Appendix C - The Rights of Disabled Students

The document “Equality Act 2010 Technical guidance for further and higher education” provides an “authoritative, comprehensive and technical guide to the detail of the law”. In this appendix we have copied in quotes from the guidance which explain in further detail the following illegal actions: Direct discrimination, harassment, victimisation, indirect discrimination, discrimination arising from disability and failure to provide reasonable adjustments. All quotes are taken from that guidance document unless otherwise specified. At the end of this document we also address two changes to the law which happened in 2016 and which SSW has been unaware of.

Direct discrimination

“Direct discrimination occurs when a person treats another less favourably than they treat or would treat others because of a protected characteristic.”

“If the education provider’s treatment of the student puts the student at a clear disadvantage compared to other students, then it is more likely that the treatment will be less favourable: for example, refusing to allow a student to go on a field trip. Less favourable treatment could also involve being refused admission, or being deprived of a choice or opportunity or being excluded. If the quality of the education being offered or the manner in which it is offered is comparatively poor, this could also amount to less favourable treatment.”

“Example: A prospectus describes a short, intensive degree programme and emphasises that it requires stamina to complete the course and therefore it is unsuitable for anyone with a long-term or fluctuating health condition. This statement is based on the assumption that no one with a long-term or fluctuating health condition, including mental health conditions, would be able to complete the course.”

“Example: A college organises a ‘Family Day’ for prospective students with children – as part of its commitment to encourage more mature students to join the college. However, a prospective student arrives with her son who has severe physical and learning disabilities. The event organiser asks the prospective student to sit at the back of the room away from the other prospective students and their children because they are concerned about the reaction of other young children. This would constitute direct disability discrimination against the son, and direct disability discrimination by association against the mother (see paragraph 4.18 in relation to discrimination by association).”

Discrimination arising from disability

“Direct discrimination occurs when the education provider treats someone less favourably because of disability itself. By contrast, in discrimination arising from disability, the question is whether the disabled person has been treated unfavourably because of something arising in consequence of their disability.”

“Example: A student with autism often displays inappropriate behaviour as a symptom of his impairment. A further education college excludes the student for saying inappropriate things to a tutor. Other students have been excluded for similar behaviour. However, the student with autism has been treated unfavourably because of something which arises in consequence of his disability. This would be unlawful unless the college can show that the treatment is a proportionate means of achieving a legitimate aim.”

“Example: A student seeks admission to a further education college. The student has been diagnosed with depression, hence his attendance may be irregular, and he may be subject to panic attacks. The college says that they cannot admit the student because the particular course includes an intensive two-week starter session with lectures every day. The refusal to admit the man is not because of the disability itself. He is experiencing detrimental treatment as a consequence of his disability. The college could be discriminating unlawfully unless it could show that its decision is justified.”

“Example: A disabled student is not allowed to enter a public speaking competition because his speech is slurred as a result of having cerebral palsy. In this case there is no need for a comparator. This amounts to discrimination arising from disability (which will be unlawful unless it is justified).”

“Example: A student with Tourette’s Syndrome is asked to leave an exam because he is making loud noises, and sudden movements which are distracting other students. However, this is a result of his having Tourette’s Syndrome. The request that he should leave the examination room is likely to be discrimination arising from disability and would need to be justified to be lawful, or unless the education provider did not know, and could not reasonably have been expected to know, that the person was disabled.”

“Example: In the example at 6.10 above [the tourettes example], the college could have prevented discrimination arising from disability occurring if they had knowledge of the disability and complied with the duty to make reasonable adjustments, perhaps by providing alternative accommodation for the student with Tourette’s Syndrome to take the exam.”

From DisabilityRightsUK:

“A disabled student takes a number of days off from their college course due to anxiety and depression. The college notes the absence and takes action to terminate his studies as he has taken off more days than allowed in a term. The college should be recording disability related absences separately. The action to exclude the student is due to disability related absence so this would be discrimination arising from disability.”

Harassment

“This type of harassment occurs when an education provider engages in unwanted conduct which is related to a relevant protected characteristic and which has the purpose or effect of:

* Violating the student’s dignity.

or

* creating an intimidating, hostile, degrading, humiliating or offensive environment for the student.”

“Unwanted conduct covers a very wide range of behaviour, including spoken or written words or abuse, imagery, graffiti, physical gestures, facial expressions, mimicry, jokes, pranks, acts affecting a student’s surroundings or other physical behaviour.”

“Example: A trainee primary school teacher with a severe facial disfigurement is told by her course tutor that she should not expect to work with very young children ‘looking like that’ because she might ‘upset’ the children. The tutor questions the student’s choice of career and makes remarks about new treatments and make-up to cover the ‘problem’, in front of others. The student is very offended and hurt by this behaviour. This is likely to be direct discrimination and harassment related to disability.”

“Example: A tutor on a performing arts course repeatedly makes sneering comments about people who have physical impairments but still feel they can become actors. A student in the class who uses a prosthetic leg finds this behaviour deeply offensive. This is likely to amount to harassment related to disability.”

Does not have to be directed: “Example: A lecturer in construction has a robust style which results in him being rude to his students. He makes jokes about women students getting their hands dirty on site, and stereotyping their abilities as better suited to childcare and not manual trades. Although the comments are not directed at any particular student, a female student who hears these remarks and is humiliated and offended by them, may have a claim of harassment related to sex.”

“Example: A college English department teaches The Merchant of Venice. This would not be unlawful race or religion or belief discrimination even though the play itself could be viewed as being hostile towards Jewish people.”

“Example: In the above example, while teaching The Merchant of Venice, a lecturer says that Jewish people are unethical moneylenders who only have themselves to blame for the resentment they experience. This could amount to unlawful racial or religious discrimination or harassment because the comments would be related to how the education is delivered, not the content of the curriculum.”

Victimisation

“The Act prohibits victimisation. It is victimisation for an education provider to subject a student to a detriment because the student has done a ‘protected act’ (see paragraphs 9.4 and 9.5) or because the education provider believes that the student has done or may do a protected act in the future.”

“A protected act is any of the following:

* Violating the student’s dignity
* Bringing proceedings under the Act
* Giving evidence or information in connection with proceedings brought under the Act
* Doing anything else which is related to the provisions of the Act
* Making an allegation (whether or not express) that another person has done something in breach of the Act.”

“Example: In his first year, a final year student with a hearing impairment was not provided with routine access to a palantypist for lectures. He made several complaints to the university and was eventually provided with palantypist support. The student applies for a postgraduate course at the university and at interview is questioned about the complaint and whether he expects he will need any other ‘special help’. The student is unsuccessful in gaining a place on the course. This may be victimisation if he was able to show a link between him not gaining a place on the course and the questions about his complaint asked during the interview.”

Indirect discrimination

“Indirect discrimination may occur when an education provider applies an apparently neutral provision, criterion or practice which puts or would put students sharing a protected characteristic at a particular disadvantage.”

“The provision, criterion or practice must be applied to all students in the relevant group, whether or not they have the protected characteristic in question. On the face of it, the provision, criterion or practice must be neutral. If it is not neutral in this way, but expressly applies to students with a specific protected characteristic, it is likely to amount to direct discrimination.”

“Example: A university requires students to attend certain courses fulltime and does not provide part-time courses. The practice of providing only full-time courses is neutral, but the lack of a part-time option would make it difficult for individuals who have childcare or other caring responsibilities. As the majority of such individuals are women, this could be unlawful indirect sex discrimination unless it can be justified. Offering part-time courses is likely to be a more proportionate and legitimate practice.”

“Example: A university which requires an 80 per cent attendance rate and penalises students with a lower attendance rate, disregards absences due to disability-related sickness, religious holidays,

pregnancy or, in some circumstances, caring responsibilities.”

“A college with two sites offers a science course that requires students to attend lectures on one site followed immediately afterwards by practicals at the other site. This means that individuals have to move from one site to another in a very limited amount of time. This disadvantages students who have mobility impairments and is likely to be unlawful disability discrimination unless it can be objectively justified.”

“If the education provider plans to provide reasonable adjustments for disabled students and makes those adjustments, then it will not have to change the practice for non-disabled students, but will simply adjust the practice appropriately.”

“Example: If in the first example above the college offers its courses either on one site or the other, or builds in more appropriate time allowances and other measures needed to allow students with mobility impairments to travel between sites, this could eliminate the potential discrimination described.”

“In many cases when the education provider considers the question of whether a practice is justifiable despite its impact on disabled students, it will discover ways in which anticipatory reasonable adjustments can be made.”

“Example: A FE lecturer is developing a new course and decides to include several short film clips for the students to explore in their tutorial discussions. This is a ‘one-off’ decision which is apparently neutral. However, if the film clips do not have subtitles, Deaf students could be placed at a disadvantage compared with students who are not Deaf, because they will not have access to the content which their fellow students are discussing, and so it could amount to indirect disability discrimination and a failure to comply with the duty to make a reasonable adjustment. The lecturer decides to take the film clips from sources with subtitles, wherever possible, and provides a transcript of the content in the other cases. This would help to meet the obligation to anticipate the needs of disabled students and make reasonable adjustments in advance.”

Failure to provide reasonable adjustments

“One form of discrimination against a disabled student occurs where an education provider fails to comply with a duty to make reasonable adjustments imposed on them in relation to that disabled student.”

“The duty to make reasonable adjustments requires education providers to take positive steps to ensure that disabled students can fully participate in the education and enjoy the other benefits, facilities and services which education providers provide for students. This goes beyond simply avoiding discrimination. It requires education providers to anticipate the needs of potential disabled students for reasonable adjustments.”

“The duty to make reasonable adjustments is not a minimalist requirement of simply ensuring that some access is available to disabled students; it is, so far as is reasonably practicable, to approximate the access enjoyed by disabled students to that enjoyed by the rest of the student body. The purpose of the duty to make reasonable adjustments is to provide access to an education as close as is reasonably possible to the standard normally offered to students at large”

“The duty to make adjustments arises where a provision, criterion or practice, any physical feature of the education provision or the absence of an auxiliary aid or service puts disabled students at a substantial disadvantage compared with students who are not disabled.”

“Example: A lecturer on an English Literature course at a FE college does not use slides, handouts or other visual materials, expecting the students to bring the set texts so he can refer to them as needed. However, a blind student who uses audio versions of the texts cannot navigate to the relevant portion of the text while continuing to listen to the lecture. It is likely to be a reasonable adjustment for the lecturer to indicate in advance which passages will be used in the lecture, and to read key passages aloud in the course of discussion.”

“Example: A classroom at a college has hard flooring and high ceilings which means sound echoes. This makes it difficult for someone with a hearing impairment to hear. The college decides to lay carpet and install a drop ceiling which alters the room to address the substantial disadvantage faced by hearing impaired students. This is an example of a reasonable adjustment of altering physical features.”

The way in which these accommodations should be made

“In relation to further and higher education the duty is anticipatory in the sense that it requires consideration of, and action in relation to, barriers that impede all disabled people prior to an individual disabled student seeking to access education or the benefits, facilities and services offered to students by the education provider.”

“Education providers should therefore not wait until a disabled person approaches them before they give consideration to their duty to make reasonable adjustments. They should anticipate the requirements of disabled students and the adjustments that may have to be made for them. Failure to anticipate the need for an adjustment may create additional expense, or may render it too late to comply with the duty to make the adjustment. Furthermore, it may not in itself provide a defence to a claim of a failure to make a reasonable adjustment.”

“Example: A person with a visual impairment regularly receives printed handouts in lectures, despite the fact that on previous occasions he has indicated his need for Braille and this has been provided. He finds this repeated need to ask for Braille frustrating and inconvenient as he does not receive the handouts at the same time as other students. This may constitute a failure to make reasonable adjustments if it is judged to have left the disabled student at a substantial disadvantage and there was a reasonable adjustment that could have been made.”

“In all cases, it is important to use, as far as is reasonable, a means of communication which is itself accessible to disabled students.”

Possible objections:

On responsibility

“The Act makes education providers as employers legally responsible for acts of discrimination, harassment or victimisation committed by their employees in the course of their employment. Education providers are also liable for such acts committed by their agents while acting under the education provider’s authority. It does not matter whether the education provider knows about or approves of the acts of their employee or agents.”

“The Public Sector Equality Duty requires further and higher education institutions to have due regard to the need to:

* Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
* Advance equality of opportunity between people who share a protected characteristic and those who do not.
* Foster good relations between people who share a protected characteristic and those who do not.”

On arguing that there are no funds

“Example: A sign language user wishes to use the careers service at a higher education institution. Although the careers service has a very small budget and does not have sufficient funds to cover the cost of an interpreter, the institution has a large enough budget to cover the cost and funding should be provided in order to make its careers service accessible to the student.”

On making accommodations when you’ve done everything you could to find out about needs beforehand and yet you don’t learn about a students need until the start of the course (this only applies when it was not reasonable to have accommodations in place preventatively)

“Example: A university anticipates that some Deaf students will require the use of British Sign Language (BSL) interpreters and ensures it has access to BSL interpreters at short notice. However, a student who arrives at the university uses American Sign Language (ASL) and had not previously notified the university of this. As soon as the university is aware of this it should consider making the necessary reasonable adjustment by seeking an ASL interpreter, even though it may not have been reasonable to have arrangements with an ASL interpreter before the student arrives.”

On making accommodations when you have found out about a need for a reasonable adjustment (that was not reasonable for you to have in place preventatively) but putting the adjustment in place takes longer than the amount of time before they start

“Example: A person with restricted growth applies for a course in photography. The darkroom that will be used needs some adjustments to be made to make a workstation accessible for the student. This will require some building work which cannot be completed before the start of term. However, the course tutor makes some small changes to the structure of the course so that it begins with non-darkroom work, to allow the adjustments to the darkroom to be made.”

On refusing help when the student doesn’t have a diagnosis or the correct proof

“There is no need for a person to establish a medically diagnosed cause for their impairment. What it is important to consider is the effect of the impairment not the cause”

On refusing help because while the student has a chronic condition they haven’t had it for more than 12 months or they are being treated for it

“You’re disabled under the Equality Act 2010 if you have a physical or mental impairment that has a ‘substantial’ and ‘long-term’ negative effect on your ability to do normal daily activities.”

“A long-term effect of an impairment is one:

* Which has lasted at least 12 months; or
* Where the total period for which it lasts is likely to be at least 12 months; or
* Which is likely to last for the rest of the life of the person affected.
* Effects which are not long term would therefore include loss of mobility due to a broken limb which is likely to heal within 12 months, and the effects of temporary infections, from which a person would be likely to recover within 12 months.”

“Cancer, HIV infection and multiple sclerosis are deemed disabilities under the Act from the point of diagnosis.“

“Someone with an impairment may be receiving medical or other treatment which alleviates or removes the effects (though not the impairment). In such cases, the treatment is ignored and the impairment is taken to have the effect it would have had without such treatment. This does not apply if substantial adverse effects are not likely to recur even if the treatment stops (that is, the impairment has been cured).”

On only offering solutions that do not work for the student in question…

...because the solution is a standardised solution and the student in question has different needs to other students with the same disability

“Disabled people are a diverse group with different requirements – for example, visually impaired people who use guide dogs will be prevented from using education facilities with a ‘no dogs’ policy, whereas visually impaired people who use white canes will not be affected by this policy. The duty will still be owed to members of both groups.”

“Example: A student with a specific learning difficulty finds it difficult to read text typed on white paper. The college routinely uses white paper for all handouts. The college decides to provide handouts on yellow paper for the disabled student. This would be a reasonable adjustment for this student. However, another student with a specific learning difficulty finds it difficult to read typed text on any colour of paper without a plastic overlay sheet. The college provides this student with a plastic overlay sheet. This would be a reasonable adjustment for this disabled student. “

“Example: A Deaf student applies to attend a small further education college and indicates that he requires an induction loop to access lectures. In line with its anticipatory duty the college has already purchased a portable induction loop and provided some basic training for staff. The college discusses with the Deaf student his reasonable adjustment requirements and ascertains that they do not need to install an induction loop in every seminar room and lecture theatre as the student can use the portable loop. The college then arranges for further staff training and also alerts maintenance staff to the need to ensure that the loop is working and is periodically tested.”

“Example: Another Deaf student applies to attend the same small further education college. The college assumes that it will need to purchase another portable hearing loop. However, after discussing her requirements with the student, the college finds that she does not normally use a hearing loop and prefers to lip-read. The college ensures that all staff are aware of the need to face the student and to speak clearly when they are talking to her.”

...Because there is another, lesser, option:

“The purpose of taking the steps is to ensure that disabled students are not placed at a substantial disadvantage compared with non-disabled students. Where there is an adjustment that the education provider could reasonably put in place and which would remove or reduce the substantial disadvantage, it is not sufficient for the education provider to take some lesser step that would not provide education or access to a benefit, facility or service in an accessible a manner.”

...because the student is able to carry out the task once but it’s not realistic for them to continue to do so due to their disability

“An impairment may not directly prevent someone from carrying out one or more normal day-to-day activities, but it may still have a substantial adverse long-term effect on how he or she carries out those activities. For example: where an impairment causes pain or fatigue in performing normal day-to-day activities the person may have the capacity to do something but suffer pain in doing so; or the impairment might make the activity more than usually fatiguing so that the person might not be able to repeat the task over a sustained period of time.”

...because the alternative does not actually prevent the disadvantage

“Similarly, an education provider will not have taken reasonable steps if they attempt to provide an auxiliary aid or service which in practice does not help disabled students to access the education, benefit, facility or service.”

“Example: A wheelchair user cannot access classes on a course that take place on the higher floor levels of the small college he attends. There isn’t an accessible lift between floors in the college premises and it is unlikely to be reasonable for the education provider to install an accessible lift. Instead of relocating classes to an accessible floor, so that the student can attend the course without experiencing substantial disadvantage, the college asks the wheelchair user to change to a different course where classes are held at an accessible floor level. This step would not be effective in preventing the disadvantage experienced in relation to the course the wheelchair user has chosen to undertake.”

...because the accommodation is dangerous, inconvenient or humiliating

“The Act requires that any means of avoiding the physical feature must be a ‘reasonable’ one. Relevant considerations in this respect may include whether the provision of education or any benefit, service or facility in this way significantly offends the dignity of disabled students and the extent to which it causes disabled students inconvenience or anxiety.”

“Example: A college arranges for two of its security staff to lift a wheelchair user up the steps at the entrance of a college building. This is unlikely to be a reasonable means of avoiding the physical feature. A reasonable alternative could be installing a ramp.”

On arguing that the direct discrimination, indirect discrimination or lack of accommodations is ok because the intent is good or help is being providing for other impairments than the one in question

“Direct discrimination is unlawful, no matter what the education provider’s motive or intention, and regardless of whether the less favourable treatment of the student is done consciously or not. Education providers may have prejudices that they do not even admit to themselves or may act out of good intentions – or simply be unaware that they are treating the student differently because of a protected characteristic.”

“Example: A theatre studies course that organises theatre trips for its students turns down an application for a trip from a woman with a hearing impairment as they believe she would not get the same benefits as other students. This is likely to be direct disability discrimination.”

“Indirect discrimination is unlawful, even where the discriminatory effect of the provision, criterion or practice is not intentional, unless it can be objectively justified. If an education provider applies the provision, criterion or practice without the intention of discriminating against the student, the court may decide not to order a payment of compensation (See Chapter 15).”

“Example: A college receives an offer of a number of work placements from a local charity for students on a youth work course. The charity is affiliated with the local Catholic church and the college decides not to offer a placement to a gay student as they believe the charity may not ‘be comfortable’ working with the student due to his sexual orientation. This denial of opportunity to undertake a work experience placement could be a detriment under the Act and result in unlawful direct discrimination because of sexual orientation.”

“Example: A diabetic student at university is allowed time to inject insulin when needed during tutorials. However, he isn't allowed to do this during the course of an examination, which he then fails because his low blood sugar level makes him unwell. The fact that a reasonable adjustment has been made in relation to tutorials is of no relevance to a claim for discrimination arising from disability in respect of the examination.”

On not having knowledge of the disability in the case of...

...Direct discrimination and discrimination arising from disability:

“The required knowledge [for direct discrimination] is knowledge of the facts of the student’s disability. An education provider does not also need to realise that those particular facts meet the legal definition of disability. It is not enough for the education provider to show that they did not know that the disabled student had the disability. They must also show that they could not reasonably have been expected to know about it.”

“An education provider should do all they can reasonably be expected to do to find out if a student has a disability. What is reasonable will depend on the circumstances.”

...Failure to make reasonable adjustments:

“Because there is a duty to disabled students generally, it applies regardless of whether the education provider knows that a particular person is disabled or whether it currently has disabled students.”

On knowing about the disability but not considering its consequences

“Example: A student has just enrolled at his local community college to do a course in local history. He has chronic heart disease and finds walking up stairs and for long distances tiring. He tells one of the administrators this when he is enrolling, but she does not realise that this will impact on his ability to go to classes at the top of the building or at the college campus on the other side of town. He is allocated to classes which are on the third floor of the college and he finds these classrooms very difficult to access. As a member of college staff is aware of his disability the college would not be able to claim that it did not know he had a disability and therefore cannot avoid liability for any discrimination arising from his disability.”

On calling the requested adjustment unreasonable because of…

...Health and safety

“Health and safety issues must not be used spuriously to avoid making a reasonable adjustment. Education providers should avoid making uninformed assumptions about health and safety risks.”

“Example: A student with HIV wants to take a nursing course. The education provider assumes that his condition will create a health and safety risk and refuses him a place. If the college had obtained further information about the student’s condition and the associated risks, it would have been able to put adjustments in place to ensure there were no unnecessary health and safety risks.”

“An individual with dyspraxia is admitted to a higher education institution to study biochemistry. She is having significant difficulty in following instructions, especially more than one at a time and has difficulty with concentration. There is also evidence that her poor motor coordination may put other students at risk during practical experiments. The university carries out a risk assessment and arranges for a support worker in practicals who can carry out the experiments under the disabled student’s instruction, but her difficulties with forming and following instructions mean that she is not able to instruct the support worker safely and effectively. Despite making a number of reasonable adjustments, the university recognises that there are continuing risks to the student and others and it is considered that she is unable to continue on the course as it is not possible for her to participate safely. This is likely to be justified discrimination arising from disability because it is a proportionate means of achieving the legitimate aim of maintaining academic standards and of ensuring the health and safety of students including the disabled student herself.”

...Competence standards:

From DisabilityRightsUK:

“In a law exam you may be required to demonstrate a particular level of knowledge of law, However completing the exam within a specific time frame is unlikely to be a competence standard if speed is not a relevant factor.”

Premises

“Example: A classroom at a college has hard flooring and high ceilings which means sound echoes. This makes it difficult for someone with a hearing impairment to hear. The college decides to lay carpet and install a drop ceiling which alters the room to address the substantial disadvantage faced by hearing impaired students. This is an example of a reasonable adjustment of altering physical features.”

“Example: A wheelchair user wants to access a university building but cannot get into the building as there is a steep flight of steps at the entrance with no ramp or lift. He asks the university why these have not been installed. The university replies that because the building is a listed building it is not required to make any changes to it. As this exception only applies when an education provider has no option but to act in a certain way, and in this case the university could seek consent to make the building more accessible, it would not be able to rely on this exception to make its actions lawful. (See Appendix 4 for more information on legal considerations in making changes to premises.)”

“Education providers should plan for and anticipate the need to obtain consent to make a particular adjustment. It might take time to obtain such consent, but it could be reasonable to make an interim or other adjustment – one that does not require consent – in the meantime.”

“Education providers should remember that even where consent is not given for removing or altering a physical feature, they still have a duty to consider avoiding the physical feature. “

Advice on how to comply with the Equality Act

“Further and higher education institutions are more likely to be able to comply with their duties under the Act, including the Public Sector Equality Duty, and to prevent their employees from discriminating against students if they take the following steps:

* Establish a policy to ensure equality in access to and enjoyment of education, services, facilities and by potential students from all groups in society.
* Communicate the policy to all staff, ensuring that they know that it is unlawful to discriminate when they are providing education or access to any benefit, facility or service.
* Train all staff, including those not directly involved in the provision of further or higher education, to understand the policy, the meaning of equality in this context and their legal obligations.
* Monitor the implementation and effectiveness of the policy.
* Address acts of discrimination by staff as part of disciplinary rules and procedures.
* Ensure that performance management systems address equality and non-discrimination.
* Maintain an easy to use, well-publicised complaints procedure.
* Review practices to ensure that they do not unjustifiably disadvantage particular groups.
* Consult students, staff and organisations representing groups who share protected characteristics about the quality and equality of the education, benefits, facilities and service and how they could be made more inclusive.”

“Authorities are more likely to be able to comply with their duties under the Act and prevent their employees from discriminating against students or users if they take the following steps:

* Establish a policy to ensure equality in access to and enjoyment of education and recreational and training facilities by potential students or users from all groups in society.
* Communicate the policy to all staff, ensuring that they know that it is unlawful to discriminate when they are providing education or recreational or training facilities.
* Train all staff, including those not directly involved in the provision of further or higher education or recreational or training facilities, to understand the policy, the meaning of equality in this context and their legal obligations.
* Monitor the implementation and effectiveness of the policy.
* Address acts of discrimination by staff as part of disciplinary rules and Equality and Human Rights Commission.[[1]](#footnote-1)
* Ensure that performance management systems address equality and non-discrimination • maintain an easy to use, well-publicised complaints procedure • review practices to ensure that they do not unjustifiably disadvantage particular groups, and • consult students, users, staff and organisations representing groups who share protected characteristics about the quality and equality of the further and higher education and recreational and training facilities and how they could be made more inclusive”

“In relation to the duty to make reasonable adjustments for disabled people the following actions will help authorities to meet their obligations under the Act:

* Review regularly whether education and facilities are accessible to disabled people.
* Carry out and act on the results of an access audit carried out by a suitably qualified person.
* Provide regular training to staff which is relevant to the adjustments to be made.
* Review regularly the effectiveness of reasonable adjustments and acting on the findings of those reviews.”

“When an education provider is considering making reasonable adjustments, the following measures may be helpful and constitute good practice that may help avoid acts of discrimination. In some circumstances, they may either be a means to identify reasonable adjustments or actually constitute reasonable adjustments themselves:

* Planning in advance, anticipating the requirements of disabled students and reviewing the reasonable adjustments in place.
* Offering a variety of opportunities for students to disclose throughout their time as a student including at the pre-entry and admissions stage so that reasonable adjustments can be made.
* Conducting access audits on premises.
* Asking disabled students for their views on reasonable adjustments.
* Consulting local and national disability groups.
* Drawing disabled students’ attention to relevant reasonable adjustments.
* Properly maintaining auxiliary aids and having contingency plans in place in case of the failure of the auxiliary aid.
* Training employees to appreciate how to respond to requests for reasonable adjustments.
* Encouraging employees to develop additional skills for working with disabled students (for example, communicating with hearing impaired people).
* Ensuring that employees are aware of the duty to make reasonable adjustments and understand how to communicate with disabled students so that reasonable adjustments can be identified and made.
* Effectively communicating and acting with one another where students attend more than one education institution, for example, pupils/students shared between schools and FE institutions.
* In further education institutions (including 16 to 19 academies) in England, there is a duty for the institution to use its best endeavours to secure special education provision that the young Equality and Human Rights Commission.[[2]](#footnote-2) This provision may be sufficient to enable a disabled student who has SEN to overcome any disadvantage that they face, so it may not be necessary to make further reasonable adjustments”

1. [www.equalityhumanrights.com](http://www.equalityhumanrights.com) 160 Technical Guidance on Further and Higher Education procedures [↑](#footnote-ref-1)
2. [www.equalityhumanrights.com](http://www.equalityhumanrights.com) 117 Technical Guidance on Further and Higher Education person needs if they have SEN [↑](#footnote-ref-2)