

A practical briefing guide for disability and learning support services in the further and higher education sectors.

Please note that this briefing guide is not a complete and authoritative statement of the law and does not provide definitive guidance on the practical implications of SENDO.

Introduction

The Special Educational Needs and Disability (Northern Ireland) Order 2005 (SENDO) applies to schools, universities and colleges, including teacher training and agricultural colleges. For the purposes of this guide all of these bodies shall be referred to as the '**institution**'.

Throughout this guide the term '**disabled student(s)**' is used to cover all disabled students including; full time, part time, international, adult learners, outreach and prospective disabled student(s). The term '**all staff**' includes full time, part time, temporary, permanent, contract, agency and outreach staff either directly or indirectly employed by the institution.

What is disability discrimination under SENDO?

SENDO places new duties not to discriminate against **all staff** and bodies responsible for the provision of education and associated services, admissions and expulsions/suspensions. The new duties can be summarised as follows:

- Not to treat disabled students and prospective disabled students **less favourably** (for a reason relating to their disability) than it treats, or would treat, a person to whom that reason does not or would not apply (without justification). **Victimisation** is also covered.
- To make '**reasonable adjustments**' to ensure that disabled students are not placed at a substantial disadvantage compared to students who are not disabled.

It should **not** be the sole responsibility of staff in disability or learning support services to ensure that the institution is complying with SENDO.

The primary role of disability and learning support staff should be to provide assistance and support to disabled students by helping in the process of making reasonable adjustments and assisting in accessing any funding available.

Disability and learning support services can assist marketing staff in promoting the institution as accessible and inclusive. They should seek to offer their expertise on disability issues to all staff as part of a '**coherent institutional approach**' that will ensure that the institution is proactive in promoting inclusion in education.

How will SENDO impact staff in disability and learning support services?

Staff within disability and learning support services should already have a good working knowledge of the issues faced by disabled students in relation to making education accessible, in making adjustments and in providing assistance in funding for additional support.

Like all members of staff within the institution, they have a legislative duty to meet the needs of disabled students under SENDO.

Anticipating and making reasonable adjustments

Staff within disability and learning support services should work closely with **all** staff within the institution to assist them in the process of anticipating what reasonable adjustments should be made for disabled students.

Disability and learning support services staff will play a key role in the reactive duty of making reasonable adjustments since many disabled students will come directly to these services to get their individual support needs met.

Case Study 1

A student is receiving disabled students' allowance to pay for a sign language interpreter and note-taker. Because he uses these services, the student takes longer on his academic work than other students. He has also to take on the role of employer to his assistant, including arranging for national insurance contributions etc.

In this case, and in agreement with the student, the university's disability services arrange to process the assistant's wages through their payroll department. Without this the student could be placed at a substantial disadvantage in relation to their access to student services.

In Case Study 1 the university's disability services met the individual needs of the disabled student and thus complied with the reactive duty under SENDO.

Policies, practices and procedures

Given the expertise of staff in disability and learning support services it is essential that they are prepared to offer **guidance** in the development of the institution's policies, practices and procedures under SENDO.

Staff within these services should be involved in all **planning** decisions relating to physical changes to the environment of the institution. The input of such staff is essential in the preparation of access audit reports.

Similarly, such staff should be consulted in **reviewing policies, practices and procedures** that will have an impact on disabled students, such as those on admissions, disciplinary procedures and complaints procedures. The experiences of disabled students who have used the disability or learning support services will be beneficial in the development of policies, practices and procedures and can help reduce the possibility of disabled students being discriminated against.

Staff within disability and learning support services should seek to make **all** staff aware of the services that they provide **and** provide information on the funding and support that is available to disabled students. **All** staff should know how to contact the service.

Staff from disability and learning support services should also be involved in **departmental meetings** throughout the institution in order to represent the needs of disabled students. In particular such staff should work closely with library and IT staff to ensure that disabled students have access to adaptive equipment and specialist software.

Staff from disability and learning support services should offer their expertise in accessibility issues to assist in staff training, particularly in areas such as making reasonable adjustments and in issues surrounding disclosure and confidentiality.

Case Study 2

A student has severe depression and because of the medication she is on, finds it difficult to get to her first morning class. After several weeks during which she has missed all her morning classes, and without approaching the student to find out why she did not turn up, the college decides to remove her from the course. The institution has not taken any reasonable steps to find out whether the student's failure to attend class is due to a disability, and so is likely to be acting unlawfully.

Learning support and disability staff should have regular contact with teaching staff and senior managers to make them aware of the services provided by the department.

If the same student was advised to contact learning support but declined or denied having a disability, then the college's decision to remove her from the course is likely to be lawful.

As staff within disability and learning support services will be aware, many disabled students may **not disclose** their disability when applying to college or university. Some may have their own coping mechanisms and feel that they don't need any additional support. Others may fear that disclosing their disability could jeopardise their entrance or place onto a course.

Staff should constantly **monitor** the number of disclosures that are made and regularly review the ways in which students are encouraged to disclose a disability.

A student's right to **confidentiality** regarding their disability should be respected. Staff within disability and learning support services should seek to secure the trust of disabled students in order for them to disclose their disability.

The institution should have a **policy and procedure** for recording a disabled student's wish to either disclose the details of their disability or their request to keep the existence of their disability confidential. Once recorded, this information should be stored in a secure place in order to maintain confidentiality. As an institution is deemed to have knowledge of a student's disability once one member of staff is informed, these records may need to be referred to in the future and for the purposes of making reasonable adjustments.

Any disabled student that requires additional support should only have the details of that additional support passed on to relevant members of staff. In most cases, it is **not** necessary to provide exact details of the effects of a disability or the medical background of the disabled student. In addition, it should be noted that passing on such information could conflict with other legislation with which the institution must comply.

Health & safety is extremely important in an institution. Under certain circumstances it may be essential to override a disabled student's right to confidentiality if there is a genuine health & safety risk to that disabled student, to other students in the institution or to any members of staff.

An appropriate risk assessment must be carried out when a perceived issue of health & safety arises and **before** any actions are made, such as deciding to include or exclude a disabled student. The purpose of this assessment should be to find ways to make the institution accessible to the disabled student and should not be used as a barrier to accessing education.

Staff from disability and learning support services should ensure that **disabled students are included** in every aspect of risk assessments.

In some cases, an assessment, carried out by a **suitably qualified person**, will recommend that a course may not be suitable for a disabled student. Disability and learning support staff should seek to encourage the disabled student to find another course that may be more appropriate to their individual support needs.

Staff from disability services and learning support services should constantly monitor the **effectiveness** of the provision made for disabled students. This can be done by encouraging and analysing feedback from disabled students who have used the service.

Needs assessment forms should be reviewed to ensure that they comply with SENDO and do not conflict with a disabled student's right to confidentiality.

This information can help contribute to high quality standards that can be used by all departments within the institution.

Where can I get more advice and information?

It is essential that **all staff** are aware of their duties under SENDO. Contact the **staff development officer** at the institution for advice and support.

You may also contact the following organisations for advice and support:

Equality Commission for Northern Ireland

Equality House
7 – 9 Shaftesbury Square
Belfast
BT2 7DP

Telephone: 028 90 500 600

Textphone: 028 90 500 589

Fax: 028 90 248 687

Email: information@equalityni.org

Website: www.equalityni.org



Skill NI National Bureau for Students with Disabilities

Unit 2
Jennymount Court
North Derby Street
Belfast
BT15 3HN

Telephone/ Textphone: 028 90 287 000

Fax: 028 90 287 002

Email: info@skillni.org.uk

Website: www.skillni.org.uk



This publication has been produced by the Equality Commission for Northern Ireland in partnership with SkillNI.