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Grey Areas of the DDA Part IV

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“Grey” Areas of the DDA Part IV

- International Students
- DDA Draft Amendment Regulations
- Auxiliary Aids and Services

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Grey Areas.....DDA Part IV

DDA (Part IV)....in brief

- Institutions have a duty not to discriminate against a disabled person in admission or enrolment, or in the provision of services, for a reason related to his/her disability, without justification
- Discrimination can occur through –
 - Less favourable treatment
 - Failure to make reasonable adjustment

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“Grey” Areas...International Students
International students and the DDA Part IV

Paragraph 2.6 of the Code of Practice for Post 16 education states that

The Act applies to any disabled people (including those overseas) who are enquiring about or applying to a course, and any disabled students (including those overseas) attending, undertaking or enrolled on a course.

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“Grey” Areas...International Students

Admissions and disclosure issues

Institutions can more easily meet the needs of International disabled students if they can encourage students to disclose these before admission.

Potential barriers to disclosure are:

- Students may fear discrimination if they disclose a disability.
- Definitions of disability and terminology used varies between countries; students may therefore not see themselves as falling within the categories described, or may not understand what information is being sought, or why.

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“Grey” Areas...International Students

Admissions and disclosure issues cont'd

- Issues of stigma or willingness to disclose personal information will be affected by cultural background.
- Students' expectations of what institutions should provide will be affected by structures of provision in the home country.
- Students may feel they are able to manage on their own without support, however, this can be problematic where studying abroad and away from the support mechanism they are used to.

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“Grey” Areas...International Students

Making Provision

Disability Co-ordinators will need to work with Staff in the international office to

- Establish how to assess the needs of international students, eg in the case of dyslexia AND non-native speakers of English
- Establish procedures for carrying out and funding diagnostic and needs assessments for international students.

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“Grey” Areas...International Students

Disability Co-ordinators will need to work with Staff in the international office to (cont'd)

- Ensure that support is available for international students, eg notetakers and loaning of equipment
- Work with international recruiters and advisers to develop feedback loops to improve advance information for international students, eg identifying common misconceptions.

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“Grey” Areas...International Students

Disability Co-ordinators will need to work with
Staff in the international office to (cont'd)

- Work with management to secure funding to meet the needs of international disabled students
- Ensure appropriate student information is passed on to relevant staff.

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“Grey” Areas...International Students

Management and budgetary issues

The senior managers of institutions need to

- Recognise that they have a legal responsibility to provide international students with comparable treatment to home students and plan accordingly
- Ensure that your admissions policies and procedures do not discriminate against disabled international students and that they are understood by all relevant departments, especially where devolved admissions policies exist

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“Grey” Areas...International Students

Management and budgetary issues cont’d

- Identify a realistic budget for assessment and support for international disabled students, which might be funded, for example, from a proportion of overseas fee income.
- Establish how central and devolved budgets will share costs if appropriate.

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“Grey” Areas...International Students

Management and budgetary issues cont’d

- Allow a roll-over of funds from year to year to meet fluctuating numbers of disabled students and support costs, and to enable anticipatory adjustments
- HEFCE disability premium funding can’t be used to provide direct support to international students – it can however be used to enhance infrastructure and services that all students can access.

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“Grey” Areas....Draft Amendments Regulations

Draft Amendment Regulations (in brief)

- Expected to come into force October 2004
- Main aim is to protect disabled people from discrimination in vocational training
- Regulation 11 introduces new sections relating to discrimination by Qualifications bodies or Trade and professional bodies, and to practical work experience

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“Grey” Areas....Draft Amendment Regulations

Draft Amendment Regulations (contd)

- Section 14a sets out the circumstances in which it is unlawful for a qualifications body to discriminate against a disabled person
- Section 14b requires qualifications bodies to make reasonable adjustments – but not to ‘competence standards’

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“Grey” Areas....Draft Amendment Regulations

Draft Amendment Regulations (contd)

- ‘Objective criteria’
- Sections 14c and 14d seek to prohibit unlawful discrimination and harassment in relation to work placements
- Draft Code of Practice available from 1st September at www.drc-gb.org

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“Grey” Areas....AAS

AAS - Definition

- No definition given in DDA
- It is a technical term in Disability Discrimination law – from DDA Part III (DDA S21 (4))
- It is used to designate aids and services which if not provided by a service provider would prevent a disabled person accessing the service.
- It does NOT mean an “ancillary” service of an HEI.

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“Grey” Areas....AAS

AAS are a kind of Reasonable Adjustment

- Duty to make reasonable adjustments where a disabled student is at a “substantial disadvantage Sept. 2003
- Duty to provide auxiliary aids and services Sept. 2003

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“Grey” Areas....AAS

AAS are a kind of Reasonable Adjustment cont’d

The difference between general reasonable adjustments and auxiliary aids and services is

The difference between

- Doing what you do, but in a different way, so a disabled person is not put at a substantial disadvantage (general reasonable adjustments – 2002)
- Doing something else which you never did before but which makes it easier for a disabled person to access and enjoy your services (required from 2003)

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Reasonable adjustments; Reasonable adjustments which take the form of auxiliary aids and services;

A lecturer makes a point of not talking to the whiteboard, but of turning and addressing the class;

Lecturing staff are issued with and use radio microphones (an auxiliary aid);

A security man, on request of a blind applicant, guides the applicant to the faculty office;

Some offices in the university are equipped with facilities for TypeTalk (an auxiliary aid);

The accommodation service issues a mobility impaired student with a key to allow her to use a more convenient entrance to halls of residence;

Doors on an accommodation block are fitted with radio-controlled lock and opening devices which mobility impaired students can use to have better access (an auxiliary aid);

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Reasonable adjustments; Reasonable adjustments which take the form of auxiliary aids and services;

An academic department allows a dyslexic student extra time at exams;

A note-taker is hired to take notes in lectures for a deaf student (an auxiliary service);

An academic department produces handout materials on coloured paper for the benefit of a dyslexic student;

A student with a learning difficulty is provided with software which helps him organize his essays (an auxiliary aid) and trained in the use of the software (an auxiliary service);

An academic department provides large print examination papers for a visually impaired student;

A blind student who uses a guide dog is permitted to bring the dog into areas of the university where dogs are not in general permitted;

A sign language interpreter translates a lecture into British Sign Language (BSL) in real time for the benefit of a deaf student (an auxiliary service);

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“Grey” Areas....AAS

What counts as an Aid and what counts as a Service? When does the distinction matter?

- Auxiliary Aids are things – Auxiliary Services involve people in their delivery of services.

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“Grey” Areas....AAS

Implications of the Distinction between aids

And services:

- logistics and practical possibilities;
- accounting and the stewardship of public money;
- human relationships.

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“Grey” Areas....AAS

What is required of an institution?

Reasonable adjustments, including AAS, must be

- anticipated
- agreed
- communicated
- resourced
- reviewed
- publicised and
- defended.