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**ENDING STIGMA
and DISCRIMINATION
IN COLLEGES AND
UNIVERSITIES – A GUIDE**

Introduction

The effect stigma and discrimination can have on a student's experience of education can be devastating. It impacts on confidence, self-belief and self-stigma – and also reduces attainment, retention and can potentially have financial implications. It can exacerbate mental illness and add to an already challenging situation.

The majority of university and college staff and students want to support each other through illness and difficult times – but often discrimination and stigma arise through lack of knowledge

and understanding, as well as fear of approaching the subject or situation. This guide has been created to contribute to overcoming stigma and discrimination in universities and colleges, built from the experiences of students gathered through surveys, focus groups and workshops. It is hoped it provides a useful basis for increasing the knowledge and confidence of staff so that discrimination is avoided, tackled where it does occur, and reasonable adjustments are made for students so they can perform on an equal playing field to their peers.

The Equality Act 2010

In October 2010 a new Equality Act came into force combining a number of laws, including the Disability Discrimination Act, into one single Act. The Equality Act 2010 gives more protection against discrimination with the aim of ensuring people do not experience disadvantage in a variety of settings, including in college or university. The Act means that it is against the law to discriminate against anyone

because of age, gender reassignment, being married or in a civil partnership, being pregnant or having a child, disability, race (including colour, nationality, ethnic or national origin); religion, belief or lack of religion/belief, gender and sexuality – under the Act, these are called protected characteristics.

People with mental illnesses are protected under the disability protected characteristic, where they meet the following definition:

"A physical or mental impairment which has a substantial and long-term adverse effect on your ability to carry out normal day-to-day activities"

Mental illness falls under the term "mental impairment". A "substantial" adverse effect means that the effect of the illness is more than minor or trivial. In looking at the effect of an illness, any treatment, such as medication or counselling, is ignored and the impairment is taken to have the effect it would have had without that treatment. "Long term" is classed as having lasted at least 12 months, likely to last 12 months or more, or likely to be life-long. You may also be covered if you had a disability in the past. For example, if you had a mental health condition in the past which lasted for over 12 months, but you have now recovered, you are still protected from discrimination because of that disability. More information on the definition of disability is available from the Office of Disability Issues guidance, found in the further information section.

It is important to note that sometimes people do not recognise how much of an impact their illness has on them, and so may not place themselves in this category. It is also important to note that sometimes people do not wish to define themselves into this category for various reasons and also some people with mental illnesses manage their studies with no significant adverse effects caused by their illness. It should be for the student to decide, with all of the relevant information about their rights under the Equality Act, if they wish to be classified in this way, but only a person who meets the Act's definition of disability has the protected characteristic of disability.

What Does Discrimination Mean?

Direct discrimination is where a student is treated less favourably than another student is treated or would be treated because of a protected characteristic. This applies whether or not it was intended. It can also be by association, where a student is treated less favourably because of their association with a person who has a protected characteristic, for example a family member or friend. If a student is treated less favourably because it is thought they have a protected characteristic, this is also direct discrimination – based on perception.

For example, a student is refused entry to a course because it is wrongly believed that the student has a history of depression; this is direct discrimination by perception

Indirect discrimination is where a rule, criteria, provision or practice is applied the same way for all students, but puts students with a protected characteristic at a particular disadvantage compared to students who do not have that characteristic. This in turn puts individual students with that protected characteristic at a disadvantage. Indirect discrimination will be unlawful if the college or university cannot show that the rule, criteria, provision or practice is justified, by showing that it is a proportionate means of achieving a legitimate aim. This applies whether or not it was intended.

For example, asking all students to register in a large busy hall is indirectly discriminating against students who may find busy halls anxiety provoking due to their mental illness such as an anxiety disorder. This might be indirect disability discrimination if the practice could not be objectively justified. This may also be discrimination arising from a disability, described below

Discrimination arising from a disability happens if you treat someone with a disability unfavourably, the treatment is because of something arising in consequence of the disability and that treatment cannot be justified. While direct discrimination occurs because of the, the disability itself, in discrimination arising from disability the question is whether the person has been treated unfavourably because of something linked to their disability (not the disability itself).

It is different from indirect discrimination because there is no need to show that other people have been affected or for the person to be compared to others.

An example of this would be a student telling their tutors about their mental illness and that they would be required to attend hospital appointments over class time, but being asked to leave their course because of poor attendance. This could be discrimination arising from disability if it could not be objectively justified

Responsibilities of University and College Staff

Employees of universities and colleges may be personally responsible if they discriminate, harass or victimise anyone during their employment - though the principal duties under the Act lie with the college or university. Staff are unlikely to be liable personally if they follow college or university policies and employees should have relevant training and guidance to ensure they have the requisite knowledge of their responsibilities under the Equality Act. They should also be adequately supported to understand and carry

out their duties in relation to making reasonable adjustments for disabled students. Colleges and Universities are the responsible body, but employees, staff in universities and colleges, may be responsible for any acts of discrimination in their role, therefore this document sets out some examples and guidance to provide additional information and support so discrimination against students with mental illnesses can become a thing of the past.

Reasonable Adjustments

Though many people with a mental health condition require no extra support or adjustments in order to be able to study, the Equality Act 2010 places a duty on universities and colleges to make

reasonable adjustments where someone with a disability would be at substantial disadvantage to someone who does not have a disability. The three requirements of the duty relate to:

- **Taking reasonable steps in changing the way things are done – the practices or policies within the college or university**, for example where there is a policy of randomly assigning students to tutorial slots, allowing a student to stipulate they need an afternoon slot due to medication side effects being at their peak in the morning might be a reasonable step
- **Making changes to the built environment**; for example by providing inclusive access to lecture theatres
- **Providing auxiliary aids and services**; for example voice recorders so students who struggle to concentrate in lectures due to mental illness can record them

There is a duty to provide anticipatory reasonable adjustments, so colleges and universities must prepare and pre plan for addressing any barriers that students with a disability may face. In addition, individual reasonable adjustments should be made for students where they have specific requirements. Anticipatory reasonable adjustments might include putting lecture notes online for everyone to access prior to lectures in order that a student with a mental illness could access them to aid their concentration in class,

as could anyone else who found this useful. An individual reasonable adjustment might include allowing a student with an anxiety disorder exacerbated by testing, extra time to complete their exam.

As the duty is to take reasonable steps in making adjustments, they will always depend on the circumstances. As a guide, some more examples of both anticipatory and individual reasonable adjustments related to mental illness might include:



- **Providing lecture notes prior to lectures**
- **Providing lecture notes and where appropriate additional resources to a student who has missed a lecture due to mental ill health**
- **Allowing a student to change to a different class group to avoid morning tutorials**
- **Allowing for absence due to appointments related to mental illness**
- **Finding alternatives to situations and procedures which may be impossible for students to follow, such as a different way for a student to register if the usual way is in a large busy hall**
- **Allowing regular breaks if for example a student becomes very anxious**
- **Extra time and or separate room provision in assessments and exams**
- **Giving extensions for pieces of work where illness has interfered with the ability to complete on time**
- **Providing a quiet space for a student**
- **Allowing the student to study from home, by providing lecture notes or online or recorded lectures**
- **Providing a mentor or regular support for a student's academic issues and performance**
- **Offering additional teaching or the ability to join other classes for missed lectures or tutorials**
- **Providing computer equipment to enable study at home** (For more about Disabled Students Allowance please refer to the further information section)
- **Ensuring a student's classes are spread out in a way that best suits their ability to handle their mental illness and study**
- **Support with timetable and study planning**
- **Ensuring a student's exams are spread out**
- **Supervised breaks during exams**
- **Providing written instructions for someone who was very anxious about forgetting to do things that are expected in for example a lab or practical class**
- **Creating the possibility of a student studying on a full time course to go part-time**

Reasonable Steps

Colleges and universities have a responsibility to take steps that are reasonable in order to make adjustments, which are dependent on each case. The Equality Act does not specify any particular factors that should be considered.

Reasonableness of an adjustment is

objective and would ultimately be for the courts to determine. Often there will be more than one solution for a situation and it is important to consider each case individually. Though not an exhaustive list, some examples of factors to consider when exploring reasonable steps include:

- **The effect of the disability on the individual**
- **If there are any particular steps that would overcome a substantial disadvantage faced**
- **The extent to which it is practical for the education provider to take steps, and the cost involved**
- **Grants, loans, aids and assistance available to students**
- **Health and safety requirements**
- **The interests of others, including other students**



Harassment and Victimisation

The Act also protects people against harassment and victimisation due to a disability. Harassment is defined as engaging in an unwanted behaviour related to a protected characteristic which has the purpose or the effect of violating someone's dignity, or creating an intimidating, humiliating or offensive environment for the person. The person does not have to have the protected characteristic themselves, as long as there is a connection between the behaviour and the protected characteristic. The person does not need to say they object to the harassing behaviour for it to be classed as unwanted. An example would be a lecturer using language such as "psycho" to describe someone in the news, which a student living with schizophrenia finds offensive. This could amount to harassment related to disability.

Victimisation is treating someone badly because they have done, or you believe they will do, a protected act. A protected act includes; making a claim or complaint of discrimination (under the Equality Act), helping someone else to make a claim by giving evidence or information, making an allegation that someone else has breached the Act and doing anything else in connection with the Act. A person does not have to have a particular protected characteristic to claim victimisation. An example of victimisation would be a student supporting another student's claim that a lecturer harassed them due to their disability, and the lecturer or another lecturer refusing to have them in their class.

Summary

The description of the duties under the Act may sound complicated, but in summary;

- **Direct and indirect discrimination due to a protected characteristic, and discrimination arising from a disability is unlawful.**
- **The primary duty lies with the university or college, though as an employee you may be personally responsible if you do not follow college or university policies and discriminate, harass or victimise anyone during your employment there**
- **Universities and colleges are required to make reasonable adjustments where substantial disadvantage would be faced by a disabled student, compared to students who are not disabled, which can be around procedures, policies and practices at the institution, the physical environment, and providing auxiliary aids and services**
- **Students should be made aware of their rights under the Equality Act 2010**
- **The duty is on the college or university to make reasonable adjustments**
- **Links to more information on the Equality Act 2010 and how it applies to universities and colleges can be found in the further information section of this guide**

Examples

In this section, a number of cases are described where a student has experienced discrimination, along with an outline of how this could have been avoided. These are real experiences gathered from students in Scottish universities and colleges.

Charlotte

"I had to attend therapy at the local hospital last year. It was on a Wednesday afternoon and I had a class at the same time. I took a letter to the university to tell them about it, but they told me therapy was not a medical reason for missing classes. For two months I had to argue with the university not to fail me for not attending the class, despite handing in all coursework on time. I almost failed a full term because I couldn't attend the class. The months of arguments and meetings with university staff exhausted me. Therapy is already hard and having to argue with university at the same time was incredibly difficult."

In this example a reasonable adjustment could have been made, allowing Charlotte to attend her appointments and miss the classes. Options including finding alternative classes for Charlotte to attend, or another way for her to keep up with her coursework such as providing notes from classes missed, or a recording of the class should have been explored. Appointments

related to mental health are as valid as any other medical appointment and should have been treated as such. Charlotte could have been offered help to fill in any forms to allow for this time off and any meetings should have been handled with sensitivity and in a supportive manner, not in a way that causes anxiety and subsequent exhaustion.

Examples

James

"When I had a panic attack in one of my lessons last year, I was taken to learning support where the course head came and spoke to me. She told me I had two options, to either calm down and come back to class, or remove myself from the course. This made me very upset as I did not want to remove myself from the course, but I could not go back to class. I would have preferred to go home to calm myself down and return to college the next day, but wasn't given the chance. I was unable to concentrate on any of my work for the remainder of the day and it made me anxious when speaking in front of the tutor again."

An ultimatum should not have been given to James when he was having or recovering from a panic attack. Steps should have been taken to work with James to find a way of handling his panic attacks at college, with adjustments considered such as allowing breaks where required and offering support for him to catch up with any work missed.

Anyone can experience panic attacks, particularly around exam time, therefore an anticipatory reasonable adjustment could be ensuring there are quiet places on campus students can go to if they need space. Having staff trained in Mental Health First Aid or similar so they know how to support someone who is having a panic attack would also be beneficial.

Examples

Sarah

"The registration process was very unfriendly towards students with anxiety issues. I had to go into a really busy hall and queue up for ages three times, have my photograph taken with others watching, and be measured for uniform in a busy classroom. The stress of the first few weeks meant I did not manage to attend all classes and was left no option but to leave the course. It had a detrimental effect on my well-being and standard of life."

Sarah could have been offered an alternative to queueing in a busy hall which was difficult for her because of anxiety issues. Staff should be aware that students may find this difficult and try to identify alternatives for the small number of students who may need them. Again with measuring for uniform an alternative could have been offered. It is understandably difficult for staff if they do not know if any students will find this difficult, so stating clearly to everyone that if for any reason registration

processes are difficult they can approach staff and an alternative will be discussed is important. Creating a friendly and welcoming environment and ensuring that any students coming forward receive a friendly response, remembering the duty to make reasonable adjustments is a legal requirement and therefore no one should not be treated as if it is problematic to find a solution. Sarah may have been able to attend her classes and stay on her course if a reasonable adjustment had been made.

Examples

Philip

"I have had severe clinical depression for five years. At uni, lecturers belittled my condition as 'natural nerves' or said 'you're just over-reacting'. Lecturers would not give me extensions without two weeks warning, which isn't helpful as my mood may dip for example three days before the hand-in, requiring an extension. They also ignored my requests for help with tasks. They seemed shocked when I tried to discuss my mental health with them, as if it's something I shouldn't talk about because it's too shameful. They would not take into consideration the side-effects of my medication when giving me physical tasks. Whenever the issue was raised they said that they can't be held responsible for people's mental health, that's the job of a GP/therapist.

"I felt angry, lack of support meant I had to drop out of and re-sit modules at a later date. I was demoralised and did badly in modules because my disability wasn't catered for. It's meant I've felt less able to go to lecturers to ask for help, even about non-mental health issues. It has constantly made me question whether my depression is a disability or just a personal weakness, as it seemed it was often is implied."

Philip has depression which has lasted over 12 months and has a substantial impact on his ability to carry out normal day to day activities, therefore would be classed

as a disability. This means that reasonable adjustments should have been made, which might have included allowing for extensions, providing additional notes for

missed classes and help with tasks where required. The impact of the physical side effects of his medication should have been discussed and a reasonable adjustment found where possible so he could be on a level playing field with his classmates.

Steps You Can Take

There are a number of things you can do to ensure students do not face stigma and discrimination at your college or university. Being aware of the legal requirements under the Equality Act 2010 is an important step. Being approachable and ensuring the department you work in has a welcoming and accepting atmosphere will make it more likely that a student will feel able to speak to you about their mental health and their needs related to that. Increasing your knowledge of mental health may be helpful, though it is important to remember that no matter what illness or condition a person has, an empathetic response and a solution focused attitude is vital. You do not have to be an expert in mental health to support a student and find adjustments to allow

Empathy and sensitivity were lacking in the approach of the staff involved. Depression is a real illness and not a personal weakness and Philip should not have been left questioning this.

them to fulfil their potential in education. Promoting the fact that the department and college or university as a whole are keen to support students and help them to study is another positive step, which can be done by ensuring that all staff in the department are aware of their responsibilities under the Equality Act and know where to go to find out more and get support themselves where required in order to provide the best response to a student. It is the responsibility of everyone to ensure no stigma or discrimination occurs in Scottish universities and colleges, which will contribute to increased attainment, retention, and much healthier and richer college and university campuses.

Further Information

Equality Act 2010

- Equality Act 2010 www.legislation.gov.uk/ukpga/2010/15/contents
- Equality Act 2010 Guidance from the Equality and Human Rights Commission www.equalityhumanrights.com/legal-and-policy/legislation/equality-act-2010
- Further and Higher Education Providers Guidance on the Equality Act 2010 www.equalityhumanrights.com/advice-and-guidance/further-and-higher-education-providers-guidance
- Equality Act 2010 Guidance on matters to be taken into account in determining questions relating to the definition of disability www.equalityhumanrights.com/publication/equality-act-2010-guidance-matters-be-taken-account-determining-questions-relating-definition
- Equality Challenge Unit – Making Reasonable Adjustments in Higher Education www.ecu.ac.uk/publications/managing-reasonable-adjustments-in-higher-education/
- Student Awards Agency Scotland (SAAS) Disabled Students' Allowance www.saas.gov.uk/forms_and_guides/dsa.htm

Mental Health Information

- NUS Scotland Think Positive www.nus.org.uk/thinkpositive
- See Me Scotland www.seemescotland.org.uk
- Mental Health Foundation www.mentalhealth.org
- SAMH www.samh.org.uk
- Breathing Space <http://breathingspace.scot>
- Samaritans www.samaritans.org
- NHS Inform www.nhsinform.co.uk
- Scotland's Mental Health First Aid www.smhfa.com

