

## Redress

The Disability Rights Commission is being asked to set up a conciliation service, which it is hoped will deal with most complaints in a speedy and effective way. If both parties do not agree to conciliation, or if conciliation fails, disabled people may take cases to court (the county court in England and Wales and the sheriff court in Scotland). Courts will have the power not only to determine the rights of the case, but also to award compensation and impose injunctions or interdicts to ensure discriminatory practices are reviewed.

## Timetable

With two exceptions, the new legislation will be in force by 1 September 2002. The exceptions are reasonable adjustments involving the provision of auxiliary aids and services (such as interpreters etc) which comes into force on 1 September 2003 and the requirement to make physical adjustments, which is to be implemented on 1 September 2005.

## Further information

Skill has drafted the Statutory Code of Practice, which will provide guidance to providers on the implementation of the new law, for the post-16 sections of the Act on behalf of the Disability Rights Commission. For further information about the Act and post-16 education, contact Skill below.

### Skill: National Bureau for Students with Disabilities

info@skill.org.uk

<http://www.skill.org.uk>



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## QAA Code of Practice for the assurance of academic quality and standards in higher education – and its use in relation to the Special Educational Needs and Disability Act 2001

Karen Czapiewski, Quality Assurance Agency (QAA)

### Abstract

*Section 3 of the Quality Assurance Agency (QAA) Code of Practice for the assurance of academic quality and standards in higher education is about students with disabilities. It has been particularly welcomed as providing a useful tool for institutions in helping them to provide for their students. With the introduction of SENDA (The Special Educational Needs and Disability Act 2001), HE Institutions should find it helpful that they have been adhering to the precepts of this section of the code since October 2000. This section of the QAA code is not the same as SENDA but, if institutions have embraced not simply the precepts but also the spirit, they are likely to remain within the law when SENDA becomes effective in September 2002. This short paper outlines some of the key features of the Code and how they are likely to impact academic departments.*

### Introduction

The QAA has worked with the higher education sector to publish a Code of Practice for the assurance of academic quality and standards in higher education. Section 3 is on students with disabilities. It was published in October 1999, and has been particularly welcomed as providing a useful tool for institutions in helping them to provide for their students. Indeed, with the introduction of SENDA (The Special Educational Needs and Disability Act 2001), which will become section 4 of the Disability Discrimination Act (DDA), HE institutions should find it helpful that they should have been adhering to the precepts of this section of the QAA Code since October 2000. This section also has the potential to assist institutions in helping to correct the problem of under-representation of people with disabilities in higher education. A full copy of the QAA document is included at the end of this issue of PLANET. The article below highlights some of the key points for the reader looking for a quick summary.

### How will the Code be used?

Many people ask how the Code will be used in audit or review undertaken by the QAA. Institutional audit will not be asking institutions about their adherence to the Code of Practice on a precept by precept basis. It will expect to see, in the SED (self evaluation document), a statement about how the institution has addressed the intentions of the precepts, including any resulting changes to its practices, and will discuss any areas of difficulty that the institution has experienced. The team may request some evidence in support of the institution's statement, for verification purposes.

### The Code's Format

Each section of the Code follows a consistent format:

- Precepts – The QAA will expect an institution to be able to demonstrate that it is addressing effectively the key matters set out in the precepts. In reviewing an institution's adherence to the precepts of the code, however, it is the intended effect of the precept that is important, not any particular means of achieving it.
- Guidance – This is in the form of good practice. It is not, nor is it intended to be, prescriptive or exhaustive. In certain cases, audit teams may wish to discuss why an institution has decided not to follow the guidance contained in a section of the Code, but they will not criticise an institution if the intended effect of the Code is being achieved by other means.

- Recurring themes - It could be argued that students with disabilities should have been treated not in a separate section of the Code but as a common theme, with consideration of particular needs being covered in all sections of the Code, where appropriate. However, the working group on the section of the Code covering students with disabilities saw it as a positive move that this should form a separate section and welcomed the chance to cover in a very specific and focused way the needs of these students.

Section 3 of the Code contains 24 precepts, each with guidance on good practice. I should stress that although this is neither exhaustive nor prescriptive it does represent work by some leading experts in this field and is therefore likely to prove useful to a wide range of institutions.

## The precepts of the Code

The precepts are split into a number of sections:

### General principles

- 1 "Institutions should ensure that in all their policies, procedures and activities, including strategic planning and resource allocation, consideration is given to the means of enabling disabled students' participation in all aspects of the academic and social life of the institution."

Although this has, of course, always been best practice, under the new legislation institutions will be obliged to take reasonable steps to ensure that students are not placed at a 'substantial' disadvantage. In particular, the anticipatory element of duty should already be having an effect so that when the legislation is enacted, institutions which have planned for and embraced the principles of the code will be well on the way to meeting the needs of their students.

### The physical environment

- 2 "Institutions should ensure that disabled students can have access to the physical environment in which they will study, learn, live and take part in the social life of their institution."
- 3 "Institutions should ensure that facilities and equipment are as accessible as possible to disabled students."

As members of the general public, it has always been the case under the existing DDA that reasonable access arrangements should be made. Non-disclosure by a student of a disability that could reasonably have been anticipated does not provide a suitable defence for an institution against a claim made under the DDA.

### Information for applicants, students and staff

- 4 "The institution's publicity, programme details and general information should be accessible to people with disabilities and describe the opportunities for disabled students to participate."

Accessibility is not just about having information available, but involves also ensuring that it is properly publicised.

### The selection and admission of students

- 5 "In selecting students institutions should ensure equitable consideration of all applicants."
- 6 "Disabled applicants' support needs should be identified and assessed in an effective and timely way, taking into account the applicant's views."

The new legislation makes it unlawful to discriminate in admissions and enrolment. The justifications permitted for less favourable treatment include academic standards but this would not preclude an institution from making a reasonable adjustment to the way in which academic standards are assessed.

## Enrolment, registration and induction of students

- 7 "The arrangements for enrolment, registration and induction of new entrants should accommodate the needs of disabled students."

These arrangements must include suitable provision for confidentiality for new entrants.

## Learning and teaching, including provision for research and other postgraduate students

- 8 "Programme specifications should include no unnecessary barriers to access by disabled people."
- 9 "Academic support services and guidance should be accessible and appropriate to the needs of disabled students."
- 10 "The delivery of programmes should take into account the needs of disabled people or, where appropriate, be adapted to accommodate their individual requirements."
- 11 "Institutions should ensure that, wherever possible, disabled students have access to academic and vocational placements including field trips and study abroad."
- 12 "Disabled research students should receive the support and guidance necessary to secure equal access to research programmes."

It is important that institutions can demonstrate that they have taken reasonable steps to investigate each **individual** case. It is not sufficient for an institution to take a general view on a disability or type of disability, or on the effects this might have on participation or progress.

## Examination, assessment and progression

- 13 "Assessment and examination policies, practices and procedures should provide disabled students with the same opportunity as their peers to demonstrate the achievement of learning outcomes."
- 14 "Where studying is interrupted as a direct result of a disability-related cause, this should not unjustifiably impede a student's subsequent academic progress."

Reasonable steps to ensure that students are not placed at a 'substantial' disadvantage become a legal requirement. Even when an institution is not itself responsible for the conduct of an examination, it is likely to be responsible for a reasonable adjustment needed by a student to ensure a fair chance to succeed.

## Staff development

- 15 "Induction and other relevant training programmes for all staff should include disability awareness/equality and training in specific services and support."

Ignorance of the legal position is not a defence for an institution that has failed to provide reasonable support for a student.

## Access to general facilities and support

- 16 "Students with disabilities should have access to the full range of support services that are available to their non-disabled peers."

This becomes a legal requirement under the new legislation.

## Additional specialist support

- 17 "Institutions should ensure that there are sufficient designated members of staff with appropriate skills and experience to provide specialist advice and support to disabled applicants and students, and to the staff who work with them."
- 18 "Institutions should identify and seek to meet the particular needs of individual disabled students."
- 19 "Internal communications systems should ensure that appropriate staff receive information about the particular needs of disabled students in a clear and timely way."

- 20 "Institutions should have a clearly defined policy on the confidentiality and disclosure of information relating to a person's disabilities that is communicated to applicants, students and staff."

A particular concern under the new legislation is that of disclosure: once one member of staff knows of a disability, the institution as a whole is deemed to be aware. A request for confidentiality does not absolve an institution from responsibility, especially in cases where suitable anticipatory action could have solved a difficulty.

### Complaints

- 21 "Institutions should ensure that information about all complaints and appeals policies and procedures is available in accessible formats and communicated to students."
- 22 "Institutions should have in place policies and procedures to deal with complaints arising directly or indirectly from a student's disability."

Again this is an issue of communication that gains legal authority under the new legislation.

### Monitoring and evaluation

- 23 "Institutional information systems should monitor the applications, admissions, academic progress and nature of impairment of disabled students."
- 24 "Institutions should operate systems to monitor the effectiveness of provision for students with disabilities, evaluate progress and identify opportunities for enhancement."

Proper evaluation systems will enable institutions to point to the good practice they adopt in any action taken against them.

The new legislation gives weight to much of what disability officers are trying to achieve – and to what institutions have been doing in response to the Code. If disability statements are properly made and disability officers are properly trained, empowered, resourced and supported, then the precepts of this section 3 of the Code should be adequately implemented to meet the needs of the students.

Section 3 of the Code is not identical to the DDA, but if institutions have adopted not only the letter of the precepts but also its spirit, then the SENDA legislation is unlikely to cause serious difficulties when it becomes operational in September 2002.

A full version of section 3 of the Code, with related guidance, is available on the QAA web site (<http://www.qaa.ac.uk>), and is reproduced in full at the back of this issue of PLANET. I recommend that institutions use the SKILL web site (<http://www.skill.org.uk>) to access the new legislation and related guidance as this provides excellent examples of good practice (also see the article by Skill in this special edition of Planet).

**Karen Czapiewski**

Quality Assurance Agency  
k.czapiewski@qaa.ac.uk



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## Learning, Teaching and Disability: The Need for a New Approach



Mike Adams, National Disability Team

### Abstract

Disability issues are becoming increasingly important in higher education. Forthcoming legislation has led institutions to review how they respond to the needs of students. This article provides a context to the legislation in its relationship to learning and teaching in its broadest sense. It describes the challenges academic staff face, the good practice already undertaken and work in progress. Finally, the article compares the situation in Australia where similar legislation was introduced in 1993 and draws out some of the lessons the UK higher education sector can learn from experience elsewhere.

### Introduction

For those of you who have not yet come across the National Disability Team, this article starts by briefly outlining how we fit into the national HE picture.

As one of the Funding Council's co-ordination teams, we provide a service to HEFCE and DEL, Northern Ireland, during the *Improving provision for disabled students* programme, by supporting project staff with advice and guidance. This is a £6m programme funding 49 projects. We are a focal point of information about the programme, and for disseminating outcomes across the HE sector. We undertake liaison with other teams, agencies and organisations to enhance the accessibility and quality of the learning experience of disabled students'.

Full details of the programme we support are on the website: (<http://www.natdisteam.ac.uk>).

This paper discusses disability issues as they relate to academic staff. The paper will attempt to do this through:

1. Making some comments/observations regarding the implications of legislation across an institution. I do not need to describe the legislation as this has been adequately covered elsewhere in this publication (e.g. SKILL). I do however wish to discuss the legislation in its relationship to learning and teaching in the broadest sense.
2. Describing some of the resources/materials already available or currently being developed.
3. Drawing on some of the lessons we can learn from other countries; in particular, Australia, which has striking similarities with the current issues we face in the UK. I was able to undertake a study visit just before last Christmas and the full report is available from me if anybody is interested.
4. The Geography Discipline Network (GDN) event on "Learning Support for Disabled Students Undertaking Fieldwork and Related Activities" in May 2001 disseminated the outcomes of a HEFCE-funded project, which looked at the issue of fieldwork. A follow-up event was provided in October 2001 in the form of an LTSN-GEES conference on special education needs. The GDN-run project was, for a variety of reasons, extremely important:
  - a) It was one of the first disability funded projects that addressed issues concerned with teaching, learning and assessment.
  - b) It was led by academic staff in partnership with disability practitioners. This kind of partnership has signalled a real shift in thinking regarding disability issues. I will return to this topic later.