

Code of Practice: Reasonable Adjustments for disabled students

Unless otherwise stated, this Code of Practice applies to all matriculated students studying at the University.

Background

1. The Equality Act 2010¹ requires all universities not to discriminate against disabled students. Section 6 of the Act defines disability as follows: '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 his or her ability to carry out normal day-to-day activities'.²
2. Section 20 of the Act³ imposes a duty on Higher Education Institutions to make '**reasonable adjustments**' for students in relation to:
 - **a provision, criterion or practice** (for example teaching and assessment methods)
 - **physical features** (for example access to lecture theatres, labs, teaching rooms)
 - **auxiliary aids** (whose definition includes auxiliary services) (for example hearing loops, information in accessible formats or the provision of Non-Medical Assistance (NMA) support)
3. The substance of the duty is: where any of the University's provisions as outlined above puts a disabled student at a substantial disadvantage in comparison with students who are not disabled, the University is required to take such steps as it is reasonable to have to take to avoid the disadvantage. A substantial disadvantage is defined by the Equality Act as one that is more than minor or trivial. The key factor, therefore, in assessing whether adjustments are required is whether the disabled student is put at a substantial disadvantage relative to his or her non-disabled counterparts. Consequently, the purpose of the duty is not to confer an unfair advantage on disabled students, but to remove barriers to learning, where it is reasonable to do so.
4. The duty is anticipatory; the University should not wait until adjustments are proposed, rather look to ensure, where possible, that alterations to policies, practices and procedures have been made in advance to prevent disabled students suffering substantial disadvantage. There is no legal defence for the

¹ The Equality Act 2010 replaced the Disability Discrimination Act (DDA, 1995, amended 2001, 2005). The Special Educational Needs and Disability Act (SENDA, 2001) introduced the concept of 'reasonable adjustments' to the provision of higher education. The 2005 revision to the DDA placed a 'positive statutory duty' on public bodies (including the University) to have due regard to the need to promote equality of opportunity between disabled and other persons and to avoid disability-related discrimination (among other obligations). All these provisions have been incorporated into the Equality Act.

² Further guidance issued by the Secretary of State on the definition of disability can be downloaded at http://www.direct.gov.uk/en/DisabledPeople/RightsAndObligations/DisabilityRights/DG_4001068

³ <http://www.legislation.gov.uk/ukpga/2010/15/section/20>

failure of an institution to make a reasonable adjustment. This would be interpreted as discrimination under Section 21 of the Act⁴.

5. **'Reasonable adjustments'** must be made to existing academic practices or programmes in order to provide students with the opportunity to effectively demonstrate their abilities. Adjustments might cover a wide range of aspects of University and College provision, but this Code of Practice addresses only adjustments to teaching and assessment practices.

6. The *QAA Code of Practice* defines reasonableness as follows:

'The application of an adjustment will result from consideration of the circumstances of the individual student and will involve the student in discussion of possible courses of action. What is 'reasonable' for an institution will vary according to a range of factors and will depend on the circumstances of the individual case. Factors influencing the determination of what is reasonable will include the effectiveness of taking particular steps in enabling the student to overcome the relevant disadvantage, health and safety issues, the effect on other students and the financial cost to the institution.'⁵

7. The implementation of a reasonable adjustment aims to prevent the disabled student from suffering substantial disadvantage as a result of their disability and hence to allow them to achieve their maximum potential but, in defining 'reasonableness', institutions are not required to compromise **'competence standards'** of the courses in question. Within the Act 'competence standards' are defined as the 'academic, medical or other standard[s] applied for the purpose of determining whether or not a person has a particular level of competence or ability'. A competence standard must not in itself be unlawfully discriminatory. It must therefore apply equally to all students, be genuinely relevant to the course, and be a proportionate means of achieving a legitimate aim.

Assessment of need and the Student Support Document (SSD)

8. All disabled students who disclose a disability to the Disability Resource Centre, and who require support, are issued with a Student Support Document (SSD) which sets out adjustments recommended to support them in their study at Cambridge. SSDs are produced by the DRC Disability Advisers drawing on available evidence of the impairment through a "diagnostic assessment" from a qualified professional such as a doctor or Educational Psychologist or Specialist Teacher and, in the majority of cases, supplemented by a 'Needs Assessment' from an independent assessor at an Access/Assessment Centre. Information from the diagnostic assessment is discussed with the individual student and, where appropriate, the College and

⁴ <http://www.legislation.gov.uk/ukpga/2010/15/section/21>

⁵ Chapter B4 p20

<http://www.qaa.ac.uk/Publications/InformationAndGuidance/Documents/Quality%20Code%20-%20Chapter%20B4.pdf>

Faculty/Department, and is then consolidated and contextualised by the DRC's Disability Advisers to produce the Student Support Document (SSD).

9. SSDs are agreed jointly with the disabled student, and then sent to the named contacts in the College and Department. It is the responsibility of the Department to ensure that reasonable adjustments to departmental teaching and library provision (including any necessary physical adaptations) are considered and put in place and of the College for adjustments to teaching in supervisions, College library provision and accommodation. The College, acting through the Tutor or Director of Studies, is also responsible for supporting the student by keeping a watching brief and monitoring that the reasonable adjustments to both departmental and College provision have been made.

Reasonable Adjustments in Teaching and Learning

10. A wide range of adjustments might be recommended in the SSD depending on the student's disability, and the particular disadvantage suffered by the student, but the General Board has specifically approved the following three adjustments (which are already common practice) as 'reasonable' within the terms of the Act and that, where specifically recommended by an individual student's Disability Adviser and agreed by the student, Faculties and Departments are required to:
 - permit the student to make an audio recording of lectures for their own use;
 - provide the student with electronic copies of lecture materials in advance, for their own use, when available;
 - provide directed reading lists differentiating between 'essential' and 'desirable' items.
11. It is the normal expectation that 'reasonable adjustments' to teaching recommended by the DRC through the SSD will be put in place. Implementation of adjustments and their effectiveness will be monitored by the College Tutor (or Director of Studies) in discussion with the student. However, if a Faculty/Department has difficulty implementing the adjustments recommended, it should discuss this further with the College tutor and student as appropriate, seeking further advice from the DRC. If, as a result of further discussion, the Faculty/Department is of the view that the recommended adjustments are not 'reasonable adjustments' then they should request that the matter be reviewed by the Education Committee.
12. If a disabled student is not satisfied that adjustments recommended have been put in place, or that the adjustments are insufficient to address their specific disadvantage, they should raise the matter with their College tutor, who may seek review of the position by the Education Committee.

Reasonable Adjustments in Assessment: alternative modes of assessment

This section of the Code of Practice relates to candidates for all examinations except those assessed by thesis and oral, for whom alternative are in place⁶.

13. A number of adjustments are already permitted in respect of assessment and are set out in the Board of Examinations: Special Examination Arrangements - Notes of Guidance for Staff and Students⁷. These guidelines now incorporate the arrangements for consideration of alternative modes of assessment as set out in paragraphs 14-21 and the appendix 1 to this Code
14. In addition to adjustments to the length, timing and place of examination, and use of a computer, where these do not adequately address the specific, substantial disadvantage suffered by a disabled student, the General Board has agreed that consideration should also be given to adjustment to the mode of assessment. This will, in most cases, entail the Board of Examinations setting aside the regulations for the examination where to do so is an effective and reasonable means of avoiding the disadvantage in question and where there is no equally-effective, reasonable, alternative means of avoiding that disadvantage. To preserve the integrity of Cambridge examinations, it is essential that rigorous arrangements are in place to consult teaching staff who are experts in the subject area to be assessed; to determine whether an alternative mode of assessment is appropriate given the student's particular disability; and for granting the necessary approvals for it to be put in place. The procedure agreed by the General Board is set out in appendix 2.
15. Requests for consideration of an alternative mode of assessment will be for exceptional cases, and will be considered on a case-by-case basis. In determining whether an alternative form of assessment is appropriate, both the particular needs of a student and the particular demands of the course will be taken into account. The aim is to ensure a level playing field, (that is, that reasonable steps are taken to ensure that a disabled student is not placed at a substantial disadvantage in comparison with students who are not disabled) and not to give a disabled candidate an advantage over others.
16. While there is no duty to make reasonable adjustments to genuine competence standards, the duty does apply to the assessment of that standard: the Law distinguishes between requiring students to demonstrate they have reached a required standard, and the method by which this is assessed. There is a difference between a competence standard and the process by which the standard is assessed.⁸
17. It is unlikely, for example, that a Faculty Board or Degree Committee could lawfully claim that the ability to pass a three-hour examination (even with additional time or the use of a computer) is a competence standard in itself for

⁶ <http://www.admin.cam.ac.uk/students/studentregistry/exams/before/special.html>

⁷ <http://www.admin.cam.ac.uk/students/studentregistry/exams/undergraduate/>

⁸ Understanding the Disability Discrimination Act: A guide for colleges, universities and adult community learning providers in Great Britain Disability Rights Commission, 2007, para 3.16

all subjects. That is, it would be difficult to demonstrate that an ability to write within the specific time limit was an integral and irreplaceable component of the standards applied to determine whether a student has reached the standard required to pass the course.

18. In making a judgement on the appropriateness of an alternative mode of assessment, the Faculty Board (Degree Committee) will need to be guided by the competence standards for the award. Competence standards will vary between subjects, but the Programme Specification should in all cases provide a basis for determining them.
19. The Programme Specification sets out the course aims (which encapsulate the purpose of the course and what the Faculty/Department is trying to achieve in providing it), and the learning outcomes (which describe the knowledge and skills a student might expect to gain from the course)⁹. To be lawful, the knowledge and skills deemed to be competence standards must be proportionate means of achieving the course aims. Guidance issued by the Disability Rights Commission on competence standards and assessment is included in appendix 3.
20. It should be borne in mind that it may not always be possible to provide an alternative mode of assessment, but where a request is declined the reasons for this decision will have to be stated with reference to the key competencies of the course. Alternative modes of assessment will be determined on a case-by-case basis, taking account of the course and the nature of the student's disability. Agreement to a particular alternative mode of assessment for a particular student will not be taken as setting an automatic precedent for others.
21. A method of assessment which requires candidates to demonstrate synoptic knowledge of material studied over the course or one or two years is likely to be regarded as an acceptable competence standard, but a method of assessing this knowledge which required high levels of stamina in order to complete a number of papers within a limited timescale would not be justifiable in cases where the student's particular disability made it impossible or difficult to engage in the examination process by comparison with non-disabled students. In such cases, a reasonable alternative would have to be considered.

Appendix 1

Procedure for consideration of requests for alternative modes of assessment

1. Where a disabled student believes that both the standard modes of assessment and the standard special arrangements on offer through the Board of Examinations would not alleviate the substantial disadvantage they suffer because of their disability, and would not allow them to demonstrate the

⁹ <http://www.admin.cam.ac.uk/offices/education/curricula/aims.html>

requisite knowledge and skills required by their course, the Board of Examinations must consider any specific request submitted by their College on behalf of the student to be assessed by an alternative means. This might be, for example, to substitute submitted work in place of written papers, for alternative shorter unseen papers to be set to allow them to take them over the course a longer time period, or taking the examinations over more than one year.

2. Before submitting a formal request for consideration of an alternative mode of assessment, students should discuss their requirements with a College Tutor who should contact the Secretary of the Board of Examinations. The Secretary of the Board of Examinations will arrange a case conference involving the student, the College, appropriate academic representatives from the Faculty/Department (to include the Chair or Senior Examiner), and the Disability Adviser to discuss possible options.
3. Requests must be made in a timely fashion as early in the academic year as possible to ensure that appropriate teaching can be put in place, and that alternative modes can be discussed with the Faculty/Department concerned and suitable arrangements put in place. It might not be possible to accommodate requests made after the end of the Michaelmas term.
4. After initial informal consultation has taken place, a formal request should be made to the Secretary of the Board of Examinations, through the College, and should be accompanied by medical evidence and/or an assessment from an appropriate expert. The request should clearly state the preferred alternative method of assessment.
5. The Secretary of the Board of Examinations will then seek formal approval from the Chair of Examiners for the alternative mode of assessment. At this stage, the Chair of Examiners might request that specific conditions, such as a deadline, or word limit are set.
6. The request will then be considered by the Education Committee, which will in turn advise the Board of Examinations. The decision of the Board of Examinations will be final.

Appendix 2

The following extract from the Disability Rights Commission guide to the Disability Discrimination Act might be useful to Faculties and Departments in discussing competence standards. Further advice on interpretation of the Equalities Act can be obtained from Educational and Student Policy and the Legal Services Office.

Extract from *Understanding the Disability Discrimination Act: A guide for colleges, universities and adult community learning providers in Great Britain* Disability Rights Commission, 2007

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 clearly¹⁰.

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.

¹⁰ Footnote added for clarity after consultation with Faculty Boards and Degree Committee, Easter term 2012 - The University of Cambridge interprets this to mean write legibly or speak distinctly or audibly. Students will be expected to be able to express their ideas and demonstrate their understanding clearly, if necessary supported by the use of a computer, amanuensis or other aid.