

Toolkit: **Challenging discrimination by a further or higher education provider**



Challenging discrimination by a further or higher education provider

If you believe that you've been treated unfairly because of your vision impairment, then you can complain to the further or higher education provider using the Equality Act 2010. Under the Act you're entitled to be treated fairly. You can, for instance, ask for reasonable adjustments to be made to help you to access the course independently.

We have created this toolkit to help you understand your rights under the Equality Act and the best course of action to take if you have been treated unfairly by a further or higher education provider.

Take action

In this Equality Act Toolkit, you will find:

- An introduction to your rights under the Equality Act in relation to further and higher education providers.
- Examples of some reasonable adjustments in further and higher education.
- Recommended steps to help get reasonable adjustments in place.
- Information on reasonable adjustments for exams and assessments.
- Recommended steps where you consider you have been treated unfairly by a higher or further education provider or they are not providing the support you need.



- Quick tips on what to include in your initial written complaint.
- An example of a written complaint to show you what information an effective complaint might include. You can use this as a template for your own complaint.
- Other options which may be available where the issue remains unresolved.
- A reference to other useful resources.
- An advocacy letter from RNIB which provides a summary of the law and information about the specific obligations of further and higher education providers under the Equality Act. You can send this letter with your own written complaint.

Contact us

Our Sight Loss Advice Service can provide you with advice and support. Contact our Helpline on **0303 123 9999** or by email on **helpline@rnib.org.uk**.

An introduction to your rights in relation to further and higher education

What is the Equality Act 2010?

The Equality Act legally protects people from discrimination, including disability discrimination. The legislation aims to help people with a “protected characteristic” and disability is a protected characteristic.

The Equality Act applies in England, Scotland and Wales. In Northern Ireland similar legislation called the Disability Discrimination Act (DDA) applies.

Which people with a vision impairment does the Equality Act apply to?

People who are certificated as sight impaired or severely sight impaired automatically meet the definition of a disabled person in the Equality Act and are therefore protected by the Act.

What about people who don't have a Certificate of Vision Impairment?

A person can still benefit from the protection of the Equality Act if they can show that they meet the definition of disability under the Act. A person has a disability for the purposes of the Act if they have a “physical or mental impairment” that has a “substantial and long-term effect on their ability to carry out normal day-to-day activities”.

How might the Equality Act help me in further or higher education?

The Equality Act sets out specific duties which a further or higher education institution must comply with. This includes the duty to make reasonable adjustments which is explained more below.

The Equality Act says that further and higher education providers must not discriminate in relation to all aspects of studying, both educational and non-educational, from teaching and learning to the physical environment, and any leisure and accommodation facilities.

Who is an education provider for the purposes of the Equality Act?

An education provider could be a university, college, local authority or a school which runs further education courses.

What types of further and higher education courses are covered?

All types of course are covered including undergraduate, postgraduate, part-time, distance learning, short, research, e-learning, informal and optional study skills courses.

What if I am a prospective student?

It is an offence for a further or higher education provider to discriminate, harass or victimise a pupil or a person who has applied for admission as a pupil. This includes admission arrangements such as:

- Admission policies and criteria
- Open events
- Decision-making processes, including interviews.

What is the duty to make reasonable adjustments?

Under the Equality Act, an education provider has a duty to make reasonable adjustments to avoid putting people with disabilities at a substantial disadvantage compared to people who are not disabled.

What are some examples of reasonable adjustments in further and higher education?

Below are some examples of what reasonable adjustments may include, depending on your individual support needs and the circumstances of each case. This is not an exhaustive list.

- Assistive Technology for you to use e.g. computers with speech synthesisers, magnification and screen sharing software for accessing information on whiteboards.
- Course materials in braille or in large print, audio format, or via email.



- Exam materials in your accessible format.
- Extra time and rest breaks allocated for exams.
- Support worker or reader to read out course material and exam questions.
- Scribes or notetakers to take notes in lectures and scribe answers in exams.
- Good lighting.
- Additional opportunities to visit before starting.
- Accessible campus and classrooms.
- Orientation training to access campus facilities.

When is an adjustment 'reasonable' in further and higher education?

What is 'reasonable' is ultimately for the court to decide. In deciding this, various factors are taken into account and considered in light of the individual circumstances of the case. For example, the extent to which it is practicable for the education provider to take such steps.

All the factors need to be balanced when deciding what is 'reasonable'. It is important to bear this in mind because what is reasonable will not necessarily be the same as what you are seeking. In some cases, you may need to be flexible.

Who funds reasonable adjustments?

Further and higher education providers are prohibited from charging disabled students for the cost of making any reasonable adjustments.

Disabled Students Allowance (DSA) for students in higher education can help fund certain elements of support that are required because of a disability. For example, items of specialist equipment. However, higher education providers have the primary legal duty to support disabled students in their studies, mainly through reasonable adjustments as set out in the Equality Act.

More information about DSA for students in higher education and how to apply can be found on [gov.uk/disabled-students-allowances](https://www.gov.uk/disabled-students-allowances).

The Education Skills Funding Agency (ESFA) provides funding for further education providers to put in place reasonable adjustments that students in England require for their course. For example, specialist computer software. Learning support funding is also available for apprenticeship providers to make reasonable adjustments to support disabled apprentices. Wales, Scotland and Northern Ireland have their own arrangements to fund reasonable adjustments.

What can I do to help get reasonable adjustments in place?

1. We recommend that you contact the disability/learning support services at the place you are planning to study at, or are currently studying at, to discuss any adjustments you may need on your course and how these will be managed. Their contact details can usually be found on the education provider's website. The disability advisers should be happy to answer your questions and provide you with more information. It is best to make this contact as early as possible.
2. If you are applying for a higher education course, it is recommended that you investigate DSA support and apply for this. If you are applying for a further education course, you should discuss your support needs with the provider so they can assess what reasonable adjustments you require. You should instigate these processes as soon as possible to ensure that you have the support in place for the start of your course.
3. It is also recommended that you discuss and agree with the disability/learning support service what adjustments you may need for assessments or exams at the earliest opportunity, so that these can be arranged in time.

What reasonable adjustments can be made to assessments or exams?

The further or higher education provider may need to make reasonable adjustments to assessments or exams. Depending on the individual circumstances, this may include providing readers, rest breaks, extra time, assistants, flexible deadlines or alternative assessment methods.

The Equality Act makes it clear that reasonable adjustments do not have to be made if they will affect a 'competence standard'. These are the standards applied to determine whether a student has reached the particular level of ability required. We can advise you further on this as needed.

What if the reasonable adjustments I require change during my course?

It is likely that the reasonable adjustments put in place at the beginning of your course will evolve over time as your course progresses and both you and staff learn about what types of adjustments work best. It is therefore important to communicate about any issues as soon as they arise so that the current adjustments can be reviewed without delay. If necessary, new or further adjustments can then be put in place.

What if the education provider's online systems are not accessible for me?

As well as challenging this issue under the Equality Act 2010 as set out in this toolkit, you may also be able to use the new Public Sector Web Accessibility Regulations to further strengthen your complaint. These Regulations require all web-based systems operated by, or on behalf of, public sector bodies to comply with certain accessibility standards. Web-based systems may include, for example, an education provider's intranet or online learning platform.

You can find more detailed information about the Public Sector Web Accessibility Regulations at rnib.org.uk/challenge-inaccessible-websites.



What about reasonable adjustments for work placements?

Work placements are included in the Equality Act 2010 which means that education staff must also take into account a student's disability when arranging work placements and liaise with the work placement providers to implement the support.

What steps should I take if I feel I have been discriminated against?

The first step should be to approach the disability/learning support services at the college or university as they may be able to help you resolve the situation. It may be the case that they do not realise there is a problem.

If this does not resolve your issue, you can make an internal complaint following the college or university's complaints procedure. A copy of their complaints procedure can be found in the student handbook, on the education provider's website, from the student union, or from any member of staff. The further or higher education provider should make reasonable adjustments to any internal complaints procedures as necessary.

Many disputes can be resolved through making an internal complaint. It is usually in everyone's best interests to attempt to resolve disputes without the need for legal action where possible.

On the next pages you will find the tools we have created to help you to challenge discrimination by raising a complaint.



Quick tips for writing your complaint

A good written complaint is clear and concise. It will cover all the key points. The clearer your complaint, the easier it will be for the recipient to resolve your issues quickly.

Most education providers' complaints procedures require students to submit their written complaint using an online form. You can copy and paste your complaint letter in the relevant text box on the online form or attach this.

Remember, if the online form is not accessible to you, you can request that you submit your complaint in a different format as a reasonable adjustment. For example, in letter format. You can also remind the education provider of the need to make their systems accessible

Before you start

Make sure you read the complaints procedure of the education provider, so you are clear about the stages you have to go through, the timeframe for each stage, how to submit your complaint and where to.


Make a note of the issues you wish to raise, referring to specific examples wherever possible. This is your opportunity to say what has happened or is continuing to happen, why you think it is wrong, and what you want the education provider to do about it.



What to include in your complaint?

Refer to factual details when describing the issue(s) that you are complaining about. Include the names of any people you have spoken with, dates, as well as any needs assessments or support plans.

Your complaint must be accurate. Do not be tempted to exaggerate. If you have to take the case to court and it is proved that you gave false information, this will damage your case and you could lose.



As your complaint is about the education provider not complying with their duties under the Equality Act, you need to say this. This does not mean you have to include lots of detail about the Act. You can refer to our standard advocacy letter in this toolkit which explains the relevant parts of the Equality Act.

If your complaint is about reasonable adjustments not being made, you should say this. You should describe what has happened to date and how you are at a substantial disadvantage without the adjustment in place. You should explain how the adjustment would help you with your disability. For example: "Because it takes me longer to read text due to my vision impairment, I need extra time to complete my assignments."

Clearly state how you would like the education provider to address and resolve your complaint. Think about this carefully. You need to be realistic, but don't be afraid to ask for what you believe is suitable to resolve the problem.

A written complaint that is easy to understand and persuasive is more likely to get you a positive result than a long and rambling letter.

You can find an example of a complaint letter below.

Remember to include a copy of our **standard advocacy letter** for education providers with your own

written complaint. This summarises the Equality Act duties. Also, because the letter is from RNIB, it can help to emphasise the importance of the situation.

After you have submitted your complaint

As part of the further or higher education provider's complaints procedure, you should receive an acknowledgement of your complaint saying when you will receive a full response. It is worth diarising and monitoring this so you can follow up in the event of a delay. When you get a response from the education provider, read this carefully and compare it with what you have asked for.

The complaint form is the start of the process and you are likely to need to exchange more correspondence and attend meetings before the situation can be resolved.

Remember to keep copies of all correspondence you exchange with the education provider as well as notes of all meetings attended. Include names of people you have dealt with and the dates of events.

Example of a written complaint

Student Complaints Manager at ABC University

By email: complaints@abcuniversity.ac.uk

30 September 2023

Dear Sir/Madam

I am writing to complain about the issues I have experienced since starting my course on 4 September 2023.

I am registered as sight impaired, and this means that I meet the Equality Act's definition of a disabled person. As I am a disabled person, you and your staff must comply with the Equality Act 2010.

When you reply to me, please use size 20-point Arial font. This is the format that I can read.


My complaint

I contacted the disability office on 3 July 2023 and spoke with Disability Adviser, Janet Williams to advise about my need for reasonable adjustments for the start of my course on 4 September. I attended a meeting with her on 1 August. One of the reasonable adjustments agreed was that all the course handouts and assessment papers need to be provided to me in the font I can read. That is large print, size 20. This was recorded in the attached support plan.

Despite this, when I started my course on 4 September, I was provided with handouts in small, inaccessible print. I struggled to follow the classes as I could not read the materials. At the time, I explained this to the tutor, Mr Coles, who advised me to speak with the disability office.

I went to the disability office later that day and spoke with Michael Taylor. I explained about the issue and asked that the adjustment was put in place so that I could follow the classes. He told me he would investigate this.

I sent a further email to the disability office on 14 September to say the issue was still not resolved. I had an email back from Janet Williams on 15 September saying she would look into this further.



To date, I am still receiving some handouts in small print which is making it difficult for me to participate in the classes. I am feeling anxious about attending my classes and am very worried that the adjustments required for the assessments next month will not be in place either.

Equality Act

The Equality Act 2010 says that education providers are not allowed to discriminate against disabled people by treating them less favourably because of their disability.

As an education provider you must make reasonable adjustments. This means that you should provide me with information in an accessible format.

I am making a written complaint through the university's complaints procedure as I feel this is the only way to get this issue resolved.

Resolution

I would like you to take all the necessary steps to ensure that I am provided with all course handouts for every class in large print size 20 format, and that the assessment papers next month will be in my accessible format.

I attach a copy of a standard advocacy letter from RNIB. This gives a short explanation of the Equality Act and what ABC University must do to comply with the Act.

It is very important that this situation is resolved as soon as possible.

I look forward to hearing from you within 14 days as per the complaints policy.

Yours faithfully

Ms E Green

What if I am not satisfied with the outcome of the internal complaint?

You may be able to take your complaint to an external body. These are different for further and higher education providers and may depend on the location of the education provider within the UK. You'll find more information about the main options below.

Office of the Independent Adjudicator (OIA) – England and Wales

The OIA is an independent body set up to review student complaints of discrimination by a university or higher education institution in England or Wales. The OIA will not consider complaints about a matter that is or has been the subject of court proceedings or one that has already been considered by another alternative dispute resolution body.

The OIA service is free to students. You will usually need to have first exhausted the higher education provider's internal complaints procedure. Once you have done this, the higher education provider should issue you with a Completion of Procedures letter. You must complete and submit the OIA Complaint Form within 12 months of the date of the Completion of Procedures letter.



Please note that in considering issues relating to discrimination, the OIA does not investigate or make legal findings in the same way as a court.

Further information and details of how to submit a complaint can be found on OIA's website at: oiahe.org.uk

The Scottish Public Services Ombudsman (SPSO) – Scotland

The Scottish Public Services Ombudsman can hear complaints by universities or colleges in Scotland if you have exhausted the institution's internal complaints procedure and the complaint is made to them within 12 months of the incident complained about. The complaint must also not have been considered in court.

Further information and details of how to submit a complaint can be found on SPSO's website at: spsso.org.uk/spsso

Taking legal action

Where you believe you have been discriminated against, harassed or victimised by a further or higher education institution, you can make a claim under the Equality Act. In England and Wales, a claim can be made to a county court and in Scotland to the sheriff court.

Are there time limits for taking court action?

Yes. If you have been treated unfairly by an education provider, the time limit for bringing a court case is six months less one day from the date of the alleged discrimination. It is therefore important to check the date of the discrimination to ensure deadlines are not missed. We can advise you further about this as needed.

In some cases, where you have made a complaint about a higher education institution to the OIA within six months of the alleged discrimination, the time limit for bringing action in court can be extended. Please note that making a complaint to the SPSO does not extend the time limit for making a claim in the Sheriff Court.

The time limit for taking court action still applies even if you have an ongoing complaint.

You can find more information about the Equality Act in our factsheets at [rnib.org.uk/equalityact](https://www.rnib.org.uk/equalityact)

If you need further information or advice, you can contact our Helpline on **0303 123 9999** or by email on helpline@rnib.org.uk and we will be happy to assist.

Alternatively, you can write to us at:

RNIB
The Grimaldi Building
154a Pentonville Road
London
N1 9JE

Other useful resources

Disability Rights UK

Web: disabilityrightsuk.org

Helpline and further information about disabled student support.

Equality Advisory and Support Service (EASS)

Web: equalityadvisoryservice.com

Helpline and further information to assist individuals on issues relating to equality and human rights, across England, Scotland and Wales.

Equality and Human Rights Commission (England, Wales and Scotland)

Web: equalityhumanrights.com

Produces government information booklets including "What equality law means for you as a student in further or higher education."

Government website - Disabled Students Allowance

Web: gov.uk/disabled-students-allowances

Information on and how to apply for DSA.

Office of the Independent Adjudicator (OIA)

Web: oiahe.org.uk

Information on how to submit a complaint of discrimination by a university or higher education institution in England or Wales.

The Scottish Public Services Ombudsman (SPSO)

Web: spsso.org.uk

Information on how to submit a complaint against most organisations providing public services in Scotland, including colleges and universities.

Thomas Pocklington Trust (TPT)

Web: pocklington.org.uk

Information and advice hub to support students with a vision impairment living in England.

Universities and Colleges Admissions Service (UCAS)

Web: ucas.com

Information, advice and guidance to facilitate educational progression to university, college, or a degree apprenticeship. Includes information for disabled students.



RNIB advocacy letter

This is a standard letter

Dear Education institution

The Equality Act 2010 – what it means for further and higher education institutions.

The Equality Act 2010 is a law that aims to ensure we have a fair and equal society. This includes making sure everyone has an equal opportunity to access further and higher education. The Equality Act sets out specific duties with which the responsible body of a further and higher education institution must comply under Part 6. You are receiving this letter because a blind or partially sighted person believes that you have broken the law and discriminated against them.

The Equality Act says that further and higher education institutions are not allowed to discriminate against people by treating them less favourably because of their disability, which is a “protected characteristic”. You must not discriminate against a student:

- in the way you provide education for the student
- in the way you give the student access to a benefit, facility or service
- by not providing education for the student
- by not affording the student access to any benefit, facility or service
- by excluding the student
- by subjecting them to any other detriment

You are also not allowed to harass or victimise someone because of their disability.

The Equality and Human Rights Commission guidance to further and higher education institutions under the Equality Act states that your legal obligations to your students **cover all your services, facilities and benefits, both educational and non-educational**, from teaching and learning to the physical environment, and any leisure and accommodation facilities. This is not an exhaustive list.

Students do not need to be studying full time to be protected under the Act. **All types of course are covered** including undergraduate, postgraduate, part-time, distance learning, short, research, e-learning, informal and optional study skills courses.

There is a further specific duty which only applies to disabled people. This is the **duty to make reasonable adjustments**. You must comply with this duty. If you do not make a reasonable adjustment, you are breaking the law.



Section 20 of the Equality Act says that:

1. You **must** take reasonable steps to change any “provision, criterion or practice” which puts a disabled person at a “substantial disadvantage” at your education institution.
2. If a physical feature puts a disabled person at a “substantial disadvantage” when they want to access your education institution, then you **must** take reasonable steps to avoid that disadvantage. This includes removing or altering the physical feature or providing a reasonable means of avoiding it.
3. You **must** provide an auxiliary aid or service if, without this, a disabled person would be at a “substantial disadvantage” at your education institution. The law specifically says that reasonable adjustments include providing information in an accessible format.

The reasonable adjustments duty is **anticipatory**. This means that you should realise that disabled people may want to study at your education institution and **plan ahead** so that you comply with the law. Not thinking about how to do this is not an excuse or a defence. Making sure that you comply with the law is in your best interests, and there is a good business case for doing this as well.

The individual will give you more details on how they believe that you have breached the Equality Act.

We ask you to address this person’s complaint and ensure that you are complying with your obligations. If you fail to comply with the Equality Act, the individual can take you to court. If you lose, then the court could order you to pay compensation, and you could also be ordered to pay that person’s legal costs. Investigating the complaint and speaking to the individual or using independent accredited conciliation or mediation schemes may be a way to resolve the dispute without going to court.

Please respond to the person making the complaint rather than to RNIB.

If you want to know more about the Equality Act and how this applies to further and higher education institutions, you can find more information at

<https://www.equalityhumanrights.com/en/advice-and-guidance/higher-education-providers-guidance>

Yours faithfully

Royal National Institute of Blind People

R N I B

See differently