

Teaching and Learning: Student Disability Policy

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Introduction and Purpose of Policy

- 1.1 De Montfort University (DMU) is committed to providing high quality provision to all of its students. It is a source of pride for the university that many students choose to study here specifically because of our positive approach to disability.
- 1.2 This policy is solely concerned with ensuring consistency of practice in relation to Teaching and Learning, at both undergraduate and postgraduate levels, and closely associated activities.
- 1.3 By following this policy in most instances agreements will be reached on appropriate adjustments for disabled students, the policy also however provides a fast track mechanism for students to raise concerns should they not believe that is the case.
- 1.4 The Equality Act 2010 Technical Guidance on Further and Higher Education sets out clearly DMU's duties in relation to disabled students, and in the event that a university policy or procedure conflicts with these requirements the Technical Guidance will take precedence.
- 1.5 The Equality Act is based around the social model of disability. The central tenet of the social model being that disability is caused not by individual impairments but by the way in which society organises itself.
- 1.6 This principle is important in understanding what DMU needs to do in relation to disability because it means that if approaches or policies are adopted which do not provide fair and equal access for disabled students they are unlikely to be compliant with the requirements of the Equality Act.
- 1.7 In the event of a legal challenge the burden of proof rests with DMU to justify that the approaches that it takes are reasonable and proportionate rather than on a disabled student justifying the need for an adjustment
- 1.8 The Equality Act does not require us to change genuine competence standards themselves but it does require us to make adjustments to how these standards are met so we do not discriminate. It is unlikely for example that a criterion that a student delivers an oral presentation would be viewed as a genuine competence standard unless it could be demonstrated that that was the only way in which the competency which was being assessed could be demonstrated.
- 1.9 In relation to disability the Equality Act allows for positive discrimination to occur. Whilst it is legitimate to consider the impact on non-disabled students some approaches may require an adjustment to be made even when in effect favours a disabled student and creates some level of disadvantage to others.

Definition of Disability

- 2.1 Disability is a 'protected characteristic' under the Equality Act
- 2.2 A person is considered disabled within the meaning of the Act if they have a "physical or mental impairment that has a substantial and long-term effect on his or her ability to carry out normal day-to-day activities".

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2.3 The impairment is considered long-term if it lasts, or is likely to last for at least 12 months, or for the rest of the person's life. Substantial means more than 'minor' or 'trivial'.

2.4 'Hidden' impairments such as mental illness or mental health problems, and conditions such as diabetes and epilepsy can also constitute disabilities under the Act.

2.5 Certain conditions including Cancer, HIV infection and multiple sclerosis are considered disabilities from the point of diagnosis

2.6 Under the Act a range of minor or trivial impacts can cumulatively amount to a substantial impact.

2.7 The fact that an individual does not recognise their condition as being a disability is not considered by the Act as a justifiable reason for not having made appropriate adjustments.

2.8 When a student declares they have a condition which substantially impacts on their studies it is sensible to follow the approach outlined in this policy.

2.9 A person who had a disability in the past but no longer has it for example as a result of a previous illness from which they have now recovered continues to qualify for protection from harassment and discrimination.

2.10 A non-disabled person can qualify for protection under the EA if they are wrongly perceived as being disabled and are subject to unfair treatment such as victimisation or harassment.

2.11 People can also qualify for protection under the Act if they are treated unfairly as a result of advocating on behalf of a disabled person.

When a disclosure is made

3.1 Some students will declare disabilities when applying through the UCAS process but the legal duties relating to disability are not contingent on their having done so.

3.2 There is however a requirement for Higher Education Providers to do everything which is reasonable to ascertain whether a student has a disability, which would include providing multiple opportunities for a student to declare a condition. Additionally it is good practice to be mindful that difficulties which present themselves could be indicative of an undeclared or undiagnosed conditions, and to ensure that in such circumstances students are provided with appropriate information about sources of support and guidance.

3.3 Whilst it is legal to ask a student to provide evidence of a disability, the duties under the Equality Act to make reasonable adjustments stem from the fact that a student discloses a disability, not that they provide proof. If the university could reasonably be expected to 'know' that a student has a disability it would be expected to take appropriate action.

3.4 Requests for a student to provide evidence of a disability should therefore be proportionate and pragmatic and repeated requests for evidence should be avoided wherever possible. Such requests should normally come from Student Welfare who will come to a judgement about whether

the student's condition appears to constitute a disability. This does not preclude requesting medical evidence for specific purposes, for example deferral requests.

3.5 Many students who share information with the university which suggests they may be disabled will never have considered the label 'disabled' applying to them. Their rights under the EA are not dependent on the student recognising their condition as constituting a disability

3.6 A student may share information about a health condition by stating for example that they are depressed, this may well constitute a declaration of a disability under the EA and it is unlikely that a response such as signposting to the Counselling service, would as a sole course of action adequately meet our obligations.

3.7 It is important to understand that some students may disclose conditions but not want any adjustments to be made. Under these circumstances the student's wishes should be respected but the potential consequences of their decision should be pointed out to them and a record made of the discussion.

3.8 Some students who disclose a disability may not want this information shared with anyone other than the person they have disclosed to. Unless there is reason to believe that the student may be personally at significant risk, or pose a significant risk to other people such requests should be respected. However as such a request could potentially disadvantage a student, and therefore it is important that a record is kept of any such discussions. Faculties will need to make appropriate local arrangements to ensure that this happens.

Anticipatory Adjustments

4.1 There is a requirement for all university activities and initiatives to be planned with the needs of disabled students in mind. There is a requirement that this duty is enacted whether or not DMU is aware that there are students with a specific impairment studying in a specific area. This duty can't be fulfilled by waiting until a student discloses a condition and then making individual adjustments.

4.2. De Montfort University has adopted Universal Design for Teaching, Learning and Assessment (UDL) principles as a core part of its approach to Teaching and Learning. This approach means that where a learning need could have been reasonably anticipated, this should be considered and that that this should reduce the need for individual reasonable adjustments.

4.3 Whilst it is not possible to anticipate every learning need, it is reasonable, for example to expect that specific learning differences, mental health conditions, and Autism commonly occur and therefore to consider this in relation to learning and assessment design. This doesn't necessarily imply the need for three entirely separate exercises, since there is considerable overlap between the needs of many different groups of disabled students, and indeed well designed approaches to disabled students are likely to improve the learning experience for non-disabled students.

4.4 On some courses it will become apparent that a significant number of students experience difficulty in a particular area. An anticipatory approach needs to recognise such issues and pro-actively review whether there are other ways to reach the same learning outcomes. In the event that an alternative approach can't be identified it is likely to be useful to document the review

having occurred and the reasons for this conclusion. Particular attention should be given to this requirement in respect of course validation / re-validation and periodic reviews.

Individual Reasonable adjustments

5.1 When a student declares a disability at application stage they will be contacted by Student Welfare and consideration given to what if any specific adjustments are required. This may lead to the provision of specific support, or recommendations to the course team, in the form of a Learning Support Agreement about adjustments which need to be considered within the course.

5.2 When a student declares a disability or their engagement with the course suggests the possibility that the student may have an unidentified disability referral should be made to the Disability Advice and Support Team (DAS) or in the case of a mental health condition to the Mental Health Inclusion Team (MHIT).

5.3 In order to understand what adjustments may be required Student Welfare teams will need to understand what anticipatory adjustments have been made. It is important therefore that programme leaders keep an up to date and accurate record of the approaches which have been taken.

5.4 If a need arises because inadequate consideration has been given to diverse learning styles within the design of a learning activity then the matter will be referred back to Heads of Studies for consideration of whether it is possible to quickly introduce the necessary changes or whether additional support will be required. In such circumstances Student Welfare can still make arrangements for support to be provided, but responsibility for funding the support will rest with the Faculty.

5.5 Lack of adherence to the DMU replay policy may in itself constitute a failure to make a reasonable adjustment and if this leads to the need for a manual notetaker to be provided the relevant Faculty will be responsible for funding this.

5.6 Where a need could not have been reasonably anticipated, or the extent of the individual need could not have been addressed solely by course design, for example a visually impaired student who needs personal assistance in a laboratory session, DAS or the MHIT will be able to make the necessary arrangements to put this in place and funding will wherever possible be provided by Student Welfare.

Limitations to DMU's responsibilities

6.1 DMU is responsible for considering the needs of disabled students in the design and delivery of all its activities. It is also responsible for providing reasonable adjustments where appropriate, which includes the provision of certain aspects of human support.

6.2 DMU is not responsible for providing support in areas which would be considered social or medical care as these responsibilities fall to Social services and the NHS. Actual or perceived inadequacies in the level of provision do not constitute a reason for this responsibility to fall to DMU.

6.3 DMU may elect to provide diagnostic services in relation to specific conditions such as Specific Learning Differences and Autism. It may choose to provide these services for free, at a subsidised rate or at full cost to the student. Where DMU elects to provide such services this does not constitute a legal obligation nor set a precedent that it should provide equivalent services in relation to other conditions.

6.4 DMU has a general duty of care in relation to its students which includes adherence to good health and safety practice and where specific risk issues are identified following appropriate policies including the SAR policy and the Safeguarding Policy. This duty is however limited, the primary responsibility for the management of ongoing health conditions, or risks which might be associated with those conditions, remains under the jurisdiction of statutory agencies such as the NHS, local Safeguarding Boards and the police.

6.5 The Disabled Student Allowances system continues to offer funding for specialist support, for example a mentor. DMU is not responsible for providing such support if a student has chosen not to apply for DSA.

6.6 DSA provides funds for additional expenses incurred by students for support which goes beyond 'reasonable adjustments'.

6.7 International students and other students who are not entitled to claim DSA are still entitled to expect 'reasonable adjustments' to be put in place, but this does not require DMU to fund support to the same level as would be available to students who are entitled to claim DSA.

Disability Support Appeals Process (DSAP)

7.1 The purpose of the DSAP process is to provide a speedy resolution to any concerns which may arise, and prevent significant disadvantage occurring. It is therefore imperative that students raise any concerns through this process as close to the point at which they arise as is practicable.

7.2 In the event that a student raises a concern which is of longstanding significance, the focus will be on improving future practice. Requests for consideration of repeat periods of studies or similar measures will only be considered as part of this process if there were genuine and exceptional circumstances why the student could not have raised their concern at an earlier point.

7.3 In the event that the student is dissatisfied with the nature or level of adjustments which DMU has provided or believes that there has been a failure to make a reasonable adjustment they should first contact their Programme Leader or Personal Tutor to discuss the matter and see if the issue can be resolved at a local level. DAS and / or the MHIT should be consulted by the Programme Leader or Personal Tutor, where necessary, at this stage. A decision at this stage should normally be reached within ten working days.

7.4 If the student is still not satisfied then they should as soon as is practicable, and normally within ten working days, formally appeal the decision, in writing, to the Student Appeals & Conduct Officer (SACO) who will review the decision and respond accordingly to the student. The SACO may refer a case to a panel (see below) hearing if they believe the complexity of the case warrants a panel decision.

7.5 If the student remains dissatisfied with the decision they may appeal to the Disability Support Appeals Panel, this should normally occur within ten working days of the SACO's decision. The decision of the panel is final and not subject to review by any other University body

7.6 The composition at the panel will be at the discretion of the SACO but will typically include a senior member of Teaching staff such as the PVC for Teaching and Learning or the Director of Teaching and Learning, the Head of Student Welfare (or nominee), a faculty representative, a member of Academic Board, and a DSU representative.

7.7 Where at all possible, members of the panel will not have been previously involved with the case. The University reserves the right to co-opt further members to the DSAP if deemed necessary.

7.8 In making decisions the SACO and/or the DSAP will consider whether the decision not to provide a specific element of support was reasonable taking into account all the circumstances of the case.

7.9 The student will have a right to attend the panel and to bring along a representative (as defined in the General Regulations & Procedures Affecting Students 2014/15). They may however be asked to leave before a decision is reached.

7.10 The DSAP will have the right to request whatever additional information it deems necessary to reach a decision but this will always be proportionate and should not place an undue burden on the student.

7.11 Points that *may* be considered in reaching a decision could include the student's views, the relevant competency standards for the area of study, financial implications and the likelihood of the adjustments working for the student.

7.12 Students wishing to raise general concerns about the quality of the support/service they receive in relation to their disability as opposed to decisions relating to reasonable adjustments should continue to be directed towards the DMU Student Complaints Procedure

7.13 The panel will normally meet within ten working days of receiving an appeal and provide a judgement within five working days.