

## A practical briefing guide for maintenance and catering staff 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.

SENDO states that it is unlawful for educational institutions to discriminate against disabled students in the provision of **'student services'**. Staff providing such services must work within the principles of SENDO i.e. not to treat disabled students less favourably and to make reasonable adjustments. This applies to **all** members of staff within the institution, i.e. full-time, part-time, permanent and temporary, based on or off the campus.

The nature of student services will vary from one institution to another but may include:

- Cleaning;
- Repairs/maintenance;
- Security;
- Learning facilities such as classrooms, lecture theatres, laboratories, studios etc;
- College shops;
- Chaplaincies and prayer areas;
- The physical environment;
- Leisure and recreation services;
- Catering facilities;
- Car parking;
- On site and outreach provision.

This list is not exhaustive.

**Remember, any service, that is provided by an institution wholly or mainly for students, must be accessible to disabled students.**

The duty to make reasonable adjustments is both an **anticipatory** and a **reactive duty**. The purpose of adjustments is to ensure that disabled students are not substantially disadvantaged compared to non-disabled students.

Given the direct contact that maintenance and catering staff have with the student population in the institution it is likely that they will be involved in making adjustments for disabled students.

Adjustments may include:

- Ensuring while cleaning an area of the building, carrying out maintenance work or making repairs, that all appropriate **health and safety signage is visible**.
- Knowing how to obtain information for disabled students, for example, canteen menus, in an **alternative format** such as large print or Braille.
- Ensuring that cleaning equipment, machinery etc, which is not in use, is **not blocking** corridors or areas of access.
- Ensuring that when closing corridors or entrances for maintenance work, there is **alternative access** for disabled students.
- Ensuring that accessible **car parking** spaces are used in accordance with the institution's policies, practices and procedures.
- Being aware that many disabled students have **disabilities which may not be obvious**, such as epilepsy, mental ill health or dyslexia.
- **Offering assistance** to disabled students when requested.

**Case Study 1**

A security guard employed at a college of further and higher education always takes a long time to open the barrier to the staff car park for a disabled student who has been allocated a space there.

He does this because he disapproves of students being allowed into the staff car park even if they have permission. This treatment can be deemed as treating the disabled student less favourably because of his/her disability and is likely to be unlawful.

Case Study 1 highlights how small actions can cause discrimination against disabled students.

By talking to both disabled students and staff who have experience dealing with disability issues, maintenance and catering staff can ensure they are not discriminating against disabled students and improve the accessibility of their services.

**Contract staff**

It is possible that maintenance and catering staff at the institution are employed by a third party organisation. These will be subject to the Disability Discrimination Act 1995 in terms of accessible service delivery.

All staff, whether direct employees or contract staff are subject to SENDO when duties are carried out with the authority of the institution.

## Case Study 2

A cleaner employed at a college of further and higher education always leaves the mop and bucket in the accessible toilet and forgets to remove it before finishing cleaning the room. A disabled student who uses a wheelchair is unable to access the facility. This could be viewed as less favourable treatment and is likely to be unlawful.

## Disclosure of a student's disability

In many cases a disabled student may **not** disclose his/her disability to the institution. This may be because the student has his/her own coping mechanisms and feel that they don't need any additional support or are embarrassed about their disability and feel it could jeopardise a place on a course.

Given the direct contact that maintenance and catering staff have with students, it is possible that a disabled student could directly or indirectly disclose his/her disability to these staff. Under SENDO, once one member of staff knows about a student's disability then the institution is deemed to have knowledge that the student is disabled and should proactively consider if the institution's services are accessible.

It is recommended that you make yourself aware of the **disability or learning support services** available within the institution. In doing so, you can advise disabled students who disclose their disability on how to contact the service. Also, you can use it as a support for making reasonable adjustments.

However, in some cases of disclosure, the disabled student may ask you not to pass on the knowledge that you have of his/her disability. The disabled student has this right to **confidentiality** and it should be respected. You can encourage the student to seek further support but you cannot force them.

The institution should have a **policy** and **procedure** for recording a disabled student's wish to either disclose the details of his/her disability or their request to keep the existence of his/her 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 for the purposes of making reasonable adjustments.

In situations such as these, you should seek to make a reasonable adjustment for the student. Discuss with the disabled student how you can make a reasonable adjustment but inform them that their request for confidentiality may limit the support you can offer. By doing this you are meeting your obligations under SENDO, without affecting a disabled student's right to confidentiality.

Health & safety is extremely important to an institution. However, it should not be used as a barrier to exclude disabled students from the institution.

If there are genuine health safety issues, then a risk assessment should be carried out by a **suitably qualified professional**.

It is possible that maintenance and catering staff could be involved in the risk assessment process.

**It is important to remember that the purpose of a risk assessment is to find ways to remove barriers for disabled students rather than seeking ways to exclude disabled students.**

## 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**, the **learning support** or **disability services** 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](mailto:information@equalityni.org)

Website: [www.equalityni.org](http://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](mailto:info@skillni.org.uk)

Website: [www.skillni.org.uk](http://www.skillni.org.uk)



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