Inclusive Teaching and Learning in Higher Education as a route to Excellence

January 2017

Foreword

Jo Johnson, Minister of State for Universities, Science, Research and Innovation

I welcome this guidance from the Disabled Students Sector Leadership Group, which will support all higher education providers in expanding their inclusive teaching and learning practice, bringing benefit to them and their students. It draws on the significant work already being undertaken across the sector.

This sector led group first met in April 2016 with the aim of using the wealth of expertise that currently exists in higher education to share suggestions for practical interventions. This guidance is the result of that desire to work together for the benefit of students and higher education providers. The principles of inclusive practice are well established, as are the benefits that they can bring to students and to state-funded and independent higher education providers.

This group is an excellent example of how the HE sector can work together for the benefit of all students, supporting this Government's social mobility agenda – giving everyone, regardless of their background or circumstances, the chance to study at higher levels of education.

Foreword

Professor Geoff Layer, Vice Chancellor University of Wolverhampton

Universities have the power to transform lives. Access to higher education can often be life changing for individuals, and the skills that students gain from their higher education experience can leave an indelible positive impression and impact.

Our institutions are open and inclusive and they provide opportunities for people from all walks of life to develop and grow.

However, we also know that a student's gender and race can, and does, affect their experience. Their experience can also be adversely affected if they have a disability. The facts show that the outcomes for our disabled graduates are not as good as they need to be. The shift away from supporting individual learners through Disabled Students' Allowances means that HE providers must further develop their approach to supporting disabled students.

In response the Disabled Students' Sector Leadership Group was set up earlier this year to help build on the work and good practice in place across our universities and ensure that all of our higher education providers are best equipped to support our disabled students to reach their full potential and succeed.

Realising equality of outcome for all is a real and pressing issue for UK Higher Education and we must work together and in partnership to deliver wide ranging and sustainable solutions.

Central to this approach is the universal adoption of inclusive teaching and practice. This recognises and values the diversity of the student body and works with them to enhance and optimise the learning experience for all.

Of course the issues we face are often complex and difficult and affect us as a university community in a variety of different ways. However, we must work together in order to rise to these challenges and provide the commitment and leadership that our students deserve.

This report purports a way forward. It is the result of a lot of endeavour and I would like to sincerely thank my colleagues on both the Steering Group and Sub-Groups for their work, dedication and support. It is now incumbent on our leaders to take up the challenge. We must all remember that we have the power to transform the lives of all of our students.

Professor Geoff Layer
Chair, Disabled Students' Sector Leadership Group

Note: For the purpose of this document the term Higher Education provider (HEP) covers all providers of higher education (HE) courses which are designated for HE student support purposes, including HE institutions, further education colleges providing HE, and alternative HE providers.

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Acknowledgements:

In addition to Disabled Students Sector Leadership Group members detailed at annex B, significant contributions have been made by the following people:

- Professor Peter Lavender OBE, Professor of Education at the University of Wolverhampton contributed to the section on the institutional benefits of inclusive practice
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- Professor Clare Milsom, Director of the Teaching and Learning Academy, Liverpool John Moores University co-authored the section on driving institutional change in inclusive practice
- Phil Scarffe, Head of Student Welfare at De Montfort University, authored the section on a strategic approach to reasonable adjustments
- Elaine Shillcock, Director and Vice Chair of the National Association of Disability Practitioners participated in the 'Reasonable Adjustments' Group
- Sheila Williams, Director of Student Disability Services at the University of Edinburgh represented Scottish Higher Education Institutions interests to the Group

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Introduction

1.   This paper considers the risks associated with the requirement on HEPs to provide 'reasonable adjustments' under the Equality Act 2010, and suggests actions to mitigate those risks. It should be read in light of the final report of the Social Mobility Action Group (SMAG) produced by Universities UK on behalf of the Government, and will be of interest to Vice Chancellors, Principals, senior HEP managers, and Boards of Governors, as well as to the Senior Officer in each HEP who is responsible for compliance with the duty.

2.   It has been produced by the Disabled Student Sector Leadership Group (DSSLG) which is a sector led group, chaired by Professor Geoff Layer, Vice Chancellor of the University of Wolverhampton, and made up of a range of senior leaders and professionals from across the higher education sector. The group is supported by the Department for Education, Universities UK, Guild HE, the Association of Colleges, and Independent Higher Education. The aim of the group is to drive forward necessary changes across the sector and to advise on ways of ensuring the good practice which has already been developed in many HEP's is spread across the sector. The members are at annex B.

3.   The guidance outlines why change is needed and how it will benefit an HE provider, as well as providing support to HEPs in implementing reasonable adjustments and reducing risk by providing inclusive teaching and learning[1], an approach which recognises and values the diversity of the student body. Further information on the background and context to this guidance is included at Annex A.

4.   There are 4 key areas in which inclusive practice will benefit HEPs:

- **External scrutiny**: It will remediate key issues around differential outcomes for students from different backgrounds. As a sector, our challenges around disabled, Black and Minority Ethnic (BME), mature, international and Widening Participation (WP) students are all partially addressed by this methodology. These are core to our successful meeting of Teaching Excellence Framework (TEF) and Quality Assurance Agency for Higher Education (QAA) expectations, and in Access Agreements.
- **Equality Act 2010 and Disabled Students' Allowances (DSAs)**: The changes to DSAs expose HE providers to the need to address the full expectations of the Public Sector Equality Duty and Equality Act 2010. A

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[1] There are a number of different terms used in different areas of the literature, and in different geographical regions e.g. inclusive approaches or universal design for learning. In this paper, the term inclusive learning is taken to include those terms.

student who learns inclusively may need no further adjustment to enable them to study effectively.

- **Cost saving**: Students who thrive are less costly to an HE provider that those who do not. Inclusive learning is a demonstrably effective tool in enabling students to succeed in study.
- **Reputational enhancement**: Inclusive practice has the capacity to enhance the standing and reputation of an HE provider in learning and teaching[2].

5.   This guidance has been prepared in response to the changes to DSAs which affect English domiciled students who are eligible to receive Disabled Students' Allowances from Student Finance England. However, as it deals broadly with the theme of inclusive teaching and learning practice, and a strategic approach to reasonable adjustments, it will also be of interest to HEPs dealing predominantly with students eligible for help from Student Finance Wales, the Student Awards Agency for Scotland, and Student Finance Northern Ireland.

6.   Finally, although this paper provides help and guidance in achieving best practice, it should not be read as definitive guidance on reasonable adjustments: what constitutes a reasonable adjustment in a specific case will depend on a particular student's disability as well as the response of the HEP. The question of the reasonableness of an adjustment is ultimately for the courts to determine.

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[2] For example, through support for further work, for example on Athena Swan status, or as a stand-alone example of good learning and teaching.

Drivers of change

7.   The UK Government announced changes which will affect English domiciled students who apply for Disabled Students' Allowances (DSAs) for the first time for academic year 2016/17. Students who are already in receipt of DSAs will not be affected. A summary of the changes can be reviewed at http://www.disabilityrightsuk.org/government-response-dsa-funding.

8.   Disabled Students Allowances have traditionally supported individual learner needs but the aforementioned changes means that many new students will no longer be entitled to less specialist non-medical support via DSAs. The practical effect of this is that HEPs will have a greater role in relation to fulfilling their duty in respect of reasonable adjustments under the Equality Act 2010. The shift away from supporting individual learners via DSAs means that HE providers must further develop a more strategic and flexible approach to delivering inclusive practice, accepting that there will be the need for individual adjustments e.g. British Sign Language (BSL) interpreters.

Equality of Opportunity & Compliance

9.   HEFCE data from 2013/14 shows that 10% of all students in the UK have disclosed a disability, although in many HE providers these disclosure rates sometimes are close to 20%. This is a significant proportion of the student body. Higher Education Providers should not wait until a disabled person wants to use a service that it provides before they give consideration to their duty to make reasonable adjustments. Collectively we must seek to anticipate the requirements of disabled people and the adjustments that may have to be made for them.

10.   We all know that it is essential that HE providers ensure that disabled students are given the same opportunity to achieve equal outcomes and opportunities as non-disabled students. HEPs are, of course, legally bound to meet their institutional and legal responsibilities in this area in line with guidance provided by the Equality Challenge Unit www.ecu.ac.uk/publications/equality-act-2010-revised However, the purpose of higher education in promoting social mobility and enhancing individual life chances makes this an even more significant responsibility for HE providers.

11.   With DSA reforms in place, and an increasing focus on the need for compliance with consumer rights legislation, the challenge to HEPs is to maintain appropriate and, where possible, enhance levels of support. But this will require a shift in approach from a support service to students deemed entitled to it by virtue of a diagnosis to one which empowers the learner and is accessible to and benefits all students.

12.   As the Higher Education Academy (HEA)[3] points out 'inclusive learning and teaching recognises all student's entitlement to a learning experience that respects a diversity, enables participation, removes barriers and anticipates and considers a variety of learning needs and preferences'.

The Social Model

13.   Increasing opportunities for disabled students requires us to consider the social model of disability. This emphasises that disability is caused by the way society is organised, rather than by a person's impairment or difference and looks at ways of removing barriers that restrict life choices for disabled people. When barriers are removed, disabled people can be independent and equal in society, with choice and control over their own lives.

14.   HE providers could embrace and adopt this approach as it supports and guides the ways in which pedagogy; curricula and assessment are designed and delivered to engage students in learning that is meaningful, relevant and accessible to all. It embraces a view of the individual and individual difference as the source of diversity that can enrich the lives and learning of others.

15.   This calls for a shift in thinking and focus to one which not only advocates the social model of disability but also promotes French and Swain's (2000) affirmation model which views disability as a normal part of diversity and views it as a matter of pride and not personal tragedy.

Reasonable Adjustments

16.   An Equality Challenge Unit report[4] in 2010 makes the point that it is in our collective interest to manage reasonable adjustments[5]. Amongst the benefits of managing reasonable adjustments effectively are:

- "…an anticipatory approach to reasonable adjustments develops a more inclusive learning and working environment."
- "Taking a proactive and strategic approach to integrating disabled people's entitlement to reasonable adjustments into an HEP's planning cycle should not only lead to a more inclusive culture, but also has the potential for long-term cost and efficiency savings."

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[3] https://www.heacademy.ac.uk/workstreams-research/themes/retention-and-success/inclusive-learning-and-teaching#sthash.85vO3G5j.dpuf
[4] Equality Challenge Unit 2010 http://www.ecu.ac.uk/wp-content/uploads/external/managing-reasonable-adjustments-in-higher-education.pdf

[5] A reasonable adjustment is a duty to avoid as far as possible by reasonable means the disadvantage which a disabled student experiences because of their disability. The duty requires an institution to take positive steps to ensure that disabled students can fully participate in the education and other benefits, facilities and services provided for students.
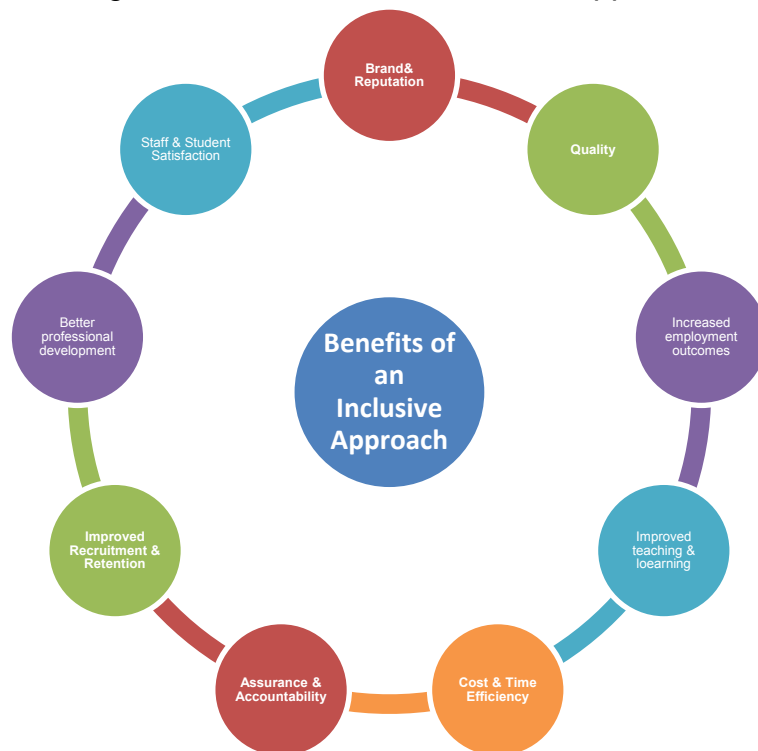
- "Institutions can demonstrate their commitment to disability equality through a year-on-year reduction in complaints from disabled people, an increase in satisfaction linked to the development of an inclusive culture, or the adoption of specific initiatives in response to consultation with disabled people."

The benefits of inclusive practice to Higher Education Providers

17.   In a rapidly changing higher education landscape characterised by enhanced scrutiny of learning success for all groups of students, and in a regulatory landscape that requires HE providers to assist and support disabled students as they may reasonably require in particular, inclusive learning is seen to offer real benefits to Universities. It is a simple tool with deep pedagogical roots, already understood and supported within most HE providers. Although it has yet to be fully embedded in more than a minority of HE providers, it can provide benefits to both students and HEPs.

18.   The benefits[6] of an inclusive approach are summarised in Figure 2. Each carries its own merit but overall, and very much related to the current policy (and political) climate, it can facilitate the deliverability of the institutional mission by forging the link between excellence and enabling all students to deliver to their full potential. That is after all the core purpose of higher education.

Figure 1 – Benefits of an Inclusive Approach

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[6] http://www.tandfonline.com/doi/abs/10.1080/00220480009596759;
http://www.sciencedirect.com/science/article/pii/S0742051X09000365

Institutional Benefits

19.   The benefits for HE providers in developing and embedding a comprehensive approach to inclusive practice can be significant, making a long and lasting difference to not only the opportunities on offer for disabled students but also for all HE providers as well as employers and the wider society.

20.   A more rounded and strategic approach provides a real opportunity to work in partnership with employers to develop and improve the employment outcomes for our students.

21.   A government research report[7] into 'Disabled Students and Higher Education' made the following points which are worth noting:
- "Estimates of young participation rates suggest that disabled people are considerably less likely to be in HE by the age of 19 than people without disabilities." **This might indicate that there is a pool of potential students not yet accessing HE.**
- "Disabled students are slightly less likely to attain a good degree (first or upper second class) than those who do not report a disability, and there is evidence to suggest that this persists even after controlling for a range of other factors." **So closing this attainment gap would raise overall attainment and enhance the profile of the HEP.**
- "Disabled students tend to be slightly less positive about the quality of their course, even after controlling for a range of other factors." **There is therefore a risk of unfavourable effects on National Student Survey data.**
- "The labour market outcomes for disabled graduates appear to be slightly worse than for those without disabilities. However differences between those with different types of disability appear to be more substantial." **So work to improve employability of disabled graduates could positively impact HEP employability rates.**
- "at least for young people, the participation rates of disabled people are markedly below those of non-disabled people. However, the analysis also suggests that these gaps in participation are closely related to differences in prior attainment." **For some HEPs e.g. those with largely local student populations and with strong links to 'feeder' schools/colleges, working with those schools to raise attainment could improve subsequent recruitment into the HEP.**

22.   HESA's graduate destinations survey shows that 87% of disabled students leaving HE are in employment or further study 6 months after graduation, compared with 91% for those with 'no known disability' – as such **enhancing employability of disabled graduates will certainly have a positive effect on overall institutional statistics** ref. www.hesa.ac.uk/stats-dlhe

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[7] Disabled Students and Higher Education; Higher Educational Analysis. Department for Innovation, Universities and Skills; DIUS research report May 2009 http://dera.ioe.ac.uk/8889/

The Risk

23.   HE providers must create the conditions for all of our students and staff to have the opportunity to succeed. Through the Teaching Excellence Framework there are measures against which we will all be publicly tested. These measures, in addition to the legal obligations of the Equality Act 2010, mean that failure to address this issue risks not only reputational damage but also potential financial losses at a time of increased marketisation and uncertainty within the sector. The Department for Education has put forward the model below, informed by discussions with the sector, to illustrate how it believes HE providers should organise and deliver provision for all disabled staff and students.

Figure 2 - A model for supporting disabled students in HE

DSAs

Individual reasonable adjustments

HEP responsibility under Equality Act duties

Inclusive learning environment
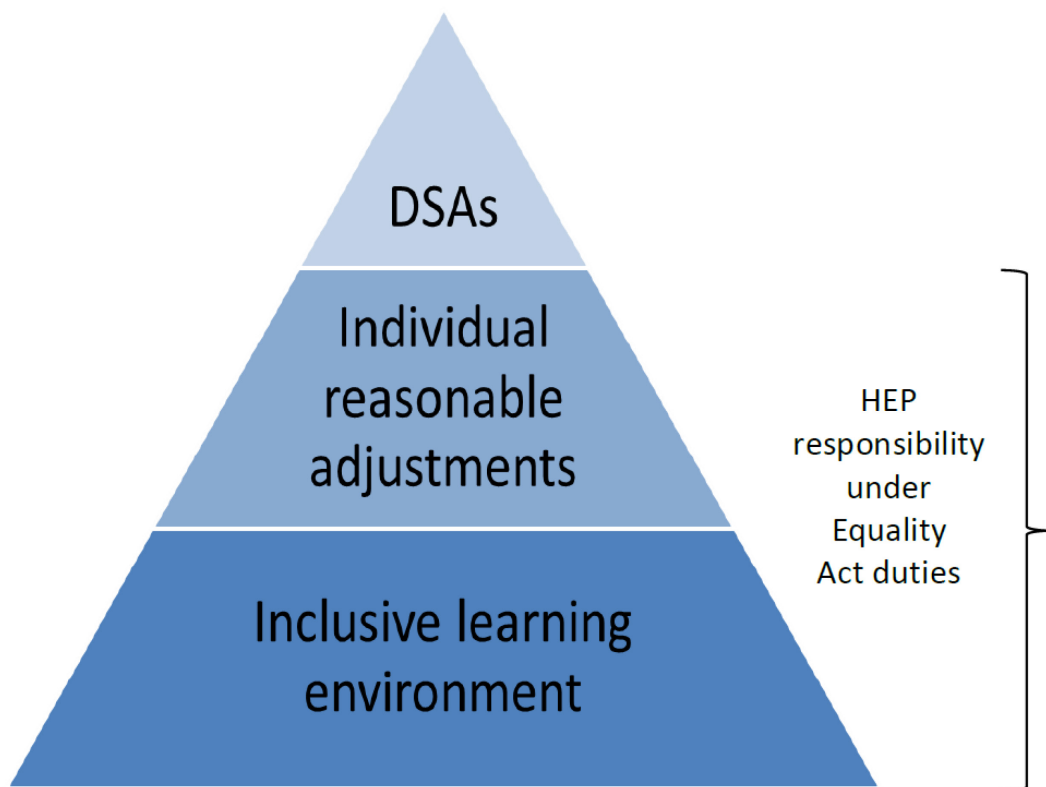
The Opportunity

24.   Taking a proactive and strategic approach into an HEP's planning cycle should not only lead to a more inclusive culture, but also has the potential for long-term cost and efficiency savings. Effective planning and leadership are essential alongside ensuring that students and staff are all aware of and understand the basic tenants of an inclusive approach. Removing barriers to disabled learners can remove barriers for all therefore everyone benefits, including employers and wider society. We must ensure that all students can get equal opportunities to achieve

using more flexible methods of teaching, assessment and service provision to cater for different styles of learners[8].

Strong and effective leadership

25.   Most importantly the sector and its providers need strong, effective and committed leadership. The pace of progress will be determined by the level of engagement and leadership provided by senior teams. They must drive and deliver change to address the many and varied extrinsic and intrinsic barriers faced.

26.   The Teaching Excellence Framework will push and enhance the quality of teaching and learning in the right direction but effective leadership will drive and deliver healthier and better universities. For now we need to consider:
- Our commitment to engagement and consideration on of any/all senior management support or training needs in this area.
- Support to enhance staff understanding and leadership on promotion of equality, diversity and inclusive practices.
- Using technology as an integral means of promoting inclusive practice and also promoting social inclusion through community engagement and development.
- Review our Learning, Teaching and Assessment approaches to identify and address inclusion and equality issues.
- Renewed focus on the learner voice and the voices of disabled staff.
- Support to evaluate current approaches using HEFCE's differential outcomes model.
- Support to enable research into practice projects which directly enable teachers to improve their practice.
- Encouragement of research into strategies that work best; and the wider benefits of inclusive learning strategies[9]

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[8] UDLL (Universal Design for Learning – License to Learn) - http://www.udll.eu/
[9] Research questions might be:
- What models of inclusive learning currently exist in HEIs?
- What are the benefits of inclusive learning to HE business; to quality of teaching, learning and support; to outcomes?
- How can inclusive learning strategies be best disseminated?

Driving institutional change in inclusive practice

Approaching barriers to implementation using inclusive practice

27.   Inclusive practice has been the subject of a great deal of original research, and also of a number of well-regarded syntheses of practice, produced by sector bodies such as the Higher Education Academy (e.g. Hockings, 2010; Gunn, Morrison and Hanesworth, 2015)

28.   Many HE providers have sections of their learning and teaching websites focussed on inclusive practice and many have approved policies or strategies regarding this way of understanding learning and teaching. However, evidence suggests[10] that very few HE providers have actually embedded inclusive practice across their degree programmes beyond pockets of good practice.

29.   The key barriers that retard implementation of these practices are the standard barriers to any major change in higher education, but are worth revisiting here as they need to be overcome if an HE provider is to derive real benefit from this work. The introduction and embedding of genuine inclusive practice across a University requires:

- Leadership from the top of an HE provider
- A focus on this area of development in the face of competing priorities
- An understanding that culture change is at the root of this methodology.
- Engagement with the concept across the University, for example in HR as well as in the classroom
- The initial resourcing and project planning to engage in change across the HE provider.
- The time to enact change and the embedding of ways to assess success
- An understanding that beyond the 'quick fix' there is a long process of sustained engagement with this concept as it develops depth and power within an HE provider. Longitudinal focus is required to embed and develop initial work.
- Support to engage staff across the HE provider.

Simple actions to effect change

30.   Although all change is difficult and complicated, and some staff in any HE provider will already be engaged with inclusive practice at a much deeper level than

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[10] http://www.hefce.ac.uk/pubs/rereports/year/2009/evalnsupportdisabledstudentsinhe/

this, there are some very simple changes that can make a significant difference to student outcomes around inclusive practice:

- Housing all teaching materials on the virtual learning environment in such a way that students can access them when they are needed, before or after formal teaching.
- Improve the accessibility of all materials provided (even if just with the right sub-headings or an appropriate use of font).
- Ensure reading lists are focussed and up to date
- Allow or facilitate the recording of teaching
- The use of plain English and clear presentation in lectures
- The pre-selection of diverse learning groups
- Diversify the range of learning opportunities, approaches and assessment methods
- Regarding students as learning partners
- The embedding of inclusive practice in recruitment, promotion, performance development review and other staff focussed processes

Evaluating and extending success

31.   There is a clear external and internal need to demonstrate success and to justify resource, which many HE providers are now addressing. Simple ways to evaluate the effect of inclusive learning include the use of retention, progression, achievement and employability statistics employed longitudinally throughout the HE provider, and the evaluation of inclusive practice through student feedback, module evaluations and Quality Assurance processes.

32.   Success in this area can be extended through:
- The provision of incentives for staff
- The availability of funding for small-scale innovation projects to deepen engagement
- The development of a culture where good learning and teaching is expected, recognised and rewarded
- Embed expectations of inclusive learning within the formal processes of the University, for example in module and programme approval, evaluation and reflection
- Enable staff to challenge assumptions about the benefits of the status quo ('myth busting')

Wider work to support adoption of inclusive learning practices

33.   There a number of external work strands that might be undertaken at a level above that of the individual University that might assist in the widespread adoption of inclusive practice. These are:

- Work with Professional, Statutory and Regulatory Bodies (PSRBs) and informal accrediting bodies to help them understand inclusive practice and to ensure that the guidance they give to University degree programmes allows and values this practice
- Work with the Higher Education Academy to move to a point where accreditation of training in learning and teaching for higher education depends on this training being a model of inclusive practice
- Work with the process of redesign of Quality Assurance processes to ensure that these have regard to inclusive practice (revisiting section B3 of the Quality code, working with training for external examiners etc.)
- Work with Leadership Foundation for Higher Education (LFHE) to support leadership and training for inclusive practice for senior staff in Universities, but also in the work they do to train members of Boards of Governors, who will take on a major role in QA in future

34.   We would encourage HEPs to work with their existing member groups to take these issues forward. Additionally, they may form part of the future work of the Disabled Student Sector Leadership Group.

Adopting a strategic approach to reasonable adjustments: risks and possible mitigations

35.   This section considers 5 potential areas of risk and outlines for each the background to the risk, how they manifest in an HE setting, and recommended possible mitigations. It ends with other considerations that may need to be taken into account

Risk: HEPs not fully understanding their Equality Act 2010 requirements for reasonable adjustments

Background

36.   The duty to make reasonable adjustment is far broader than is often appreciated; the outcomes required are not merely about ameliorating disadvantage, or providing some level of access to disabled students, but rather as far as is reasonably practicable providing access to the resources, experiences and benefits of study which approximates to that of non-disabled students.

37.   The duty to make reasonable adjustments is both anticipatory and in response to individual students. Inclusive practice can help towards fulfilling these anticipatory duties, (this is covered above) and can go some way to meeting an individual student's needs. It is important however to be aware that the duties under the Equality Act 2010 (EA) require adjustments to all university provision including for example assessment and curriculum design, and that approaches need to go beyond making reactive changes when individuals encounter barriers.

38.   Compliance with the Equality Act 2010 cannot be achieved by following a simple checklist, since what constitutes a reasonable adjustment is determined by all the circumstances of the case. For example, some issues that may be considered (but are not limited to); whether the adjustment removes or decreases disadvantage, whether there are alternative adjustments that are effective, and whether the HE provider can resource it.

39.   It is however worth noting that employing these criteria without a detailed understanding of the Equality Act 2010 (EA) is likely to be a very risky approach. For example the issue of resource is judged against the HE provider as a whole rather than for any pre-determined disability specific budget, and if having taken into account all relevant considerations it is determined that a reasonable adjustment could be made then there is a requirement to do so.

40.   The EA <u>does</u> allow for disabled students to be treated more favourably than a non-disabled person, , if this is required in order to provide them with a good quality learning experience, even if this may be perceived to causes some level of disadvantage to their non-disabled peers. It may be useful to consider making all students aware of the fact that the EA does allow for this to avoid issues of discrimination occurring amongst peers, for example through inductions or student code of conducts.

How potential risks manifest

- HEP's may not have focused their attention on ensuring consistency, whilst giving due regard to the varied nature of courses and delivery, of practice across departments / functions in relation to reasonable adjustments.
- Some reasonable adjustments may not be granted solely on the basis of actual or perceived disadvantage to other students, without proper consideration of what the EA requires.
- Requests for 'reasonable adjustments' are turned down solely on the basis that they are perceived as moving too far from embedded policies or practices, without proper consideration of the specific requirements of the EA.
- There is undue weight given to irrelevant considerations, for example a departmental or faculty budget as opposed to the resources of the whole university.

Recommended mitigating actions

- Review key university governance policies and ensure they are written and managed in ways that do not preclude, having taken account of the relevant circumstances and consideration of a situation, reasonable adjustments being put in place which are required under the EA, in a timely manner.
- The primacy of the EA over any internal policies of the HE provider needs to be recognised. It may be useful to consider placing a general clause in all governance documents to the effect that compliance with legislative requirements will always take precedence.
- Ensure that should any such issues arise there is a clear mechanism within the HEP for ensuring compliance with the EA is maintained.

Risk: HEP disability policy/practice not adhering to expectations set out in Technical Guidance

Background

41.   There is a plethora of guidance which has been made available in relation to the EA. The most important of which is the 'Equality Act 2010 Technical Guidance on

Further and Higher Education,' (the Technical Guidance). The guidance sets out the role of Boards of Governors (or equivalent in alternative providers) as the 'responsible body' for ensuring compliance with the EA, as well as setting out clearly more broadly what is expected of HEP's in relation to disability.
https://www.equalityhumanrights.com/en/publication-download/equality-act-2010-technical-guidance-further-and-higher-education

How potential risk manifests

- The development and monitoring of disability policy and practice has not been closely aligned to the expectations set out in the Technical Guidance

Recommended mitigating actions

- Consider whether there is a requirement for a named individual at a senior level with responsibility for ensuring compliance with the duties around reasonable adjustments outlined in the Technical Guidance.
- Consider how policy around reasonable adjustments will continue to be monitored and developed in order to ensure on going compliance with the EA, and adequately prepare for meeting the expectations in relation to disabled students stemming from the White Paper and the proposed TEF. This may for example involve a senior member of staff being tasked with corporate accountability for this area, supported by an appropriate committee.
- Consider how the current approach to reasonable adjustments developed; are Boards of Governors satisfied that it meets their obligations under the EA?

Risk: HEPs not adequately responding to their enhanced requirements stemming from changes to DSAs

Background

42.   The Department for Education has explained the changes to the DSA system as being primarily concerned with ensuring HEP's 'properly comply' with their existing duties under the EA.

43.   Whilst the DSA remains in place to provide the more specialist aspects of support, HEPs are now expected, as part of their EA duties, to have planned for and be able to provide approaches which meet the needs of students, which would have previously been met through DSA.

44.   In the event of a dispute arising in relation to a request for reasonable adjustments (including non-medical helper provision), which is not resolved within an HEP, funding bodies have introduced an Exceptional Case Process. This may

provide interim funding for the support, which the HEP may need to reimburse, and has escalation mechanisms to the Office of the Independent Adjudicator for Higher Education (OIA) in England and Wales or the Ombudsman in Scotland.

How potential risks manifest

- Given the scale of the changes to DSA an HEP will want to ensure that it has appropriate strategic oversight of plans for addressing the enhanced requirements stemming from these changes. If such oversight is not in place an HEP is likely to be carrying significant unaddressed risks.

Recommended mitigating actions

- Boards of Governors, Vice Chancellors, Principals and Senior Managers should satisfy themselves that adequate plans are in place with appropriate corporate oversight. In the event that this is found to not be the case HEP's may wish to consider whether urgent remedial action is needed to address these risks.
- HEP's may also wish to consider whether a strategic level project is required to ensure that a sustainable and transparent approach to reasonable adjustments is embedded, as part of their preparations for demonstrating that they are delivering on the requirements of the White Paper.

Risk: Lack of clarity about what the concept of individual Reasonable Adjustments means in practice

Background

45.   In relation to disability the EA is based around the Social Model of Disability. The premise of this model is that disabled students are disadvantaged as a consequence of the way in which HE providers organise themselves rather than as a natural consequence of individual impairment.

46.   The importance of this is that the onus is **always** on an HEP to justify (and evidence where necessary) its approach to reasonable adjustments, rather than on individuals justifying the need for an adjustment.

47.   A focus on inclusive practice in the design and delivery of teaching methods has the potential to significantly reduce the costs and time required to make individual adjustments. The requirement to make learning as accessible as possible to disabled students always applies, and therefore it is likely that an HEP which has done less in terms of inclusivity of practice will need to go further and put in place more quickly the individual adjustments it provides.

How potential risks manifest

- There is insufficient institutional oversight of the approach to reasonable adjustments. Decisions which are made could therefore be unduly influenced by what individual member of staff perceives as 'reasonable' without a proper understanding of what the EA requires or with inappropriate emphasis being placed on irrelevant considerations. This would leave individual staff members and the HE provider vulnerable to claims of discrimination.
- Lack of anticipatory action in the design and delivery of courses may make the scope of individual adjustments which is required more onerous (both in substance and in time required), and this may be incorrectly interpreted as meaning a requested adjustment is not 'reasonable'.
- Members of staff who understand the specific requirements of the Equality Act may not feel that they are offered adequate protection when advocating on behalf of students, and this could give rise to complaints of harassment.

Recommended mitigating actions

- Consider what sources of expertise exist within the HEP (such as Student Disability Services) – are those with expertise in this area appropriately empowered to provide this guidance and provided with adequate protection in doing so? What measures are in place to resolve difference of opinions that may arise, for example between students, student support staff and academics?
- Ensuring that should any conflict, or potential issues, arise between any university policies or practices and the requirements of the EA to make reasonable adjustments, that there are robust, timely and transparent internal process for resolving this.
- Establishing a robust and transparent procedure, with senior management backing, to resolve any disagreements that arise about what constitutes a reasonable adjustment.
- In order to ensure consistency across the HE provider (where appropriate) it is likely to be good practice to have a designated service which can provide advice and support around reasonable adjustments**.**

Risk: A lack of understanding of what constitutes a genuine Competence Standards

Background

48.   The EA does not require adjustments to be made to 'genuine competence standards'. It does however require that adjustments are made to how an individual demonstrates they have met the required standard, in some circumstances. These

are not the same as 'learning outcomes' though attention to the issue of competence standards is likely to assist in more clearly defining learning outcomes. Any decision by an HEP on what constitutes a competence standard must be capable of standing up to scrutiny, ultimately by the courts.

49.   As an example a genuine competence standard **may** require a student learning surgery technique to perform tasks within a particular time limit. It is far less likely that such a criterion would be a genuine competence standard on a history course.

50.   The EA does require consideration of how a student meets a competence standard. For example some (though not all) deaf students may be disadvantaged undertaking a course which requires them to deliver a presentation. Unless the specific purpose of the assessment is to test presentation skills, and this is closely linked to the body of knowledge being assessed, it is likely that a reasonable adjustment may be to allow the student to demonstrate their ability in another way.

51.   On occasions a perception can exist, particularly on professional practice courses, that a certain way of meeting competence standards is required, and that this may conflict with the ability to provide a reasonable adjustment. Professional bodies are however also subject to the requirements of the EA, and on closer examination it may be that what is assumed to be a competence standard is in fact merely common practice.

52.   For more in depth information on competence standards, see the Equality Challenge Unit guidance document: Understanding the interaction of competence standards and reasonable adjustments.
http://www.ecu.ac.uk/publications/understanding-the-interaction-of-competence-standards-and-reasonable-adjustments/

How potential risks manifest

- It is possible that learning outcomes have been developed for courses without consideration of competence standards. This can make it difficult to determine precisely what would constitute a reasonable adjustment.
- Courses may have been validated on the basis of assessment taking a particular format; this can make providing an alternative means of assessment difficult. It would however be an example of a lack of anticipatory action rather than a reason to not provide a reasonable adjustment.
- Assumptions can be made about what are requirements, set out by professional bodies, or in Codes of Practice in meeting competence standards which are incorrect.

Recommended mitigating actions

- Course validation / re-validation regulations need to reflect the requirements of the EA in terms of inclusive practice. As courses are validated / re-validated particular attention should be placed on ensuring that genuine competence standards have been developed.
- Where perceived conflicts arising between the requirement to provide reasonable adjustments and the requirements of professional bodies, or codes of practice, HEP's would be advised to ensure that their policy is always to check these assumptions with the relevant body.

Other considerations

53.   This document has highlighted some key risks in relation to reasonable adjustments which Boards of Governors, Boards of Directors, Vice Chancellors, Principals and Senior Managers may wish to turn their attention to. By necessity not every risk is covered in this paper, since the EA duties extend to every aspect of a HEP's business, are on-going and will change over time.

54.   HEP's which enact this guidance will have made considerable progress in terms of their duties under the EA, and towards being able to demonstrate the HE provider wide approaches to inclusion envisaged in the proposed TEF.

55.   Providing equality of outcome for disabled students with their non-disabled peers requires universities to embed consideration of **all** students needs into everything which they plan and deliver. As such having mitigated the risks mentioned above does not mean that the duty has been discharged. Whilst it shouldn't be considered an exhaustive list, HEPs will also need to turn their attention to other important issues, such as those outlined below.

- *Consumer Rights Legislation* - many HEPs make strong rhetorical commitments to equality, but without robust processes in place in relation to all activities may be exposing themselves to both reputational risk and potentially claims under Consumer Rights Legislation.
- *All University Activities / Policies* – In order to support the business of a university effectively all student facing university activities and policies need to be designed to meet the needs of students. According to the Office for Disability issues 16% of the working age population have a disability, of which 14.9% of working age disabled people hold degree-level qualifications compared to 28.1% of working age non-disabled people.
- *Accessible communications* – An HEP may have an enviable record in relation to its provision of reasonable adjustments. It is not however likely to

be perceived in this way unless adequate consideration has been given to the style and tone of its marketing collateral.

- *Fitness to Practice / Study* – Do any such policies emphasise the need to ensure that adequate consideration has been given to what reasonable adjustments could be put in place, before concluding that a student is not fit to practice / study and involve appropriate engagement with professional bodies?
- *Placements / Enhancement activities* – Is there a clear process for ensuring that expectations are communicated to placement HE providers around the need to provide reasonable adjustments, and is a mechanism in place to ensure this happens in practice.
- *Accommodation / Estate* - Adopting a purely technical approach to estates and accommodation design is likely to lead to a narrow focus on physical and sensory impairments. A wider approach which explicitly considers the needs of students with mental health issues or Autistic Spectrum Disorders, for example, is likely to not only benefit those students, but be of benefit to the wider student body.
- *Social /Leisure Activities* – Are all activities as accessible as possible? – How well are 'reasonable adjustments' understood within Student Unions and other areas providing such activities?

References and further sources of advice and guidance

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Annexes

Annex A: Background and context to the guidance

The Equality Act 2010 has been in force since 2010 and brought together all previous Equality Legislation, relating to nine protected characteristics. Although this document focuses on the changes required in response to the changes to the DSA system it is important to understand that the duties apply to all disabled students including international students, irrespective of whether they are directly affected by the changes.

Each member of staff within an HEP is required to comply with the requirements to make reasonable adjustments. Each provider of Higher Education also has a corporate responsibility for compliance with the EA, exercised by the 'responsible body', in the case of universities this is the Board of Governors. For other HE providers the 'responsible body' varies, and each HE provider will need to satisfy itself that it understands where this responsibility lies. This is broadly set out in the '*Equality Act 2010 Technical Guidance on Further and Higher Education*' (https://www.equalityhumanrights.com/en/publication-download/equality-act-2010-technical-guidance-further-and-higher-education).

In light of the Government white paper '*Success as a Knowledge Economy: Teaching Excellence, Social Mobility and Student Choice'* (i.e. the White Paper), the future standing of HEP's will be significantly influenced by its approach to disability. The White Paper emphasises the need for HEP's to do more to support disabled students through the lifecycle of HE, placing particular emphasis on Specific Learning Difficulties, Autism Spectrum Disorders and mental health issues. The Proposed TEF emphasises the need to demonstrate inclusive practices across all provision rather than just isolated pockets of good practice. Also, mental health issues continue to grow and increase[11] but this is underreported, as evidence shows that in a number of instances, students do not declare.

This paper recognises that HE providers have historically been doing a lot of work to support disabled students. However as changes to the funding for the support of disabled students takes place it is important that higher education providers are able to support students to succeed. Equality of outcome for all students and, in particular, around the support required by disabled students, are therefore urgent and important issues for UK higher education.

One approach to a broader solution is to increasingly focus and prioritise the adoption of principles of inclusive practice. This is a well-researched methodology

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[11] Ref. http://www.maybo.co.uk/sectors/education/universities-and-colleges/managing-mental-health-crises-on-campus/

and paradigm of learning and teaching that is capable of adoption across the whole of a diverse sector within the UK.

What is inclusive learning?

Inclusive practice is an approach which recognises the diversity of students, enabling all students to access course content, fully participate in learning activities and demonstrate their knowledge and strengths at assessment. Inclusive practice values the diversity of the student body as a resource that enhances the learning experience.

A core definition of inclusive learning (adapted from Hockings, 2010) is:

"Teaching which engages students in learning that is meaningful, relevant and accessible to all, embracing a view of the individual and of individual difference as a source of diversity that can enrich the lives and the learning of others."

Inclusive learning therefore invests in the following principles:

- Learning is enriched by the varied experiences of students
- Accessible learning is relevant and approachable by all students
- The curriculum and the means of delivery are both part of this accessibility
- Students with full access to learning and teaching are more likely to engage with learning, and to reach their full potential

Stepping up to the challenge

56.   The change to DSA means that the sector must 'step-up' to the challenge. It can do this by:
- Building on existing good practice from across the sector http://usemyability.com/ and practical applications e.g. http://www.heacademy.ac.uk/embeddinginclusion
- Although most HE providers offer information around inclusive practice and learning, not all incorporate a holistic advice and guidance offer. Information alone is only part of what needs to be a more rounded and sustainable offer.
- Developing effective integration of support services, provision and facilities.
- Promoting good relations based on key values and behaviours, including empowerment of staff.
- Developing a strategy which includes all staff and students.
- Providing direct and specific leadership, governance and support to disabled students – these could be physical (above) but equally procedural (the way a course is delivered) or social/cultural.

Annex B: Disabled Student Sector Leadership Group membership

Organisation represented	Member
Chair	Geoff Layer, University of Wolverhampton
Higher Education Funding Council for England	Sarah Howls
Higher Education Academy	Pauline Hanesworth
Equality Challenge Unit	Chris Brill
National Union of Students	James Elliott
HE institution representation	John Conway, Royal Agricultural University
	Jo Cooke, De Montfort University
	Mark O'Hara, Birmingham City University
	Sue Rigby, University of Lincoln
	Richard Reece, University of Manchester
Scottish HE representation	Sheila Williams, University of Edinburgh
Health Education England	Emma Wilton
AMOSSHE	Ben Bailey
Universities UK	Fiona Waye
GuildHE	Kate Wicklow
Association of Colleges	Arti Saraswat
Independent Higher Education	Pete Whittard
Office for Disability Issues	Katherine Toomey (nominee)
Association of Heads of University Administration	Mark Ellul
Department for Education	Matt Toombs, Georgina Watts, Paul Higgs (Secretariat)

Annex C: Reasonable Adjustments Case Study Examples

De Montfort University

DEP was a two year strategic programme at DMU. it was overseen by a specially constituted board with representation from across the university and the De Montfort Student Union. The Senior Responsible Officer for the programme was a member of the Executive Board.

Key Programme Outputs

Policy

DMU developed a new 'Teaching and Learning; Student Disability Policy'. The policy focuses on teaching and learning and closely associated activities. It outlines DMU's approach to complying with the requirements of the Equality Act in relation to disabled students. In particular it highlights the universities expectations around both anticipatory actions and individual reasonable adjustments.

At the same time a fast track Disability Support Appeals Process' was introduced to provide a consistent approach is adopted to determining what constitutes a reasonable adjustment across DMU, and provide speedy resolution to any concerns.

Universal Design for Learning (UDL)

The principle of UDL recognises that learning variability is the rule rather than the exception, and as such can be considered to be good teaching practise. At the core of UDL is the principle of providing multi- modal opportunities in terms of representation, engagement and expression

In preparation for the 2016/17 cycle the following major outputs were achieved:

- An audit was undertaken of all programme / module validation documents in relation to Learning, Teaching and assessment (LTA) approaches, and where UDL principles were not in place programmes / modules were required to submit curriculum modifications.
- An audit was undertaken of Professional Statutory Regulations bodies' requirements, and any assumed barriers to adopting UDL principles were explored and overcome as appropriate.
- DMU Replay (lecture capture) policy was introduced requiring all staff led activities to capture content for year zero, year one, and all post graduate taught provision in 2016/17. This requirement will be extended in phases to cover all students in the institution by 2018/19.

Disability Support
- Historic demand for support was mapped, and the developments of inclusive practice considered in, designing and resourcing a new in house support service.

Library and Learning Services (LLS)
- The most commonly used assistive software has been made available throughout Library and Learning Services and an annual review process has been established to ensure that the software remains fit for purpose.
- Assistive Technology Officer Post created to develop workshops, along with face to face and on line resource to support students in making effective use of technology (particularly assistive technology).
- The accessibility of reading list materials has been enhanced by the introduction of the Accessible Formats Service, with additional staff recruited to ensure demand can be met, and the implementation of DMU Resource Lists.
- 'Ask and Collect' service developed to provide support to disabled students who find retrieving resources (including books, DVD's, CDs and pamphlets) from library shelves difficult. Students can make on line requests for materials, with a four hour turn-around time.

Accommodation
- A 'quiet' themed living environment was established to cater for students who had Autistic Spectrum Disorders or other disabilities which meant that they may wish to have the option of accessing accommodation which was likely to be quieter than general Hall provision.

Marketing and Communications
- Increased coverage in prospectuses of disability and UDL.
- E-mail to all pre-application enquirers emphasising the importance of declaring a disability
- Section added to Open Day booking forms to allow students to identify any specific needs that they had in relation to the event.

Key contacts for further information

Jo Cooke, Executive Director of Student and Academic Services, and Associate Chief Operating Officer – jcooke@dmu.ac.uk

Phil Scarffe, Head of Student Welfare – pscarffe@dmu.ac.uk

Abi Moriarty, Director of Teaching and Learning – amoriarty@dmu.ac.uk

Tina Sharpe, Head of Disability Advice and Support – tsharpe@dmu.ac.uk

University of Brighton

In 2012 after a review of Disability Support Services, the University of Brighton took the decision to invest in an additional manager to the Disability Support Services Manager (who holds operational responsibility for the team and in setting up support for disabled students). The newly appointed Inclusive Practice Manager (IPM) sits outside of the Disability Team, working with academics to develop inclusive practice in learning and teaching.

In response to the changes in Disabled Students Allowance (DSA) funding, there has been considerable development in inclusive practice across the university with ongoing training for over 500 academic staff – on an individual, course and school basis.

To ensure inclusive practice is considered at a design and review level – the university will recognize inclusivity in course validation and periodic reviews with support from the IPM. In addition, the IPM contributes to a group currently undertaking a university-wide curriculum review, in which inclusivity is identified as one of its core principles.

In response to requests from academics, the university are developing an online resource/toolkit including a 'module self-evaluation' tool for inclusive practice, which should be ready for the start of the 2017/18 academic year.

Whilst these developments are ongoing and in response to the changes to DSA funding, the university has allocated funds to assist students required to pay the £200 contribution for equipment and cover any DSA shortfall, alongside developing inclusive practice across the institution.

Identifying inclusivity at the heart of the various activities the university is going through alongside support from senior management, has been key in raising the profile and recognizing the need for an inclusive curriculum at the University of Brighton

Key contact for further information:

Ian Carter, Student Services Manager - I.T.Carter@brighton.ac.uk

Strategic Approach to Reasonable Adjustments, University of Cambridge

The University of Cambridge has had a Code of Practice (CoP) on Reasonable Adjustments for Disabled Students since 2012. This was approved by the Education Committee of the General Board at Cambridge in response to a proposal put forward jointly by the University's Disability Resource Centre and Educational and Student Policy Section. The CoP sets out the University's position in relation to its duties to disabled students under the Equality Act 2010 and provides guidance for University and College staff on their responsibilities, providing examples of reasonable adjustments in teaching and learning.

The COP applies to the whole university and is reviewed annually. It includes guidance on requests for alternative modes of assessment, and on understanding competence standards in relation to the Act and to the duty to make reasonable adjustments.

The CoP also formalises the processes used to ensure information related to the support requirements of disabled students is disseminated to the Collegiate University and clarifies matters related to disclosure and confidentiality.

In its strategic response to the planned changes to Disabled Students' Allowances (DSAs), the University of Cambridge has established a Reasonable Adjustments Fund (RAF). This fund is designed to allow the University to meet the increased requirements and responsibilities placed on it after the recent changes to DSAs, specifically the transfer of all band 1&2 NMH tasks (other than sighted guides), and also to support other drivers to enhance and further develop inclusive teaching and learning practices. The University's Disability Resource Centre will manage and administer the fund.

'The learning environment should be as inclusive as possible, so that the need for individual interventions is the exception, not the rule. Institutions should engage in a continual improvement cycle that develops inclusive practice, with the aim of reducing the number of individual interventions required.'
'We expect institutions to strive to provide the best possible support for all their students, including their body of disabled students, to continue to remove or reduce the need for individual support through DSAs.'
'Institutions should not take the continued provision of DSAs as setting the limit to their reasonable adjustments.' DSAs guidance 2016/17

In addition to the transfer of bands 1&2 tasks the University of Cambridge has decided that it will also offer the NMH tasks of specialist mentoring and specialist 1-1 study skills as part of its standard NMH provision. This will also be managed within the Reasonable Adjustments Fund. The internal nature of the fund means that

student support requirements can be assessed in a far quicker manner than via external funding routes, with lead-times reduced from several months to weeks and in some cases days, leading to an anticipated improved student experience and a closer integration of non-medical help support with other internal student support and academic networks, as well as safeguarding systems.

The fund will also allow for flexibility and innovation in the provision of support with group and workshop support for disabled students being added to individual support provision, something which has been requested in feedback from disabled students at Cambridge.

In conjunction with the continued provision of NMH the university is also looking strategically at the further development of inclusive teaching and learning practices via its Centre for Teaching and Learning and through its Learning and Teaching and Digital Education strategies. Cambridge also has a well-established teaching and learning innovation fund.

Key contact for further information:
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