

Further and higher education institutions and the Disability Equality Duty

Guidance for Principals, Vice-Chancellors, governing boards, and senior managers working in further and higher education institutions in England, Scotland and Wales.



Foreword

We all want to live in communities where we can participate fully and equally. Many of us want to be able to study, to reach our potential in our chosen areas of work and across all areas of life. We know that for many disabled students and disabled people in employment there is still work to be done to reach these objectives.

To ensure we do so we have the Disability Equality Duty (DED) for the public sector. This new legal duty will mean that all colleges and universities must look at ways of ensuring that disabled people achieve true equality of opportunity. This new law requires organisations like yours to be proactive in ensuring that disabled people are treated fairly and builds on the progress you have already made.

The DED is not about ticking the right boxes quickly - it's about a whole organisational approach to disability equality, achieved over a period of time. The duty gives the public sector a real opportunity to improve the life chances of disabled people, and help shape world-class institutions.

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Introduction

The Disability Equality Duty (DED) is a new legislative requirement placed on public authorities to deliver better disability equality outcomes. The DED requires public authorities to act proactively on disability equality issues across the board, rather than on an individual basis. The duty is aimed at tackling institutional disability-related discrimination, and compliments the individual rights focus of the Disability Discrimination Act (DDA). The DED will result in improved public services and outcomes for disabled people as a whole.

This guidance is primarily for Principals, Vice-Chancellors, governing boards, and senior managers working in colleges and universities across England, Scotland and Wales. It provides information on the DED and will show you how to prepare for the duty. This is non-statutory guidance, to help colleges and universities interpret the Codes of Practice and offer illustrative examples on how to take the duty forward.¹

Responsibility for making sure the duty is met lies with staff in senior roles whose full support is needed for the effective implementation of the duty. Teaching and support staff, equality and diversity specialists, trade union representatives, students, parents of students, and members of the wider community using your institution's facilities will also need to play a part in fulfilling the duty and will find it helpful to read this guidance.

Much progress has already been made in the further and higher education sector to promote disability equality. For example, according to the Higher Education Statistics Agency (HESA), participation by disabled students in higher education has been steadily increasing from 2000/01 to 2004/05. The figures show a percentage increase from 4.1 per cent (30,970 known disabled students out of a total student population of 755,095) to 5.8 per cent

¹ Disability Rights Commission (2005) 'Statutory Code of Practice, the Duty to Promote Disability Equality: Statutory Code of Practice England and Wales', or the equivalent code for Scotland, www.drc.org.uk/employers_and_service_provider/disability_equality_duty/getting_started/codes_of_practice.aspx

(49,125 known disabled students out of a total student population of 848,940).² Learning and Skills Council data also suggests that satisfaction with learning is high for certain groups. Their data shows that 90 per cent of learners with learning difficulties were satisfied with their overall learning experience, a similar level of satisfaction was measured for learners without learning difficulties, 91 per cent.³

This is great news, but there is still work to be done to improve on the participation, satisfaction, achievements and opportunities of disabled students in further and higher education. The DED will give you the impetus and the power to progress further and to mainstream disability equality into wider strategic initiatives.

Throughout this guidance the term ‘colleges and universities’ will be used. This refers to all colleges of further education, adult community learning providers, and higher education institutions in England and Wales that fall within the remit of the Further and Higher Education Act 1992 sections 91 (3) and (5).⁴ It also refers to all colleges of further education, adult community learning providers, and higher education institutions in Scotland that fall within the remit of fundable bodies as defined in Schedule 2 of the Further and Higher Education (Scotland) Act 2005, or managers of a central institution (within the meaning of section 135 of the Education (Scotland) Act 1980).⁵

Reference to ‘disabled people’ includes disabled students, staff, and other disabled users of colleges and universities such as visitors to conferences, parents at open days and graduation ceremonies, and users of leisure services such as sports centres and theatres. A disabled person is someone who has a physical or mental impairment which has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities.

² HESA (2006) Student tables 2000 -2005, www.hesa.ac.uk

³ LSC (2006) p10, ‘National Learner Satisfaction Survey: Further Education Learners with Learning Difficulties 2004/05’, www.lsc.gov.uk

⁴ Further and Higher Education Act 1992 (c.13), www.opsi.gov.uk/ACTS/acts1992/Ukpga_19920013_en_6.htm

⁵ Further and Higher Education (Scotland) Act 1992 (c.37), www.opsi.gov.uk/acts/acts1992/Ukpga_19920037_en_1.htm

A physical or mental impairment includes:

- **sensory impairments**
- **impairments relating to mental functioning, including learning difficulties/disabilities**
- **long term health conditions such as diabetes, epilepsy, HIV, cancer or multiple sclerosis.⁶**

⁶For more information on the definition of disability see the DRC website www.drc-gb.org

What does the duty to promote disability equality mean?

The duty requires colleges and universities, when carrying out their functions, to have due regard to the need to:

- promote equality of opportunity between disabled people and other people
- eliminate discrimination that is unlawful under the Disability Discrimination Act 1995
- eliminate disability related harassment
- promote positive attitudes towards disabled people
- encourage participation by disabled people in public life
- take steps to meet disabled peoples needs, even if this requires more favourable treatment.

These elements make up the duty to promote disability equality and are also referred to as the **general duty**. Colleges and universities also have **specific duties**, which provide a clear framework to meet the general duty. Central to the specific duties is the requirement to produce a Disability Equality Scheme (DES). More details can be found in the [‘Producing a Disability Equality Scheme’ section of this guidance](#).

The central aim of the general duty is to promote equality of opportunity between disabled and non-disabled people. The other elements of the general duty support this aim and need to be given due regard in their own right. Due regard means that authorities should give due weight to the need to promote disability equality in proportion to its relevance. The duty applies to all the functions of a college or university, not just education provision, employment and service delivery but, for example, budget setting, course validation, procurement, and strategic planning.

The six elements of the general duty, and each of the requirements of the specific duties are statutory requirements and must be met.

How a college or university fulfils these requirements is, to some degree, fairly flexible and dependent on a number of factors including, the nature, size, and progress already made, by each institution.

The following good practice examples illustrate how the different elements of the general duty might be met in practice.

Promoting equal opportunities

The main objective in promoting equality of opportunity is that disabled people should have full opportunities and choices to improve the quality of their lives, and be respected and included as equal members of society. The following example shows one way by which a college or university can promote equality of opportunity.

An FE college runs a large recruitment drive to find new teaching, facilities, and support staff for the new academic year. The college is an equal opportunities employer and welcomes applications from them. The college has a guaranteed interview policy whereby if a disabled person meets the essential minimum criteria for a post they will automatically be given an interview. By ensuring that this system is properly adhered to for all staff, including temporary staff and those on hourly paid contracts, the college is giving due regard to promoting equal opportunities. It also promotes equal opportunities by making sure that disability awareness/equality training is mandatory for all staff, particularly those involved in recruiting and interviewing staff.

Equality of opportunity can be promoted for students in the long-term, by working strategically to close the gaps in achievement between disabled and non-disabled people.

Eliminating unlawful discrimination

This aspect of the duty particularly builds on, and overlaps to a certain extent with, the duty to make anticipatory reasonable adjustments in relation to education provision and access to goods and services. There is currently not an anticipatory duty under existing anti-discrimination employment legislation, but the DED should bring about a more anticipatory approach to employment issues, similar to the approach taken in education and service delivery. The following example shows one way by which a college or university can eliminate unlawful discrimination.

A university works to eliminate unlawful discrimination by ensuring that front-line and reception staff receive disability equality training, this is an action point from their DES. These staff are often the first point of contact for disabled students and are crucial to ensuring that the institution does not discriminate. The training introduces staff to the legal requirement to make reasonable adjustments for disabled people, and how to ensure that disabled people are not treated less favourably. The training is a major priority for the university after several complaints were made about front-line staff who had made assumptions and judgements about what a disabled person could or could not do.

Other ways to eliminate unlawful discrimination might include:

- reviewing admissions criteria for courses at validation to ensure no unnecessary barriers to disabled people
- opportunities to disclose information about a disability
- ensuring that the prospectus, website, and other materials are accessible and available in different formats, and that this is well publicised.

Eliminating harassment

The DED provides an opportunity for colleges and universities to focus on this important area and to ensure they are tackling it effectively. Harassment can be eliminated through a range of mechanisms including:

- gathering information
- developing actions
- reviewing current anti-harassment policies to ensure that these are effective for disabled people.

The following example shows one way by which a college or university can eliminate harassment.

Whilst developing their DES, a college involves its trade unions, disabled students, staff, and service users to review and revise their equal opportunities policy. The policy establishes standards for the equal treatment of all individuals within the college and sets out a clear statement on codes of conduct, harassment, and the process with which complaints are dealt with. The policy is cross-referenced with their dignity at work policy and both are publicised as part of an equality and diversity campaign. The college hopes that this will reinforce their approach on equal treatment and assist in the elimination of harassment of disabled people.

Other ways to eliminate harassment of disabled people could include:

- having a strong ethos/culture promoting disability equality
- supporting an anti-harassment awareness event
- making sure that information is recorded on incidents of harassment.

Promoting positive attitudes

Colleges and universities will need to ensure that positive images of, and attitudes in relation to disabled people and disability equality are central to their institution. Social model based disability equality training will help ensure that disabled people studying at your institution, employed by your institution, or using the services of your institution, are treated with respect and are given equality of opportunity. The following example shows one way by which a college or university can promote positive attitudes.

A university promotes positive attitudes to disabled people by organising a poster campaign to support World Aids Day on 1 December. This is an action taken from their Action Plan. The poster campaign makes people more aware of the definition of disability, and promotes positive attitudes of disabled people by showing strong images of students, who challenge stereotypical images of disability, taking part in all areas of university life. The campaign is endorsed and promoted by the student union.

Other ways to promote positive attitudes could include having disabled staff in high profile external facing roles; and encouraging disabled staff to act as disability champions in the institution.

Participation in public life

Disabled people can be significantly under-represented in public life, therefore the DED specifically requires the participation of disabled people in public life. The following example shows one way by which a college or university can promote participation of disabled people in public life.

A university actively recruits disabled people to elected officer posts, governing boards, and internal committees. It ensures that its mechanisms for selection do not restrict disabled people's participation and that anticipatory reasonable adjustments are made, as well as on request. It also ensures that disabled people are aware of the different opportunities open to them, such as volunteering in the wider community.

Colleges and universities could also promote participation in public life by ensuring that disabled staff have the time and any reasonable adjustments they require to take part in open days, graduation ceremonies, and other external facing events; and encouraging disabled students to take up roles of responsibility in their halls of residence and within the college itself.

More favourable treatment

More favourable treatment underpins the DED, and provides explicit recognition of the fact that equality of opportunity for disabled people cannot be achieved by simply treating disabled and non-disabled people alike. This principle has always been recognised in the DDA, particularly in the duty to provide reasonable adjustments. The following example shows one way by which a college or university can treat a disabled person more favourably to achieve an equal outcome.

A disabled student needs a dedicated car parking space because she is unable to use public transport. Non-disabled users also want parking spaces, but they will not suffer the same degree of disadvantage if they do not get one: the disabled student will be unable to attend the course if she does not have the space, whilst the non-disabled student will merely be inconvenienced. More favourable treatment is necessary in this instance to provide equality of access to the course.

Other examples of more favourable treatment could include:

- giving certain disabled staff more time to mark student coursework
- offering extra personal tutorial time to disabled students who require it
- putting on courses specifically aimed at certain groups, such as people with learning difficulties/disabilities.

Producing a Disability Equality Scheme

As well as the general duty all colleges and universities are also subject to specific duties. The specific duties are designed to help authorities effectively meet the general duty. At the heart of the specific duties is the requirement to produce a Disability Equality Scheme (DES).

All colleges and universities must:

- produce and publish a DES by **4 December 2006**
- report annually on progress made
- review and revise the scheme every three years.

The DES will assist colleges and universities in planning, delivering, evaluating, and reporting on activities towards meeting the general duty. Your institution's Scheme will be the primary means of demonstrating that you are actively promoting disability equality, so it is essential that disabled people (and other interested parties) know where to find it. Having your institution's DES available on your institution's website (as long as the website is accessible to everyone with an interest in accessing the Scheme) should ensure that it is readily available to everybody.

Alternatively, it can be contained within other documents such as an institution wide equality and diversity policy, so long as the essential elements are easily identifiable and in one place.

For the first time, there is a specific requirement to involve disabled people in the production of your institution's Scheme. More information on how to involve disabled people is available in the ['Involving disabled people' section of this guidance.](#)

Single equality schemes

Many public authorities, including colleges and universities, may decide to draw up a single equality scheme, which amalgamates responses to disability, gender and race (and in many instances, religion, belief, age and sexuality) in one document. Whilst it is not unlawful under the DED to produce a single equality scheme (as long as the disability elements are clearly identifiable and the DED is fully complied with), the DRC would caution against working in this way as such schemes may result in only a superficial consideration of each distinctive experience of equality, and could fail to comply with the distinctive legal requirements of the three duties.

For example, the DED requires public authorities subject to the specific duties to involve disabled people in the development of DESs. There is no such legal requirement in the race and gender equality duties. If the involvement requirement for disability were conflated and as a result neglected within a single equality scheme, public authorities could be failing to meet this important feature of the DED and may be subject to legal action as a result.

If, having carefully considered these issues and the different requirements of all three duties, you still want your institution to produce a single equality scheme, the Disability Rights Commission (DRC) would urge you to consider an overarching equality scheme, but within this separate and distinct arrangements for gathering evidence on all strands, involving disabled people, and separate Action Plans.

To produce a unified approach it will be helpful to 'level up' across all equalities areas, utilising the highest standard from each duty (for example taking the precedent from the DED in relation to involvement and applying this to both race and gender) across all the equality areas you are covering in your Scheme.

What needs to be in your Disability Equality Scheme?

A Disability Equality Scheme must include:

- a statement of how disabled people have been involved in developing the Scheme
- arrangements for gathering information on:
 - the recruitment, development and retention of disabled employees
 - the educational opportunities available to and achievements of disabled students
- details of how information gathered will be used, in particular to review the effectiveness of Action Plans and prepare subsequent Schemes
- a method / methods for assessing the impact of policies and practices on disability equality and where improvements can be made
- an Action Plan detailing the steps that are going to be taken to meet the general duty.

Involving disabled people

Colleges and universities must involve disabled people in the development of their Schemes, and a statement, detailing how disabled people have been involved, needs to be clearly written up in the Scheme.

Involving disabled people will be beneficial to your institution and will help you better identify the actions that need to be taken. Disabled people will know, better than anyone, the barriers that they face and what can be done to eliminate those barriers and better promote equality of opportunity. By involving disabled students, employees, and the wider community you will be getting expert advice specific to your institution that will be invaluable to you when producing your Scheme.

Effective involvement should be:

- **focused**
- **accessible**
- **proportionate to the size of your institution**
- **influential**
- **resourced**
- **transparent.**

Involvement goes beyond consultation, requiring you to seek disabled people's views right from the start and use this involvement to start designing a policy, reorganising a practice, or introducing new activities.

Your institution might not be immediately aware of who its disabled stakeholders are. A first step therefore would be to identify your disabled students, employees, governing board members and other service users that are connected to your institution.

Below are some examples of groups that might be involved in the production of your institution's Scheme:

- **current disabled students, previous disabled students, and disabled school children who may be future students**
- **disabled employees, including former employees**
- **disabled members of governing boards/committees**
- **disabled parents and non-disabled parents of disabled students**
- **disabled members of the wider community such as local disability groups, organisations of disabled people and disabled individuals using the institution's services.**

Your institution's methods for involving these groups can be many and varied, depending on the size and resources of your institution and how much work you are already doing around disability equality. The following are some methods that can contribute to your institution's involvement requirement:

- staff and student satisfaction surveys
- customer satisfaction surveys
- on-line forums for staff, and students
- specific events such as a disability equality day/conference
- regular focus group sessions.

To be effective, and bearing in mind limited resources, several colleges and universities may wish to work together and pool resources in some of their involvement mechanisms. For example, institutions in one city can work together to organise involvement events with local community groups, prospective students from feeder schools, and disabled members of relevant trade unions.

Your institution should, as far as possible, involve a cross-section of disabled people with different impairments, as well as other aspects of a person's identity including gender, ethnicity, age, sexual orientation, cultural and religious beliefs. People's experiences of disability and the barriers that they face might well differ depending on their gender, or race for example. If your institution approaches disability equality in this way, it will also be helping to meet its duties to promote race and gender equality.

As one element of their involvement work, a group of further education colleges, located in one area, work together to involve pupils from school sixth forms in the development of their Disability Equality Schemes. The colleges jointly brand a letter, which is sent to each school in their local area, asking disabled pupils to get involved. Disabled pupils are invited to an involvement event so colleges can hear their views on the barriers that exist in further education, and how these may be overcome. Information from the event is used to develop each institution's DES and Action Plan. Everyone who took part in the event receives a book token to thank them for their time and input, the group are also invited to take part in future involvement events.

For more information on involvement please see the DRC's guidance 'The Disability Equality Duty and involvement: Guidance for public authorities on how to effectively involve disabled people', www.drc.org.uk/employers_and_service_provider/disability_equality_duty/getting_started/involving_disabled_people.aspx.

Gathering information

Colleges and universities need to set out in their DES their arrangements for gathering information on the effect of their policies and practices on disabled people. The process of information gathering is not an end in itself but will help identify areas where your institution is doing well and areas where more needs to be done to promote disability equality.

Colleges and universities are specifically required to gather information on:

- the effect of their policies and practices on the recruitment, development and retention of disabled employees
- the effect of their policies and practices on the educational opportunities available to, and achievements of, disabled students.

Colleges and universities are not specifically required to gather information on service delivery and the satisfaction of service users for their DES, but the DRC recommends that institutions do this. The general duty does apply to service users, and colleges and universities may find it difficult to meet the provisions of the general duty if information is not gathered on the experiences of this group.

As a first step, colleges and universities will need to identify who their disabled employees, students, and service users are, and look at what information is already being collected. Your institution will already have some information gathering mechanisms in place, some of which will give data on disability, others can be disaggregated to include disability. For example, further education colleges will have information from individual learner records, and universities will collect data on staff and students for the Higher Education Statistics Agency. Colleges and universities may also collect information on the satisfaction of people using their services in a general satisfaction survey. Once your institution has established the information it currently collects, this can be disaggregated for disabled people and any gaps in information can be worked on.

People may not feel comfortable disclosing a disability or health condition unless they know why the information is being requested, and what impact the information gathering is likely to have for them. There will also be some groups who do not know their impairment or health condition would meet the definition of disability. To reach these groups, your institution should include some brief information on the definition of disability in its communications, and explain why the information is being requested. Communicating positive outcomes to your whole institution will raise the profile of equality and diversity issues, and help create an environment where people feel confident to disclose a disability or health condition.

Alongside gathering information on impairments colleges and universities should also look at the barriers that disabled people face, and gather information on these. Gathering information on barriers may show up information on students and staff who do not identify themselves as disabled, but who nevertheless meet the definition of disability. Investigating particular barriers will help

identify appropriate actions to take to improve outcomes for disabled people.

For all authorities, including colleges and universities, gathering information will be an ongoing process. It is important to remember that having a limited amount of information is not an excuse for inaction, and your institution will still need to work towards promoting equality of opportunity whilst its information gathering mechanisms improve.

Recruitment, development and retention of disabled employees

To meet the information gathering requirements of the DED colleges and universities will need to collect information on the number of disabled people they recruit and employ and, more crucially in what roles. Information on the take up and success rates of disabled employees on training courses, performance assessments, promotion, and patterns of employees leaving should also be collected to help identify where current policies and practices are having an adverse effect on disabled people's recruitment, development and retention.

There is likely to be a massive under-disclosure of disability amongst staff in colleges and universities, and your institution may need to work from this point. For the duty to be effective your institution will need to develop a thorough understanding of its current performance in relation to employing disabled people and identify the areas for improvement. This will involve not only looking at whether disabled people are being offered jobs, but the much wider work experience once they are employed.

Often this information will be easily available by disaggregating current data sets including staff surveys. In other cases your institution will need to put in place new mechanisms for gathering information.

As part of its DES, a university reviews its training provision and notes that very few disabled employees take up training opportunities. The feedback from some disabled employees shows that they feel they wouldn't get the support they might need to undertake a training course, whilst carrying on with their current role. This lack of take up by disabled employees seems to have a knock on effect on the number of disabled employees in more senior positions. The university is dismayed by this finding and, involving disabled employees, it identifies actions to take. The university subsequently decides to lay on a taster session for disabled employees, detailing some of the training opportunities that are available, and the support that can be provided. The trainer used is a disabled person with a background in senior management. After the session several disabled people sign up for training opportunities, including courses that could develop their skills, and lead to more senior roles. Throughout the next three years the university hopes that there will be a significant improvement in the take up of training, and disabled people moving in to senior roles.

If done effectively, information gathering will be the catalyst for bringing about real change for disabled employees. A diverse workforce brings many organisational benefits to colleges and universities and is a central factor in determining efficiency, productivity and overall improved performance. Benefits include:

- an enhanced choice in recruitment - by widening the net for good recruits
- retaining valuable skills - keeping on experienced employees who become disabled during their working life and avoiding the costs of recruiting and training new people
- developing in-house expertise about what disabled staff and/or students may require
- providing role models for young people
- helping foster good relations with all employees by showing that everyone is valued and treated fairly.

Improvements for current disabled employees, will also improve the performance of your institution to attract future employees.

For more information on employment and the DED see the DRC guidance at www.drc-gb.org/employers_and_service_provider/disability_equality_duty/employment.aspx.

Educational opportunities and achievement of disabled students

Your institution will already be collecting some data on the achievements of disabled students primarily through coursework and exam results. Having information on the exam results of disabled students is part of this requirement, but information should also be gathered on other areas to get a fuller picture. 'Achievements' should be interpreted quite broadly, for example, your institution should also gather information on:

- whether disabled students are in positions of responsibility
- aspirations and ambitions for the future
- drop out rates of disabled students
- successful transition to higher education, training or employment.

Similarly, a broad approach should be taken to educational opportunities and your institution should gather information on:

- access to field trips and work placements
- involvement in college activities and clubs
- satisfaction and enjoyment levels of disabled students.

A university collects a wide range of information, much of which is based on disaggregated current information. This includes end of year results, student complaints and the breakdown of students offered places in halls of residence. Information gathered suggests that disabled students don't drop out more than the general student body, but are more likely to graduate with a lower class degree than their non-disabled peers. The university looks at its policies and practices to try and find out why this is happening. As a starting point, the university impact assesses its practices around course delivery, exam arrangements, and the supporting of students who are not meeting required academic standards.

Using information

Colleges and universities must also set out in their DES details of how they are going to make use of information gathered, in particular, to review the effectiveness of their current Action Plan and to prepare for their next DES.

Gathering information is not an end in itself, it is only going to bring about change if it is used to identify gaps in provision, barriers for disabled people, or where disabled people are faring less well. If disadvantages such as these are identified there is a strong evidence base to put in place actions and ultimately get improved outcomes.

A college collects information on the number of disabled students that take up work placements. The information gathered shows that disabled students are less likely to participate in work placements. This seems to be because of unfounded concerns and assumptions made by the placement provider itself. The college uses this information to initiate an audit of all work placement providers, and the results and actions to be taken are written up in the college's Action Plan. Any providers who weren't able to make reasonable adjustments, or didn't demonstrate disability equality for students in the past, will not be used for work placements in the future.

For more information on gathering and using information to inform action please see the DRC guidance at www.drc.org.uk/employers_and_service_provider/disability_equality_duty/getting_started/evidence_gathering.aspx.

Impact assessment

You must include, in your Disability Equality Scheme, details of how your institution is going to assess the impact (or likely impact) of its policies and practices on equality for disabled people.

Impact assessments are a positive process and will ensure that:

- your institution's activities do not inadvertently disadvantage disabled students, employees, or service users
- opportunities to better promote equality of opportunity are identified.

Conducting a disability equality impact assessment is not an end in itself but is designed to lead to action to improve performance in relation to disabled people and disability equality. If nothing changes as a result of the assessment carried out by an authority across its range of functions then it is unlikely that these will have been adequately conducted.

There is no specific method of impact assessment set out in the legislation. This allows individual institutions to decide on a method that is best for them given, for example, their size, resources and progress already made and to ensure that the assessment of impact is appropriate for the specific policy.

Undoubtedly a preliminary evaluation will need to be undertaken to decide the extent of impact assessment which will be required. Where the policy is a major one in terms of scale or significance, or there is a clear indication that, although the policy is minor, it is likely to have a major impact upon disabled people, then a full assessment of impact will be required. In many cases this assessment will be more effective if disabled people have been involved.

Institutions need to consider the impact of both new and existing policies and practices. Whilst the impact of new policies can be assessed during their development there will obviously be a huge backlog of existing policies and practices to assess so it won't be possible for you to do all of these at once. You will therefore need to prioritise which policies and practices will be looked at first depending on the relevance to disabled people, and draw up a timetable for completing the impact assessments over the next three years.

Staff should be made aware of the significance of impact assessments and how crucial they are in bringing about real and tangible change. Many staff in your institution will need to conduct impact assessments on policies and practices in their department or remit area. If all staff appreciate the importance of impact assessments, not the process but the outcomes they inevitably achieve, they will be more willing to impact assess in their own area. Publicising the positive results of impact assessments will demonstrate that the process leads to actual change and that the institution is committed to promoting equality of opportunity for disabled people.

A college is keen to reduce the amount of sick leave staff are taking. It decides to put in place an incentive system whereby staff can gain annual leave credits if they don't go above a set number of sick leave days. Before this policy is implemented it is assessed for its impact on disabled people and disabled employees are involved in this process. The impact assessment immediately identifies an adverse effect, and the action could be potentially discriminatory for disabled people who may need to take time off for a reason related to their impairment. As a result of the impact assessment the college abandons its plans, and thinks about more positive ways to support its staff, hopefully with the knock-on effect of reducing sick leave.

For further information and guidance on disability equality impact assessments see www.drc.org.uk/employers_and_service_provider/disability_equality_duty/getting_started/impact_assessments.aspx.

The Action Plan

The DED needs to be action-focussed and colleges and universities must include an Action Plan within their Schemes. This should set out what your institution is going to do, throughout the period of your Scheme, to meet the general duty.

Your institution must have at least one Action Plan, but depending on the size and resources of your institution, it may be more effective to have several Action Plans within one institutional Scheme. These will show the actions that individual departments intend to take to meet the general duty. Having individual Action Plans for major departments will create a greater sense of ownership for each department and overall the action points should seem more manageable, having been broken down into smaller chunks. Senior managers for individual departments will need to ensure that action points are met by reallocating time and/or duties to/from staff, manipulating budgets where necessary, and in some cases creating new posts with responsibility for particular areas of work.

The DRC recommends setting specific targets in key employment, education, and service delivery areas, and an effective Action Plan will include specific targets. For example, colleges and universities could set specific targets to improve the recruitment and retention rates of disabled staff, showing the percentage increase to achieve over the period of the Scheme.

Your institution's first Action Plan will be different from subsequent Action Plans. For example, it may include a lot of information on improving information gathering mechanisms, and how the involvement of disabled people can be facilitated. Subsequent Action Plans will not be so focussed on these areas as, to a large extent, your institution will have addressed these issues and begun to focus only on the wider actions and outcomes rather than fine-tuning the process of the duty.

Colleges and universities will need to take all the steps that are put in an Action Plan unless it is unreasonable or impracticable to do so. Action Plans should be regularly reviewed, ideally on a yearly basis. If your institution doesn't take any of the steps set out in

your Action Plan you will be expected to explain in writing, in your Annual Report, why it has been unreasonable or impracticable and what action you have taken instead.

During the development of its Disability Equality Scheme, and involving disabled people, a university pulls out the action points that it wants to meet. These are then written up as several Action Plans for major departments in the university. The university already has some information gathering mechanisms in place but work to disaggregate these further is set out in the Action Plan. Targets are also set for (amongst other things) improving the participation of disabled people in public life, this is interpreted as having more disabled people in specific positions of responsibility in the university. Actions to promote positive attitudes are also set out including a disability poster campaign in conjunction with the student union.

Annual reporting

Colleges and universities must report annually on the progress made in meeting the Action Plan and the results of any information gathering, including how the information has been used.

The Annual Report will show that your institution is committed to disability equality, and interested parties will be able to see the progress you have made. Your institution's DES Annual Report can be published in an institution wide annual report or any other documents that are produced and published annually.

Publication of the Annual Report should be a natural point of focus for ongoing involvement of disabled people and will help your institution monitor effective progress, as well as shape future Schemes.

Reviewing and revising your Disability Equality Scheme

Colleges and universities must review and revise their DES's at least every three years. Revising your institution's Scheme will be a chance to build on the experiences of the previous three years and improve/enhance your promotion of equal opportunities.

A revised DES should take into account the information your institution has gathered throughout the period of the Scheme, and what that indicates. Involving disabled people, your institution will then be able to prioritise areas to focus on in its next Disability Equality Scheme.

Procurement

Increasingly, colleges and universities are contracting out and purchasing in functions and services to/from private and voluntary organisations. For example, many colleges will have contracts with local employers providing work-based learning, and most institutions will employ private organisations to clean their premises. Where this is happening, the public authority needs to make sure that their duty to promote disability equality is still being met.

All staff who are involved in procurement work need to be trained in the provisions of the DED, and make changes to their procurement processes to fulfil their duties. Relevant disability considerations that colleges and universities might build into their contract arrangements include:

- revising standard terms and conditions to include information about the DED
- adding a requirement in every contract that the contractor should comply with the anti-discrimination provisions of the Act
- specifying what evidence the contractor needs to collect to assist the authority in meeting their duty
- monitoring performance on disability equality where relevant to the contract.

A college employs a training consultancy to provide training on project management. The college makes sure that its standard terms and conditions include information on the DED and procurement. The college makes sure that in the tendering process all contractors fully address this part of the contract and demonstrate how they will promote equality of opportunity for disabled people in their training programme. The successful consultancy is committed to providing all information in accessible formats, training will be held in accessible venues, and communication support will be provided by the consultancy. To help the college meet its information gathering requirement around employees, the training provider asks all attendees to fill in an equality monitoring form which includes information on impairment categories, barriers to participation, and experiences/satisfaction. The training provider explains why the information is needed, and what outcomes might be achieved as a result. After each training course the consultancy ensures that as many people as possible fill in the monitoring form, and the data is fed back to the college.

National leadership

To prompt leadership on disability equality, the Secretary of State for Education and Skills, Scottish Ministers and the National Assembly for Wales will have to publish a report every three years that gives an overview of the progress made by public authorities in their policy sector in relation to disability equality. This means that relevant ministers will need to take an active interest in how colleges and universities are meeting their duty, and report on it.

The report itself will give an overview of the progress that colleges and universities have made and will set out actions that can be taken to bring about further progress. This leadership part of the duty should help to highlight where a difficulty in one area impacts on another. For example, the impact that a shortage of trained British Sign Language Interpreters has on providing reasonable adjustments for Deaf students, or the impact that funding cuts to certain courses, heavily subscribed by disabled people, has on the future employment prospects of those groups.

The first set of these reports is due in December 2008 one year after colleges and universities will have produced their first Annual Report (and two years after their first Disability Equality Scheme). To assist the relevant ministers in producing their report, colleges and universities will need to clearly set out the progress they have made in their annual report (see the '[Annual reporting](#)' section of this guidance' for information on annual reporting) and highlight wider issues that are impacting on making further progress.

As part of their duty to promote disability equality and to oversee the progress of education institutions the Secretary of State for Education and Skills, Scottish Ministers and the National Assembly for Wales take an oversight of the information available in relation to disabled students. The report covers education provision, training, transition to work, and the experiences of new graduates in employment. This involves discussion and information sharing with other government departments and a co-ordinated approach to measuring progress.

For more information on this part of the duty please see chapter 4 of the [DED Codes of Practice](#).

Role of audit, funding and inspection bodies

The following are all listed bodies and are covered by the duty to promote disability equality:

- Estyn
- Ofsted
- HMIE (Scotland)
- the Adult Learning Inspectorate (until April 2007)

Funding bodies are also covered by the duty to promote disability equality, including:

- the Learning and Skills Council
- the Scottish Funding Council (previously the Scottish Further and Higher Education Funding Council)
- the Higher Education Funding Council for England
- the Higher Education Funding Council for Wales.

All of these bodies will need to produce their own Schemes, and will need to ensure that they meet the DED in all aspects of their work. They will also need to ensure that the institutions they inspect or fund are meeting their duty to promote disability equality. How these bodies measure the progress institutions have made will depend on their role and scope of the work. It may include asking to see an institution's DES and/or Action Plan, in order to make an assessment.

Many professional bodies are also covered by the specific duties and will have to produce their own Schemes. For example, the General Medical Council sets the standards and outcomes for basic medical education at undergraduate level and beyond. In order for them to meet their duty to promote disability equality, they will need to ensure that institutions providing medical education are meeting their obligations in relation to disability equality.

Audit, funding, inspection and professional bodies will also have to ensure that, where they contract services or functions to other organisations, or work in partnership with other organisations, disability equality is still being met. The Quality Assurance Agency for Higher Education (QAA), and QAA Scotland, work with higher education institutions across Great Britain to define academic standards and the quality of higher education. They are contracted to do this work by the Higher Education Funding Council for England, the Higher Education Funding Council for Wales, and the Scottish Funding Council. As with their own functions, these funding councils will need to ensure that this contracted work also gives due regard to disability equality.

Enforcement

The DRC and its successor the Commission for Equality and Human Rights (CEHR) have the power to take legal action against colleges and universities where they have failed to carry out their responsibilities under the DED.

For example, if a college or university doesn't have a Disability Equality Scheme in place, hasn't involved disabled people in the production of that Scheme, or hasn't met any other requirement of the specific duties the DRC or the CEHR can issue a compliance notice (a legal notice requiring a public authority to do certain things to meet the duty in a set time) in respect of that college or university.

The DRC, CEHR and any other interested party can also challenge a college or university in certain circumstances by seeking a judicial review in the High Court or Court of Session in Scotland if it feels that any element of the general duty is not being met.

For more information on enforcement please see our website, www.dotheduty.org, and the [DED Codes of Practice](#).

Getting started

At first glance the duty can appear a bit daunting, but if your institution focuses on what outcomes it wants to achieve, what success will look like, and this is broken down into manageable stages, then it will seem more straightforward.

Once your institution's Scheme is written, this is just the beginning. Focus will then shift towards taking forward the actions in your institution's Action Plan, improving your institution's performance on disability equality, and continually measuring progress made. If done effectively, the DED will make a huge difference to disabled people's life chances and experiences, and your institution will be making a huge contribution to this.

Disclaimer

The information in this guidance is based on the law but its main purpose is to help authorities to comply with and make the most of the Disability Equality Duty. The Statutory Code of Practice on the Disability Equality Duty provides further detail of the legislation.