# Reasonable adjustments

The Equality Act 2010 places a formal legal duty on Higher Education Institutions to avoid as far as possible by reasonable means the disadvantage which a disabled student experiences because of their disability[[1]](#footnote-1)[[2]](#footnote-2). The duty requires HEIs to take positive steps to ensure that disabled students can participate fully in the education and other benefits, facilities and services provided for students. This extends the duty previously introduced under the Disability Discrimination Act 1995, and is therefore an established method of ensuring equality.

The Equality Act requires reasonable adjustments to be made to any provision, criterion or practice which may place disabled students at a substantial disadvantage. This includes assessment practices. Examples of disadvantage include: the time and effort that might need to be expended by a disabled student; the inconvenience, indignity or discomfort a disabled student might suffer; the loss of opportunity or the diminished progress a disabled student might make in comparison with their non-disabled peers. There are two key tests of ‘reasonableness’: whether the adjustment is **effective** in achieving its aim, and whether it is **practicable** in its application.[[3]](#footnote-3)

In most instances the requirement to make a reasonable adjustment is established by the fact a student is disabled. Therefore **the need to make** an adjustment is not open to negotiation as it is a legal requirement. However, the **form** the adjustment takes, or the **method** by which it is applied, may be open to negotiation with Disability Services.

# Competence standards

Any understanding of how disability legislation interacts with course requirements requires an understanding of competence standards to ensure that courses are designed in a way that is non-discriminatory and accessible to disabled students, and other diverse learners. The Equality Act defines a competence standard as: ‘An academic, medical or other standard applied for the purposes of determining whether or not a person has a particular level of competence or ability’ (Sch 13, para 4(3))[[4]](#footnote-4).

Competence standards must be objectively justifiable, i.e. they must be a proportionate means to a legitimate aim, and genuinely relevant to the course. The EHRC technical guidance on the Equality Act describes proportionate as ‘appropriate and necessary’[[5]](#footnote-5). When arguing that competence standards are objectively justifiable, evidence should be presented to account for the academic rationale in selecting these standards.

Competence standards must be explicit, written down, clearly published and made available to applicants and students at the earliest opportunity in order that they may make informed choices around programmes of study. They cannot be applied after the fact and cannot cover pedagogic ‘preferences’ or ‘norms’ of practice unless there is an objectively justifiable reason for including these competencies. Arguments relating to established practice, assumptions around the content or standard assessment of a ‘good’ degree or reputational concerns may not be justifiable. The usual method that HEIs adopt in defining and publishing competence standards is through the Intended Learning Outcomes indicated in the Programme Specification for individual programmes of study. These are often grouped under headings such as intellectual skills, subject-specific skills, generic skills and personal attributes[[6]](#footnote-6).

A key element of competence standards is that HEIs are not required to make reasonable adjustments to the competence standards themselves, provided these are legitimate. However, they **are** required to make adjustments to the ways in which competence standards are assessed, in order to ensure disabled students are not disadvantaged in demonstrating competency by the chosen assessment method[[7]](#footnote-7).

# Summary

The following table summarises the key points relating to reasonable adjustments and competence standards. For further information, discussion or training, please contact Disability Services at [disability@leeds.ac.uk](mailto:disability@leeds.ac.uk).

|  |  |
| --- | --- |
| **Reasonable adjustments** | **Competence standards** |
| Mitigate disadvantage due to disability | An academic, medical or other standard applied for the purposes of determining whether or not a person has a particular level of competence or ability |
| Examples of disadvantage include:   * time and effort expended * inconvenience, indignity, or discomfort suffered * loss of opportunity or diminished progress | Competence standards must be   * explicit * written down * clearly published   Competence standards cannot be:   * applied after the fact * cover pedagogic ‘preferences’ or ‘norms’ of practice |
| Apply to any provision, criterion, or practice, including assessment practices, as well as to benefits, facilities and services. | Usually made clear to students via learning outcomes or objectives, or marking criteria (though not that assessment *methods* are subject to adjustment) |
| Two key tests of reasonableness: effectiveness and practicability | Must be ‘appropriate and necessary’ and must be objectively justifiable, i.e. they must be a proportionate means to a legitimate aim, and genuinely relevant to the course |

1. <https://www.legislation.gov.uk/ukpga/2010/15/schedule/13> [↑](#footnote-ref-1)
2. <https://www.equalityhumanrights.com/en/advice-and-guidance/what-are-reasonable-adjustments> [↑](#footnote-ref-2)
3. <https://www.ecu.ac.uk/publications/managing-reasonable-adjustments-in-higher-education/> [↑](#footnote-ref-3)
4. <https://www.legislation.gov.uk/ukpga/2010/15/schedule/13> [↑](#footnote-ref-4)
5. <https://www.equalityhumanrights.com/en/publication-download/equality-act-2010-technical-guidance-further-and-higher-education> [↑](#footnote-ref-5)
6. <https://www.heacademy.ac.uk/knowledge-hub/learning-objectives-and-outcomes> [↑](#footnote-ref-6)
7. <https://www.ecu.ac.uk/guidance-resources/student-recruitment-retention-attainment/student-retention/inclusive-learning-teaching/competence-standards-reasonable-adjustments/> [↑](#footnote-ref-7)