



Equality Act 2010 and Reasonable Adjustment

The University has legal obligations under the Equality Act 2010. This applies to all students; full-time, part-time, under-graduate, post-graduate, E-learners, international students; as well as prospective students when applying to the institution and, in some limited circumstances, former students.

The Act protects students from discrimination and harassment based on one or more 'protected characteristic'. The protected characteristics for higher education provisions are:

- Age
- Disability
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation
- Gender reassignment

Being married or in a civil partnership is **not** a protected characteristic for the further and higher education institution provisions, although a civil partner treated less favourably than a married person can bring a claim for sexual orientation discrimination.

The University must not **discriminate** against, **harass** or **victimise** a student. These terms are explained in the University's Equality and Diversity policy available at <http://www.glos.ac.uk/docs/download/Equality/equality-and-diversity-policy.pdf>

Further information is available from the Equality and Human Rights Commission (2014) available at <https://www.equalityhumanrights.com/en/publication-download/what-equality-law-means-you-student-further-or-higher-education>

If a student believes that they have been discriminated against, harassed or victimised by the University, they can make a claim under the Act. Resolving disputes without the need for legal action and through internal complaints procedures of the University is usually in everyone's best interest. Student Support Services and the Student Union will be able to advise students and may help to resolve the situation.

Disabled students

The Equality Act (2010) places an 'anticipatory' duty on the University to be prepared for disabled students and plan the physical and teaching environments accordingly. Professional practice placements are covered under the Act.

A disability, in this context, is defined as 'any physical or mental impairment' that 'has a substantial and long-term adverse effect on [a] person's ability to carry out normal day-to-day activities' (Equality Act, 2010, Schedule 1 Part 1). The definition supports

a wide-ranging and extensive view of disability. For example; people who have cancer, multiple sclerosis (MS) and HIV are (s6(1)), progressive conditions (s8) and severe disfigurement (s3). People with other long term conditions (diabetes, asthma) may be a deemed disability (s7). In the context of higher education, disability includes Specific Learning Difficulties (SpLDs), such as Dyslexia and Dyspraxia

There are, however, some situations where these and other conditions, notably substance dependency, do not or no longer come under the Act. All need to meet the criteria for long term effects s2 1(a) and s2 1(b).

The current regulatory body emphasises the requirement for access to a range of placement opportunities appropriate for disabled students, and of the necessity to get accurate information about the individual needs of students in order to match and place appropriately. They also state (2015, p.21) that students 'do not need to be able to do all types of practice placement to be able to demonstrate that they meet all of the SOP'.

Organisations which provide placements have a legal duty to consider reasonable adjustments to avoid discrimination. Discrimination can occur in two ways:

- When the education provider treats a disabled person 'less favourably' for a reason relating to a person's disability.
- When the education provider fails to make reasonable adjustments to prevent the student being placed at a substantial disadvantage.

However, the reasonable adjustments required or needed for work-based learning may differ to those agreed for academic study. Placement providers should ensure compliance with guidance (see pages 4-7 below).

Health issues

Students should be aware that the Guidance on Conduct and Ethics (Health and Care Professions Council, 2016) state that they should tell their education or practice placement provider:

- if they are experiencing any difficulties which may affect their learning or ability to successfully participate in the programme;
- that they may put service users or themselves at risk if their judgement or performance is affected by their physical or mental health,

and ask for appropriate support if this is the case.

The University recognise that people may experience short or long-term physical or mental health difficulties during their period of study. Supportive services are available to ensure that students are supported to manage University life and study effectively. Some difficulties may be classed as a protected characteristic under Equality legislation. Where this is the case students are referred to Point 5 above for guidance on reasonable adjustment.

If short term or temporary problems interfere with studies whilst on placement students must use the extenuating circumstances procedure. This will require supporting evidence to be provided.

Pregnancy, maternity and caring for a young child (including through adoption)

Pregnancy is a protected characteristic and covers students who are, or have been, pregnant; have given birth in the last 26 weeks or are breast-feeding a baby who is younger than 26 weeks. Where a student is breast feeding a child aged over 26 weeks guidance should be sought under sex discrimination. A student in this situation must be considered as equally as others. Being told that they will have to defer for a year may constitute discrimination. However it is also not lawful to treat a student with a protected characteristic more favourably.

Paternity rights

Students are not entitled to paternity absence or pay although the Equality Challenge Unit (ECU) suggest that if a student is treated less favourably because of their partner's pregnancy it may constitute discrimination by association on the grounds of sex. The ECU recommend that students who are partners of new mothers (or adopters) should be able to take paternity leave, attend antenatal appointments with their partner and take time off if complications arise.

Student Disclosure

Disclosure is a matter of personal choice but students are strongly encouraged to disclose any disability or support needs they may have with their PT or a trusted member of staff at an early stage but particularly where there is a risk to their health and safety or that of others. Such disclosures will be taken seriously and treated openly and sensitively. Student's rights to confidentiality will be protected and their permission to share information with other **named** staff members sought.

Students will be made aware of:

- appropriate and accurate information on the potential impact of the disability, health, pregnancy or maternity needs on the placement;
- other options e.g. to move to extended study if this can be facilitated or defer study for a period;
- sources of support/advice, e.g. related to being pregnant or financial (including any potential entitlement to Statutory Maternity Pay or Maternity Allowance if they have been working alongside their study) or other implications of each decision.

Provision of this guidance will enable the student to make an informed decision on how best to continue their study. The PT or trusted person should be aware that attempting to direct or influence a student's decision may be constituted as unlawful discrimination.

Reasonable adjustments

Reasonable adjustments need to be made in the following circumstances:

- Where someone has declared that they have a disability, illness or injury and requested reasonable adjustments,
- Where it might reasonably be expected that someone would need an adjustment, or
- Where it might reasonably be expected that someone is disabled,
- Where making a reasonable adjustment would enable the employee to do their job more effectively, regardless of whether they are covered under legislation.

However, it should be noted that it is a requirement that the number of days of the placement (70 or 100) are completed. It is expected that this is completed in a more or less continuous period (barring small episodes of absence of no longer than two weeks duration).

The Placement Request Form (PRF) contains sections for information on any disability or health issue. When discussing the completed draft Placement Request Form the student and PT should discuss how any disclosed matter may impact on or affect a student's ability to practice effectively and safely whilst on placement and discuss any reasonable adjustment or accommodations that could be made.

Where suggestions have been identified, the student should be encouraged to propose these on the PRF although student's rights to confidentiality will be protected. It should be noted that if a potential placement provider or the University can show that it did not know that there was a protected characteristic or could not reasonably have been expected to know that there was a protected characteristic, then any unfavourable treatment would not amount to unlawful discrimination (Equality and Human Rights Commission, 2014).

Nonetheless, sharing of information is recommended in order that accommodations, wherever practicable, to the placement can be considered, agreed and an initial risk assessment undertaken.

Information, advice and assistance on supporting students with disabilities and making reasonable adjustments whilst on placement is available to placement providers from the **Disability, Dyslexia & Learning Support Service**, Francis Close Hall, University of Gloucestershire, Swindon Road, Cheltenham, GL50 4AZ, Tel: 01242 714541, Email: disability@glos.ac.uk

Practical accommodations

It is important that any student suggestions are fully considered by the potential placement provider, working together with the University, to determine whether they would overcome or at least minimise any disadvantage and risk (see section 12) and whether they are reasonable. Placement providers are responsible for determining whether they can make the adjustment and the variety of ways in which the student may be enabled to continue with their placement.

In answering the questions in the flowchart (see page 6) you should consider the following:

- Effectiveness – how well does the adjustment in question remove or at least minimize the disadvantage?

- Practicability – how practical is the adjustment? For example, do you already have equipment that can help, how long will it take to implement, will anyone need extra training, etc? Will it benefit others longer term?
- Cost – for example, how much will it cost, what financial resources available to the organisation (including use of the daily placement fee), can your organisation afford it?
- Disruption – how disruptive to the business, to others, and to the needs of the organisation would it be to make this adjustment?
- Risk – would making this adjustment cause any risk to others? (Note: An adjustment will not be ‘reasonable’ if anyone’s health and safety would be compromised by making that adjustment.)

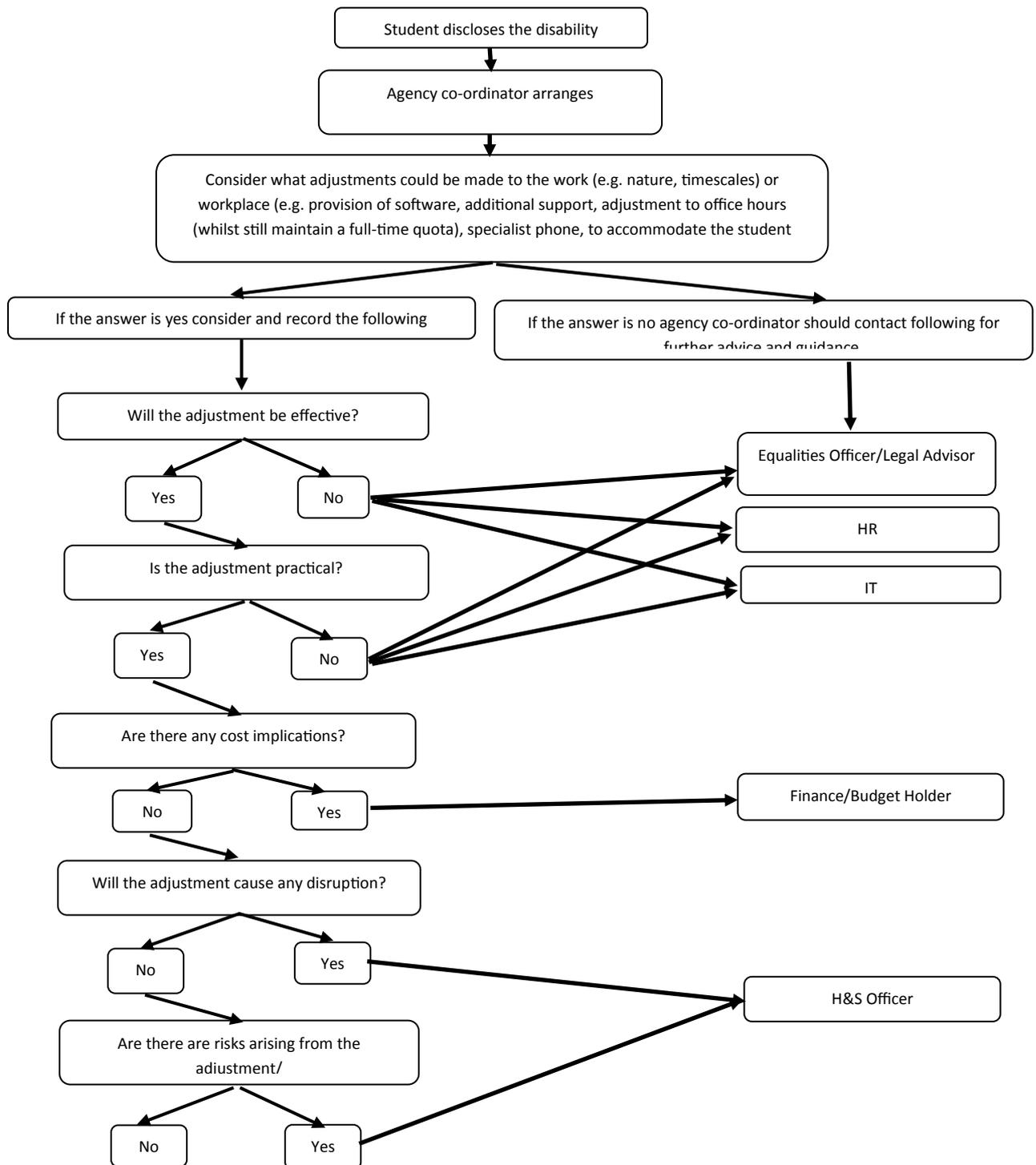
The placement provider does not have to make the adjustment requested as there is often more than one adjustment that can be made. However, requests for particular adjustments should not be declined solely because they are costly to implement. It may be required that the University Placement Co-ordinator (UPC) visit the placement provider if there are specific concerns related to the needs of individual students.

Concerted efforts must be made to manage any health and safety risk identified and find alternative ways of allowing a student to continue where a temporary withdrawal is not in line with their wishes. Nonetheless, it may be unreasonable or impossible to respond to highlighted risks and a student may need to suspend their studies. In making this decision, consideration must be given to the financial impact and any disadvantage that may be incurred relating to tuition fees, bursaries and student loans.

Records should be kept of all decision making processes, including risks highlighted, those whose advice and opinions were sought (e.g. Equality and Diversity Service, Health and Safety personnel, University Insurance Manager), who made decisions and the reasons for those decisions. An exemplar template for the recording of reasonable adjustment decision making is provided at appendix 12. These should be treated as confidential and stored, for future reference if needed, in line with the University Records Management Policy and Records Retention Schedule.

Students will be informed of the decisions and the reasons for the decision. Where a student is dissatisfied with the degree of flexibility offered they are reminded of the Student Complaints Procedure available at

<http://www.glos.ac.uk/docs/download/Governance/student-complaints-procedure.pdf>)



Reasonable Adjustment Decision Form

Name of individual
Identified barriers and discussion with individual

Effectiveness
Practicality
Disruption
Health and safety risk

Additional evidence to support decision
List the evidence that was considered to help reach the decision

Decision and next steps
Details of the decision made by the organisation and next steps

Completed by	
Job title	
Department	
Date	

This decision should be signed off by a senior member of staff

Verified by	
Job Title	
Date	