



Medipro Limited

SUPPORTING STUDENTS WITH A DISABILITY IN PLACEMENT

1. Purpose

Supporting students within a practice placement presents a wide number of challenges for mentors, in terms of creating a welcoming and interesting learning environment, which facilitates the achievement of the student placement outcomes. Supporting the student who has a disability can also present additional challenges. This information guide therefore aims to:

- Provide the mentor with key information relating to students with disability in the clinical setting
- Identify the key contacts within the placement and Medipro who can assist the mentor
- Provide guidance for the mentor in relation to reasonable adjustments and support for the student with a disability

2. Background and context

Current Equalities Legislation

The Equality Act 2010 (which replaced the Disability Discrimination Act (DDA), 1995 and the Special Educational Needs and Disability Act 2001) makes it unlawful for education institutions to discriminate against disabled students and other disabled people. The Act applies to a number of broad areas, including education, the provision of goods and services and employment. One of the specific areas covered for which it is unlawful to discriminate is in the provision and arrangement of work placements.

Rights under the Post-16 Education Section

The legislation applies to people who are disabled according to the definition of disability included in the Act. A disabled person is someone who has a physical or mental impairment, which has an effect on his or her ability to carry out normal day to-day activities. That effect must be substantial, adverse and long term. In this respect, physical or mental impairment includes sensory impairments, mental illness or mental health problems, specific learning difficulties such as dyslexia and

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conditions such as diabetes or epilepsy. People with severe disfigurements are also covered by the Act. People who have had a disability in the past, which meets the Act's definition, continue to be covered even if they no longer have the disability.

Responsibilities under the Post-16 Education Section

The post-16 sections of the Act place responsibilities on education institutions not to discriminate against disabled students in the provision of 'student services'. Work placements come within the definition of student services. Additionally, the Act includes a Public Sector Equality Duty; this strengthens the responsibilities that public bodies have (such as the NHS), to eliminate discrimination, to advance equality for people with a protected characteristic (such as a disability) and to ensure they are not treated less favourably than other people.

The legal responsibility for ensuring discrimination does not take place rests with the education institution which provides the course the student is undertaking. Institutions may delegate the function of organising placements, but they cannot delegate their legal responsibilities. Employers will also have legal responsibilities towards students who are employed or on work placements under the employment sections of the Equality Act. However, an institution's responsibility is not diminished by this, and Medipro must continue to ensure that discrimination does not take place.

3. Discrimination

Under the broad provisions of Act, discrimination can occur in a number of ways in relation to the following protected characteristics:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy or maternity
- Race
- Religious belief or non-belief
- Sex

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- Sexual orientation

Different types of discrimination under the Act can be summarised as follows:

Direct discrimination

Direct discrimination occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have. This protection already applies to all protected characteristics listed above.

Discrimination by association

Already applies to race, religion or belief and sexual orientation. Now extended to cover age, disability, gender reassignment and sex. This is direct discrimination against someone because they associate with another person who possesses a protected characteristic.

Perception discrimination

Already applies to age, race, religion or belief and sexual orientation. Now extended to cover disability, gender reassignment and sex. This is direct discrimination against an individual because others think they possess a particular protected characteristic. It applies even if the person does not actually possess that characteristic.

Indirect discrimination

Already applies to age, race, religion or belief, sex, sexual orientation and marriage and civil partnership. Now extended to cover disability and gender reassignment. Indirect discrimination can occur when there is a condition, rule, policy or even a practice that applies to everyone but particularly disadvantages people who share a protected characteristic.

Harassment

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Harassment is “unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual”. Employees will now be able to complain of behaviour that they find offensive even if it is not directed at them, and the complainant need not possess the relevant characteristic themselves.

Third party harassment

Already applies to sex. Now extended to cover age, disability, gender reassignment, race, religion or belief and sexual orientation. The Equality Act makes an employer potentially liable for harassment of its employees by people (third parties) who are not employees of the organisation, such as patients or visitors.

Victimisation

Victimisation occurs when an employee is treated badly because they have made or supported a complaint or raised a grievance under the Equality Act; or because they are suspected of doing so.

For people with a disability, there are additional types of discrimination that apply:

Discrimination arising from disability

This is distinct from ‘direct discrimination’ or ‘indirect discrimination’ as this can occur where the disabled person is treated unfavourably because of ‘something arising in consequence of their disability’. This is a slightly more complicated legal concept than in the case of direct or indirect discrimination but one to be aware of.

Failure to make reasonable adjustments

Under the Equality Act, educational providers have a duty to make reasonable

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adjustments for students (as do employers for their employees). The purpose of reasonable adjustments is to provide access to education as close as is reasonably possible, to the standard offered to other students.

This includes:

- Taking steps to avoid putting disabled students at a substantial disadvantage by the application of particular provisions, criteria or practices removing or altering a physical feature or finding a means of avoiding features that might result in substantial disadvantage.
- Providing 'auxiliary aids' which will help reduce or remove substantial disadvantage.

Education providers also have an 'anticipatory duty' to anticipate the needs of their disabled students; this might mean taking proactive measures that increase inclusion and accessibility thereby avoiding or helping to reduce the need for individual reasonable adjustments. A failure to make reasonable adjustments that results in disabled students being put at a substantial disadvantage compared with other students is therefore another form of discrimination.

What the Equality Act requires Education Providers to do

As outlined above, the Act says that education institutions must take reasonable steps to ensure that a disabled student is not placed at a substantial disadvantage in comparison to someone who is not disabled. Under the Equality Duty, there is also a responsibility to proactively advance equality for all people with a protected characteristic, including disability.

Determining what is reasonable

Within education provision, what adjustments are deemed reasonable for an institution to make will depend on individual circumstances and on the nature of the student's disability or difficulties. The Equality Act refers to broad considerations that need to be taken into account in determining what is reasonable. These include:

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- Whether taking any particular steps would be effective in overcoming the
- substantial disadvantage that disabled people face in accessing the services
- in question
- The type of education or other benefit, facility or service being provided
- The effect of the disability on the individual
- The financial and other costs of making the adjustment
- The availability of grants, loans and other assistance to disabled students
- The extent to which aids or services will otherwise be provided to disabled people or students
- The resources of the education provider and the availability of financial or other assistance
- Health and safety requirements
- The interests of other students and people who may be admitted as students

Whilst there is relatively little specific definition of what ‘reasonableness’ means in particular circumstances, the Equality Act Draft Code of Practice for Further & Higher Education states the expectation that it should only be on rare occasions that reasonable adjustments cannot be accommodated.

The Equality Act and employment

It should be noted that whilst educational providers have a responsibility to ensure disabled students on a course of study are treated in a non-discriminatory way and have appropriate reasonable adjustments put in place for them for education purposes, employers also have similar legal obligations under the Equality Act. The duties and responsibilities applicable to employment, similar to those described above, apply not only to people defined as ‘employees’ but also to those undertaking practical work experience placements. There is therefore a dual role in the requirement to enable suitable support and adjustments to be put in place between Medipro and placement

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providers; the actual responsibility rests where the activities are based. Reasonable adjustment requirements for employers are similar to those outlined in the section above.

Section 4 of the Equality & Human Rights Commission Draft Code of Practice for Education Providers - Further and Higher Education, includes a section on the provision of work placements (link below).

<http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-consultations>

Chapter 5 of the Code of Practice for Employment (link shown below) provides some further detailed information on the requirements of the employer in relation to the Equality Act disability provisions:

<http://www.equalityhumanrights.com/advice-and-guidance/information-for-advisers/codes-of-practice>

If things go wrong

If a student believes that he or she has been discriminated against, he or she can seek legal redress through the courts against the institution or the employer as appropriate. The Equality and Human Rights Commission provide information and advice for individuals and organisations on issues relating to equality matters and the law.

Further information can be found via the following link:

<http://www.equalityhumanrights.com>

The Health Care Professions Council (HCPC) and the Equality Act

The HCPC state 'When a student tells an education provider about a disability, admissions staff will need to decide whether the student will be able to meet the standards of proficiency for the relevant profession. As there is often more than one way in which each professional standard can be

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met, this will include considering reasonable adjustments that would make it possible for the student to meet these standards.'

'There is a major difference between being registered as a health and care professional and being employed as one.

We register people, and we do not deal with matters that are related to employment. In the same way that someone completing an approved programme does not guarantee that we will register them, it is important that registration is never seen as a guarantee that any professional on our Register will gain employment.

Guaranteeing that someone is 'fit to practise', which is part of our role as the regulator, does not guarantee that they will have the opportunity to practise. It is also not the same as fitness to work, which is decided at a local level between a registrant and an employer.'

Support / Allowances

Students may receive support and allowances in a range of ways e.g. a disabled student allowance Disabled Students Allowance or DSA, is a government funded allowance that is available to provide support to students in higher education who have additional costs directly related to their disability. Students must meet particular criteria in order to qualify for the allowance and must have their needs formally assessed before an award is made. Students can receive support in the form of:

- A basic allowance to cover small items of equipment, consumables, paper etc
- An allowance for large items of equipment such as a pc, laptop, scanner, portable loops, recording devices etc
- An allowance for non-medical personal help to cover support such as notetaking,
- BSL interpreters, general support etc

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It should be remembered that whilst this financial support is available to some students, it is the institution that has legal responsibility to ensure reasonable adjustments are made.

Support in Practice Placements

Not all students with a disability require additional support in practice placements however, some will require this assistance. In order to establish if the student requires additional support, the course director will review the student's support profile, individual learning plan or risk assessment during the initial stages of the student's programme. Prior to the student going out on placement, this documentation will be reviewed to identify any particular needs that the student has in relation to that placement.

This will be undertaken with the student and a joint decision made about the best way to provide support for the student in placement.

Key people involved in the organisation of placements for students include the placement co-ordinator, the programme leader, the personal tutor contact, the placement provider and the student. In order to identify any reasonable adjustments that require to be identified for a student with a disability undertaking a placement, an individual student learning profile will be developed.

Whilst this profile is particularly designed to identify adjustments required for the learner to achieve their programme outcomes within Medipro, with the students consent, it can also be used to identify adjustments that would also be required to be made in the practice placement setting, allowing the student to achieve their placement outcomes.

Occupational Health Service

Our OH service gives advice and support on issues relating to disability at work, and carries out workplace assessments to help staff and students make any necessary adjustments while at work or on training.

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Making adjustments

In many cases students may have a good idea of the types of support they need. Other students may not be aware of what equipment or support is available and it might be useful in the unfamiliar work environment. Aspects which it might be relevant to cover in a discussion include:

- Ensuring students are appropriately prepared for placements – in some cases disabled students may need more preparation than other students
- Ensuring access to work placements, including transport arrangements
- Ensuring access to any equipment that the student may need to use on the work placement
- Ensuring access to audio material and meetings for students with sensory impairments, including the use of interpreters, radio aids or subtitled videos
- Ensuring access to visual material and documents for students with visual impairments or dyslexia, including providing printed materials in accessible formats or providing material on tape
- Ensuring good access in advance to complex instructions for protocols or procedures for students with learning difficulties
- Ensuring placements are appropriate for students with mental health problems or who experience fatigue etc. In some cases a balance may need to be struck between allowing students access to the widest range of placement opportunity and consideration of the demands involved
- Clarifying arrangements for support workers who may accompany students, e.g.
- Sign language interpreters, personal assistants etc
- Ensuring ongoing support for those students who may need it through visits or telephone calls, particularly at the start of the placement

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Annex A
dated 08 Sep 17

FREQUENTLY ASKED QUESTIONS

Q: When do you advise the student / placement organiser to disclose disability?

A:) A student should have the opportunity to disclose disability (if not already known) to placement organisers at the planning stage and to discuss the implications of their disability for any work placement. Whether, and how much information needs to be shared with the placement provider, supervisor or other work colleagues should be considered with the student in relation to the particular placement location, working environment and tasks to be undertaken. Medipro can help encourage students to disclose by securing agreements from placement providers regarding their role in supporting disabled students in advance. However, it should be noted that there are many reasons why a student may find it difficult to disclose their disability, particularly where there may be a stigma associated with the disability.

Q: Where does confidentiality end and disclosure start?

A:) In most cases the need for disclosure will be agreed between the student and placement organiser. If the student does not wish to disclose their disability to the placement provider in circumstances where the students' disability may put themselves or others at risk, the student's preference for confidentiality may need to be overridden. In a few cases there may be legal implications if Medipro are aware of a student's disability and chooses not to disclose this to the placement provider.

Q: Who is responsible for funding adjustments on work placements?

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A:) The duty for making a reasonable adjustment under the Equality Act falls on Medipro for education purposes but the work placement provider will have a responsibility to make work based reasonable adjustments, as an 'employer'. On occasions, there may be significant differences in the types of adjustment required for education and study needs and those applicable to work placements. In some cases a discussion may need to take place about the nature of the adjustments and possible solutions.

Q: Are placements controlled by external professional bodies covered by the Act?

A:) All placements are covered by the Equality Act. However, certain professional vocational courses, such as medicine, paramedicine, nursing and teaching, have particular accreditation requirements which are controlled by external bodies, not by the institution. The completion of the award may be dependent on certain tasks being undertaken on placements. Where this is the case, institutions are not expected to make adjustments that might prevent the work placement component of the course being accredited. Medipro will ensure that these issues are discussed with students at the admissions stage so that any necessary alternative ways of assessing courses can be explored. Note: Qualification bodies are also bound by the requirements of the Equality Act in relation to entry requirements, the determination of competence standards and how these are achieved or assessed. Institutions also have a duty to ensure that any requirements they apply on behalf of the qualification body, are not discriminatory in themselves.

Q: How far should adjustments go?

A:) The Equality Act clearly sets out the specific requirements not to discriminate against or disadvantage disabled people in education and employment, to advance equality, including treating disabled people more favourably, if necessary. This is in addition to the requirements to make suitable reasonable adjustments. Whilst there is no requirement for

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Medipro to make reasonable adjustments that would compromise the maintenance of academic or other standards appropriate to the course or learning programme, any such exceptions would need to be justified as genuine competence standards for which no adjustment can be made. Institutions should be clear about the distinction between the competence standard itself and the means of demonstrating how this can be achieved

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