Equality Act 2010 (Disability): Guidance for School/Centre Staff

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# Introduction

The purpose of this document is to inform staff of the key mechanisms in place at Kent to address the legislation and to offer guidance for staff who come into contact with any disabled student.

# Equality legislation

In England, Scotland and Wales the Equality Act 2010 brings together and harmonises equality legislation.

## Disability

Under the Equality Act 2010, a person has a disability if they have ‘a physical or mental impairment, and the impairment has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities'.

'Substantial' is defined by the Act as 'more than minor or trivial'.

An impairment is considered to have a long-term effect if:

* it has lasted for at least 12 months;
* it is likely to last for at least 12 months; or
* it is likely to last for the rest of the life of the person.

Whether a person is disabled is generally determined by the effect the physical or mental impairment has on their ability to carry out normal day-to-day activities (the exception to this is people with severe disfigurement). Normal day-to-day activities are not defined in the Act, but in general they are things people do on a regular or daily basis, for example eating, washing, walking, reading, writing or having a conversation.

People who have had a disability in the past are also protected against discrimination, harassment and victimisation. This may be particularly relevant for people with fluctuating and/or reoccurring impairments.

## ****Reasonable Adjustments****

The Equality Act 2010 places a duty upon higher education institutions to make reasonable adjustments for staff, students and service users in relation to:

* provisions, criteria or practices
* physical features
* auxiliary aids

These adjustments apply where a disabled person is placed at a substantial disadvantage in comparison to non-disabled people. It is important to note that an institution can treat a disabled person favourably compared to a non-disabled person, and this would not amount to direct discrimination of a non-disabled person.

## Discrimination Arising from Disability

The provision for disability in the Act creates a new type of discrimination – discrimination arising from disability. This replaces disability-related discrimination, as was found in the DDA. This is in addition to direct and indirect discrimination, harassment and victimisation provisions relating to disability.

Section 15 states that it is discrimination to treat a disabled person in a particular way that, because of their disability, amounts to treating them unfavourably when the treatment cannot be shown to be justified. For this type of discrimination to occur, the employer, or other person, must know, or could reasonably be expected to know, that the person has a disability.

Discrimination arising from disability can occur if, for example, a student with diabetes, wishing to take food into an exam hall in case of low blood sugar is not allowed to do so as it is against policy to allow food into exam halls – the institution may be discriminating against the student unless the treatment can be justified.

## Discrimination May Occur in the Following Ways

**Direct discrimination** occurs where, because of disability, a person receives worse treatment than someone who does not have a disability. This provision is intended to stop people being denied a service, or receiving a worse service, because of prejudice.

**Indirect discrimination** happens when there is a rule, a policy or even a practice that applies to everyone but which particularly disadvantages people with a particular disability compared with people who do not have that disability, and it cannot be shown to be justified as being intended to meet a legitimate objective in a fair, balanced and reasonable way.

**Discrimination by association** is direct discrimination against someone because they associate with another person who possesses a protected characteristic.

**Perception discrimination** is direct discrimination against an individual because others think they possess a particular protected characteristic. It applies even if the person does not actually possess that characteristic.

## Failure to Make Reasonable Adjustments

The Act continues the previous duty upon institutions to make reasonable adjustments in relation to staff, students and services. These adjustments apply where a disabled person is placed at a substantial disadvantage in comparison to non-disabled people. These provisions do not apply to the other protected characteristics, and are unique to disability. Section 20 of the Act defines what is meant by the duty to make reasonable adjustments. The three requirements of the duty are in relation to:

1. provision, criteria or practice
2. physical features
3. auxiliary aids

The first requirement obliges institutions to consider the way in which they do things. For example, showing due regard to changing a practice of providing lecture handouts only in paper format. The institution would need to consider an adjustment to this practice, and provide the handouts in alternative formats.

The second requirement relates to the making of changes to the built environment, such as providing inclusive access to lecture theatres.

The third requirement requires institutions to show due regard to the provision of auxiliary aids and services, for example providing computer screen-reading software for students with a visual impairment.

The extent of the duty to make adjustments will differ slightly depending on the context. Most significantly, there is no anticipatory duty in the employment field (as exists in relation to education). In the provision of goods and services the duty will normally extend to staff, students and disabled people in general.

As observed earlier, the duty to make reasonable adjustments does not apply to competence standards, the definition of which has not changed.

## Compliance with the Legislation

Compliance with the legislation is likely to affect staff at all levels. The governing body of the Institution (Council, in the case of Kent) is deemed to be the responsible body for implementation of the law and is, therefore, liable for the actions of:

1. the institution as a whole
2. individual employees of the institution in the course of their employment (including all full-time, part-time or temporary staff)
3. agents, including contractors, visiting speakers, etc.

However, individuals may also be held responsible for aiding an unlawful act if they knowingly discriminate against a disabled student or applicant. The institution may be able to use as a defence, evidence that all reasonably practicable steps were taken to prevent staff or agents discriminating.

# Students Covered by the Legislation and Institutional Responsibility

* 1. A student does not have to be following a complete course of study to have rights under the Act. The Act covers any person who is, for example:

1. applying for a module or course of study;
2. registered for a module, evening class, or any other form of provision;
3. attending Open Days;
4. attending talks by a visiting lecturer.
   1. Legal responsibility for the actions of employees lies with the employer. An express instruction not to discriminate may not be sufficient defence on the part of the employer. The employer would have to show that it had taken such steps as were reasonably practical to prevent discriminatory actions taking place. Individuals may also be legally liable for their own actions. Where two different bodies (institutions or individuals) have a responsibility under the Act they are each fully responsible in that the involvement of one does not diminish the responsibility of the other.
   2. Where the University has a partnership arrangement with another institution according to which agreement the University awards the qualification, but does not provide the teaching or any other services, the University is not responsible for any treatment that the student receives from the partner’s staff, because it is not made by or on behalf of the University. However, where the University provides teaching on the course using its own staff, the University is responsible for ensuring that students are not discriminated against in relation to the teaching they receive because this is provided by the University.
   3. Students cannot be asked to sign terms of agreement which limit their rights under the Act. Any such terms would be void.

# Disclosure of Disability and Confidentiality

## Knowledge of a Student’s Disability or Learning Need

The Equality Act 2010 was introduced to harmonise and replace previous legislation, such as the Disability Discrimination Act 2005. It states that once one member of an organisation knows about a student’s disability or learning need and the student is happy for this information to be shared, then the whole organisation is deemed to know. It is not up to a student to inform all staff of their disability or learning need. It is up to the organisation to have effective channels of communication so that information is passed on to all relevant staff.

## Disclosure of Disabilities

4.2.1 A number of disabilities covered by legislation are hidden disabilities, such as dyslexia and specific learning difficulties. It is important that organisations proactively encourage students to disclose needs, not just at the admissions process, but at regular intervals throughout their time at university. Students will feel safe to disclose in an atmosphere and culture where disabled students are valued, confidentiality is respected and information is dealt with sensitively.

* + 1. The University of Kent procedure on disclosure requires members of staff to pass on information to their Head of School or Manager and for this information to be sent to [Student Support and Wellbeing (SSW)](https://www.kent.ac.uk/student-support). Student Support and Wellbeing will then provide recommendations on both ‘reasonable adjustments’ and ‘auxiliary aids and services’ to the relevant School and/or administrative departments for discussion and/or action.
    2. The University also seeks to comply with the provisions of the [Data Protection Act 2018](https://www.kent.ac.uk/infocompliance/). Any information gathered regarding a student’s disability is sensitive data and all efforts should be made to maximise the dissemination of relevant information to the right people and minimise the possibilities of misuse of data. In particular it is important that all staff comply with the policy established by the University:

*“Information about individual conditions or support provisions will not be disclosed to, or discussed with, any individual outside the University - including a parent or guardian - without the written consent of the applicant or student. This also applies to a member of staff not directly involved in the provision of support of the person.”*

## Disclosure of Disability During the Recruitment Process

All applicants with a conditional or unconditional firm offer and who declare a disability on their application form are sent a registration form and information regarding the support available. This is sent out by Student Support and Wellbeing to each applicant at the earliest possible time. SSW then contacts the applicant to request supporting information and evidence. SSW draws up an Inclusive Learning Plan (ILP) for each student. If required, SSW will also help applicants to apply for the Disabled Students Allowance.

## Disclosure of Disability After Entry

After the beginning of Autumn Term, disclosure may take place at School/Divisional level or directly to Student Support and Wellbeing. Once SSW has notice of this, it contacts the student and asks them to provide documentary evidence of the condition. Following completion of the registration form, SSW arranges a meeting between the student and a Student Support and Wellbeing adviser. In this meeting the adviser and student discuss the student’s needs and support requirements. The adviser then fills in an ILP on the Student Data System and draws up requirements of ‘reasonable adjustments’ and ‘auxiliary aids and services’ for the relevant Schools for discussion and/or action.

# Student Support and Wellbeing

1. [Student Support and Wellbeing (SSW)](https://www.kent.ac.uk/student-support) offers advice on suitable educational and care support, including access to equipment and funding. SSW can liaise on students’ behalf with Schools/Divisions and central services such as the Library, Accommodation Office, the Medical Centre, Information Services, Estates Department and the Careers and Employability Service. SSW raises issues relating to students’ needs on University committees. It works closely with students throughout the academic year to ensure that they can make the most of their university experience.
2. SSW has developed mechanisms for supporting individual students with disabilities in the following areas:
3. applying for funding to pay for specialist equipment (e.g. computers) and helpers (e.g. note takers);
4. arranging signers, note takers and other support workers;
5. dyslexia diagnosis;
6. Specific learning difficulties/dyslexia study skills tuition;
7. Mentoring support for students with mental health concerns;
8. identifying inclusive learning strategies (e.g. help needed in lectures and seminars);
9. discussing any special arrangements needed for exams;
10. contacting other departments/external organisations about any specific assistance required;
11. liaising with other Kent services (e.g. Hospitality, Estates, Car Parking, etc).

Student Support and Wellbeing can make arrangements for students to borrow equipment to support their studies, such as mobility scooters and digital recorders.

1. Student Support and Wellbeing offers personal academic support of the following kinds:
2. Reading, taking dictation or notes;
3. Searching for information, photocopying or scanning;
4. Planning and organising coursework;
5. Assisting on practical or lab work;
6. Learning particular study skills;
7. Help with the use of special software (e.g. mind mapping, text reader, voice recognition);
8. Arrangements for photocopying or scanning.
9. SSW can make recommendations to Schools/Divisions and the Examinations Office regarding adapting arrangements for assessments and examinations. These might include:
10. Module and examination material in large print or on tape or disk;
11. Extensions to coursework deadlines;
12. Extra time, rest breaks or other arrangements in examinations (e.g. use of a PC);
13. Handouts/book lists in advance;
14. Transcription;
15. Separate exam rooms.

5.5 Student Support and Wellbeing can be contacted at:

**Canterbury:**

Keynes College   
University of Kent  
Canterbury   
Kent CT2 7NP

Telephone: 01227 823158

Email: [accessibility@kent.ac.uk](mailto:accessibility@kent.ac.uk)

Open Monday to Friday 9:00 - 5:00

**Medway:**

Gillingham Building   
University of Kent  
Chatham Maritime  
Kent ME4 4AG

Telephone: 01634 888969

Email: [medwaystudentservices@kent.ac.uk](mailto:medwaystudentservices@kent.ac.uk)

Open Monday to Friday 9:00 - 5:00

# Courses of Study

* 1. The legislation is designed to enable equal access to learning opportunities for disabled students, without compromising academic standards. It is expected that wherever possible modules and teaching practices should be accessible by design. While representing good practice, this approach also helps to ensure that, when necessary, only minimal changes need to be made to accommodate the needs of individual learners with a disability.
  2. Course specifications, module specifications and learning outcomes need to be formulated in ways that do not create unnecessary barriers to access by disabled people. It is essential, therefore, that these are based on a full understanding of what constitutes the true core elements of a course and that the consequent learning outcomes are expressed in terms which reflect the real nature of what is to be learned. For example, a course specification required students to show ‘competence in handling particular chemicals’. This was an unnecessary barrier to students with manual dexterity problems who used assistants to undertake practical work under instruction. The specification was changed to refer to ‘understanding of how to handle particular chemicals’.[[1]](#footnote-1)
  3. Schools/Divisions have a responsibility to review their provision to promote equal access for all students. The Kent Code of Practice for Taught Courses of Study [Annex E: *Annual Monitoring*](https://www.kent.ac.uk/education/regulatory-framework/codes-of-practice-for-taught-courses#annex-e) requires that such matters are discussed as part of the annual course monitoring review at the end of each academic year.
  4. Whenever any change is made to a module in order to support a student with a disability the School/Division should ensure that the process is monitored. If the change is made in a single instance for a particular student, a note should be forwarded to the Divisional Board. If the change involves a revision of the module in some way, the module specification should be amended and submitted for approval as per Kent’s Code of Practice for Taught Courses [Annex B: *Approval of New Modules*](https://www.kent.ac.uk/education/regulatory-framework/codes-of-practice-for-taught-courses#annex-b).

# Learning and Teaching Provision

* 1. It is essential that staff review their teaching practices and learning support provision in light of potential problems that might be faced by students with a disability. While it is not possible to legislate for all possibilities it is important that teaching staff are aware of the implications of some of their practices and of the need to modify them in order to support students with a disability. In some cases, students with a disability may be assisted by the application of standard good practice in teaching.

Examples:

Do you face the front when you speak, including when you are using slides or writing on a board? This assists students who have a hearing difficulty or who depend on lip-reading.

Do you read out material presented visually? This can assist students with visual impairments.

In seminars, do you ensure that only one person speaks at a time during discussions? Amongst other things, this assists those who are deaf or hard of hearing.

In other cases, practices may vary and depend on an individual’s teaching style.

Examples:

Do you prefer to distribute handouts after a lecture rather than before? Handing out notes beforehand assists students who have visual impairments or are dyslexic.

Do you allow the recording of lectures? This may assist several categories of student who find lectures difficult to follow.

In such cases, it is important that students are not disadvantaged when they have declared a disability and that modifications are made to teaching in order to support them.

* 1. The use of any form of media in teaching can present difficulties for students with a range of disabilities.

Examples:

Are videos and other audio materials provided with subtitles, interpretation or transcripts?

Can PowerPoint presentations be read by all (see above)?

Can paper-based materials be accessed or supplied in different formats (e.g. large print)? Is information supplied early enough for students to have texts modified for their own use?

Are electronic materials fully accessible? Can those using assistive technology (such as screen reading software) access them?

Teaching staff need to give thought to alternative modes of delivery and, where necessary, alternative modes of assessment regardless of the medium used.

# Year Abroad and Placements

8.1 Students spending a year abroad as part of their degree are covered by the legislation. The University of Kent is responsible for ensuring that the host university can provide for a disabled student the level of support offered at Kent. If not, the University should seek to find a suitable alternative so that the student is not disadvantaged.

8.2 Supplementary Socrates-Erasmus mobility grants are available to students (and staff) travelling under these schemes where funds are not available at a local, regional or national level. For advice on applications for these grants contact the [International Development Office](https://www.kent.ac.uk/international).

8.3 Legislation only affects HE institutions arranging work placements where there is a contract in place with the business which receives the student.

# International Students

The University has a responsibility to treat all international students (e.g. short-term visitors or those registered for any award) in the same way as home students. The International Development Office now requests disclosure of disabilities on application forms.

# Disabled Students’ Allowance

The Disabled Students’ Allowance is available through [Student Finance England](http://www.direct.gov.uk/en/Dl1/Directories/UsefulContactsByCategory/EducationAndLearningContacts/DG_172310). This allowance can fund additional support for disabled students. More information can be obtained from Student Support and Wellbeing.

# Support Staff and Services for Disabled Students

## 11.1 Student Support and Wellbeing

SSW offers help to both potential and current students. Potential students are advised to make early contact with the service, so that discussions can be initiated with the Medical Centre, Accommodation, Estates and the appropriate School/Division about the help that is available.

## Medical Centre

The [University Medical Centre](http://www.umckent.co.uk/) is an independent group practice with full consulting facilities, a treatment room and an emergency service. There are in-house gynaecology, chiropody and genito-urinary medical clinics and a visiting psychologist and psychiatrist. All full-time students and families are invited to register for treatment under the NHS.

Students attending courses of study at the Medway Campus are encouraged to register with the [Sunlight Centre Surgery](http://www.sunlightsurgery.co.uk/). Further details are available on their website.

## Wellbeing Team

Professional [counsellors](https://www.kent.ac.uk/student/wellbeing) offer a confidential service to all students.

## Students’ Union Advice Centre

The [Advice Centre](http://www.kentunion.co.uk/welfare/) provides advice and assistance to all students, which includes referring eligible students to apply for disability allowances. Where other sources of finance are not available, the University will take into account specific costs related to disability when allocating Access Funds.

## Accommodation

The [Accommodation Office](http://www.kent.ac.uk/accommodation/) is part of the University of Kent Hospitality department, but it works closely with Student Support and Wellbeing. Applicants with disabilities who need on-campus accommodation are advised to contact SSW at an early stage to discuss any changes that might be necessary in order to meet their particular housing needs. Applicants with complex personal care needs are encouraged to contact the University at an early stage for appropriate alterations and outside agency support to be arranged. The University endeavours to ensure that all full-time disabled students (undergraduates and postgraduates) are offered residential accommodation appropriate to their needs. Early application for accommodation and contact with SSW is essential to ensure that the appropriate provision is made.

## College Masters’ Offices

Each student, whether living on campus or not, is allocated to one of the University’s Colleges. As the Colleges offer a mixture of teaching, studying, residential accommodation and social facilities, they play an important part in the lives of most students. The Masters and their assistants have a welfare role, in addition to their other wide-ranging responsibilities, and can offer advice and help to disabled students.

## Careers and Employability Service

The [Careers and Employability Service](http://www.kent.ac.uk/ces/) provides a broad range of careers guidance and information services to students throughout their academic career. The service will work on an individual basis with disabled students to identify personal abilities and skills and assist in their preparation for and pursuit of educational and employment opportunities.

## Information Services

[Information Services](http://www.kent.ac.uk/is/) offers a range of support to students with disabilities and learning difficulties. These include easy access to all parts of the University Library for users with mobility problems, specially configured PC equipment and software applications, specially designed furniture, and collection services for users unable to access parts of the library shelving areas. There are also members of staff who have special responsibility for monitoring the needs of disabled users. Information Services liaises closely with Student Support and Wellbeing and receives regular reports from the service about anticipated needs of Kent students with disabilities.

## Student Learning Advisory Service (SLAS)

[SLAS](https://www.kent.ac.uk/student-learning-advisory-service) resources are available to all students who want to strengthen their study skills or tackle a specific study difficulty. Essay and report writing, time management, effective reading and note taking, ‘accelerated learning’, concentration, examination techniques and much more are all offered via the centre. SLAS and all the rooms used for offering advice and workshops are fully and easily accessible for wheelchair users.

## Sports Centre

The [Sports Centre](https://www.kent.ac.uk/sports/) is accessible to wheelchair users and is used extensively by disabled groups from the local community. The University Sports Centre staff are very enthusiastic and committed about enabling disabled students to develop or sustain an interest in sporting activities. Staff members can help in designing exercise programmes tailored to individual needs and levels of activity.

Medway Park is the preferred sporting facility for University of Kent students studying at the Medway Campus.

1. Example taken from the *Good Practice Guide*: *Learning and Teaching* published by the Disability Rights Commission, which includes a fuller explanation of issues. [↑](#footnote-ref-1)