

Awareness of Accessibility & Inclusion Issues

Developing Lifelong Learner Record Systems
and ePortfolios in FE and HE: Planning for,
and Coping with, Legal Issues.

Creating inclusionary systems

- LLR/ePortfolio systems are described as providing greater opportunities for learners to take greater control of their educational record and their learning experience.
- It is important when devising new systems to ensure that they are inclusionary rather than exclusionary in nature.
- The law makes some specific provision for educational accessibility as regards disability discrimination
- At present there is limited legal provision with regard to other types of exclusionary processes, including cultural exclusion and other forms of social exclusion.

Disabilities Legislation

- Education was originally exempted under the Disability Discrimination Act 1995 (DDA)
- The Special Educational Needs and Disability Rights in Education Act 2001 (SENDA) removed that exemption
 - SENDA is an amendment to the DDA, and only protects people defined as disabled under that legislation
- SENDA covers all publicly-funded FEIs and HEIs, schools with post-16 provision, and local authorities providing further, adult or continuing education or training services
 - learner services defined broadly - educational and non-educational services, e.g. field trips, examinations and assessments, short courses, arrangements for work placements, libraries and learning resources

SENDA 2001

- It is unlawful for institutions to treat a disabled learner 'less favourably' than non-disabled learners for a reason relating to that learner's disability.
- Where institutional arrangements place a disabled learner at a 'substantial disadvantage' – there is a requirement to take reasonable steps to prevent that disadvantage
 - changes to policies and practices
 - delivery of courses in alternative ways
 - provision of material in other formats
- A substantial disadvantage is one that entails time, inconvenience, effort or discomfort compared to other people or students - more than minor or trivial.

SENDA 2001

- SENDA requires responsible institutions to anticipate the requirements of disabled learners and the adjustments they could make for them.
 - an evolving duty so the base line for 'reasonable adjustments' is continually raised over time to ensure that institutions continue to improve their provision over time
 - "...this year's anticipatory duty is next year's reasonable adjustment."

Reasonable adjustments I

- Whether particular measures are reasonable will vary according to:
 - the type of educational services being provided
 - the nature of the institution or educational service
 - the effect of the disability on the individual learner, not on disabled people as a whole
- Factors that might be taken into account are:
 - the financial resources available to the institution
 - grants or loans available to the student
 - the cost or practicality of taking a particular step
 - academic standards
 - health and safety requirements
 - the relevant interests of other people

Reasonable adjustments II

- When developing an ePortfolio system, an institution should:
 - consider those categories of learners who may be disadvantaged by the adoption of such a system
 - ensure that wherever possible measures are taken to ensure alternative solutions to reduce or remove those disadvantages are provided.
 - document this process, and provide, as fully as possible, rationales as to why particular measures were adopted for particular categories of learners
- This will permit the institution to demonstrate that:
 - it has taken appropriate account of the disadvantages that might be faced by disadvantaged learners
 - measures adopted by the institution to address those disadvantages were proportionate and reasonable.

Other considerations

- Current technology allows online LLR and ePortfolio systems to be designed with a range of standard user-customisable features.
 - These features include a range of options that can benefit disabled learners and staff.
 - Institutions might consider providing, as standard, features useful for disabled learners, which they can access and configure allowing disabled learners the choice as to whether to disclose.
- Educational institutions often have disabled employees and they may require access to LLR/ePortfolio systems as part of their employment.
 - The DDA requires that this access should be available under non-discriminatory conditions.