

Guidance on matters related to the provision of lecture recordings for disabled students

Background

On the 8th of July 2022, [guidance](#) was issued to all Faculty Boards and Heads of Department, from GBEC, in relation to the institutional expectation to provide recordings for all lectures as standard. However, the guidance also states that whilst there is an expectation that all live lectures should be recorded, no member of staff is required to do so and Faculties and Departments can decide that particular courses will not have their lectures recorded. If lectures are not recorded there are implications for the provision of reasonable adjustments for disabled students which need to be clearly understood. This document details these implications and provides recommended approaches.

Provision of Lecture Recordings for Disabled Students

The duty under the Equality Act 2000 to make reasonable adjustments for disabled students is anticipatory. That means that the University has a duty to prevent substantial disadvantage being suffered by disabled students as a result of its existing practices or policies when compared with students who are not disabled. A substantial disadvantage is one that is more than minor or trivial. As an institution we are aware that a significant minority (approximately 20% of the total student population) of our students fall under the legal definition of disability, and that a large number of those students require lecture recordings to help prevent the substantial disadvantage they would otherwise face as a result of their impairment(s). In an effort to discharge our statutory anticipatory duty, we should therefore seek to implement a range of measures which disabled students can avail themselves of without the need to make specific requests and without incurring any additional time and administrative burden. Implementing an adjustment after the student has suffered a disadvantage as a result of their disability is too late.

Departments and Faculties are made aware of disabled students studying on their courses in two ways. The Disability Resource Centre (DRC) sends a summary report (a Disabled Student Cohort Summary) indicating those incoming students who have disclosed a disability, and their anticipated access requirements, in the July and September preceding the start of the next academic year. Individual Student Support Documents (SSDs) are also issued (now via CamSIS) which will contain any recommendation for provision of recordings of lectures.

The recent County Court ruling ([Abrahart v University of Bristol](#)) concluded on the facts of that case (in which the student's impairment was apparent to academic staff) that requiring the student to invoke the extenuating circumstances process to obtain an adjustment amounted to unlawful discrimination. Universities should therefore take care in not conflating the statutory anticipatory duty to make reasonable adjustments with extenuating circumstances processes (i.e. we should not make students apply for something to which they have a legal right, and which we are aware would reduce disadvantage). It also stresses that where universities have actual or constructive notice/knowledge that a student is disabled (whether there is formal evidence or not, and also whether they are engaged with

disability services or not) they should put in place the appropriate adjustments for those students in the most effective way possible, and that this duty lies with the institution, rather than with the student. It is not the student's responsibility therefore to have to identify or to apply for reasonable adjustments.

Providing recordings of lectures for all students has been recommended by the [Office for Students](#), the [Department for Education](#), the [Quality Assurance Agency](#), the [Office of the Independent Adjudicator](#), the [Disabled Students Commission](#) and [Disabled Students UK](#) as an example of inclusive practice and is also in line with the [University's Code of Practice: Access and Inclusion for Disabled Students](#).

It would therefore be at variance with sector guidance and a potentially legally challengeable step, depending on the circumstances of individual cases, to reintroduce the process of organising and making recordings themselves (as well as managing the administration of these recordings). Many disabled students already face significant time penalties as a result of their impairments and as an inclusive institution we should, wherever possible, avoid adding additional time burdens to these students. Returning to a process where permission has to be sought and approved also places a significant cost and time burden on the ADRC, Colleges, Departments and Faculties, as they are required to administer this process. It also adds a financial burden to the University as in some cases recording equipment will need to be provided to the student. The cost of this cannot be passed to the student, as it is not permitted (under the provisions of the Equality Act 2010 [S.20 \(7\) EqA](#)) to pass the cost of any reasonable adjustment on to the disabled person. The University may need to consider charging Departments and Faculties where recording devices must be purchased to satisfy legal obligations.

The Expectation to Record paper sets out clearly the benefit to disabled students and to the University in relation to compliance with the anticipatory legal duty of providing recordings for all lectures as standard. Notwithstanding that it would be beneficial for all students, the University could restrict access to recordings to disabled students who would otherwise be put at a disadvantage as a result of their specific impairment. Other UK universities, including the [University of Manchester](#), the [University of Exeter](#), and the [University of Oxford](#) have taken a similar approach in recommending the provision of recordings to disabled students in instances where a lecture is not being made available to all students. If there are steps which the University could reasonably take to prevent a student from suffering substantial disadvantage as a result of their disability, if it fails to take those steps and the student suffers disadvantage as a result, it will amount to a failure to make a reasonable adjustment, to which there is no legal defence. If recording lectures is a reasonable step and there is no equally effective alternative means of preventing disadvantage, then it is the University's view that recording should normally be permitted.

Recommendation

Therefore, it is strongly recommended that in those courses where there is evidence that there are disabled students for whom access to recordings of lectures would remove

disadvantage, that a recording of the lecture is made and provided to these students, even if the recording is not provided to all students on that course.

As set out in the appendix to the [GBEC Expectation to Record](#) paper, it should also be noted that in cases where there is an evidenced requirement for a disabled student to have a note-taker to take lecture notes for them as a reasonable adjustment, and no recording is made, it will be the responsibility of the department/faculty to manage and fund note-taking for the student, not the ADRC.

This guidance is issued by the General Board's Education Committee in July 2022 as an addendum to the Expectation to Record Statement for the 2022-23 academic year. The guidance was reissued 12 October 2022 with additional phrasing, to delineate more clearly our legal duty to provide reasonable adjustments; the context and recommendations of the document are unchanged.

References:

- [Abrahart v-v University of Bristol](#), May 05 2022, Judgement, County Court at Bristol
- Disabled Students' Commission Annual Report 2020-21: [Enhancing the disabled student experience](#)
- Disabled Students UK report: [Going back is not a choice \(2022\)](#)
- Office for Students: Briefing note (June, 2020): Disabled Students <https://www.officeforstudents.org.uk/publications/coronavirus-briefing-note-disabled-students/>
- Department for Education (2017): [Inclusive Teaching and Learning in Higher Education as a route to Excellence](#)
- Equality and Human Rights Commission: Equality Act 2010 [Technical Guidance on Further and Higher Education](#)
- Office of the Independent Adjudicator (OIA, October 2017): [The good practice framework: Supporting Disabled Students](#)
- Office for Students: IES Report: [Review of Support for Disabled Students in Higher Education in England \(2019\)](#)
- The Quality Assurance Agency's (QAA) [Quality Code for HE on teaching and learning](#)
- Shakespeare Martineau: Going Further and Higher – Education Podcast (May 26, 2022), [The Learnings from a Tragedy.](#)