



Breaking barriers to Higher Education for students with specific learning differences

What is SENDA?

The Special Educational Needs and Disability Act 2001 (SENDA) brings education under the Disability Discrimination Act (DDA) 1995.

The DDA placed requirements on employers and service providers not to discriminate against disabled people but did not include similar requirements for education.

SENDA states that providers of education have a duty to provide *'reasonable adjustments'* to make sure that disabled learners have equal access to the curriculum.

From September (2002) it will be unlawful to discriminate against students with a disability.

The Act places an anticipatory duty on Higher Education Institutions which means that it is not good enough to wait until a disabled person applies to a course or tries to use a service before thinking about what reasonable adjustments should be made.

Definition of Disability

SENDA and the DDA define: *'A disabled person is someone who has a physical or mental impairment, which has an effect on his or her ability to carry out normal day-to-day activities. That effect must be: **substantial** (that is, more than minor or trivial), and **diverse**, and **long-term** (that is, has lasted or is likely to last for at least 12 months or for the rest of the life of the person affected).'*

A draft code of practice written by the disability rights commission notes that *'Physical or mental impairment includes sensory impairments. Hidden impairments are also covered (for example, mental illness or mental health problems, learning difficulties, dyslexia and conditions such as diabetes or epilepsy).'*

Definition of Discrimination

Discrimination is not only treating someone less favourably than someone else for a reason related to his/her disability without justification but also failing to make a reasonable adjustment.

Reasonable adjustments

The Act does not define what 'reasonable steps' an institution should take.

However the purpose of the adjustment is to ensure that the disabled student is not placed at a 'substantial disadvantage'.

Their definition of 'reasonable steps' will vary according to:

- the type of services being provided
- the nature of the institution, its size and resources
- the effect of the disability on the individual student

Further information on the Acts

www.hsmo.gov.uk/acts/acts2001/20010010.htm - SEND Act in full

www.drc-gb.org/education/legalandcasework/index.asp - Disability Rights Commission

<http://www.skill.org.uk/news/sendasp> - Article on skill website on the SEND Act

What impact does it have on SpLD students in Higher Education?

All Higher Education Institutions should have a Disability Statement, which will provide information on provision throughout the Higher Education Institution.

Every Higher Education Institution should have an office for the support of Disabled students. Any student, with formal evidence of a SpLD, should contact this office as they may be entitled to the following:

- The Disabled Students Allowance
- Advice and support from Disability Advisers and other staff
- Special examination arrangements
- Library arrangements

What provision should be included in a Disability Statement?

The Disability Rights Commission draft code of practice lists the areas that are covered by the new legislation. A Higher Education Institution should have provision for areas. Including:

- teaching including classes, lectures, seminars, practical sessions
- examinations and assessments
- arranging study abroad, work placements or fieldtrips
- research degrees and research facilities
- learning equipment and materials such as class handouts, laboratory equipment, computer facilities, classrooms, lecture theatres, labs etc.
- libraries, learning centres and their resources
- careers advice, training and careers libraries
- leisure, recreation, entertainment, catering and sports facilities
- health, counselling, welfare and accommodation services

Disclosure and Confidentiality

Higher Education Institutions ask students to disclose their disability at admission. They use this information to offer appropriate support and guidance. This should enable students to benefit fully from their time at the Higher Education Institution, both academically and socially. The opportunity for students to disclose should also be available at other key points or on application for individual services, e.g. examinations, courses, careers, accommodation. A disabled student has a right to request that the existence or nature of his/her disability be treated as confidential. In determining whether it is reasonable to make an adjustment the Institution must consider the extent to which the adjustment is consistent with confidentiality.

What if a student feels that 'reasonable adjustment' has not been made?

Students with a disability who believe they have been subject to discrimination and who want to raise a complaint with the Higher Education Institution are advised to use the Institution's complaints procedure. However, they could decide to bring civil proceedings through a court. If successful, the student may be awarded compensation for financial loss or injury to feelings.

When considering what is reasonable, factors might include:

- the need to maintain academic standards
- the need to maintain other prescribed standards (e.g. those of an external validating body)
- the cost of taking a particular step, and the financial resources available to the body
- the extent to which it is practical to make a particular adjustment
- the DDA does not override existing health and safety legislation
- the relevant interests of other people including other students

Further Information for Students and Institutions

<http://www.skill.org.uk/info/pubs.asp> - Skill website various guides for students and institutions
<http://www.natdisteam.ac.uk/resources.php?id=263> – National Disability Team Handbook
<http://www.drc-gb.org/education/knowyourrights/students.asp> - DRC guide to student rights