected by any problems in the environment and

their views should be sought, listened to, and incorporated into future plans. The people involved in improving practice should cover those with a range of impairments – those with mobility difficulties, those who are blind or partially sighted, Deaf people and those with learning difficulties, as each of these groups have significantly different access needs.

Key questions for staff concerned with estates to consider when continually improving accessibility:

In terms of the accessibility of your building:

- Do you take a 'pan disability' approach ensuring that your building and equipment cover the full range of disabled people and not just those with mobility difficulties?

- Do you impact access any new building plans as well as review the accessibility of existing structures? Are improvements which need to be made prioritised and drawn together into a clearly monitored plan?

- Have you recently undertaken an access audit of the premises?

- Do you ensure that your plans for building improvements and purchasing specialist equipment are clearly budgeted?

- Do you work with local partner organisations in order to draw on their expertise?

- Are your health and safety policies and procedures inclusive of the requirements of disabled people?

- Is your building welcoming to disabled people and does it include positive images of those with disabilities?

- Are all your staff aware of the requirements of the DDA and do they have the opportunity to receive disability equality awareness training?

In monitoring the accessibility of your organisation:

- Do you ensure that accessibility is regularly monitored and that any faults are dealt with swiftly?

- Do you involve a range of people with different disabilities in helping you improve accessibility and do their views inform your annual planning?

- Do you build monitoring into your planning to ensure that your access is continually improving?

3.5 Procurement

Colleges, universities and adult community learning providers have duties under the DDA for all services provided in their organisation. This includes services which may be contracted out to other providers. Many organisations contract out particular services and functions. This can include ongoing services such as cleaning services, security and catering and also one-off services such as building works or staff training. Many organisations use agencies to provide other services such as teaching or administrative staff. The college or university needs to ensure that those it has contracts with fulfil their duties under the DDA.

Detailed information on the DED in relation to the procurement of services is provided in the DRC guidance **Procurement and the Disability Equality Duty** (DRC, 2006).

Procurement of services
In its procurement of services the college or university needs to ensure that all services it may contract out are delivered in a way which takes account of their duties under the DDA. Those with responsibility for drawing up contracts need to be aware of their duties under the DDA and build disability equality into the contract which they draw up. Many of the services which are contracted out are ones which are central to the inclusion of disabled people, for example how disabled people are received by security guards when they first enter the building or whether specific staff training sub-contracted by an organisation is accessible to staff with disabilities. There might be instances where contracts need to specify ways in which disabled people are treated more favourably than others, for example:

A university is contracting out marketing the university to potential students. It is aware, through its general evidence gathering, that it gets very few applications from disabled people. The contract sets specific targets for an increase in the number of enquiries from disabled people about courses and requires the contractor to establish an effective monitoring system to assess the impact of their work.

Monitoring and enforcement

When a contract has been agreed the college or university needs to ensure that it is monitored in accordance with how well it complies with duties under the DDA. Organisations may wish to build in specific clauses which serve to monitor the performance of the contracted service in relation to disabled people:

A further education college has a sports centre which it contracts with a private company to run. There are specified actions and targets within the contract for increased usage and satisfaction by disabled people. Under the contract the college expects the company to monitor the number of disabled people utilising the various sports facilities and the satisfaction levels of disabled people. The college reviews these performance data on a regular basis, and if these targets are not achieved there is a facility for the college and the contractor to agree on further actions to encourage disabled people to use the centre.

A university subcontracted its catering facilities to a local firm. The university received a number of complaints from those who used the refectory about staff who would not read the menu out to students who were unable to read it because staff said they were too busy. The university contacted the catering organisation and explained that this was a reasonable adjustment that was required under

the DDA. The contractor informed the catering staff who now offer to read the menu unprompted. When the contract came up for review, the university inserted a clause about the importance of ensuring compliance with all aspects of the DDA, including making reasonable adjustments for disabled diners.

Involving disabled people

Duties under the DED require colleges, universities and adult community learning providers to 'involve disabled people' in developing their Disability Equality Scheme. Colleges, universities and adult community learning providers may want to look at ways in which disabled people can be involved in the development of procurement policies and strategies and in the effective implementation and monitoring of these.

Key questions that staff concerned with procurement might wish to consider:

- Are all staff who are involved in procurement aware of their responsibilities under the DDA?

- Is disability equality built into all procurement contracts?

- Are all procurement contracts regularly monitored to ensure they are fulfilling their disability equality duties and is relevant action taken if this is not happening?

- Is disability equality training offered to contracted staff?

- Are disabled people actively involved in development and monitoring of procurement policies and strategies?

3.6   Induction

Under the DDA Parts 2 and 4, education institutions must not discriminate in their induction procedures for their staff and students. To meet the requirements of the DDA, teaching and HR staff will need to ensure that induction procedures are fully accessible for disabled people.

The induction process is often the first opportunity for disabled people to explore whether barriers exist in their new working or studying environment, and how these might be overcome. By ensuring that induction activities are accessible, disabled people will settle into the course or job quicker and feel more at ease with their new surroundings and colleagues or peers. Induction can be an intimidating experience for students or staff who are new to an organisation. For example, one woman student with mental health difficulties spoke in a Learning and Skills Development Agency DVD, **Learners' Experiences** (LSDA, 2004) of how terrified she became when the tutor asked each student to stand up and say something about themselves. Those organising induction need to be sensitive to and accommodate individual concerns.

Induction provides an important opportunity:

- to raise awareness among all staff and students, whether disabled or not, about the importance of disability equality
- for the organisation to promote the adjustments that can be put in place for disabled people.

A local authority (LA) contracts out adult and community learning (ACL) provision to a considerable number of centres, and has produced a leaflet to help ensure that disabled students and potential students are aware of the options and availability of support. The leaflets summarise the support available, the accessibility of different centres, and provide named contacts and telephone numbers for further information. Centre managers are responsible for displaying the leaflets at each site and ensuring that tutors discuss support options with students at the start of the course.

Disabled people may choose not to disclose during the recruitment or admissions processes. As has been shown above (under Encouraging disclosure in Section 3.2, Student Admissions) they may well not recognise that the term 'disabled' applies to them; they may be concerned that

information they disclose might jeopardise their chances of a job or a place on a course; they may worry that they will be treated unfairly or be concerned about potential stereotypical reactions. Disabled people may feel more comfortable about discussing their reasonable adjustment requirements once they have been offered a job or a place on a course. It is therefore important to provide ongoing opportunities, such as during induction, for disabled people to disclose any reasonable adjustments that they may have. Staff should explain the benefits of disclosure, how information will be kept confidential and what will happen next.

> A university ensures that all students have at least one induction session at the start of their course. For many, this involves an opportunity for students to find out more about the university and the course, such as the location of the canteen, the course content and methods of assessment. Students are also introduced to key policies and procedures, including the equality and diversity policy and procedures for reporting on complaints, bullying and harassment. During induction, the support available to disabled students is promoted and all students are given an opportunity to disclose, in confidence, any support requirements.

Induction can be an ideal opportunity for staff as well as students to disclose an impairment or health condition.

> A large FE college updated its induction process to include an equality and diversity module that makes clear the mechanisms for arranging support for disabled staff, including providing information about Access to Work. The college also revised a procedure for staff who disclose an impairment or medical condition after appointment or who become disabled during employment. Shortly after introducing the module, a new member of staff attended induction, and after the session explained to the trainer that he was struggling to hear in his classroom. As a result, the new member of staff had a technical assessment and reasonable adjustments were put in place. He was

allocated a teaching classroom with an induction loop system and he was given a telephone with a microphone in his office. The member of staff commented on how supportive the whole process had been and how his working environment had been significantly improved.

Reasonable adjustments may include tailoring induction activities to the requirements of the individual, to ensure that a disabled person is introduced to a new course or new working environment in a clearly structured and supported way. At times it may be necessary to take steps to take account of disabled people's disabilities, even where that involves treating disabled people more favourably than others. This is an important aspect of the DED, which explicitly recognises that equal opportunities cannot be achieved simply by treating disabled and non-disabled people the same.

In addition to its usual procedures for student induction, a college provides disabled students with the opportunity to participate in an induction day. This normally takes place before the term starts, and allows students to undertake a variety of activities tailored to their requirements. For example, students have the opportunity to undertake orientation tours, to help familiarise themselves with the college layout. They can meet college staff such as those working in the canteen and learning resource centre, at a time when the college is quieter than usual. They can have 'taster' sessions to introduce students to teaching staff. They can spend time with support staff to discuss and agree the adjustments that will be put in place when their course starts. They can meet with learning support assistants so that these staff are familiar when providing support once term starts.

As well as information about the organisation, the course and teaching and learning activities, induction should provide opportunities to learn about social activities that take place, such as Freshers' Week.

One student union organised a consultation day with current disabled students to ensure that it could offer fully accessible events during Freshers' Week. One of the main events that took place was a debate featuring some local celebrities, and, as a result of the feedback, the union considered how to ensure the debate was accessible to all people who wished to participate in it.

Most students enjoy taking part in social activities and it is important to ensure that disabled students can participate fully at such events. The DDA Part 4 covers all activities that are provided by the institution as a service to students, including social activities, residential accommodation and Freshers' events. All Freshers' events and social activities put on by the student union are covered by the DDA Part 3.

Karen, a blind student in her first year at university, thoroughly enjoyed Freshers' Week. She found that the way the accommodation had been organised enabled her not only to make friends easily but also provided her with a group to be with to enjoy the various activities that were on offer. She was also able to find her way round easily and avoid getting lost. Being placed in a flat with four other students helped her to feel included and part of the wider social network that is such an integral part of student life.

Providing information about social events not only helps in making disabled students feel included but is also an excellent way to encourage new friendships which are an important element in joining any new organisation.

Laura, a student with learning difficulties at FE college, was happy to be given lots of information on the social side of college and the student union, as well as information about the course. This helped her to make friends more easily by identifying activities she could go along to. This contrasted with Tom's experience where he says that there is nothing at his college to help students mix although he does sometimes see people when he is in the canteen.

Julie found the first week on campus very busy with lots of information to take in. But she really enjoyed the fact that information was available about all aspects of university life, including social clubs and events as well as financial support, disability support and information on courses. It helped her to make friends and gain a sense of belonging at the university.

It is important to remember that induction for service users is an ideal opportunity to build in and include information for disabled people to ensure that they are fully included, as the example below demonstrates.

A disabled person wanted to use the gym facilities and pool at an organisation. The organisations offered an induction programme to all users of facilities. The induction programme included information, on request, about how to use the aids and adaptations, such as the hoist.

Key questions staff might wish to consider about induction:

- Have all staff examined their induction activities to ensure that they are accessible to all those participating in them?

- Do you use induction as a time to promote disability equality amongst all students and staff?

- If a particular access issue is raised by a disabled person during induction, do staff attempt, if at all possible, to respond quickly and flexibly in order to address the issue?

- Disabled staff or students may not have disclosed their disability prior to induction. Do you provide additional opportunities for disclosure during induction?

- Do you, where appropriate, provide additional, specially tailored induction for disabled students or staff?

- Do you ensure that induction for disabled students also includes ways that they can learn about and choose to participate in social activities?

3.7 Anticipating and making reasonable adjustments

The duty to make reasonable adjustments is a cornerstone of DDA legislation, and requires education providers to take positive steps to ensure disabled people can successfully access education, services or undertake employment.

The question of 'reasonableness'
The DDA does not permit an organisation to justify failure to make a reasonable adjustment for any disabled person – staff, student, or service user – where the duty applies. It is a question of 'reasonableness' that alone determines whether the adjustment has to be made. Particular factors may be taken into account when determining what is reasonable, and these will vary according to:

- the type of service being provided

- the nature of the service, and its size and resources

- the extent to which it is practicable for the adjustment to be put in place.

For disabled students, further information can be found in Section 5 of the Post-16 Education (Revised) Code of Practice (2007). The Code points out that:

> **Even when an education provider's specific disability budget has been exhausted, they will still be required to make reasonable adjustments** (5.42)
> **The resources in practice available to the education provider as a whole should be taken into account as well as other calls on those resources** (5.47)

For disabled staff, further information can be found in Section 5 of the Employment and Occupation Code of Practice. It is also worth highlighting that:

> **For larger employers, it is good practice to have a specific budget for reasonable adjustments but limitations on the size of any such budget will not affect the existence of the employer's duties to disabled employees** (5.36)

Anticipating requirements

Under Parts 3 and 4 of the DDA, providers are expected to make 'anticipatory' adjustments and not simply wait until a disabled student or visitor requests support.

Whilst there is no explicit duty on employers to anticipate reasonable adjustments for potential disabled employees under Part 2 of the DDA, the DED requirements to eliminate disability discrimination may require providers to adopt a similar proactive approach, anticipating the needs of their disabled staff and applicants.

Wherever possible, job roles and responsibilities and teaching, learning, research and assessment activities should be designed from the start with the requirements of disabled people in mind. Staff providing a service for people who are not their students or staff should also build in accessibility requirements when designing services. For example, this may mean ensuring that conference facilities are located on one floor or have lift access to different floors, and that accessible toilets and equipment such as hearing loops are readily available.

This helps to ensure that staff are responding appropriately to the anticipatory duty of the DDA so that only minimal adaptations need to be made for many disabled people.

A university received a complaint from a disabled student that not all tutors were making the agreed adjustment of providing handouts in advance in electronic format. The organisation recognised that this is a common anticipatory adjustment for disabled students, for example students who lip-read, students with dyslexia and students with visual impairments. The university agrees timescales to ensure staff have teaching notes available in this way. All full-time teaching staff have reached this target and the university is now working on agreed timescales for part-time staff.

Tutors or supervisors may have students with undeclared and unseen impairments and medical conditions, such as dyslexia, epilepsy or a mental health difficulty. It is helpful for staff to be aware of the more common barriers to learning or research that can be experienced by disabled students so that anticipatory adjustments can be made wherever possible.

A college wants to embed disability equality within general teaching and learning practice, particularly in terms of making reasonable adjustments for disabled students. They have chosen to focus on the curriculum area of art and design, which has traditionally attracted high numbers of dyslexic students. A working group has been set up, led by the head of academy, comprising tutor representatives, the learning support manager, two dyslexia specialists, the staff development manager and dyslexic students. They are working towards the Quality Mark for dyslexia, awarded by the British Dyslexia Association. The philosophy underpinning the Quality Mark is that changing practice to accommodate dyslexic individuals often results in good practice for everyone. Since the majority of dyslexic students will be taught in mainstream classrooms by non-specialist tutors, it is important that, as well as employing appropriate teaching methods, all environments are dyslexia friendly. This helps to meet the individual requirements of dyslexic students who have disclosed their support requirements as well as meeting some of the requirements of dyslexic students who have not disclosed.

To obtain the Quality Mark, colleges must achieve a number of standards, including ensuring:

- a robust system for referring students for diagnostic assessments for dyslexia
- signage and facilities which enable easy navigation around the college
- staff understand and put into practice policies which promote inclusive teaching and learning

- whole-college training on dyslexia takes place at regular intervals to all full-time and part-time staff.

The senior management team are committed to rolling out the programme to all curriculum areas.

However, it is unlikely that every requirement can be anticipated and tutors may need to build in both anticipatory adjustments and specific individual requirements.

Agreeing and implementing adjustments for disabled students

Once a disabled person approaches the provider to discuss a reasonable adjustment requirement, it is important that the provider then has appropriate processes to identify, agree what is reasonable, implement and, ultimately, review the reasonable adjustments that have been made.

A college revised its documentation and processes for agreeing additional support. Each student who discloses an impairment or medical condition is offered a confidential interview with staff responsible for supporting disabled students. At this interview, a 'student profile' is completed to help identify and agree relevant support requirements. This document is split into a number of different sections, including:

- student interest and future plans
- previous education and support
- the nature of the course applied for
- general and specific learning difficulties
- behaviour and social support
- physical, sensory and medical support
- communication support.

Previously, copies of the student profile were sent to tutors but much of the information was not relevant or appropriate to pass on, and tutors were unsure what they should do and what adjustments they should make.

With revised procedures, the student and the member of staff at the confidential interview complete a student profile to identify the support that can be put in place. The student and member of staff then complete an 'agreed support plan'. This plan is subdivided into a number of sections that concisely specify the responsibilities of learning support, teaching staff, examinations staff and non-teaching staff such as those in the canteen and learning resource centre. A form is signed by the student who can give consent to:

● pass this agreed support plan to appropriate staff
● restrict this plan to certain staff only, or
● keep information completely confidential.

The agreed support plan is reviewed with the disabled student every six weeks to ensure that adjustments have been put in place and are working well. The regular review also ensures flexibility in providing support if the reasonable adjustment requirements of the student change over time.

In an inclusive organisation, many adjustments are easily implemented with little expense. However, education providers should continually look to improve accessibility and this may involve meeting the requirements of disabled students with more complex needs.

A student with cerebral palsy and no speech applied to a further education college. Several meetings were held with staff, the student and a parent to discuss courses and options available. College staff also visited the student's school and home and liaised with the student's social worker.

A programme was specifically designed to meet the wishes of the student, with additional units added to create an individualised learning programme.

Physical changes were made to the building, including

alterations to an accessible toilet to include a hoist, rails and further washbasin facilities. Equipment was purchased including a changing bed for personal care and computer software for the course.

The college consulted with a communication expert who had worked with the student previously, advising on communication methods. As a result, a communication guide was written and shared with all teaching staff and learning support assistants who work with the student. Staff have noticed visible improvements in communication in the short time that the student has been at the college.

A learning support assistant has been employed by the college to provide academic support, and all staff working with the student were introduced to ensure that the student was comfortable with each member of staff.

Tutors or supervisors may also have students who require individual support from a specialist member of staff such as a sign language interpreter, scribe or learning assistant. In these situations, tutors will want to talk with this person and the disabled student so that they can work together effectively.

A research student who used a sign language interpreter had longer sessions with his supervisor to ensure that they could cover all the appropriate issues without feeling rushed.

It is important to respect the rights of disabled students to confidentiality, even if this may affect the adjustments that can be put in place.

A disabled student with a visual impairment requires handouts to be made available in font size 18 point. However, he does not want other students to know about his impairment. The tutor agrees to provide handouts in this

format, in advance. Handouts with a font size of 12 point are provided during class. Although not ideal, this adjustment respects the right of the disabled student to confidentiality.

Agreeing and implementing adjustments for disabled staff
Many colleges, universities and adult community learning providers recognise that the processes for identifying, agreeing, implementing and monitoring reasonable adjustments for disabled students are more developed and effective compared to the processes in place for disabled staff. The approach taken for students that is most effective involves detailed discussion with staff who understand support requirements and who can arrange for the provider to put in place reasonable adjustments.

There should be an equivalent infrastructure in place for disabled staff. However, the approach taken for disabled staff can be very different as they are often referred straight to occupational health advisers, rather than discussing the issue with their line manager or other appropriate member of staff. Line managers should be aware of the adjustments that can be put in place by the organisation, the government funding available and the process for arranging such adjustments. Robust procedures should be in place for identifying, agreeing, implementing and monitoring reasonable adjustments for disabled staff. Responsibilities need to be clearly identified and while staff may want to seek the advice from those experienced at providing support for disabled students, the overall responsibility for providing support should rest firmly on the shoulders of HR.

Following a survey of disabled staff, a college discovered that reviews of reasonable adjustments across the institution is patchy and depends entirely on whether or not line managers have implemented a process for discussing these with a member of staff either during the appraisal or at other points of the year. Some line managers are very proactive and annually review the

adjustments that have been made and others have never discussed it with the staff that they manage. The college decides to amend the appraisal policy to introduce an opportunity during appraisal for all members of staff to discuss the issue of reasonable adjustments with their line managers.

Specialist advice may be required to assist in the process of identifying and implementing reasonable adjustments, but should not be used as an excuse for not having an appropriate infrastructure in place to meet the requirements of disabled staff.

A disabled member of staff explained that there was no point in disclosing her disability as the organisation did not have mechanisms in place to identify support requirements or arrange adjustments. She thought that there would be no benefit in disclosing, only potential disadvantages, such as this information adversely affecting her promotion opportunities.

Another member of staff said that her impairment was not easy to explain and its effects on her work were not always the same. She said that she was not clear about who she should talk to and was not confident that declaring her impairment would make any difference to her situation at work, as previously anxieties and questions had been misunderstood as complaints.

Staff at the organisation have recognised that there is insufficient overall co-ordination of the support given to disabled staff. Currently it is 'split between the line manager, learning support department, human resources and the health and safety adviser, without any of these departments or job holders having specific or identified responsibilities'.

These issues will be addressed and prioritised within their Disability Equality Scheme.

The following example illustrates the importance of, not only listening to the views of disabled staff, but acting appropriately when responding to their needs using a social model approach to disability (see Section 1 for the definition of a social model approach).

A university forms a focus group of disabled staff to help to identify priorities for the organisation's Disability Equality Scheme. Two of the disabled staff express their dissatisfaction with recruitment activities. Upon disclosing their impairments, HR staff simply referred them to occupational health advisers, where they were required to complete a medical questionnaire. They said that this was an unnecessary experience as they were clear about the adjustments they required and felt that this was an 'additional hurdle' for them in the recruitment process. They were also concerned that the occupational health advisers took a medical model approach to the process.

The above example contrasts strongly with experiences of disabled staff in the organisation below. Processes to agree and implement reasonable adjustments can play a large part in encouraging disclosure. The above organisation has 2.2 per cent of staff who have declared that they are disabled, compared to the organisation below in which 7.6 per cent staff are disabled.

Disabled staff who disclose in the organisation, either at recruitment or after joining the organisation, automatically have a confidential interview with the personnel manager. Adjustments are agreed and consent is obtained to pass information on to relevant staff. Specialist advice is only sought if this is felt to be necessary by the personnel manager and the disabled person.

The procedure has been widely promoted in recognition that any member of staff can also acquire an impairment at any stage during their employment at the organisation.

As with disabled students, the discussion of reasonable adjustments should involve all aspects of activities undertaken by disabled staff. For example, team meetings should be accessible to all members of staff and adjustments may need to be made to ensure that all staff can participate in these. This may involve, for example, ensuring that only one person talks at any one time, agendas and papers are circulated well in advance, allowing sufficient time for items to be discussed appropriately if an interpreter is present and ensuring staff members are not 'put on the spot'.

A manager at a college regularly asks for feedback on the accessibility of the team meetings that she chairs, to help improve her practice and to make reasonable adjustments. On one occasion a Deaf staff member said that when papers were distributed during the meeting it was very difficult for his sign language interpreter to interpret and for him to understand. He requested that any papers be sent to them both before meetings. The manager agreed to this, but also realised that there may be other disabled or non-disabled staff attending who would benefit from seeing paperwork beforehand. Sending out papers before meetings became embedded into the practice of this team. The Principal heard about this practice and asked all managers to adopt the same approach.

Key questions which staff who make adjustments for disabled students, staff or students' services might wish to consider:

● Do all staff, when designing activities, whether in teaching and learning situations or in providing general services, automatically seek to ensure access requirements for disabled people?

● Do you have policies and procedures in place which ensure that those adjustments which can be anticipated in advance are addressed by all staff, for example providing handouts in advance in an electronic format?

- Do you provide training for staff so that they are aware of the likely requirements of students with unseen disabilities (for example, dyslexia or mental health difficulties) so that staff can adapt their delivery to provide relevant support for these students and be clear about when they might need to call upon specialist support?

- Do you have clear and workable procedures to ensure that individual reasonable adjustments are arranged appropriately, for example:
  - confidential interviews
  - agreement with the individual on what adjustments are most appropriate
  - means of passing on, with the individual's consent, relevant information to other staff
  - regular review with the individual to ensure the adjustments are working appropriately.

- Do you, where appropriate and with the student's consent, liaise with others (eg past school teachers or family members) to establish the most effective adjustments for a particular student?

- Have you built in discussion on appropriate adjustments for disabled staff into your staff appraisal procedures?

- Do you ensure that meetings are conducted in ways which make them accessible to disabled staff members (eg papers in electronic form distributed in advance, rules whereby only one person speaks at a time, etc)?

- Individual disabled people will have different requirements. The effect of impairments is not always consistent and can fluctuate. Individuals are the experts on the effects of their impairment and on what most helps them. Do all staff recognise the central importance of listening to disabled students and staff, asking them what works best for them, and responding flexibly to their requirements?

3.8   Health and safety

Sometimes a health and safety concern will arise as a result of discussions between the disabled staff or the disabled student and the member of staff responsible for identifying and agreeing support for disabled people in an organisation. Health and safety law does not require education providers to remove all conceivable risk, but to ensure that risk is properly identified, evaluated and managed. Health and safety should not be used spuriously as an excuse for not making adjustments or, for example, not accepting a disabled student onto a course.

Health and safety law and the DDA, when used appropriately, work together to ensure that disabled staff and students are able to work and learn in a safe and secure environment. The risk assessment process should be seen as an inclusive and enabling process, identifying the support and adjustments that can be provided, rather than used as a process which excludes. Further information on risk assessment can be found in the publication **I don't want to sue anyone... I just want to get a life** (Rose, 2005).

A risk assessment should be carried out in partnership with the disabled person, to ensure that any risks identified are removed or minimised and effectively managed. Stereotypical assumptions about health and safety implications should be avoided, both in general terms and in relation to particular impairments or long-term health conditions. It should be the exception rather than the rule to exclude disabled people from particular jobs, courses or educational activities.

The challenge for providers is thus to allow maximum possible freedom and choice for students and staff, or potential students and staff, while at the same time ensuring that risk is reduced to an acceptable level and effectively managed. Providers should take an approach that

● acknowledges the rights of a disabled person to choice and inclusion

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- focuses on making adjustments and identifying solutions to organisational barriers

- recognises the personal and educational benefits of risk taking.

A college has arrangements in place to identify and agree adjustments following disclosure. However, staff raised concerns that the risk assessment documentation in the organisation was geared towards machinery and chemicals, and was inappropriate for carrying out a risk assessment with disabled staff in offices or for students. Staff also expressed concern that they did not feel competent to carry out such an assessment.

The college worked with disabled students and staff, support staff, the health and safety officer and an external adviser to develop new procedures and documentation for carrying out risk assessments with disabled people. The risk assessment is called a 'health and safety support plan', and becomes an extension of the support plan for disabled students and staff for whom a health and safety concern has been identified. The process is carried out in partnership with a disabled person, a tutor with expertise in the curriculum area and the appropriate member of staff experienced in supporting disabled staff or students. Where health and safety involves premises, the estates manager is also present.

A copy of the health and safety support plan is given to the disabled person concerned and shared with relevant staff, with the person's consent. The plan is reviewed regularly to ensure that actions have been carried out and adjustments are in place and working well.

The Disability Rights Commission and the Health and Safety Commission have agreed a joint statement on the overarching principles of health and safety management and disability in the workplace. It is intended to promote a positive and sensible approach to risk management,

encouraging the inclusion of disabled people in the workplace.

Health and safety law and the DDA, when used appropriately, will work together to increase the employability and retention of disabled people. A positive and sensible approach to risk management can and should in most circumstances encourage the inclusion of disabled people in the workplace.

Risk assessment should not focus unduly on an individual's disability. It should look more broadly at the overall demands of the work and how best to manage associated risk. Health and safety should never be used as a false excuse to justify discriminatory treatment. It will be the exception rather than the rule to exclude disabled people from particular jobs and tasks. The Disability Rights Commission and Health and Safety Executive are developing practical guidance on health and safety risk assessment and disability at work. Publication is scheduled for autumn 2007.

Key questions you might wish to consider in relation to health and safety:

At policy level:

● Does your organisation ensure that DDA and health and safety legislation are seen as working together in the interests of disabled people?

● Are risk assessments always drawn up with the underlying principle of trying to ensure inclusion rather than exclusion?

● Do all staff recognise the importance of not making assumptions on what might or might not be unsafe for an individual purely based on type of impairment?

At organisational level:

● Are all your organisation's general health and safety policies and procedures assessed to ensure they are inclusive of disabled people?

At individual level:

- Are disabled individuals always centrally involved in drawing up an individual 'risk assessment' or 'health and safety support plan'?

- Are other appropriate staff (for example the Estates Manager) consulted where relevant in the drawing up of individual risk assessment or health and safety support plans?

- Are these plans regularly reviewed with the disabled person and relevant staff to ensure they are working effectively?

3.9   Reviewing support for students and staff

Reviewing student support

A failure to make reasonable adjustments for disabled students and prospective students amounts to discrimination under the DDA. To ensure that the institution can meet its duties under Part 4, staff will need to listen carefully to the needs of disabled students. It is often impossible to establish adjustments for disabled students at the beginning of their learning experience at an organisation that are still relevant and appropriate at the end of their course. Adjustments should be, therefore, routinely and frequently reviewed. Some courses have regular one-to-one or personal tutorials that provide an ideal opportunity for this review, as does the supervision session for research students.

We have seen in a previous section that organisations should provide ongoing opportunities for disabled students to disclose their reasonable adjustment requirements, and not rely simply on admissions procedures for this activity. Tutorials or supervision sessions provide a further opportunity for disabled students to disclose.

A large FE college has revised its individual student plans (ILP) and tutorial procedures for one-to-one interviews between a tutor and a student. There are five prompts on the ILP that act as an aide memoir for tutors. One of these is to discuss if the student is receiving additional support or if adjustments are in place and, if so, if these are working well. Another provides an opportunity for disclosure by asking if the student would benefit from additional support. Five students discussed support requirements when the new paperwork was piloted in one section of the college. This has allowed the college to put adjustments in place for these students.

Tutors should plan regular meetings with disabled students to discuss the effectiveness of the reasonable adjustments that have been implemented. It is also important that providers have processes in place to monitor and evaluate the impact of teaching practice on disabled students.

Lesson observation processes were revised at a sixth form college to embed disability equality within the prompts for observers. When the new documentation was used, a number of staff development issues were highlighted. As a result, staff training sessions were put in place to support tutors to:

● produce accessible teaching handouts

● differentiate teaching activities for students with dyslexia and to better support students with Asperger's syndrome.

Reviewing staff support

A failure to make reasonable adjustments for disabled staff amounts to discrimination under the DDA. To ensure that the institution can meet its duties under Part 2, staff will need to listen carefully to the needs of disabled employees.

The Employment and Occupation Code of Practice cites evidence that meeting the needs of disabled employees often

helps an employer to meet the needs of its disabled customers (see, for example, paragraph 2.7).

The Act provides examples of the types of reasonable adjustment which might be required and these are reproduced in the Employment and Occupation Code of Practice. These include:

- making adjustments to premises

- allocating some of the disabled person's duties to another person

- allowing the person to take time off work for rehabilitation or treatment

- acquiring or modifying equipment

- providing a reader or interpreter

- permitting flexible working.

Once identified, reasonable adjustments should be implemented and reviewed. Sources of funding for these should also be identified. For many disabled people, adjustments can be implemented at relatively low cost.

For some disabled staff, adjustments which are established when they start their employment will remain relevant and appropriate throughout the person's employment. Other disabled people may have fluctuating conditions or conditions that go into remission from time to time. It is therefore important to routinely review adjustments with disabled staff to ensure that these are effective and meeting the disabled person's requirements.

Jackie joined the college in November 2002 as head chef. When she was diagnosed with cancer in May 2004, it was an anxious time and she underwent surgery at the beginning of July. She said that the support received from her departmental director, the HR team and occupational health adviser over the period of diagnosis and hospitalisation in July was exceptional. She was very

touched by the cards and bouquets that she received, and really appreciated the help received from occupational health and the HR team. On her return to work she was allowed to stagger her hours, which were also adjusted so that she could attend special relaxation and support sessions at the hospital. Jackie's colleagues in her team are aware of the physical constraints of the surgery and that she is unable to undertake exactly the same responsibilities that she had previously. With adjustments she is now working fully with her team again and bringing the happiness and enthusiasm she exudes back to the college.

Some people may become disabled while in employment. Ensuring that these staff can remain in employment is vital for the productivity of the organisation to minimise the substantial investment required to recruit, induct and train new staff. It is therefore important that staff are offered ongoing opportunities to disclose.

A laboratory worker developed neck and arm difficulties, and after a period of leave was not able to return to work in the lab. The university had a policy of operating 'return to work interviews' whereby personnel staff helped her to identify appropriate retraining opportunities and she was transferred to another position within the university.

The annual review or appraisal process represents a key opportunity to review the progress of disabled members of staff and ensure that there are no barriers to their progress that can be removed or minimised. Line managers should ensure that they discuss making adjustments and progress with disabled members of staff as part of the annual review, but should make clear that this is not part of the 'performance' aspects of the review unless it is clear that the absence of appropriate adjustments has detrimentally affected an employee's performance.

It is important that line managers develop supportive relationships with staff throughout the year so that issues can be discussed honestly and openly during the appraisal process; a member of staff may not be willing to discuss disability issues for fear of later reprisals. This is particularly true for academic members of staff who may feel that being disabled is a barrier in itself in the academic environment, with the continual pressure to produce research as well as teach students.

It is important to respect the rights of disabled staff to confidentiality, even if this may affect the adjustments that can be put in place, as sometimes disabled staff may not want their colleagues to know about their impairment or long-term health condition. Staff training on disability awareness, and particularly harassment, is essential in ensuring that other staff do not make inappropriate comments about someone's attendance, sickness absence, working hours or about other adjustments that have been put in place.

When things go wrong
Providers are more likely to meet their duties under the DDA if they implement effective anti-discriminatory policies and practices. Examples include:

- an effective equality and diversity policy

- policies dealing with discrimination, bullying and harassment

- effective procedures for dealing with breaches of the above policies

- staff training so that all are clear on the organisation's expectations

- job descriptions and student charters that make explicit the organisation's expectations on everyone's responsibility to eliminate disability discrimination, bullying and harassment

- effective procedures such as complaints and grievance procedures, which are accessible to disabled people and

designed to ensure that all, including disabled people, are easily able to use such procedures to resolve issues.

A sixth form college carried out an impact assessment on their complaints procedure. Staff worked with disabled students, who experienced a wide range of barriers and represented a broad diversity of disabled students across the college. Although staff felt the procedures worked well, students were able to identify further actions to eliminate disability discrimination and promote disability equality. A number of changes were made, including:

- a statement at the front of the complaints form stating the availability in alternative formats
- simplifying some of the language
- explaining how to obtain assistance in completing the form
- an equal opportunities monitoring process that enables complaints to be tracked by nature of complaint and by complainant. This latter feature allows the analysis of complaints made by disabled students.

Organisations may, at times, need to invoke disciplinary proceedings for their staff or students. They should have taken all reasonable steps to find out if any proceedings arise as a result of a person being disabled or becoming disabled whilst in employment or on a course. Likewise, in managing sickness or other absences, it is important that managers are aware of whether or not there may be disability-related reasons for this prior to taking any action.

A member of staff received two disciplinary warnings due to incidents that had occurred in the lab that she worked in and the general office. In follow-up meetings regarding these warnings the member of staff disclosed that she had recently been assessed for Asperger's syndrome. Once the diagnosis was confirmed, strategies were then put in place for managing and supporting her behavioural difficulties

and these were communicated, with her permission, to the appropriate staff that she worked with and her line manager.

Inappropriately initiating disciplinary procedures can be traumatic for students and can result in causing distress, as with the student in the following example.

A student made a complaint to her course manager. She disclosed at the beginning of her course that she had a medical condition that requires her to make frequent visits to the local hospital. She was extremely upset when she received a disciplinary letter from the college because her attendance was below the expected norm because they had taken her hospital visits into account as absence.

Key questions for those who review support:

- Are individual support arrangements regularly reviewed and altered where appropriate?

- Are there opportunities to review teaching practice in order to ensure that disabled students are having their requirements met while in class?

- Do line managers provide regular opportunities to ensure that individual staff have ongoing opportunities to disclose a disability and that adjustments which might have been put in place are working appropriately?

- Are anti-discriminatory policies and procedures in place and acted upon in ways which will make it less likely that individuals will need to raise complaints?

- Is your complaints procedure clear and accessible, and have you had the opportunity to review it with disabled people?

- Before taking disciplinary procedures against a member of staff or a student, do you ensure first that there are no disability-related reasons for the incidents which have occurred?

3.10 Bullying and harassment

Disabled people can experience bullying and harassment, often from non-disabled students and staff. Under the DED, education providers need to have due regard to the need to eliminate disability-related harassment – in its broadest sense. Both Part 2 of the Act, and, following the changes to Part 4, Part 4, specifically prohibit harassment of a disabled person in employment and education (see The Duty to Promote Disability Equality Code of Practice, 2.22, and Section 7 of the Post-16 Education (Revised) Code of Practice (2007) and the Employment and Occupation Code of Practice, Section 4).

Part 2 and Part 4 of the Act says that harassment occurs where, for a reason which relates to a person's disability, another person engages in unwanted conduct which has the purpose or effect of:

● violating the disabled person's dignity, or

● creating an intimidating, hostile, degrading, humiliating or offensive environment for him.

Within the context of the DED harassment is a broader concept and can take many forms, from direct verbal abuse or comments which are offensive, to violating a person's dignity or making an individual feel uncomfortable, intimidated or degraded.

Bullying and harassment of disabled staff and students often goes unnoticed, as many disabled people do not want formal complaints or grievances to affect their working relationships with their colleagues or their interaction with their peers or, for example, their chances of promotion or their end-of-year results.

Under the DED, providers must have due regard, in everything that they do, to the need to eliminate disability-related harassment.

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A sixth form college has introduced a module on disability equality within its tutorial curriculum. Students have the opportunity to:

- recognise the difference between the medical and social model of disability

- explore various aspects of discrimination and harassment and the impact of these on individuals

- recognise that disabled people have the right to be included in society as equal citizens and to consider their role in making this happen.

All students, regardless of the course they are studying, undertake this module.

In the above example the college is taking action that will help to eliminate the harassment of disabled people. Other actions that organisations may consider to eliminate harassment might include:

- mandatory training for staff on bullying and harassment

- asking disabled students and staff if they have experienced bullying and harassment, and what the organisation has done or should do as a result

- gathering and acting on information such as incidents of harassment

- impact assessing harassment and bullying policies and procedures to ensure these are effective for disabled people.

For some organisations, considerable culture change may be necessary to ensure that the organisation is meeting its requirements under DDA and DED legislation. Senior managers have a vital role in ensuring that all staff know how to respond to complaints and how to avoid behaviour which might cause a complaint.

A medical student who wore yellow glasses to help with her visual impairment was continually asked by one lecturer how she could possibly be a doctor if she couldn't see properly. She made an informal complaint to her tutor, who said that the lecturer was an internationally renowned surgeon and that this was just part of the medical culture, which she would have to get used to.

Bullying and harassment can occur in any organisation, even inadvertently, especially if the person has not told anyone of their medical condition.

A member of staff, who experienced tiredness and loss of concentration at the end of the day due to a medical condition, was repeatedly criticised for poor performance. Her manager thought she was lazy and unco-operative and questioned her competence. The staff member was on the point of resignation as she felt bullied.

The situation was resolved when she wanted time off for medical appointments and explained the effect of her medical condition. As a result, the line manager was able to make appropriate adjustments by rescheduling her work activities. This enabled her to perform effectively and removed the feeling of being bullied.

3.11 Ensuring participation in public life

One of the elements of the DED is to encourage participation by disabled people in public life. This is an important aspect of the DDA. Disabled people bring valuable experience to public life and their participation will also encourage positive attitudes towards disabled people in general. Colleges, universities and adult community learning providers may feel there is little they can do to help fulfil this requirement, but in practice there is much they can do to encourage disabled people to become actively involved in the more public aspects of college or university life; hence giving them

the confidence to then take on more proactive roles outside the educational organisation.

Providers should actively encourage disabled staff and students to get involved in forums and committees that represent the views of staff or students, such as Academic Boards, management groups, student forums, unions and student councils. Many organisations have course representatives and it is important that disabled students are adequately represented in these. However, it is equally important to ensure that disabled people do not feel forced into such activities if they do not wish to take part.

Key question to consider:

- How do you encourage disabled staff and students to participate in the public aspects of college or university life?

- How do you support and encourage disabled staff (or students) who want to take part in public life outside college or university, for example as local councillors?

3.12 Social activities

The opportunity to be involved in social activities is a central factor in students' experience of attending college or university. However, disabled students can often be denied the chance to take part in social activities. Research carried out on students with learning difficulties (Anderson *et al*, 2003) showed that these students often felt left out of social events even when relevant adaptations were provided for them within the classroom. Ensuring that all members of staff and students have the opportunity to participate in social activities and visits organised by the college or university is essential.

Staff organising these events should ensure that such activities meet the needs of all members of staff, including being held in accessible venues as a matter of course to ensure that all staff are able to participate. Allowing all members of staff to make decisions about participation is

especially important for people with, for example, fluctuating conditions who may need to decide at the last minute whether or not they can attend.

A member of staff in a university, who was a wheelchair user, said that she always had to check whether or not a social event being held by colleagues was in an accessible venue. If they reorganised the venue because it was not accessible, she then felt compelled to attend, despite her fluctuating condition. By ensuring that events were held in accessible venues as a matter of course, she could decide, along with other members of staff, whether or not to attend depending on how she felt at the time.

3.13 Partnership working

Disability equality is often only achieved by working effectively with partner organisations. For education providers, this can include, for example, feeder schools and colleges, HEI institutions, employers and external organisations of and for disabled people in the locality.

A college has a good reputation for supporting students with mental health difficulties, and excellent partnership arrangements have been formed with a range of external agencies. They have strategic alliances with several agencies, including their local mental health trust, early onset services and a local project to find work for people with mental heath difficulties. These alliances have strengthened the work of supporting students with mental health difficulties. For example, new protocols are in place that facilitate the sharing of information across organisations. Staff expertise is shared. For example, the local mental health trust currently runs a trauma clinic to support their staff after difficult incidents. The college has asked for permission for college staff to use this if necessary on the very rare occasions when there is an incident in the college, and staff would find this service beneficial.

Moving from one education provider to another can prove to be a difficult experience for some disabled students. Funding arrangements for support are different in FE and HE institutions, and staff responsible for supporting disabled students may have different job titles and responsibilities. Supporting disabled students during the transition process can help to alleviate these difficulties and minimise barriers.

A college produced a transition pack for disabled students who are aiming to progress to higher education. Disabled students worked with staff to decide on the validity, usefulness and relevance of a range of information. An initial pack was trialled with staff, disabled students and sent to local HEIs. Feedback suggested that materials should be separated into plastic wallets to make items more easily identifiable, and incorporated into an interactive CD Rom.

3.14 Teaching and learning

Under DDA Part 4, it is unlawful for education institutions to discriminate against a disabled student in any teaching and/or learning activities. Providers must ensure that teaching and learning is inclusive for all students, including disabled students. The anticipatory duty requires that teaching staff anticipate the needs of disabled students regardless of whether or not they have disabled students in their classes. Sections 9.8–9.12 of the Post-16 Education (Revised) Code of Practice (2007) explains discrimination against students in relation to teaching and learning.

Section 3.7 of this Guidance looked at the provision of reasonable adjustments. It is important to remember that ensuring teaching and learning is accessible to all students requires more than just making individual reasonable adjustments. It involves embedding accessibility for the full range of students into every aspect of teaching and learning. Different people learn best in different ways. For example, some dyslexic students learn far better if theoretical work is

illustrated by practical explanations; some students with autistic spectrum disorders find it very confusing if the aims of an individual lesson are not clearly spelt out at the onset; and some students with certain medical conditions find long periods of concentration difficult and respond best to a variety of approaches and activities. Developing teaching methodology so that it responds to the whole range of disabled students has the additional effect of making it more accessible to the whole student body.

Inclusive teaching involves staff:

- understanding the impact of different impairments or medical conditions on teaching and learning

- anticipating the requirements of disabled students

- developing a range of teaching strategies

- building accessibility into all planning activities

- understanding how best to work with specialist staff

- being reflective practitioners, continually reviewing the effectiveness of their practice to improve inclusion.

Tutors should automatically build accessibility into, for example, course design, schemes of work, lesson plans and teaching delivery.

Planning will involve various aspects such as:

- the objectives and learning outcomes

- teaching strategies and activities that take place

- methods of assessment

- teaching resources

- the requirements of individual students.

Planning for inclusion needs to take place at all the different stages, such as:

- course design and validation

- the beginning of the academic year, for example in developing schemes of work

- prior to each teaching session.

All these activities are covered under the DDA, and it is important that all aspects and stages of planning consider the requirements of disabled students.

Below is an example of a tutor working with an interpreter to consider how best to enable the student to learn.

Marcus, who is Deaf, has an interpreter with him in all of his classes. Before starting on the course, his course tutor approached him and asked him to meet to discuss how they could work together so that he could support Marcus as much as possible. Marcus had the opportunity to talk to the tutor about issues such as the importance of taking short rest breaks, of explaining complex terminology, which the interpreter may not understand, and of allowing only one person to speak in group discussions at once.

Exploring ways of enabling students to learn, rather than simply dismissing the possibility, can make all the difference to a student's future learning experience. This can often be done by working with other staff in your organisation and finding out what is available to support students.

Jemima is studying medicine and was diagnosed as partially sighted in her first year. Initially, she was told by some of the academic staff that she would be unable to continue with her course, but one tutor referred her to the disability office for further advice. The disability office then discussed the appropriate adjustments with the academic staff and support was put in place. Jemima was pleased that she was given the opportunity to discuss her impairment with a member of staff as she realised that she had been misinformed by some staff who did not think reasonable adjustments could be made to support her on her course.

Involving the student in the process of making adjustments is often the best way of being able to understand their needs and to work out the most appropriate adjustments to put in place.

> Shona has muscular dystrophy and is studying civil engineering. Although the lab personnel weren't very keen on making adjustments, as they believed she was a health and safety risk, the course tutor talked to them with Shona about what adjustments could be made. He explained to them that, although Shona could not operate the lathe, she would be able to observe others and record this for the group work, so she would still have participated fully in the learning.

Sometimes providing an assistant is the most appropriate reasonable adjustment to provide support with reading materials. By doing so, it enables the student to have the opportunity to work at the same pace as others in their class.

> Colin has a visual impairment and had signed up to take a degree in journalism which meant he needed access to a large number of course texts. To enable him to make a successful start on the course, and be able to fully participate, he needed course books and materials to be sent in advance. He was able to have an assistant for a set number of hours a week who helped with scanning materials for coursework and workshops, and with reading texts aloud.

It is important for teaching staff to think not just about individual reasonable adjustments but ways in which they may be able to alter their teaching methodology to be more inclusive of all students.

Research
Research staff should ensure that disabled students are able to participate in all activities, whether this is a two-week undergraduate dissertation or PhD. Research projects should always be designed with accessibility in mind. Research supervisors should ensure that their supervision sessions

take into account accessibility issues, such as location and timings. Disabled students may need additional support in planning their thesis, proofreading or in their viva. External examiners will also need to be trained in disability awareness so that they are aware of how to work with a student who is lip-reading or using an interpreter.

Dmitri, a research student with short-term memory problems, was particularly nervous about his viva for his PhD as he often had difficulty in remembering what had just been asked of him and he worried that he would not be able to demonstrate his understanding as well as other students under the intense conditions of the viva. The examiners allowed him to have the questions that the external examiners would ask him three hours in advance so that he could work through the questions in advance of his viva, under exam conditions.

Group work
Teaching staff should ensure that disabled students are able to participate appropriately in group work activities. Reasonable adjustments may be necessary to ensure that this is the case. This may involve, for example:

● ensuring that only one person talks at any one time

● ensuring students are not 'put on the spot', for example asking a student with dyslexia to scribe a feedback session or read materials out aloud to the group

● supporting other students to ensure that they too are sensitive to the needs of all students in the group

● carefully considering group assessment activities so that disabled students can demonstrate assessment requirements.

Gill, who is blind, talks about often being reliant on other students. When chatting in big groups she can feel ignored as she says communication is through eyes. She is unable to see if they're interested in what she's saying as she can't

see the expressions and looks they are giving out. What really helps her, and what she says the staff are good at, is saying 'Hi' and their name when they speak so she knows they are addressing her.

Key questions for staff concerned with teaching and learning to consider:

- Have you looked carefully at your curriculum to see where there might be barriers for certain students and how you might make it more accessible? For example, by delivering in smaller sessions or by building in practical examples or activities?

- Do you ensure that materials are available electronically? Making lecture notes available electronically will benefit all students and not only those who require it.

- Do you make clear at the beginning of each session what the aims of the session are and what it will include?

- Are there changes/modifications you could make to how you deliver your teaching? For example, if you require students to write on the whiteboard or present at the front of the class, this method may cause high levels of anxiety for some students with mental health difficulties, therefore alternative methods might be considered to enable all students to get maximum benefit from the class.

- Do you use a variety of methods of delivery (eg large group, small groups, oral and visual)?

- Do you read out information on OHTs or on the whiteboard?

- Do you ensure that you speak directly to students and not when your back is turned and you are writing on a whiteboard?

- Have you explored ways of working with additional services, such as a sign language interpreter or notetaker?

- Have you considered making reasonable adjustments for

students doing practicals or lab work which might mean providing additional equipment, extra time to complete or one-to-one support?

Group work:

- When organising group work, do you think of how you could make adjustments to fully include disabled students? For example, enabling time for all students to speak and ensuring only one talks at any one time.

- How do you monitor these arrangements to ensure that they are effective and that all students are happy with them? If they are not, do you consider trying out different strategies?

- How would you ensure that students with communication difficulties are part of the group and contribute fully?

- How can you ensure that marking schemes for group work do not inadvertently disadvantage groups containing students with disabilities who may take more time to complete tasks?

- How can you enable all students to understand the college's policy for inclusion and take care that a few individuals do not dominate group discussion?

Practicals, field work and lab work:

- How do you ensure that disabled students have the necessary adjustments in place to participate fully in practicals and lab work? Are accessibility issues considered in advance for students with physical or sensory impairments?

- Do you make anticipatory adjustments to field trips so that all students can fully participate? You will need to think about who needs to be involved in these arrangements and that any arrangements have been fully explained so that all students are clear about the details of the trip.

Involving disabled people:

- How do you know that the teaching methods that are being used are working for all students, including those with

disabilities? Are there mechanisms in place to involve students both in asking them what works best for them and in requesting feedback from them?

- How is this information used to inform future practice? For example, are changes made to the delivery of courses as a result of feedback from students?

Collecting and using data:

- What monitoring processes are in place to collect information on the progress of students with disabilities?

- How do you make use of this information to inform future practice?

3.15 Assignments, assessments and examinations

Assignments, assessments and examinations should be seen as including a variety of different ways to check, reinforce and provide formative feedback on student knowledge, skills and achievements. They may include, for example, formal examinations, written tests, vivas, orals and presentations, group work, computer-assisted assessments, dissertations and coursework.

The purpose of an assessment, whether it is formative or summative, is to determine a student's academic achievement and skills. All examinations should maintain academic standards, but it is important that disabled students have the same equality of opportunity as non-disabled students. Staff with responsibility for examinations and assessment will need to consider ways which suit the different needs of students while at the same time maintaining academic standards.

Staff responsibilities within the assessment and examinations cycle include:

- communications with students
- student tracking

- processing entries
- examination entry timetable and calendar
- access arrangements
- coursework, vivas and practicals
- briefing candidates
- examination rooms and seating plans
- invigilation
- storage of confidential information
- oral and practical exams and examination design
- results
- requirements of different awarding bodies
- group tasks and presentations.

It is important that all these activities are conducted with the needs of disabled people in mind.

Providers regularly make adjustments to assignments, assessments and examinations in response to individual requirements. Adjustments for written tests can include, for example, extra time, provision of a reader or scribe, rest breaks and papers in alternative formats such as large print or Braille. Adjustments for assignments can include flexible deadlines for those with variable conditions, and submission of coursework in alternative formats such as video.

Teaching, research and examinations staff should ensure that the adjustments available for disabled students for assignments, assessments and examinations are communicated effectively to all students and teaching staff. They should have a policy that anticipates the requirements of disabled students, and is sufficiently flexible to respond to individual requirements.

A student, with a condition similar to epilepsy that was triggered by stress, became particularly stressed around exam time, which aggravated his condition. The university department agreed to provide him with a 'seen' exam, which helped to reduce his stress over the exam periods. However, in his final year, a requirement for receiving an upper class degree was undertaking an unseen paper.

> Therefore, the department agreed to allow him access to two exam papers in his finals – one seen and one unseen – and allowed him to decide on the day which one to undertake, according to his condition that day.

Disabled students should be aware of the adjustments that can be made and who in the organisation they can go to discuss these adjustments.

> Staff in the examinations office at a sixth form college were concerned at the number of student disclosures just before exams. They produced a leaflet that promotes the additional support arrangements for disabled students during examinations, for example by listing the different types of adjustments that are available for a disabled student. They ensured this leaflet was promoted during induction and again during exam registration. They also formed a forum of disabled students to provide advice on how to improve the support that they offer.

Examinations officers and others are responsible for the administration, organisation and smooth running of examinations and other assessment options in their institutions. Teaching staff also have responsibility for setting, marking and overseeing examinations and other assessment methods.

Key questions for staff responsible for assignments, assessments and examinations to consider:

Reasonable adjustments in assessment:

- Do you have a policy about adjustments for disabled students and does it cover all types of assessment?
- What kind of reasonable adjustments are offered to students taking examinations or other forms of assessment? For example, extra time, separate rooms, accessible rooms, use of computers, rest breaks, examination papers in alternative formats, use of a scribe, opportunity for students to complete assignments in alternative formats.

- How flexible is your organisation with assessment methods and deadlines?

- Who has responsibility in your organisation to ensure that adjustments are in place? For example, is there someone who follows through requests or is it the responsibility of each individual department/tutor? How do you ensure that these are effective and successful for each student?

Communications with students:

- How is the information and instructions about assessments, examinations and reasonable adjustments made available to disabled students? Are they made available in accessible formats and clearly posted on notice boards, websites (eg the intranet), the student handbook, as well as provided individually?

- Do students know who to get in touch with if they need more information/clarification on any issues relating to examinations and assessment?

Invigilation:

- How are invigilators selected and are they made fully aware prior to the examination of any adjustments that are in place? Is DDA training offered to staff with responsibility for invigilating and/or providing guidance?

- How are invigilators made aware of those students who have extra time in examinations? For example, by colour coding seating plans.

Requirements of different awarding bodies:

- How do you manage the exam processes in place and ensure that any adjustments meet the requirements of the different awarding bodies?

Involving disabled people:

- How do you know that the arrangements for examinations and assessments are working successfully for all students? For example have you asked students for their views on current examination arrangements? This could

be done through a students' forum, or simply by asking an individual student to comment on their own experience in taking exams as to what works best for them.

- Have you thought about ways in which you could involve disabled students in designing forms of assessment and practicals?

Student tracking:

- How do you assess how well the systems currently in place are working for disabled students? Who has responsibility for this in your organisation and how is the information used? For example, do you have a database which shows information about students who have disclosed and their progress?

- How will this data be used to provide information for your organisation's Disability Equality Scheme?

3.16 Competence standards

A competence standard is defined by Section 28S of the DDA Part 4 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 competency or ability.'

Competence standards apply to all aspects of courses: in admissions (entry criteria), on-course assessments (exams) and awarding qualifications. Education providers may be working with the competence standards that have been set by external bodies (such as general qualifications bodies governing A levels or Highers), qualifications bodies (such as the GMC or the Law Society) or they may determine their own competence standards for particular courses and qualifications (eg art history or graphic design). All providers will be responsible for implementing the competence standards (whether external or internal) in a non-discriminatory way. Where providers are responsible for determining their own standards, they are responsible for ensuring that their standards are not discriminatory.

It is important that providers review the competence standards for all courses and exams to ensure that they are non-discriminatory. By doing this, providers will be unlikely to be acting in a way that constitutes unlawful discrimination under these duties. If such standards have a discriminatory impact against disabled people or certain groups of disabled people, then to remain lawful they must be objectively justifiable.

In this context discriminatory competence standards are only objectively justifiable if they are a proportionate means of achieving a legitimate aim. This means that the purpose of the standard should be identified and assessed as to whether it is genuine and fair in relation to its impact on disabled students. Genuine competence standards must be set at a level that is proportionate to the valid purpose or aim of the particular standard. A balance has to be struck between achieving the legitimate aim of the competence standard and ensuring this is done in a way that does not discriminate against disabled students.

To achieve the right balance, the level at which the standard is set must not be one that has a detrimental impact upon disabled students which is disproportionate to the purpose of the standard. Such standards would be unlawful because they are objectively unjustifiable.

In order to have lawful competence standards, consideration must be given as to whether competence standards are set at an appropriate level in relation to the legitimate aim of the standard. To do this involves advance consideration of the range of actual and possible competence standards, the purpose of each standard, and the impact each standard has, or would have, upon disabled students. Providers should give particular thought to whether an overly demanding standard is being set in relation to its purpose, and in relation to the type or level of exam or qualification being awarded.

Although there is no duty to make reasonable adjustments to competence standards, the duty does apply in most cases to the assessment of that standard. It is, therefore, extremely

important to identify at the outset whether a criterion or requirement is a competence standard. If something is considered to be a competence standard, a provider should then consider the specific purpose of the competence standard and ascertain whether this purpose is legitimate. What must also be properly examined is the adverse impact applying the standard has, or could have, on disabled students. By thoroughly considering all alternative less discriminatory or non-discriminatory standards, providers should be able to determine whether or not a standard is justifiable and, consequently, lawful.

Competence standards and assessment

The purpose of an exam or assessment is to determine a student's competence, skills or knowledge in a particular area, and exams and assessments must be rigorous regarding standards to ensure that all students are compared against the same benchmark.

While there is no duty to make reasonable adjustments to genuine competence standards, the duty does apply to the assessment of that standard. There is, therefore, a difference between a competence standard and the process by which the standard is assessed.

Having the requisite level of knowledge to pass an exam is a competence standard. However, the examination itself (as opposed to how well the student does in the exam) may not be a competence standard because the physical process of taking the exam does not necessarily determine a person's competence or ability in that particular subject area, except in certain circumstances.

As all students must be able to demonstrate their competence in the most appropriate way for them, providers should be extremely clear about exactly what is being assessed. Reasonable adjustments can then be applied to the assessment process without compromising the competence standards themselves. Reasonable adjustments to assessment processes might include: extra time, separate rooms to avoid disruption, alternative assessments such as

vivas or dissertations rather than unseen exams, use of specialist equipment or support in exams.

There are occasions when the process of assessing a competence standard is linked to the standard. For example, being able to undertake a practical exam in medicine to demonstrate competence in dissection, or to undertake an oral exam to be an interpreter in a foreign language, will be a competence standard. In this case, the ability to take the practical or oral exam is part of the standard.

> The following are examples which are unlikely to amount to competence standards in most cases:
>
> ● being able to cope with the demands of a course
>
> ● having good health and/or fitness (if this is unnecessary for the course. For example, it may be necessary for a sports science course)
>
> ● attendance requirements
>
> ● speaking or writing clearly.

Where providers are implementing standards set by external bodies (such as general qualifications bodies or qualifications bodies), it is advisable that they have working relationships with those organisations to ensure that they can discuss any issues over the application of the standards in respect of individual disabled applicants or candidates, subject to the disabled person's consent.

3.17 Work placements, field trips and visits

Work placements, field trips and visits can be important and sometimes required aspects of a student's learning experience. These activities are covered under the DDA Part 4 and staff organising such events should anticipate the requirements of disabled students. With careful planning and monitoring, most work experience, trips and visits can be made accessible for disabled students. The two examples

below demonstrate the importance of careful planning for the likely requirements of students when taking part in field trips or placements.

Rashid was on an FE course which involved a field trip abroad, but he was told that the college would be unable to fund a notetaker for the trip and if he wanted to attend he would have to fund a notetaker himself. He was unable to do this, so instead the college provided him with an inappropriate, outdated loop system to carry around with him on the trip. As a result, he did not learn as much as the other students from the trip.

Jeremy found that support on clinical placements in his medical course was generally of a high standard. However, transport issues caused problems in terms of getting to and from placements. He was often unable to see the numbers of the bus, which he caught from a busy city-centre stop and as a result regularly got on the wrong bus, which made him late. When he initially approached course staff for advice, it was suggested that he hold up a large piece of paper with the number of the bus on it so that bus drivers could help him to identify the correct bus. After he had explained about the impracticalities of this and the fact that he would feel embarrassed, the course staff agreed to fund a taxi to take him to and from placements.

Post-16 education providers in all sectors organise work experience for students on vocational courses. They may be responsible, under the DDA (1995) Part 4, for ensuring that reasonable adjustments are in place for disabled students undergoing such experience. However, since October 2004, duties under the DDA (1995) Part 2, which covers employers, have been extended to include people on work placements whose placement is part of a vocational training programme, even where these people are not paid employees. Employers must not discriminate against disabled students when seeking or undertaking such placements. The 'edges' of where one organisation's responsibilities end and another

starts can sometimes overlap and, in some ways, requires even more careful planning to ensure that all are fulfilling their duties.

Ensuring that work placements for disabled students are effective and successful requires careful planning in a variety of areas. When selecting employers who will provide work placements, educational providers will need to ensure that their employers are aware of and implementing the DDA Part 2 in their place of employment. They may wish to look at ways they can support them, for example by providing a simple fact sheet or offering training or mentoring.

In allocating work placements, educational providers need to be aware of any barriers which might make it difficult for disabled students to access the placement. This might at times mean treating disabled students more favourably than others, for example a college might have a policy of allocating placements randomly. They might need to amend this, for example for a disabled student who experienced fatigue in long journeys, by selecting a placement for this student which did not involve excessive travelling.

It is important that employers are informed of a student's likely requirements in advance so they can arrange for reasonable adjustments to be in place. However, it is also important that there is a specific consent form in place to deal with this and that students are closely involved in ensuring what information they wish to be passed on and to whom.

When a disabled student is attending a work placement, there needs to be clear communication between the education organisation and the employer. This needs to include formal arrangements, for example arranging visits to the student, and also procedures which will allow for timely intervention when necessary. Often a quick telephone call can sort out difficulties as and when they arise, and before they become insurmountable problems. Any arrangements which are put in place should be regularly monitored to ensure the student is getting the most out of the placement.

Partnership between employers and education organisations is essential if the number and quality of placements for disabled students is to continually develop. Colleges might wish to liaise with local supported employment agencies or with other organisations such as local learning disability partnership boards to widen their employer base. Often employers are unaware of the potential of disabled people and may need support to understand this. For example:

> A college arranges work experience for its students on vocational courses. They were concerned that some employers were unaware of their responsibilities under the DDA. They invited all their local employers offering work experience into the college for a 'thank you' lunch. The Principal launched the well-attended event explaining that, as part of the session, the learning support co-ordinator would give a short presentation on the requirements of the DDA with an opportunity for questions and answers. A leaflet was produced for employers that summarised this information and highlighted the benefits of employing disabled people. The college has offered to share its expertise in providing appropriate adjustments for disabled students.

Key questions for staff to consider when arranging work placements:

- When selecting employers who might provide work placements do you ensure that they are aware of their duties under the DDA?

- Do you offer them relevant support, for example providing them with a simple fact sheet or offering mentoring or training?

- When allocating work placements to students do you take into account any particular requirements of disabled students, even if this means treating a disabled student more favourably?

- When discussing a work placement with a disabled student, do you ensure that the student is closely involved in deciding what issues regarding their disability they wish to disclose and to whom?

- Do you jointly plan support arrangements with the student and the employer?

- Do you arrange regular visits with the employer and also have procedures in place to allow for the student or employer to contact you quickly if a specific difficulty arises?

- Do you monitor support arrangements regularly and also obtain feedback from disabled students at the end of a placement so you can feed this information into your future plans?

- Do you continually look at ways in which you can widen your base of potential employers and also look for ways in which you can make employers aware of the potential of disabled employees?

3.18 Staff training and development

To implement disability equality, it is essential that all staff have an awareness of the DDA and appreciate the implications for their job roles and responsibilities. It is important that organisations embed this training within induction for new staff, and provide regular 'updating' sessions.

A college carried out an extensive programme of mandatory staff training on the DDA for all full- and part-time staff. They have embedded this training within an induction for new tutors. Many other training events were provided, such as Deaf awareness, and staff attendance is tracked through the appraisal system. However, they recognised that front-line staff had been neglected, and yet they are often the first port of call for students. The college has developed targeted training for staff in these

job roles, including staff involved with security, reception and advice and guidance. The training module includes:

- a short presentation on the requirements of the DDA and the implications for staff job roles and responsibilities

- a discussion of case studies that help identify the features of good customer care for disabled students.

Staff have recognised their increased confidence, for example staff concerned with recruitment are able to handle enquiries from disabled applicants themselves instead of always calling on specialist staff.

Organisations may need to ensure staff have access to training and support to ensure that they know how to respond appropriately to disabled students, for example how to make teaching and learning more accessible, how to put reasonable adjustments in place and are aware of the advice and support services available in the organisation. Training may be required in order that staff fully understand certain organisational policies and procedures such as disclosure, bullying and harassment. All the activities described in this section have training implications for staff in their different job roles and responsibilities. Staff will need to be aware of the duties of DDA legislation, why they are necessary, as well as being equipped with the necessary skills to implement the duties.

A large FE college wanted to raise awareness of the new duty to promote disability equality. They organised a whole staff training morning. An external trainer gave a short presentation on the new duty and the implications of this for staff, which was video-linked to different areas around the college. Following the presentation, staff moved into cross-college teams to participate in a DDA quiz and discuss case studies. These were facilitated by staff who had been previously trained in the new duty and in delivering the quiz and case studies. Staff then moved

into their teams to discuss and identify at least three aspects for improving disability equality in their area. Outcomes from this activity helped inform the college's Disability Equality Scheme.

One university organised focus groups for staff and students as part of raising awareness about disability equality issues. One group, created for departmental administrators who were disability representations, highlighted in the feedback that they would have preferred it if a disabled person had run the session. For future sessions the university employed a disabled consultant to facilitate all staff and student focus groups on disability equality around different themes, such as the physical environment, attitudes, mainstreaming, resources, credibility and leadership, communication, funding and training.

Institutions will want to offer regular opportunities for staff to increase their skill and knowledge in supporting disabled students, staff and disabled people using the services of the organisation.

A college carries out annual DDA 'workshops' for all staff. These are generally one to two hours in length, take place in July and focus on providing improved support for disabled students. One year the college trained students with Asperger's syndrome to give the presentation at the workshop and to share their experiences at the college, both positive and not so positive. Staff evaluations for the session were excellent, with many acknowledging that students talking about their experiences at the college was a powerful way for staff to reflect on the impact of their practice.

Institutions will need to make reasonable adjustments to ensure that their disabled staff can fully access training events. Under the DED, information will need to be gathered and used to improve disability equality, in relation to who is

offered training, the type of training, and satisfaction with such training.

Key questions for those involved in staff development to consider:

- How is the annual staff development programme kept under review to ensure that disability awareness and equal opportunities training are offered regularly? How is the take-up of this across the institution monitored, both by grade of staff and department? How are gaps in take-up addressed?

- What do you do to ensure that all staff development and training courses, whether provided in-house or by an external trainer, are fully accessible? For example, are external trainers disability aware? Are all courses held in accessible venues? Are all trainees asked if they require reasonable adjustments in advance?

- How are disability issues embedded into all training sessions to ensure that they are not offered solely as a stand-alone development opportunity?

3.19 After leaving – references, alumni and reunions

Under the DDA Part 4, an institution still has responsibilities towards disabled students who have left the organisation. Sections 9.49 – 9.52 of the Post-16 Education (Revised) Code of Practice (2007) explains how responsibilities continue after the relationship with a student has ended. Award ceremonies need to be accessible for all those who wish to attend. Other events, such as alumni reunions, should also be inclusive of all people. Staff duties towards disabled students extend to the way in which they compose references, and all staff need to ensure that references do not pass on any sensitive information without the consent of the disabled student. Organisations should review their policies and procedures for these activities to ensure that discrimination and

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harassment does not occur even after a student has left an organisation.

Key questions to consider:

- How do you ensure that all staff are aware of their responsibilities to staff and students who have left?

- Have you issued guidance to all staff about the impact of the DDA and Data Protection Act on references?

Disclaimer

This guidance has been produced to help colleges, universities and adult community learning providers to understand and implement DDA legislation across the numerous functions and activities of the institution.

For more detailed information about the DDA and specific legal implications please refer to the relevant Codes of Practice listed in Appendix A.

The information contained in this publication is believed to be correct at the time of manufacture. Whilst care has been taken to ensure that the information is accurate, the DRC can accept no responsibility for errors or omissions or for changes to the details given.

Appendix A: Resources available about the DDA

Codes of Practice

The following Codes of Practice are available in print and alternative formats from The Stationery Office: www.tsoshop.co.uk.

Mail: The Stationery Office
      PO Box 29,
      Norwich NR3 1GN

Telephone: 0870 600 5522
Textphone: 0870 240 3701
Fax: 0870 600 5533
Email: customer.services@tso.co.uk

Copies of these and all other DRC publications can be downloaded from the Disability Rights Commission website: www.drc-gb.org

From October 2007 these will be available from: www.cehr.org.uk

Disability Rights Commission (2006). **Code of Practice (revised) providers of post-16 education and related services**, The Stationery Office

Disability Rights Commission (2006). **Code of Practice – Rights of access: Services to the public, public authority functions, private clubs and premises**, The Stationery Office

Disability Rights Commission (2005). **The Duty to Promote Disability Equality: Statutory Code of Practice England and Wales**, The Stationery Office

Disability Rights Commission (2005). **The Duty to Promote Disability Equality: Statutory code of Practice Scotland**, The Stationery Office

Disability Rights Commission (2004). **Code of Practice – Employment and Occupation**, The Stationery Office

Disability Rights Commission (2004). **Code of Practice – Trade Organisations and Qualifications Bodies**, The Stationery Office

Disability Rights Commission (2002). **Code of Practice for providers of post-16 education and related services**, Disability Rights Commission

Guidance and other resources

Disability Rights Commission (2007). **Authorities covered by the Disability Equality Duty in Scotland**

Disability Rights Commission (2006). **Beyond good intentions: a resource for local authorities implementing the Disability Equality Duty**

Disability Rights Commission (2006). **Disability Equality Duty: A new law for disabled people**

Disability Rights Commission (2006). **Disability in Scotland: Key facts and figures**

Disability Rights Commission (2006). **Employment and the Disability Equality Duty**

Disability Rights Commission (2006). **Further and higher education institutions and the Disability Equality Duty: Guidance for Principals, Vice-Chancellors, governing boards, and senior managers working in further and higher education institutions in England, Scotland and Wales**

Disability Rights Commission (2006). **The Disability Equality Duty: Guidance on gathering and analysing evidence to inform action**

Disability Rights Commission (2006). **Making the duty work: A guide to the Disability Equality Duty for disabled people and their organisations**

Disability Rights Commission (2006). **Preparing and publishing your Disability Equality Scheme**

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