

Procedures Manual

01.23.01 CONFIDENTIALITY POLICY AND PROCEDURE - DISABILITY

PURPOSE To provide procedures on disclosure and confidentiality for the use of all staff who will from time to time deal with disclosure of SEN or disability and related matters of confidentiality concerning learners with disabilities as defined in the Equality Act 2010

SCOPE All staff

RESPONSIBILITY Learning Difficulties and Disabilities Support Co-ordinator

Context:

- This area is governed by the Equality Act 2010 (“the legislation”) and guidance contained in the SEN and Disability Code of Practice.
- If you are in any doubt over the actions you need to take please contact, the Learning Difficulties and Disabilities Support Co-ordinator. In addition to this, if you have any questions relating to the legal aspects of disability confidentiality the Student Welfare Manager, may be able to assist you.

Policy:

The College aims to provide education in a culture and environment which enables effective learning and which avoids disadvantage in learning resulting from SEN and disability. This aim must, however, be considered within the context of the College’s mission statement and strategic and operational plans.

In order to do this, the College will:

- Create a culture and environment that enables and encourages learners and potential learners to disclose their disability and the additional learning needs that arise from this. Repeated, appropriate opportunities will be provided to learners for effective and discreet disclosure of disability.
- Ensure that there are procedures that enable information to be disseminated appropriately within the College so that reasonable adjustments can be made in order to ensure that learners are not disadvantaged in their learning as a result of their SEN or disability.
- Where learners seek to preserve confidentiality regarding their disability, ensure that these wishes are respected, identifying and agreeing with the learner the extent of any adjustments that might therefore be made and the

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individuals who will need to be informed because of issues of health and safety and /or safeguarding.

PROCEDURE

Disclosure and Confidentiality

1. Staff dealing with admissions and enrolments should ensure that the importance of declaring information about SEN and disability is emphasised to applicants, for example to enable reasonable adjustments to be considered.
 - Any questions regarding SEN and disability should normally be asked in a supportive, helpful manner which puts the applicant at ease regarding the purpose of the information gathering i.e. that we want to know so we can enable the student to do the best s/he can.
 - Staff should ask, for example at interview, if the applicant has anything s/he would like to say about any help with learning or access s/he has had in the past and that would be helpful for us to know about now.

If anything arises through this line of questioning the applicant will be asked to talk to a member of Learning Support so that their SEND can be discussed in more detail and the required support planned for and organised.

- Where learners identify SEN or disability on the College application form, the Learning Support Manager will meet the applicant to identify any support needs the applicant has to be able to take full advantage of the interview process and then inform, with the learner's permission, the Learning Support Team so that the required support can be put in place. (See also procedure [02.04.01 Recruitment and Admissions](#).)
2. In the case of a learner enrolling on an Adult Education course and identifying a SEN or disability, contact will be made in the first instance by a member of the Adult Education staff. If the matter cannot be resolved satisfactorily at local level, this member of staff will, with the learner's permission, duly noted, contact the Learning Difficulties and Disabilities Support Co-ordinator for advice and/or assistance.
 3. At enrolment it is important that the actions indicated in paragraph 1 (above) are carried out again and, where agreed by the learner (within the constraints identified in paragraphs 7-11 below), information entered on the eILP.
 4. All full-time and part-time funded learners should undertake the College's initial assessment programme so that undisclosed SEN or disabilities can be identified as soon as possible.

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5. The process of encouraging disclosure to tutors, lecturers and other staff in contact with learners should be on-going.

- Tutors, Adult and WPL Co-ordinators and assessors should offer opportunities to discuss any SEN or disability-related issues at interview, during induction and at other times through the course.

Key points will include:

- induction
- reviews of progress
- planning trips, visits and residentials
- planning work experience
- exam entries.

- It is important to complete the latter with plenty of notice.
- Applications to exam boards for special adjustments to meet the needs of candidates with SEN or disabilities should be made at or before registration. See procedure [04.14.01 Applying for Special Concessions in Examinations](#)

6. Consent to any written disclosure of information must also be obtained in accordance with the Data Protection Act 1998 see [Data Protection Policy 01.21.01](#)

- This consent is normally given by the Equal Opportunities statement on the College Enrolment Form and Learning Agreement; however, it is good practice to obtain a signature and a clear statement giving consent to disclosure on interview documents, Adult and WPL Requests for Support, Individual Learning Plans (including the eILP) etc.

7. The right of the learner to have his or her SEN or disability kept confidential should be made clear to the learner but the advantages of full, or at least partial, disclosure should also be stated.

- Within Adult and Workplace Learning provision, the Mentor role is completely confidential and learners can self-refer if they wish to talk to someone who is not a tutor. NB under such circumstances, the procedure continued below should still be followed.

8. Even if a learner expresses a wish for full confidentiality regarding his/her SEN or disability, the member of staff to whom the disclosure is made must explain to the learner that disclosure, in confidence, should nevertheless be made to the Learning Difficulties and Disabilities Support Co-ordinator and the Health and Safety Manager (or equivalent) and must report to them accordingly.

- Health & Safety requirements must not be compromised by SEN or disability or confidentiality issues and further advice must be sought. This may of course be achieved without naming the learner.

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- It is the responsibility of the member of staff to whom disclosure has been made, to make this clear to the learner.
9. If disclosure of disability and a wish for confidentiality is confirmed, a written record must be made and signed by the learner.
- If this arises in a tutorial situation, (see 4. above) a note can be made, signed by the tutor and the learner, and placed in a sealed envelope in the learner's personal file.
10. The College Information Systems Department must be informed by the person to whom the disclosure was made, that restrictions are to be applied to the learner's record.
11. Under normal circumstances where learning support (LS) is required a referral should be made to the Learning Support Team.
12. The Learning Difficulties and Disabilities Support Co-ordinator will work with the learner (and staff as appropriate) to see what reasonable adjustments can be put in place with due regard to the learner's request for confidentiality.

Legal Framework

A disabled learner under the legislation is someone who has a physical or mental impairment, which has an effect on his or her ability to carry out normal day-to-day activities. The effect must be substantial, adverse and long term.

It is discrimination for the College to treat a person with SEN or disability less favourably for a reason relating to that person's SEN or disability than it treats a person to whom the reason does not apply, unless the treatment can be justified. It is also discrimination to fail to make a reasonable adjustment when a student with SEN or a disability is placed at a substantial disadvantage in comparison with a person who does not have SEN or a disability.

If the College does not know, and could not reasonably have known of the SEN or disability there is no discrimination. If a person with SEN or a disability has told someone within the College of his or her SEN or disability the College cannot claim that it did not know.

However, a person with SEN or a disability has the right to request that the existence or nature of his or her SEN or disability be treated as confidential. In such a case the confidentiality must be preserved from staff and learners as agreed with the learner and recorded confidentially.

It is important in determining whether it is reasonable to make adjustments to accommodate the learner to have regard to the extent that making the adjustment is consistent with the person with SEN or a disability's request for confidentiality.

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Reasonable adjustments might have to be provided in an alternative way in order to preserve the confidentiality.

However, preserving the confidentiality may mean that a less satisfactory reasonable adjustment or no reasonable adjustment can be provided. In such a case, reasonable efforts should be made to persuade the learner that it is in his or her best interest to let the information about his or her disability be disclosed.

Data Protection Act 1998

Written information about disability is classified as sensitive information under the Act and can only be revealed to others with the specific written consent of the person supplying it. This consent is given primarily by the Enrolment Form and Learning Agreement. Learners may, however, benefit from reminders about this at appropriate times.

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